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PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

SENATE—*Tuesday, January 27, 2009*

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our helper and friend, guide our Senators this day. Help them to walk the way of surrender to Your will, guided by Your wisdom. Refresh them with Your spirit to quicken their thinking and reinforce their judgment. Show them the spiritual foundations of our heritage that they may conserve and protect them. Draw them close to You and to one another in humility and service. And, Lord, spare them from arrogating to themselves the judgments which belong to You alone.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 27, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of the Children's Health Insurance Program. At about 12:30 p.m. today, KIRSTEN GILLIBRAND will take the oath of office to become a Senator representing the State of New York. Following the swearing in of that Senator, the Senate will recess until 2:15 p.m. to allow for the weekly caucus luncheons to meet.

This week, we are going to legislate. There will be no morning business. We want to have all the time that is necessary to work on this important legislation dealing with children's health. I hope people will be ready to offer amendments. We have worked with staff on the Republican side of the aisle, and we have it set up that we have three amendments that will be laid down very quickly. By that time, we should be able to even schedule some votes for this afternoon.

I want to make sure everyone has the opportunity to offer any amendment they want to offer. What we are going to try to do is not have a bunch of them stacked up. I think that can sometimes be very troublesome. But we will work, as we proceed through the legislation, as to what amendments need to be pending. We are here to legislate. We hope that if people have concerns about this important legislation and they think it can be made better by taking something out or putting something in, that is what they should do. We want everyone, when they offer their amendments, to have ample time to debate them, as we did with the first piece of legislation we dealt with, the Lilly Ledbetter legislation. After there has been ample time for debate, there can be motions to table. There are some Senators who may, for various reasons, agree to have up-or-down votes. We are here to legislate.

This morning is a little difficult because we have the Finance Committee meeting to complete their work on the recovery package. There are 200 amendments that have been filed in the committee, and they have to work their way through those amendments. That should take the better part of the day, at least many hours. It is estimated from 4 to 8 hours to complete the markup.

The Appropriations Committee markup is at 10:30 a.m. also. There are people from the Finance Committee who will be coming here on a rotating hour-by-hour basis so there will be floor coverage. So there is no reason not to be able to legislate and talk about this legislation in any way Senators feel is appropriate. Rollcall votes are expected to occur throughout the day. There will not be any votes before we complete our caucus luncheons.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ORDER OF BUSINESS

Mr. MCCONNELL. Madam President, are we now on the bill?

The ACTING PRESIDENT pro tempore. The bill has not yet been laid down.

Mr. MCCONNELL. Can I suggest we go to the bill? I was going to lay down an amendment, consistent with the majority leader's suggestion that we get started.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Senate shall resume consideration of H.R. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

The ACTING PRESIDENT pro tempore. The majority leader.

AMENDMENT NO. 39

(Purpose: In the nature of a substitute)

Mr. REID. Madam President, there is an amendment at the desk that I wish the clerk to report.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 39.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The ACTING PRESIDENT pro tempore. The Republican leader.

AMENDMENT NO. 40 TO AMENDMENT NO. 39

(Purpose: In the nature of a substitute)

Mr. MCCONNELL. Madam President, I support the State Children's Health Insurance Program. I think virtually every Member of the Senate does. I voted to create the program and believe we need to responsibly reauthorize it.

In its original form, the State Children's Health Insurance Program was meant to provide insurance to children from families who earn too much to qualify for Medicaid but not enough to afford private insurance.

There is no doubt, as I indicated earlier, we all support providing insurance to low-income children. I am sure that is 100 Members of the Senate. In fact, this program originally passed on a broad bipartisan basis with 43 Republicans and 42 Democrats supporting it. It was enacted by a Republican Congress, signed by a Democratic President, and was a model of bipartisanship. Two of my colleagues, Senator GRASSLEY and Senator HATCH, reached across the aisle to craft a bipartisan compromise in the last Congress. Unfortunately, our Democratic colleagues have gone back on many of the prior agreements that were reached in creating that bill last year, making this issue more contentious than it ought to be and setting a troubling precedent for future discussions on health care reform.

The original purpose of the State Children's Health Insurance Program was to serve low-income, uninsured children. The bill we are being asked to consider sanctions a loophole that allows a few select States, such as New York, to provide insurance to children and families earning more than $80,000 a year—$80,000 a year—instead of insuring low-income children first. This is more than double the median household income in many States, including my State of Kentucky. It is grossly unfair that a family in Kentucky making $40,000 must pay for the health insurance of a family making double that, especially if the Kentuckian cannot afford it for his own family.

The bill before the Senate is not limited to children either. It preserves loopholes that allow adults to enroll in a program that is intended for children.

Earlier estimates of similar legislation found that nearly half of the new children added by this bill already have private health insurance. Let me say that again. Earlier estimates of similar legislation found that nearly half of the new children added by this bill already have private health insurance. Republicans, on the other hand, believe we ought to target scarce resources to uninsured children, not those who already have coverage.

Republicans will offer amendments to fix the shortcomings of this bill and to provide a responsible alternative that will return SCHIP to its intended purpose: serving the kids in struggling families who need the help most. That is whom we ought to be helping.

Our bill, the Kids First Act, will provide funding increases to State SCHIP programs and help them find those eligible children who are not yet enrolled, and our Kids First idea is better because it closes the loophole that allows some States to extend their program to higher income families, even while they have thousands of lower income children who still are not covered. The Kids First Act truly puts kids first, eliminating nearly all adults from a program designed for children so that more children can be covered. Finally, by responsibly allocating scarce resources, our bill increases funding for SCHIP without raising new taxes. We believe Republicans have a better alternative.

Madam President, I now send that alternative to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 40 to amendment No. 39.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, we are now commencing debate on the Children's Health Insurance Program. I wish to speak to the amendment that has been offered by Senator MCCONNELL, as well as the pending legislation.

It is a grim reality in America that each day, 17,000 Americans are losing their jobs. Each day, 9,000 Americans are facing new mortgage foreclosure notices. Madam President, 17,000 lost jobs and 9,000 have lost homes. In the process, some 11,000 Americans are losing their health insurance every single day. So the issue that was before us when we created the Children's Health Insurance Program has become gravely worse, and we are finding more and more Americans who are being squeezed out of health insurance coverage—46 million uninsured Americans today, including 9 million children.

We decided to make children a priority in terms of providing health insurance. What the Federal Government said to the States was: We will come up with a program, but we will give you more than the normal Medicaid share; we are going to give you a share that is enhanced so that you will consider covering these uninsured children. In that situation, many States took advantage of it.

I might just say, Madam President, that I understand Senator GRASSLEY is in the Chamber and has a 10:30 a.m. Finance Committee meeting and I have a 10:30 a.m. Appropriations Committee meeting. Let me do my best to share the time so I can leave him with the remaining 10 minutes or so. Is that fair? I want to make sure Senator GRASSLEY has a chance because we have to go to important meetings.

The difficulty we face today, the reality is we wanted this program primarily to help families making up to 200 percent of what we call median family income. That would basically mean they would be making roughly up to $42,000 a year. So if you are making $42,000 or less, we want those kids covered.

Then we said to the States: You can go as high as 300 percent, and that would take it up to $63,000. You would have to pay more for that out of State funds if you think that group of kids of families making between $42,000 and $63,000 need the help. And some States took advantage of it.

Then there were two exceptions, as I understand it. High cost of living States—New York and New Jersey—asked for permission to go even higher, up to $77,000 to $83,000 I think was the annual income. When many of the critics of this legislation, including the Republican leader, who just spoke, talk about what is wrong with it, they point to New York and New Jersey. I can tell you those are rare exceptions to the rule across America. By and large, this program is geared for people with incomes below $42,000 a year, and in some cases below $63,000, with only two exceptions that I know, New York and

New Jersey. And I will stand corrected if there is another State.

But the point is, to argue that this is a program that is for the wealthiest among us is to ignore the obvious. Those two States notwithstanding, people making $63,000 a year I do not put in the category of wealthy. Certainly, those making $42,000 I wouldn't at all. In fact, they are almost smack dab in the middle of the middle-income families in America. When they face the cost of insurance not covered by their employer, it can be an extraordinarily high expense. That is why many of them opt out of coverage for the family, which means mothers, fathers, and children go without health insurance. Imagine making $42,000 a year and seeing a third or 40 percent of your income going into FICA and taxes. What does that leave you with, about $2,000 a month? And with $2,000 a month, how many families can realistically turn around and buy a health insurance plan on the private market?

I also worry about this argument that we want to trap people into private health insurance that could be a bad policy that is very expensive, instead of giving them an option of coming into the Children's Health Insurance Program. If our goal is to give these families affordable health insurance, then why do we want to trap them in a private plan? Some will stay with the private plan because they are happy with it; others have a plan that, frankly, has a high deductible, high copay, limited coverage, and high cost. We want to trap those families in that plan?

Sadly, the amendment that is offered by Senator MCCONNELL has a mandatory 6-month waiting period between leaving private health insurance and enrolling in CHIP. What kind of benefit is that for the families of Illinois or Kentucky who are in a bad private health insurance plan—the only one they can afford? We want to give them real insurance that can be there when they need it.

We know there are families who desperately will need help. I have here the photograph of a family from Illinois. It is a classic story. This is a family, Steve and Katie Avalos and their son Manolo. In 2005, Katie became pregnant while Steve was still in law school, and because of Federal programs such as CHIP and Medicaid, the State of Illinois was able to provide health coverage for Katie through the All Kids Program. With help from St. Joe's Hospital, Katie was enrolled in the Illinois Moms & Babies Program. She received excellent prenatal care. In February 2006, her beautiful little baby boy Manolo was born with a rare neurologic condition that affects his balance, coordination, and speech. He was living with something called Dandy Walker Syndrome and as a result has had slow motor development and progressive enlargement of his skull.

Because Manolo has a preexisting condition, his options for health insurance are very limited. Yet with All Kids, our version of the Children's Health Insurance Program in Illinois, Katie can give her child the services that are important building blocks for his future success. Katie is grateful for reliable health insurance. Without it, Manolo would not have experienced his many successes. He was able to walk at age 2½, and the family is so happy. Without that helping hand, without the rehab and the special medical care, that might never have happened. Manolo turns 3 in a few days, on February 2, and he has his whole life in front of him.

Was this a bad investment, investing in this family, investing in this child, giving them a chance for the medical care they needed so this little boy has a normal life? When I hear from critics who argue that this is something we can't afford, or unfortunately it is going to crowd out private health insurance, I wonder if they know what a private health insurance plan would have cost this family with a child with a preexisting condition. They would have been lucky to find one they could afford, and it would have had many exclusions and many riders.

Now Senator MCCONNELL says to this poor family, stick with it for 6 months no matter what it is costing, no matter the fact that it doesn't cover what your child needs. I don't think that is the way to go. I think what we have to understand is that many people came together, Democrats and Republicans, to pass this bill initially—to pass it twice, though it ended up with President Bush's veto—and in all of these instances we were affirming the bottom line. And the bottom line, as President Obama and others have said, is health insurance is critically important for all of us.

President Obama said:

> People don't expect government to solve all their problems. But they sense deep in their bones that with just a slight change in priorities, we can make sure that every child in America has a decent shot at life and that the doors of opportunity remain open to all. They know we can do better.

Those are the words of President Obama in his speech to the 2004 Democratic convention. I know deep in our bones the Senate will stand together to give an additional 4 million kids coverage with health insurance. A bill that had been vetoed twice by President Bush can become the law of the land so this family—this loving family with a beautiful little boy—and thousands of others like them have a chance at quality health insurance.

I might conclude by saying that this debate is important for the course of the Senate, because all of us understand we have had some tough times on the Senate floor over the last couple of years—95 filibusters, a record-breaking number. What we want to do this week is to prove, as we did last week, that we can have amendments offered constructively; that we can debate them, deliberate them, and vote on them in an expeditious way. We can have a fair hearing on these amendments and come to a vote and not face a cloture vote and 30 hours of the Senate sitting in quorum calls with nothing happening. But it takes a cooperative effort on both sides. I think we can reach that again, and I hope we will prove it this week and by the end of the week pass this critical legislation to give 4 million kids, such as Manolo here, a chance for a better life.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Madam President, our goal is to cover 4 million kids, as was spoken by the majority whip. Our goal is to do it in a way so that we actually have the resources to cover children who do not have health insurance.

There are some aspects of the underlying bill before us that would lead families to drop private health insurance, and I am cognizant of what Senator DURBIN said, that if you have a bad policy, maybe you ought to be on SCHIP. I don't dispute that. But we have found that when you crowd people out of private health insurance, it is more apt to happen at the highest income levels than at the levels he was talking about, where we ought to be helping people under $42,000.

Then there is another category where they want to help people that sponsors have already assumed the responsibility of making sure their health care would be covered. In that category, we find $1.3 billion being wasted that we can take and use on children who don't have coverage.

So there is no dispute about covering 4 million people. There is a dispute about whether we ought to encourage people who are of higher income to drop out of private policies and to go on the Children's Health Insurance Program. If you talk to people in the Congressional Budget Office—the nonpartisan Congressional Budget Office—you will find that is a fact. Then when we have people sign a contractual relationship with the Federal Government that they are going to provide for the needs of the people they bring into this country, we feel—at least for a period of 5 years, and that is present law—that they should maintain that contractual relationship they have with the government; otherwise, those people would not be here in the first place. So we want to cover 4 million people. We want to cover people who don't have insurance. We don't want to encourage higher income people who do have insurance to go into the State health insurance program, and we want

to make sure that people maintain their contractual obligations.

We are going to offer a series of amendments today and tomorrow to bring out these differences between the two approaches, but I am not going to stand by and let anybody on the other side of the aisle say there is a dispute about covering 4 million people. I will make the point on this side of the aisle that we want to make sure we put emphasis upon covering people who don't have insurance, where they are willing to look at encouraging people to leave private insurance and go into a State-run program or encouraging people to avoid their contractual obligations with the Federal Government. Using our approach, it seems to me, the goal then can be reached so we actually reach more people who don't have insurance.

AMENDMENT NO. 41 TO AMENDMENT NO. 39

Now, the first amendment I am going to offer deals with this issue I referred to as a contractual obligation. The amendment I am offering today is very simple. It increases the coverage of low-income American children currently eligible for Medicaid but who are uninsured relative to the bill before this Senate. My amendment does this by striking the Federal dollars for coverage of legal immigrants and uses those funds to cover more low-income American kids instead.

Let me make it very clear: Whichever bill passes, we are talking about 4 million more kids, but we are still talking about a lot of kids who still aren't going to have coverage that we ought to be concerned about. So this is all about priorities. The Congressional Budget Office has reviewed my amendment and it indeed does the job of covering more low-income American kids. In fact, my amendment will get as many or more low-income American kids health coverage than the majority's bill does with the coverage of legal immigrants.

Does that sound right? It is right. It does not reduce the number of kids covered. It covers as many low-income kids, and maybe even more. The difference is that the additional low-income kids who get health coverage with my amendment are U.S. citizens. It does a better job of enrolling these low-income children than the bill before the Senate. I thought that covering children who were eligible for Medicaid but who were insured was a bipartisan goal shared by my Democratic colleagues. This amendment does exactly that.

I want to get back to the background on the amendment. In other words, there are people who are legally in the country—no dispute about that, legally in the country—who have sponsors. Without the sponsors, they would not be here. Those sponsors have signed an agreement with the Federal Government for these people to come into this country, that they will take care of them for 5 years, that they will not become a public charge. So those sponsors promised for their needs so that they would not be on programs that come out of the Federal Treasury, or else they would not be here. That is a cost of $1.3 billion when you are going to let those people not honor their contractual relationships and allow them to go on the Children's Health Insurance Program. And are they any better off? No, because the people who brought them here promised they were going to fulfill those needs and not become a public charge. But we would take that $1.3 billion and spend it on people who were not promised any coverage but qualify for the Children's Health Insurance Program and cover more kids in the process.

Madam President, I am going to send my amendment to the desk, and I ask that it be read.

Before I do that, I am sorry, I have to ask unanimous consent to set the pending amendment aside.

The ACTING PRESIDENT pro tempore. The amendment is in order at this time, and the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. HATCH, Mr. ROBERTS, and Mr. VITTER, proposes an amendment numbered 41 to amendment No. 39.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the reading thus far constitute the reading.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the amendment is as follows:

(Purpose: To strike the option to provide coverage to legal immigrants and increase the enrollment of uninsured low income American children)

Strike section 214 and insert the following:

SEC. 214. INCREASED FUNDING FOR ENROLLMENT OF UNINSURED LOW INCOME AMERICAN CHILDREN.

Section 2105(a)(3)(E) (42 U.S.C. 1397ee(a)(3)(E)), as added by section 104, is amended by adding at the end the following:

''(iv) INCREASE IN BONUS PAYMENTS FOR FISCAL YEARS 2012 THROUGH 2019.—With respect to each of fiscal years 2012 through 2019:

''(I) Clause (i) of subparagraph (B) shall be applied by substituting '38 percent' for '15 percent'.

''(II) Clause (ii) of subparagraph (B) shall be applied by substituting '70 percent' for '62.5 percent'.

Mr. GRASSLEY. Madam President, did I make a mistake, that I was not supposed to set the amendment aside? I apologize if I made a mistake.

The ACTING PRESIDENT pro tempore. The Senator can proceed at this time without consent.

Mr. GRASSLEY. I have said all I am going to say, and from that standpoint, we will be debating this amendment throughout the day. We do not object to what the majority leader said, that he would like to vote on these amendments today. I think it is our intention to do that sometime during the day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, as someone who considers the creation of the CHIP program one of my happiest legislative accomplishments as a Senator, this is a very difficult and disappointing week for me. Like the rest of the Nation, after this historic election, I was so hopeful we would mark this new era with the passage of bipartisan CHIP legislation. However, the partisan process engineered by the other side of the aisle so far on this issue of great importance, has only reinforced the American people's cynicism about Washington's partisan political games. Americans are tired of this, and I am tired of this. Change is not just a slogan on a campaign poster, it is about real action.

I began this year with great hope that we would all come together to complete our work from 2007 and have a bill signed into law that would have overwhelming support on both sides of the aisle. But that hope has turned quickly into disappointment and the promise of change into a commitment to remain the same.

It appears that decisions were already made without those of us who worked morning, noon and night for several months in 2007 to create a bipartisan CHIP bill not once, but twice at the consternation of many colleagues on my own side. And I want to make one point perfectly clear to my colleagues in this chamber—Senator GRASSLEY and I were willing to roll up our sleeves and do it again this year. That is because we remain committed to those 6 million low-income, uninsured children who are eligible for CHIP and Medicaid coverage.

I am bitterly disappointed by the outcome of this bill. CHIP is a program I deeply love and built with my friends and colleagues who share my concern about the welfare of uninsured children of the working poor—the only ones who were left out of this process.

Again, in the Senate, we could have had a bill that would have brought the vast majority of members together once and for all to help these children. But that was not to be.

When our new President was campaigning across the country, he made a promise to the American people that he would invoke change and end the bitter partisanship on Capitol Hill. I find it ironic that he will be meeting with GOP members to talk about bipartisan efforts in the economic stimulus package the same week that the Senate is about to pass the very first partisan CHIP bill. The other three bills that this body has passed on the CHIP program were approved with overwhelming bipartisan support—69 votes for; both parties.

When President Obama was elected, I truly believed his promise of bipartisan

change. And at risk of sounding overly sarcastic, I believe that if this bill and the process so far on the stimulus legislation are any indicator of what the future will bring, the American people will demand to know exactly what kind of change the Democrats pledge to bring to Washington.

I know my colleagues will agree that we put our hearts and souls into negotiating the reauthorization of the CHIP program in 2007. We stuck together through some very tough decisions—whether or not to allow coverage of pregnant women through CHIP, whether or not to continue coverage of childless adults and parents, whether or not to allow States to expand CHIP income eligibility levels, how to eliminate crowd-out and, most important, how to get more low-income, uninsured children covered through CHIP. We had some tough discussions, but in the end, we ended up with two bills, CHIP I and CHIP II, that covered almost 4 million low-income, uninsured children. Unfortunately, neither version of the bill was signed into law and, in the end, we simply extended the CHIP program through March 2009.

Back then, we knew that we needed to prepare, once again, for another debate on the reauthorization of the CHIP program in early 2009. But we all felt that the outcome would be different and that the legislation that I developed with Senators GRASSLEY, ROCKEFELLER and BAUCUS which I believe greatly improved the CHIP program, would be signed into law.

While the CHIP legislation that we passed in the Senate was not perfect, which we fondly refer to as CHIPRA I and CHIPRA II, it represented a compromise and laid the foundation for bipartisanship and trust that was integral to getting the legislation not once but twice to the President's desk.

The bill being considered this week is not that bill because it includes provisions that I feel were not part of our bipartisan agreement such as the inclusion of a State option to cover legal immigrant children and pregnant women. Amendments will be offered to improve this legislation but if they are not accepted, I will not be able to support this bill. And I deeply regret it.

I started putting together ideas regarding the CHIP program after I met with two Provo, UT, families in which both parents worked. Each family had six children. Neither family, with both incomes, had more than $20,000 a year in total gross income. They clearly could not afford health insurance for their children. CHIP was the only answer to their plight. They were the only people left out of the process. They worked. They did the best they could.

When Senators KENNEDY, ROCKEFELLER, CHAFEE and I wrote this program in 1997, we wrote it with the intent of helping the children of those Provo families and others like them. Our intent was to help the children of the working poor, the only children who did not have access to health coverage back then. These children's families made too much money to qualify for Medicaid and not enough money to buy private health insurance.

In addition, it came to light that both the Clinton and Bush administrations permitted individuals to be covered by CHIP who did not fit the definition that we had in mind for children of the working poor. In fact, they were not even children. They were childless adults and parents of CHIP eligible children. My good friend Senator GRASSLEY likes to remind us that there is no "A" in the CHIP program. There is only a "C" and we all know what that "C" stands for and it is not adults.

I believe that having adults on this program caused the price tag of CHIP to escalate and even led to some States running out of their CHIP allotments prematurely. To add insult to injury, because States receive a higher Federal matching rate for covering individuals in the CHIP program, States were given financial incentives to continue covering adults.

As part of our compromise in 2007, childless adults would have been phased off CHIP and transitioned to their States' Medicaid programs. Parents would have been covered in a capped program and within a set timeframe, States would have either received the Medicaid matching rate or the matching rate half way between the State's Medicaid matching rate and the CHIP matching rate. This was called RE-MAP. States would have only gotten the RE-MAP Federal match if they covered a certain number of low-income children.

Our two bills from 2007, CHIPRA I and CHIPRA II, brought this situation to light and put a stop to covering future adults once and for all. In fact, States will no longer be allowed to submit waivers to cover adults through the CHIP program once the bill before the Senate becomes law. That seems right.

We have also seen some States cover children whose family income is well above 200 percent of the Federal poverty level. Typically, these higher income families have access to private health insurance so they end up having a choice between private health insurance, paid for in part by their employers, or CHIP coverage, almost fully paid for by the Federal and State governments.

Unfortunately, many of these families end up choosing CHIP over private health coverage, thus contributing to higher costs incurred by the CHIP program. Adding higher income families to State CHIP programs also affects the Federal taxpayer who ends up paying for a significant part of the CHIP program.

And, once again, States currently receive the higher CHIP Federal matching rate for covering these higher income children. This is something that really bothers me because it is so contrary to the original goal of the CHIP program.

There are other issues as well—the crowd-out policy that we worked out to address the serious crowd-out concerns raised by Members was not included in this mark.

This policy, section 116 of CHIPRA I and CHIPRA II called for the Government Accountability Office, GAO, to study what States are doing to eliminate crowd-out in the CHIP program. In addition, the Institute of Medicine, the IOM, was directed to come up with the best way for measuring, on a State-by-State basis, the number of low-income children who do not have health coverage and the best way to collect this data in a uniform manner across the country. Today, there is no standard for States to collect data on the uninsured, including uninsured, low-income children.

So right now, it is a guessing game for States to figure out how many low-income, uninsured children reside in their States. To me, it is a no brainer that we should incorporate a standard way to collect this important information to help us figure out how many low-income, uninsured children still need health coverage.

The deleted section also required the Health and Human Services Secretary to develop recommendations on best practices to address CHIP crowd-out. It also directed the Secretary to develop recommendations on how to create uniform standards to measure and report on both CHIP crowd-out and health coverage of children from families below 200 percent of the Federal poverty level.

I simply do not understand why on earth the majority would drop such an important provision. I don't understand that since we worked so hard to solve these problems. Don't we want to eliminate crowd-out to ensure that the children in the most need are the top priority? Don't we want to make sure that the data collected in Utah on uninsured, low-income children is collected the same way across the country? Don't we want to compare apples to apples? Or is it possible that some in this body simply want to continue the guessing game and never truly know how many low-income, uninsured children live in their States?

We will have a vote on this provision during this debate and it is my hope that Senators on both sides of the aisle will want to have answers on crowd-out and appropriate data collection. I cannot believe that Members subscribe to the irresponsible, anything goes policy which is exactly what they are advocating if they vote against the amendment to add this provision back into the bill.

Another issue that is very important to me is the coverage of high-income children through the CHIP program. When we were negotiating CHIPRA I and CHIPRA II in 2007, we agreed 300 percent of the Federal poverty level for CHIP was high enough. CHIPRA I provided States with the lower Medicaid matching rate, FMAP, for covering children over 300 percent of FPL. CHIPRA II, the second bill vetoed by the President, went one step further and stopped all Federal matching rates for CHIP children over 300 percent of FPL. That is the policy that I support—there is no reason on earth that a family making $63,000 per year should be covered by CHIP and that a State should be rewarded with any Federal matching dollars for covering these high-income children.

In fact, there is one State that provides CHIP coverage up to 350 percent of FPL and another State that is trying to cover children up to 400 percent of FPL. In my opinion, when States start moving in that direction, they are taking a block grant program, one that we felt should be operated by the States to help children of the working poor, to push towards a single payer health system. That is what they are pushing for. That is not what we agreed to in 1997 when we created CHIP.

However, the legislation before us today allows States that had submitted State plan amendments or had their waiver approved to increase their income eligibility levels to over 300 percent of FPL to receive the higher Federal matching rate for the CHIP program. These States are New Jersey, a State that now covers children up to 350 percent of the Federal poverty level and New York, a State that submitted a plan to CMS to cover children up to 400 percent of the Federal poverty level. I do not support this provision and will be supporting an amendment to prevent these two States from receiving the higher CHIP matching rate. that are willing to work within the limits we set and have worked well under the original CHIP bill.

Another issue that deeply troubles me is the insistence to include a State option to cover legal immigrant children and pregnant women, who are not citizens of our country, through the CHIP program.

In 2007, we made agreements that our legislation would not include the coverage of legal immigrant children and pregnant women. I have consistently voted against adding that new category, even if it is at the State option, because I believed then, as I believe now, that before we even consider expanding the CHIP program to legal immigrant children, we need to do the best job we can to cover the children of the working poor who are U.S. citizens.

While we have improved, we still have at least 6 million other children to cover, maybe more, with the dire economic conditions currently facing our country.

Now, before we even started drafting our first CHIP bill in 2007, we agreed that legal immigrant children would not be added to the CHIP program. That agreement was very important to me and to other Republicans who eventually supported the two CHIP bills that we negotiated in 2007.

In addition, we have always struggled to find sufficient dollars to reauthorize the CHIP program. The bill before the Senate is only a 4½ year reauthorization due to limited funds. I understand there is some extra money in the bill for the legal immigrant provision. I believe that we should be using that money to cover low-income uninsured children who are U.S. citizens first. How many children who are U.S. citizens will be without health care because we have decided to cover legal immigrants through CHIP?

I wish to know the answer to that question before this bill becomes law. Now, ordinarily I support helping legal immigrants in almost every way. But we do not have enough money to take care of our own citizens' children. That is a matter of great concern to me and it is of great concern to a significant number of Members of both bodies who probably will vote against this bill because of that provision. In fact, there are plenty of reasons to vote against this bill because it was written in such a partisan fashion.

I might add, the legal immigrant provision is now in this legislation, and, as a result, there are many Members in both Houses of Congress who now oppose the bill. We simply do not understand why we are not taking care of our children who are U.S. citizens first. Once that goal is accomplished, I would be willing to make a commitment to the work on resolving all of the issues regarding legal immigrants once and for all.

But now is not the time. There is not enough money even in this bill to take care of our children who are citizens. This is especially true when our country is in economic crisis and there are more children who are U.S. citizens who need health insurance coverage because their parents may have lost their jobs or may have lower paying jobs. I do not believe this is an unreasonable request. For the life of me, I cannot understand why those who support the coverage of legal immigrant children cannot work with us to resolve this issue, especially if they want a bill that has broad bipartisan support.

But without a doubt, the issue that broke down negotiations between the Senate and House Republicans at the end of 2007 involved Medicaid eligibility. Section 115 of the legislation would allow States to create higher income eligibility levels for Medicaid. When are we going to quit throwing money at programs?

Simply put, a State could establish one income level for Medicaid, a higher income eligibility level for CHIP, and then cover more kids at an even higher income eligibility level through Medicaid. In other words, a State could cover higher income children through Medicaid at an even higher income level than children covered by CHIP.

This provision sets no limits on the income eligibility level for Medicaid. Now, that is ridiculous. It is irresponsible. It is fiscally unsound. Everybody here knows it. In 2007, the House Republicans wanted to put a hard cap of 300 percent of Federal poverty level on State Medicaid programs. I agreed with them, but others did not. I am quite disturbed that the legislation before the Senate still allows States to cover high-income children under their State Medicaid plans. Technically speaking, section 115 of this bill would allow a State to cover children under Medicaid whose family income is over 300 percent, over $63,000 for a family of four.

During this debate, I intend to support and speak in favor of amendments to address this very serious concern of mine. It ought to be a serious concern of everyone here, since there a limited amount of money that may be used.

Additionally, section 104 of the legislation creates a bonus structure for States that enroll Medicaid-eligible children in their State Medicaid programs. The idea is to reward States for covering their poorest children. If a State increases its Medicaid income eligibility levels, using the language in section 115, additional children added to Medicaid would not be eligible for a bonus during the first 3 fiscal years. However, at the beginning of the fourth fiscal year, it is possible that States could receive a bonus for enrolling higher income children in their State Medicaid programs.

Now, this provision simply does not make any sense. I urge my colleagues to drop it once and for all. A State should not be rewarded for covering a high-income child in its State Medicaid program, especially when it is not going to be covering those who need to be covered and should be covered.

Well, I have to admit, Senator GRASSLEY and I went through a lot of pain on this side, and in the House of Representatives, bringing people together for the overwhelming votes that we did have in both the Senate and the House, but especially here in the Senate on both CHIPRA I and CHIPRA II.

Then, all of a sudden we find that since the Democrats have taken over and now have a significant majority, they do not need Senator GRASSLEY and me anymore.

Now, my feelings are not hurt, I want you all to know that. But I am disgusted with this process that is so partisan. I am particularly upset because everybody in this body knows that I fought my guts out to get the original

CHIP program through to begin with in 1997. And it would not have happened had I not brought it up in the Finance Committee markup on the Balanced Budget Act. In fact, it became the glue that put the first balanced budget together in over 40 years.

So you can imagine why I feel the way I do. I know how badly Senator GRASSLEY feels. We are both conservatives, but we both worked our guts out trying to bring about an effective approach, and it was effective in CHIPRA I and CHIPRA II.

Unfortunately, in 2007, neither bill did not have enough votes to override a veto. I think our President had very poor advice, and anybody who looks at the mess this legislation is in right now, and the lack of bipartisanship, will have to agree that we should have signed into law either CHIPRA I or CHIPRA II. But then that is the past.

I hope my colleagues on the other side will recognize that some of us worked hard to try and bring about effective legislation, taking on our own administration, taking on wonderful friends on our own side, to bring about legislation that would work a lot better than the bill before us today. This bill, in my opinion, is going to lead to higher costs and less coverage of children.

Why? What is the reasoning behind it? Well, unless there are essential changes made to this legislation during the floor debate, I will be voting against my own bill, and against the program I helped create in 1997. It is sufficient to say that I am not only disappointed, but I am angry. This entire debate has personally been grievous to me, because it has now become a partisan exercise instead of being about covering low-income, uninsured children, where we could have had a wonderful bipartisan vote. We could have made this third reauthorization bill a tremendous victory for the President.

Well, he may feel tremendous victory anyway, even though it is a partisan one. But I do not look at it that way. To start out the year on this note does not bode well for future health care discussions, including health reform and the Medicare bill that we will be considering this fall. In fact, one of the very first bills that the President, who ran on a platform of bipartisanship and change, will sign into law is going to be a partisan CHIP bill, produced as a result of the same old Washington gamesmanship. That is pathetic when you think about it, because we should be together on this bill, and a large majority would have voted again for legislation similar to either CHIPRA I or CHIPRA II.

I want to encourage the President and his colleagues to seriously consider what they are doing. We were so close to working out a bipartisan CHIP agreement and, in my opinion, I believe they are missing an incredible bipartisan health care victory by making this a partisan product. So I urge the President and my friends on the other side—they are my friends—I urge them to reconsider this strategy. I think we still have time to turn this around and make it the bipartisan bill many of us would like it to be. Ensuring access to quality and affordable care for Americans is not a Republican or Democratic issue, it is an American issue. Our citizens expect nothing less than a bipartisan, open, and inclusive process to address a challenge that makes up 17 percent of our economy and will increase to 20 percent within the next decade. A bipartisan CHIP bill would have been an incredible step in that direction.

However, once again politics has triumphed over policy, Washington over Main Street.

The famous novelist Alphonse Karr once said, ‘‘The more things change, the more they remain the same.’’ There is no better proof of this statement than this CHIP legislation. I continue to hope that the change promised in this election did not have an expiration date of January 20, 2009, but rather was a real and accountable promise to our citizens. There is no better place to start this change than on this CHIP bill by making it truly bipartisan.

Mr. President, I send an amendment to the desk.

AMENDMENT NO. 45 TO AMENDMENT NO. 39

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. GRASSLEY, proposes an amendment numbered 45 to amendment No. 39.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit any Federal matching payment for Medicaid or CHIP coverage of noncitizen children or pregnant women until a State demonstrates that it has enrolled 95 percent of the children eligible for Medicaid or CHIP who reside in the State and whose family income does not exceed 200 percent of the poverty line)

On page 136, between lines 15 and 16, insert the following:

(c) CONDITION FOR FEDERAL MATCHING PAYMENTS.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (23), by striking ‘‘or’’ after the semicolon;

(B) in paragraph (24)(C), by striking the period and inserting ‘‘; or’’; and

(C) by inserting after paragraph (24)(C), the following:

‘‘(25) with respect to amounts expended for medical assistance for an immigrant child or pregnant woman under an election made pursuant to paragraph (4) of subsection (v) for any fiscal year quarter occurring before the first fiscal year quarter for which the State demonstrates to the Secretary (on the basis of the best data reasonably available to the Secretary and in accordance with such techniques for sampling and estimating as the Secretary determines appropriate) that the State has enrolled in the State plan under this title, the State child health plan under title XXI, or under a waiver of either such plan, at least 95 percent of the children who reside in the State, whose family income (as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) does not exceed 200 percent of the poverty line (as defined in section 2110(c)(5)), and who are eligible for medical assistance under the State plan under this title or child health assistance or health benefits coverage under the State child health plan under title XXI.’’.

(2) APPLICATION TO CHIP.—Section 2107(e)(1)(E) (42 U.S.C. 1397gg(e)(1)(E)) (as amended by section 503(a)(1)) is amended by striking ‘‘and (17)’’ and inserting ‘‘(17), and (25)’’.

Mr. HATCH. My amendment simply says that before a State may exercise an option to provide CHIP and Medicare to legal immigrant children and pregnant women, that State must demonstrate to the Secretary of Health and Human Services that 95 percent of its children under 200 percent of the Federal poverty level have been enrolled in either the State's Medicaid program or the CHIP program.

The Secretary may make this determination based on the best data available, and may use any technique necessary for sampling and estimating the number of low-income, uninsured children in that State.

When legal immigrants enter this country, their sponsors agree, the people who bring them in agree, to be responsible for their expenses for the first 5 years they live in the United States.

The CHIP bill contains a provision which was added during the Finance Committee consideration of the bill that negates that agreement by allowing immediate health coverage of legal children and pregnant women. This is the first reason I am offering this amendment.

The second reason is that there are U.S. children who are citizens of this country who are low income and uninsured. They do not have health insurance coverage. They qualify for Medicaid and CHIP too. I believe these children should be our first priority as far as CHIP and Medicaid coverage is concerned. They should be the priority. Once these children have health coverage, then we can talk about expansions to other populations.

I worked very closely with my Democratic colleagues on creating not one but two bipartisan CHIP bills in 2007, CHIPRA I and CHIPRA II.

As I have explained, I voted against my President because I wanted the CHIP program to be reauthorized in the bill we wrote. One of the first

agreements that Senator GRASSLEY and I made with Senators BAUCUS and ROCKEFELLER was that legal immigrant children would not be covered under the CHIP program because their sponsors made a commitment to be financially responsible for them for 5 years. That was even before we started drafting CHIPRA I.

I simply cannot support a CHIP bill that allows States to cover legal immigrant children while there are at least 6 million low-income uninsured children, 200 percent of poverty and below, who do not have health coverage and are eligible for CHIP and Medicare.

These children ought to be our first priority. My amendment ensures the majority of these children have health coverage before we expand CHIP and Medicaid eligibility to legal immigrants. I urge my colleagues to support this amendment. It is a reasonable approach. It might have the capacity of helping to bring some of us together in a more bipartisan manner. I hope our colleagues will pay strict attention to some of the things I have said because I believe I have earned the right to be listened to on all aspects of the CHIP bill.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Maryland.

Mr. CARDIN. Mr. President, let me compliment my friend, Senator HATCH, for his longstanding work on behalf of the Children's Health Insurance Program. He points out—and rightly so—that this legislation was developed in a bipartisan manner, where Democrats and Republicans worked together to establish a Federal program that allowed our States to use their mechanism to cover children. That is where our difference might be now. We are looking at reauthorization legislation. We are looking at how we can make this program more effective, covering more children, giving States the tools they need so children can be covered under the CHIP program. The concerns my friend from Utah raises basically would impede on State discretion. We have a national program that is built upon allowing the States to implement and cover children. Each State is different. The priorities among States are certainly different. We need to give the States the tools they need so children actually are covered effectively by this program.

The amendment my friend from Utah has offered would prohibit States from covering legal immigrants and pregnant women. These are, in many cases, people who have been here for a long time, hard-working, tax-paying families, and they are playing according to the rules.

This restriction was imposed in 1996 by Congress. Since that time, many of the restrictions that have been placed upon legal immigrants have been removed. In this instance, what the committee is recommending is to give the States the option of covering legal immigrants without the 5-year wait period. It is not mandating it. It gives all States the option, if they so desire, to cover. Currently, 23 States want to cover these children.

The last time an amendment was offered and we tried to do away with the prohibition on States, our Republican colleagues said: This shouldn't be done as an independent issue. Why don't we take it up when we reauthorize the Children's Health Insurance Program. That is where it should come up. It should not come up on an unrelated bill. That is exactly what we are doing.

This is the reauthorization bill for the Children's Health Insurance Program. This is the time to correct what was done in 1996, in haste, that in many other Federal programs we have already changed. This allows the States to do it.

Many other issues my friend from Utah raised, I assume, will have individual amendments to deal with them. But in most cases, it is the issue of whether we are going to trust our States to run the program. That was the compromise reached between Democrats and Republicans. Quite frankly, there are more people on the Democratic side of the aisle who wanted a stronger Federal presence. But our Republican colleagues said: Let's build upon the State programs. That is what we did in the compromise. That is why the Children's Health Insurance Program has truly been a bipartisan bill.

The bill reported out by the committee is a bipartisan bill. So let me talk for a few minutes about the importance of S. 275, the Children's Health Insurance Program Reauthorization Act of 2009. For millions of children across America who are waiting for the comprehensive health care coverage they need, this week could not have come soon enough. There is a crisis in health care in this country. The United States spends far more per capita than any other nation on health care services. Yet our health status lags in many areas, especially in preventable diseases. This is primarily because we have so many Americans who lack coverage and a fragmented, inefficient health care system that shifts costs onto those who are covered. This is no longer a matter of whether we take action to achieve universal health insurance but how.

We can begin, in the 111th Congress, by guaranteeing children access to the care they need to grow into healthy adults. We can make great strides by reauthorizing CHIP and covering millions of uninsured children now.

Most uninsured Americans belong to working families. It is the CHIP program, first established 12 years ago, that can provide children in these families with affordable health insurance. As a Member of the House, I voted for the bill that created CHIP. At the time, 37 million Americans were uninsured. At the time, I did so with the hope that CHIP would be the first step toward universal health coverage. Although we did not reach the goal then, I believe we are on track to achieve it this year. In the years since, more employers have dropped their coverage. The number of uninsured has increased. Today the number stands at 46 million and growing. I say ''growing'' because today's headlines contain more grim news for our workforce. The New York Times reported a staggering list of companies that announced job cuts on Monday: Caterpillar, 20,000 jobs; Sprint-Nextel, 8,000 jobs; Home Depot, 7,000 jobs; General Motors, 2,000 jobs; Texas Instruments, 3,400 jobs; Philips Electronics, 6,000 jobs.

Over the past year, more than 12.5 million Americans have lost their jobs. Our unemployment rate is now 7.2 percent, the highest in 16 years. As President Obama said yesterday:

> These are not just numbers. These are working men and women whose families have been disrupted and whose dreams have been put on hold.

Whenever we have a family who loses their job, in many cases, they lose their health insurance. If they lose their health insurance, in many cases, they lose their access to quality health care. The numbers are increasing. In many cases, we have two working families. One person loses their job which may cover the family, the other spouse has only single coverage and can't get family coverage or doesn't have the money to afford family coverage. This disrupts a family's ability to take care of their own health care needs. We know CHIP works. Studies have shown and proved that enrollment in CHIP improves the health care of children. When previously uninsured children sign up for CHIP, they are far more likely to get regular primary medical and dental care. They are less likely to visit the emergency room for services that could be rendered in a doctor's office. That saves us health care dollars. They are more likely to receive immunizations and other services they need to stay healthy and lead to healthier schools and communities. They are more likely to get the prescription drugs they need to recover from illness.

The best evidence of the program's success doesn't rest in studies or surveys. It rests in the families themselves. The Bedford family from Baltimore is a success story, one of millions of families in CHIP. Craig and Kim Lee Bedford and their five children have testified on Capitol Hill about the difference the Maryland CHIP program has made in their lives. Mrs. Bedford said:

> Perhaps the greatest impact the Maryland Children's Health Insurance Program has had on our family is that we no longer have

to make impossible health choices based on a financial perspective. We no longer have to decide whether a child is really sick enough to warrant a doctor's visit. We no longer have to decide whether a child really needs a certain medication prescribed by his pediatrician.

Mr. Bedford said:

The face of CHIP is families such as ours, families that work hard, play by the rules, trying to live the American dream.

So for the Bedford family and millions more, CHIP has been a success. But there are still millions of children who have not enrolled in the program offered by their States. Our State is making progress, simplifying their enrollment procedures, expanding outreach efforts and using joint applications for Medicaid and CHIP so families can enroll together. The States are making progress, but as we reauthorize the Children's Health Insurance Program, let's make sure we make real progress.

Our bill will extend the program for 4.5 years and allow an additional 4.1 million children nationwide to enroll. We have to get this bill done.

I wish to talk about the MCHIP program, the Maryland State program. It has one of the highest income eligibility thresholds in the Nation. I know my colleagues have talked about this. This is needed because of the high cost of living in our State. Eligibility is 300 percent of the Federal poverty level, not because our Governor wants to move people from private insurance to public insurance plans. It is at 300 percent because working families at this income level do not have access to affordable health insurance. That is the statistics in my State. Those families need CHIP. This is a State option.

As to one point my friend from Utah mentioned, I don't think the Federal Government should be prescriptive. Allow the States to figure out what program works best. There are incentives to cover low-income families. There are higher matches from the Federal Government, as it should be. We should make sure the lower income families are covered first, and we do under CHIP. Children under the age of 19 may be eligible for MCHIP, if their family income is at or below 200 percent of the Federal poverty level or up to $34,000 for a family of three. Our program has been a true success. Enrollment has grown from about 38,000 enrollees in 1999 to more than 100,000 today. In Maryland, the need has always exceeded available funds. We actually spend more money than the Federal Government will give us. The Federal match through the CHIP formula established in 1997 is not enough to meet all the costs of the MCHIP program. Some States do not use their entire allotment, while other States, such as Maryland, have expenditures that exceed their allotment. Congress has addressed this problem by redistributing the excesses of the States that have them to States that have shortfalls. Now we must move forward for future years.

This is what we are doing on the floor of the Senate today. I thank Chairman BAUCUS and Senator ROCKEFELLER for their efforts on this bill. This bill will allow us to continue to cover children and families with incomes up to 300 percent of poverty. Maryland would also have access to contingent funds, if a shortfall arises, and additional funds based on enrollment gains. With this new money, Maryland can cover an estimated 42,800 children who are currently uninsured over the next 5 years.

There is another important part of this bill I wish to talk about for a moment, section 501. It hasn't gotten much attention, but it certainly has received a lot of attention around the country. Section 501 ensures that dental care is a guaranteed benefit under CHIP. I agree with my friend from Utah, we need to set standards at the national level. Dental benefits must be included. According to the American Academy of Pediatric Dentistry, dental decay is the most common chronic childhood disease among children. It affects 1 in 5 children between the ages of 2 and 4 and half of those between the ages of 6 and 8. Children living in poverty suffer twice as much tooth decay as middle- and upper-income children. Nearly 40 percent of Black children have untreated tooth decay in their permanent teeth. More than 10 percent of the Nation's rural population has never visited a dentist. More than 25 million people live in areas that lack adequate dental services.

Next month will mark 2 years since a young man from suburban Maryland named Deamonte Driver passed away. He was 12 years old, when he died in February of 2007 from an untreated tooth abscess. His mother tried to access the system, tried to get him to a dentist. What was needed was an $80 tooth extraction. Because of the failure of the system to cover his services, an inability to get to a dentist, Deamonte ended up in an emergency room. A quarter of a million dollars was spent in emergency surgeries. He lost his life in the United States in 2007.

This bill will do something about it by covering oral health care, as it should. Deamonte's death has shown us that, as C. Everett Koop once said, ''There is no health without oral health.'' No children should ever go without dental care. I have said before, I hoped that Deamonte Driver's death will serve as a wake-up call for Congress. Section 501 of this bill shows that it has. We must never forget that behind all the data about enrollment and behind every CBO estimate, there are real children who need care.

When I spoke about Deamonte Driver after his death, I urged my colleagues to ensure that the CHIP reauthorization bill we send to the President includes guaranteed dental coverage. This bill does include guaranteed dental coverage. It also provides ways in which families will have a better understanding of the need for oral health care. It also provides ways in which families can access dentists who will treat them under either the CHIP program or the Medicaid Program.

This legislation is a major step forward on dental care. We need to do more. I want to acknowledge the work particularly of Senators BINGAMAN and SNOWE on oral health care. They have been real champions in this body in moving forward on these types of legislation.

This bill will also require GAO to study and report on access to dental services by children in underserved areas, access to oral health care through Medicaid and CHIP, and how we can use midlevel dental health providers in coordination with dentists to improve access to dental care for children. The results of this study will give us the information we need to further improve coverage.

We still have to raise reimbursement for dental providers, and send grants to the States to allow them to offer wraparound coverage for those who have basic health insurance but no dental insurance. But these provisions are an excellent start.

After two vetoes of a bipartisan CHIP bill by the former President, I am so pleased to stand here today on the floor of the Senate and express my strong support for S. 275. This is the week in which we can make progress in covering people in this country, particularly our children, with health insurance. One week after the inauguration of President Obama, we are poised to move this bill through the Congress and to his desk so it can finally become law.

I urge all my colleagues to vote in favor of this legislation, as we start down the path to universal health coverage for all Americans.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 43 TO AMENDMENT NO. 39

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendments Nos. 42, 43, and 44, and ask for their immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. CARDIN. Mr. President, I do object. The reason, quite frankly, is that we have worked out with the Republican leader that we would have three amendments pending. We have those three amendments pending. I think it is important we have an opportunity to act on those three amendments. We certainly look forward to other opportunities where my colleague will be

able to offer the amendment, but at this point I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from South Carolina retains the floor.

Mr. DEMINT. Thank you, Mr. President. I do not intend to speak on them, so we would not use any time. I think it is important we have amendments pending so our colleagues will have ample time to review them.

I would ask the Senator to reconsider. Again, I am not going to speak on them. I only want them pending so we can distribute them and people can begin to see what is in them.

Mr. CARDIN. Mr. President, if my colleague will yield?

Mr. DEMINT. Yes.

Mr. CARDIN. We would be pleased to allow the Senator to call up amendment No. 43 but not the entire list of amendments the Senator sought.

Mr. DEMINT. I appreciate the benevolence, and I would hope the Senator would agree that all of these amendments at some point can be made pending in the debate.

But I will call up only amendment No. 43 right now.

Mr. CARDIN. To point out to my friend, we already have three amendments that are pending, and we are hoping to make progress, and we want to get votes on these amendments. I will not raise an objection to setting aside the amendment for the sole purpose of offering amendment No. 43.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 43 to amendment No. 39.

Mr. DEMINT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require States to impose cost-sharing for any individual enrolled in a State child health plan whose income exceeds 200 percent of the poverty line)

At the appropriate place, add the following:

SEC. ___. REQUIRED COST-SHARING FOR HIGHER INCOME INDIVIDUALS.

Section 2103(e) (42 U.S.C. 1397cc(e)) is amended—

(1) in paragraph (3)(B), by striking ''and (2)'' and inserting '', (2), and (5)'';

(2) in paragraph (4), by striking ''Nothing'' and inserting ''Except as provided in paragraph (5), nothing''; and

(3) by adding at the end the following new paragraph:

''(5) REQUIRED COST-SHARING FOR HIGHER INCOME INDIVIDUALS.—Subject to paragraphs (1)(B) and (2), a State child health plan shall impose premiums, deductibles, coinsurance, and other cost-sharing (regardless of whether such plan is implemented under this title, title XIX, or both) for any targeted low-income child or other individual enrolled in the plan whose family income exceeds 200 percent of the poverty line in a manner that is consistent with the authority and limitations for imposing cost-sharing under section 1916A.''.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Thank you, Mr. President.

Obviously, I am disappointed in the process. It is important we let our colleagues know what amendments will be offered so we can begin to discuss them; and many times we have the opportunity to work these things out, improve them before debate. Unfortunately, many times in the past we have seen where the majority pushes the bringing up of these amendments to the very end and then says we do not have time to debate them. I hope that will not occur this time.

I have three good amendments. The one I just brought up I will not speak on at this point but will mention the subject of that amendment. It is a cost-sharing arrangement with the States that for all recipients of SCHIP over 200 percent of poverty the States are required to ask for some small cost-sharing with people who use this insurance. It is important that we look at this as a program that, hopefully, will move people from a Government-sponsored plan to eventually a private plan, with our goal being every American is eventually insured with a policy they can own and afford and keep.

So this would work with the States to require a small cost-sharing arrangement with the beneficiaries who are 200 percent of poverty or more, and it would not be more than 5 percent of income, and States can charge as little as they would like. But the whole point is to begin to encourage personal responsibility and to let people know this is not a permanent giveaway but something they need to participate in.

I look forward to discussing this amendment in more detail along with my other amendments sometime in the future. But right now, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I rise at this moment to review, in a summary form, pertinent aspects of the legislation. I know we are going to be having a debate on various parts of this bill that have been the subject of a lot of conflict in the last couple of days. But I think it is very important we kind of get back to the basics to talk about why we are here.

We are not here to only debate several provisions of this legislation. We are here to debate, in a larger sense, whether we are going to pass a children's health insurance bill this year, this month, or not. That is the fundamental debate we are having. We had the opportunity, in 2007, in a bipartisan way, here in the Senate to achieve a rare and, frankly, unprecedented bipartisan agreement on a significant piece of legislation, the result of which would have been, over a 5-year period of time, to insure 10 million American children.

I am not sure any other generation of Americans has had that opportunity. We had a bipartisan consensus in the Senate. It approached 70 votes—in the high sixties—every time it was voted on; a veto-proof number of votes, a majority. It went to the House, of course. The House debated it, and they had an overwhelming bipartisan vote in the House. It went to President Bush, and he vetoed it twice. Then it came back for an override, and we were able to override it in the Senate, but in the House they fell short. That is where we are. So because of the actions of President Bush, that bill never became law.

Now we are back to debating whether this Congress is going to provide health insurance to not just 10 million—it is now 10.6 million—American children. We are either going to do it or we are not. All this other stuff is interesting to debate, and we will continue to debate it, but we are either going to do it or we are not.

Let me give you one example of what this means. Forget all the numbers for a second and all the programs and all the quibbling about some point of conflict. We will address those issues today, and I will as well. But let's get back to the basics: what this legislation means to a family.

For example, as a result of this legislation, if we do our job here and get this legislation passed, and if the House does its job and passes this legislation, millions of American children will have the opportunity for all kinds of good health care provisions, a lot of them preventive in nature.

We have a lot of discussions in this body where people talk about the workforce and growing the economy and building a stronger skilled workforce in the future. None of that means much unless you are going to do this, OK. A child will not develop, they will not achieve in school, and they will not be productive members of our workforce unless we pass legislation such as the children's health insurance bill.

I will give you one example: well-child visits. Anyone who knows anything about child development—I do not consider myself in any way an expert on this issue; others may—but we all know, as parents—forget legislators or experts—it is as parents we know how important it is to have a child go to the doctor a couple times, at a minimum, several times in their first year of life. It is a key time for parent and physician to communicate. Doctors recommend six visits in the first year of a child's life.

Now, with this legislation we have an opportunity to guarantee that millions

more children will see a doctor six times in their first year of life. That is something we ought to do.

They get a complete physical exam. Height, weight, and other developmental milestones are mentioned. Hearing and vision are checked. Important topics, such as normal development, nutrition, sleep, safety, infectious diseases, and all kinds of other issues, are discussed; general preventive care.

Now, if we allow some of these discussions and debates today to bog this down and not get it passed in a bipartisan way, what we are preventing is, among other things, millions of children getting this care. It is as simple as that. So those who are going to use these other things to put them in the way as impediments or obstacles, to block this legislation, should be reminded and the American people should be reminded what they are stopping. This is not complicated. It is whether millions of children are going to have health insurance; and one aspect of that care or that health insurance is a well-child visit.

The other point I want to make in the early going today is there is a good bit of mythology that surrounds this legislation, and sometimes facts are not put on the table. This is mostly a question of whether working families are going to have health insurance. There is a frustration now that so many families are living with the loss of a job, the loss of a home, the loss of their livelihood and, therefore, their hopes and their dreams.

The least the Senate should do, in the midst of what is arguably the worst economic circumstance in more than a generation—maybe the worst economy we have faced since the 1930s; we can debate all that, but it is bad out there, it is real bad for families—the least we could do is to say, we may not have solved the larger health care challenge, we may not have fully debated all the aspects of health care we are going to debate and I hope we can vote on, but at least we can take an existing program that we know works, that is battle tested, that has results for 15 years now—my home State of Pennsylvania; when my father served as Governor, he signed this into law, which was the first big State to do it. He knew it worked. He knew it worked then, and he supported it strongly. It has worked in Pennsylvania. We have over 180,000 kids covered. This legislation would increase that to the point we could almost cover every child in the State, for example.

But in the midst of this economy, the least the Senate should do is say: We may not have solved all of our economic trouble, we may not have even solved significant aspects of our health care challenge, but the minimum—the minimum—this Senate and this Congress and this administration should do is get this done, and get it done now.

All these other debates are interesting and important, but, frankly, some of them are academic in nature. I know they have risen to the level of conflict, and I know the media likes to report on conflict. That is their job. But a lot of them, compared to the gravity of what is at stake here, are academic, in my judgment. And I think for some—not everyone but for some—they are deliberately calculated to stop this legislation, deliberately so. I hate to say that, but it is the way I feel. We are getting down to the details now of getting this done, and we have to be blunt and direct.

So we are going to have debates about parts of this legislation, but at the end of the day the question is whether the Senate is going to provide millions more children with health care. That is the question. All this other stuff does not amount to or does not rise to that level. They may be important debates, but they do not rise to that level.

One more point, and I will yield because I know we have colleagues waiting.

Seventy-eight percent of children covered by CHIP are from working families—working families. I will get into some of the other aspects as well. But at this time I will yield the floor because I know we have colleagues waiting.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wish to ask the Senator from Pennsylvania a couple questions, if he might be so kind as to respond.

Your earlier statement was without this, children will not develop, children will not become productive members of our society.

Having taken care of 4,000 infants and done well child exams on them, what is the number of children out there who are not getting vision and hearing screens right now?

Mr. CASEY. Well, I don't have a number on them.

Mr. COBURN. The number is zero because every one of them is tested.

Mr. CASEY. Let me finish.

Mr. COBURN. I control the time.

Mr. CASEY. Let me finish the answer. If we do not pass this—if we don't pass this, those children won't get that preventive care. It is as simple as that.

Mr. COBURN. That is simply not true.

Mr. CASEY. How are they going to get preventive care?

Mr. COBURN. They are going to get preventive care, and let me tell my colleagues how. What is the number of children who are not getting preventive care in the first 6 months of life right now? We don't know that number, and that is exactly the problem.

Here is the point: Every one of us wants children to get health care. It is not about wanting children to get health care.

Mr. CASEY. This is the way to do it.

Mr. COBURN. The fact is, we have an SCHIP program now and a Medicaid Program right now where we have 5.4 million kids who are eligible and who are not enrolled.

What we are doing is exactly the opposite of what President Obama stated we should be doing. He stated that we should be being responsible. I would contend that one of the areas of being responsible is to make sure programs work. When we have a program where last year, on average, 5.5 million kids were covered and another 5.4 million kids who were eligible weren't covered, I would tell my colleagues that program isn't working very well. It is not working. So what have we done? We have expanded the eligibility with this bill.

The debate over how we cover all the rest of Americans—we will have that debate, and I am sure we are going to have that debate this year. But the fact that 51 percent of the eligible children under the programs we have now, under the requirements we have now, are covered means 49 percent aren't. In this bill is a measly little $100 million to try to expand the enrollment of those kids who are already eligible.

I would think the average American out there who does have insurance or who may not have insurance might say: Well, why don't you make the program you have today work? We would have more kids covered than this bill will totally cover if we just made the requirements that the States and Medicaid directors throughout do the outreach to get the kids who are eligible.

The fact is, most of the poor women in this country—up to 300 percent right now—deliver under either title XIX or Medicaid. Their children are covered the first year of life. They are not going to miss the first well child visit. As a matter of fact, they are the ones—the biggest problem we have is getting the people who have coverage to be responsible and to bring their kids in. It is not about coverage; it is about responsibility—the very thing our new President said we need to reach up to and grab.

The other point that has to be brought forward in this debate is there is a lack of integrity with this bill. Let me tell my colleagues what it is. I do not doubt this Senator's integrity whatsoever. He is a friend of mine. When he speaks, he speaks from the heart. But when we manipulate the numbers and we drop a program from $13 billion to $8 billion in the last year of the first 5 years of its authorization so we don't have to meet the requirements of living within our means, and then we transfer $13.2 billion so we lower the baseline—this is all inside baseball—what, in fact, we are doing is we are lying to the American people to the tune of $41.3 billion. That is what CBO says. That is what CBO says in a

letter to PAUL RYAN, the ranking member on the Budget Committee in the House, that, in fact, because we manipulated the numbers, because we cheated with the numbers, that it is actually going to cost $41.2 billion or $41.3 billion more than what we are saying it is going to cost.

Why is that important? Because we have decided to pay for this with one of the most regressive taxes toward poor people that we can. The consequence is that we are going to tax them and then we are going to wink and nod to the rest of the American public to say: This $41.2 billion, oh, don't worry about it; we are going to fudge the rules; we are not going to play the game honestly and with integrity. There is not going to be change you can believe in because the Senate's bill winks and nods at $41 billion. We all know that is there. We all know that is the only way they can do it to where it is scored in terms of pay-go.

So what we did is we paid attention to the numbers but not to the integrity behind the numbers. So the American taxpayer in some way or another will take on, from 2014 to 2019, an additional $41 billion. That is not change, folks, regardless of how good our goal is, regardless that every Member of this body wants to see kids who don't have care covered. Every Member wants to see that. We don't want the first child, we want every American covered—every American covered. But to do that under the guise of ''integrity in our numbers'' puts us right back into the same problems that got us into the deep financial problems we have today.

Let's be honest. Let's talk about what this bill really costs, what we know it would cost if we didn't play a game with the numbers, and what we could do to offset some of the programs President Obama says need to be eliminated so we can do the things that are good. There is not one attempt in this bill to do that. As a matter of fact, there is an attempt to cover non-U.S. citizens at the expense of U.S. citizens in this bill.

So basically we are going to keep a 9-percent approval rating because we are not going to earn the trust of the American people about being honest about what something really costs. I want to tell my colleagues, that undermines the whole debate. It sends us on a track to where we are going to be a Third World country because we won't even be honest about what things really cost. There is nothing wrong with having an honest debate about what this bill really costs, but to deceive the American people on what this bill actually costs—actually costs and will actually cost them—it is not going to cost us; it is going to actually cost them. It is going to cost them in terms of a lower standard of living and less opportunity.

Let's get honest about what it really costs, and it really costs $41.2 billion more than what we say it is going to cost. Let's do the hard work. If the bill is such that the Senator from Pennsylvania thinks it is absolutely necessary so children will develop, so children will become productive, isn't it worth getting rid of things that don't make kids develop and don't make them productive? Isn't it worth us taking the heat to get rid of programs that aren't effective so we can actually pay for this? Instead, we are in essence lying to the American public about the true cost of this bill. That is what has to stop.

The integrity of those who want to do this is fine. The integrity of the numbers stinks. For us to say we are for children and have that honorable position that we are for children, but at the same time we want to undermine the faith in this place so they can't believe us in the future because we are going to charge them $41.2 billion more than it actually costs says a whole lot about us.

Every child should have an opportunity for health care. Every child should have prevention. Every child should get a hearing screen and a vision screen as we do now at every newborn nursery in this country. Every child should get their immunizations at every opportunity when they encounter—first at 2 months, 3 months, 6 months, 9 months, and a year, their first year of life. The whole purpose for that screening is to see if development is not normal.

The Senator from Maryland talked about the mandated oral health care in this bill. The mandated oral health care in this bill is a direct consequence of one of our other programs to help people. It is called food stamps. When we look at the mix of food stamps, what do we see? We see a high predilection for high-fructose corn syrup in the foods that we use food stamps to buy which causes the very dental caries we are fighting. So do we fix the real problem or do we treat the symptoms? We ought to be about fixing the real problems. So if we want to do and mandate oral health care in this bill, why don't we put a limitation on the high-fructose corn syrup products and high-glucose products that are the No. 1 cause of the dental caries the kids are having? An ounce of prevention is worth a pound of cure. But we didn't do that.

We didn't come forward with a total plan on health care, which is the whole problem as we try to expand this bill to meet a need. What we need to do—and I think the Senator from Pennsylvania agrees—is we need to reform all of health care. It needs to be based on prevention. It needs to be based on prevention. It needs to be based on teaching and preventing disease rather than treating disease.

My hope is that when we come through this, whatever we do, win or lose—whether my side wins or the other side wins—what should happen is Americans should win. The American people should win. What that means is an honest debate about the numbers—not a game with the numbers, an honest debate about the numbers—and what it really means is an honest debate about what the real problems are and not about things that aren't the real problems.

We have plenty of money in health care. We don't need to increase spending in health care. What we need to do is redirect the spending that is there. We spent $2.28 trillion last year on health care. Thirty percent of that money didn't go to help anybody get well or prevent anybody from getting sick. That is $600 billion. If we would look at it and say prevention is going to be No. 1, and No. 2 is going to be every American insured, we could go a long way toward solving this problem.

Unfortunately, however, we have chosen to start off the new SCHIP by trying to pull the wool over the eyes of the American taxpayer, by playing funny numbers. Why would we leave that out there? Why would we do that? It lessens the integrity of the debate. It lessens the quality of the work product we put forward. It undermines the very thing we need most from the American people, which is their confidence that we are doing what is in the best long-term interests of the country. This bill isn't in the best long-term interests of the country. The bill doesn't address the needs of the Medicaid populations out there today who aren't served who could be served if, in fact, we should mandate that the States go and do it. But we have chosen not to do that. We have chosen to expand up the chain before we fix the problems down the chain. We have chosen to take dollars and give them to those who are more fortunate instead of spending dollars on the people who are the least fortunate in this country, all in the name of a movement to close in ultimately on a single-payer health system. Let's have the debate about single-payer health system.

One final point I will make before I yield to my friend from North Carolina, and that is this: The most important thing after access is choice. We know what. Medicaid offers little choice. SCHIP offers little choice. The reason is because we have a payment system that rewards specialty and doesn't reward primary care. It started with Medicare, and it has worked its way through Medicaid. So our average pediatrician in this country makes about a fourth of what the average surgeon does or about a fourth of what the average gastroenterologist makes, and we ask ourselves: Why can't we get more pediatricians? Our average family practitioner makes a little bit more

than that, but not much, and we ask ourselves: Why can't we get people out there into primary care? Our average internist makes just a little bit more but still about a fourth of what the specialists make because we have decided to pay it. Who is going to take care of them? Let me tell you who is going to take care of them: PAs and nurse practitioners. Some are excellent, some are great, but none of them have the training of a physician. We are slowly walking to a health care area where we are going to tell people you have coverage, but the coverage is you do not have choice and you do not have the same level of care because we have not chosen the priorities of compensating primary care, compensating pediatricians, compensating pediatric dentistry, compensating internists to care for these kids.

Choice is the most important thing, and the reason is because if a mother is taking her child to a health care professional in which she does not have confidence, do you know what happens? She doesn't do what they say.

As we eliminate choice, which is what happens in SCHIP and Medicaid because so few physicians take it because the reimbursement rate is so low, we eliminate the doctor-patient relationship in establishing the confidence necessary to make sure, as the Senator from Pennsylvania said, that these kids will develop, that they will become productive.

The idea behind this whole program is we have taken away the most important attribute of consequences of care, and that is confidence in the provider.

I yield to my colleague from North Carolina.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I know our colleague from North Carolina has been waiting. I wish to make a couple brief points and come back to them. Our colleague has been waiting.

The Senator from Oklahoma makes a number of interesting points. Some of them are going to be the subject of even more debate. I will make a couple brief points about the question of enrollment and, therefore, outreach.

One of the biggest problems with the veto and the blockage of the children's health insurance legislation in 2007 was we did not have the resources to do the kind of outreach, to enroll those who are eligible but not enrolled. We would have gotten as many as 3.3 million more eligible kids had the 2007 bill not been blocked. Point No. 1 on outreach.

This bill, in fact, has steps to improve enrollment. In fact, it provides bonuses if States do a better job of enrolling children. We will get back to that in a moment.

The point about single payer that the Senator made, we are going to have a lot of debate about philosophy on health care overall and where this whole health care debate is going to go. That statement is premature or unrelated to what we are doing today.

What we are doing today is talking about whether we are going to pass the children's health insurance bill, not some new program but a program that has been tested. We want to add millions more children to that program.

The final point—and I know our colleague has been waiting—is the question of choice. The Senator from Oklahoma made a point about what choices people will have if they are enrolled, if families are enrolled in SCHIP, Medicaid or any other program of its kind. The problem for a lot of families right now is not that they are lacking in choice of options; the problem for a lot of families, if their children are not enrolled, is they have no choice, they have no health insurance at all, except if they want to go to the emergency room, which is bad for the economy and bad for that family because it is usually too late in the game, so to speak, to get the kind of preventive care or to mitigate a problem.

For a lot of families right now, this is not a question of choices. They have no choice because they have no health insurance. I will come back to this point, but I wish to yield for my colleague from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank my colleague from Pennsylvania. I do not wish to dwell on what he said, but let me make this point. He said we are not here to talk about the bigger health care piece. From the standpoint of the bill, he is exactly right. This is another attempt to grow the size of a Federal Government program to include more Americans in it without taking on the tough task of debating how we fix health care in this country; and what are the reforms that have to take place so every American has the opportunity to be insured.

Let me cite some facts about the Baucus bill. The Baucus bill spends $34 billion over 5 years. Actually, it might spend more than that based on CBO. It increases the number of enrollees in SCHIP by 5.7 million children. By the way, 2 million of those children are currently covered under their parents' insurance. Let me say that again. We are spending $34 billion over 5 years to increase enrollment in SCHIP by 5.7 million children, and 2 million of them are already covered under their parents' health care insurance.

When our benefit gets bigger, when it becomes even more inclusive, what happens? We say to the American people: Why should you pay for it? We have a government program to cover your children instead.

There is an alternative, and it has already been offered in one of the first three amendments. It is the McConnell amendment, Kids First. It spends $19.3 billion over the same 5 years. It enrolls 3.1 million new kids. For $19.3 billion, we get 3.1 million kids, and for $34 billion over 5 years, we only get 3.7 million new kids when you consider the 2 million that are already insured. The American taxpayers ought to ask us: For the additional 600,000 kids who are uninsured today whom we would be pulling in under the Baucus bill, what does it cost them per child? The answer is $4,000.

Having just had a son who reached an age in college that he can no longer be under my insurance, I was amazed when I tried to get this college senior insurance. Naturally, I turned to the Federal Government I work for and said: Surely you have a plan already in place for my child and the other 2 million Government workers who might fall into this classification.

They said: We certainly do. We have negotiated with the same insurance company for the same coverage that your son was under when he was covered by you.

What is the annual cost of that? I said to the Office of Personnel Management.

They said: $5,400 a year. Mr. President, $5,400 a year. The Government negotiated for my 22-year-old, healthy-as-a-bull son to be covered under the same insurance plan he had before.

What did I do? I picked up the phone. I called the university. I said: Surely you have plans for kids whose insurance runs out. They said: We certainly do. We have it with this company, it is this plan. It was the exact same coverage I had as a Federal employee. I asked the magical question I would ask anybody: How much does it cost per year? The answer: $1,500. One phone call and I saved $3,000 for a 22-year-old, healthy-as-a-bull college senior because I no longer let the Federal Government be a part of his health care decisions. I took him out. For $1,500, my son was covered. For every year under that 22 years of age, an amazing thing happens. Children get cheaper to cover. They get cheaper to cover because they are less likely to have serious illnesses.

The most likely period of illness for somebody under 18 is what Dr. COBURN referred to, the first year of life. That is why we make sure that in that first year of life, every kid gets the exams they need to make sure they are on the path to not only a successful life but a healthy life.

One should not be amazed to find out that the average cost for insuring someone under 18 years old is about $1,200 a year for full health coverage, compared to $4,000 under the Baucus bill. But what are we debating here today? This was the part, from my colleague's earlier statement: If we allow discussions and debates to bog us down, then this is a huge mistake. That is what he said.

We are having a discussion and a debate about what the American taxpayers are willing to pay for a benefit. We all agree the SCHIP program should be expanded. But some of us believe we ought to have the bigger debate now about how we fix the American health care system. How do we walk away from the Senate Chamber confident that every American has the opportunity to have a health insurance policy?

But, no, we have decided not to do that. We have decided to take one little piece—kids. Why? Because every American wants to do something for children. I want to do it. But I am also inclined to do the right thing for kids, not just anything for kids.

It was said earlier that this was a bipartisan bill. Let me point out for my colleagues and for those paying attention to this debate, when this legislation passed the Finance Committee, it got one Republican vote. I am not sure that is the bipartisan measurement tool President Obama said he needed when he was sworn in as our 44th President. As a matter of fact, he is aggressively coming to the Hill in about 1 hour to meet with Republicans to talk about the stimulus package because he does not want a stimulus package to just barely pass. He wants overwhelming bipartisan support. But bipartisan support was just defined here as when one Republican votes with every Democrat to pass a bill.

An amazing thing, if you look back to 2007—excuse me, 2008, I think it was—when a bipartisan SCHIP bill did come out of the Finance Committee. The ranking member voted for it, and the second highest ranking Republican in seniority voted for it. They came to the floor and spoke on it. Chairman BAUCUS—it was his bill. There was bipartisan support. So, what happened this year? Why didn't we start with the bipartisan bill we had last year? They took everything Senator GRASSLEY, everything Senator HATCH incorporated into the bipartisan bill, and they ran right over them. They threw it out. If you see something on the floor in the Senate today, it is road kill. That is where Senator GRASSLEY and Senator HATCH were thrown aside. Not in an effort to reach bipartisanship, but in an effort to be prescriptive as to exactly what SCHIP said and who it covered.

Make no mistake about it, when Senator CHUCK GRASSLEY comes to the floor—and every Senator in this Chamber understands it—and says that when you strike the 5-year waiting period before legal immigrants can get benefits, you have now opened the insurance program to new legal immigrants to America who have a responsibility, which is accepted by their sponsor, to make sure they do not accept Federal Government benefits. In other words, they are not at the taxpayer trough for at least 5 years.

What did we do with that important legal safeguard in this bill? We discarded it. We said: No, we will let you at the taxpayer trough. We will let you there on day one, even though when you came into the country you and your sponsor said: I will not do that for 5 years.

Not only did we do that, we actually threw away the verification that they are legal. We no longer under SCHIP will require a photo ID of somebody who walks in to be enrolled in SCHIP. All we say is you have to have a name and you have to have a Social Security number, one of which can be made up, the other of which can be bought. It is an amazing thing. We see it every day.

We have had every sort of immigration debate on this Senate floor. We are building a wall along the border today because there is an immigration problem. Yet we have now said: You know what, let's forget about that part about sponsorship when you come to this country legally. Let's forget about the obligation that your sponsor had to make sure that for 5 years they were there for the financial assistance you needed. And, oh, by the way, in case there are folks out there who might not be here legally, let's not require them to show a photo ID to make sure the person who is in line matches the name they gave us and matches the Social Security number that was provided.

What we have done is we have opened a tremendous loophole. I am all for making sure, as I said earlier and Dr. COBURN has said, we want to make sure every American has health insurance. I am not trying to cut anybody out.

But if we want to target those people who are here legally for under 5 years, or those people, for heavens' sake, who are here illegally, then we should integrate them into a health care system that works.

Today, cost shifting alone in the American health care system costs $200 billion a year. If we are talking about having a debate on health care, let's talk about how to eliminate that $200 billion that doesn't go to prevention, doesn't go to wellness, doesn't go to insurance coverage. It goes to a big black hole that doesn't deliver health care to any American.

As I stated, this is not a debate about health care reform. It is a debate about growing a Federal Government program.

The SCHIP statistics: 7.4 million children were enrolled in SCHIP in 2008, a 4-percent increase over 2007. Yet, if you look at the devil in the details, there were only 5.5 million enrolled on average per month; 7.4 million total enrolled, 5.5 million on average throughout the year. And 5.4 million additional people are eligible for Medicaid or for SCHIP in this country and are not enrolled. Exactly what Dr. COBURN said earlier to my good friend from Pennsylvania. We have 5.4 million children who, today, are eligible for Medicaid or for SCHIP but are not enrolled.

I remember when Dr. COBURN and I held up the President's PEPFAR bill, when we were talking about an increase in funding from $15 billion to $50 billion for AIDS treatment in Africa. There was only one thing, when they increased substantially this amount of money for the program, they also dropped the requirement that 50 percent of the funds actually be used to treat people living with AIDS or HIV disease. They said we would leave that up to the NGOs implementing the program.

In other words, the NGOs said: To get any further into the population of people who have HIV and AIDS, that is going to be really tough. Rather than attempt to do something tough, we were going to lift the requirement that 50 percent of the money had to be spent on medical treatment.

So, what are we doing here? Now we have gotten to the SCHIP population that is tough—5.4 million kids who are eligible for Medicaid, eligible for SCHIP but are not enrolled. What are we saying? OK, States, we know it is tough to get to that 5.4 million kids so we are going to allow you to expand the pool you are able to solicit for this program. We are going to increase the percentage of Federal poverty that you are going to be able to include in this program—and I might say this to my good friend Senator BEN CARDIN, who served in the House with me, not only did I vote for this program, I helped craft the first SCHIP bill. I remember the laborious days when we sat trying to figure out exactly how to structure it, a program that was designed for States to run, for us to target those kids in America whose families did not have enough income to afford health care for them but had too much income to be eligible for Medicaid. It was targeted specifically at the families who were over 100 percent of the Federal poverty level but under 200 percent of the Federal poverty level.

That may be Greek to a lot of folks, so let me point out: At 200 percent of the Federal poverty level for a family of four, a person earns $44,000. Now we are up to 300 percent of poverty in SCHIP and 300 percent of poverty is $66,000 a year. But there is an exception, because New Jersey currently has a waiver to go up to 350 percent of the Federal poverty level in SCHIP. That puts them at $77,175, for a family of four.

What about the Baucus bill? The Baucus bill also allows, for New Jersey and New York, the ability to go up to 400 percent of poverty—$88,200 a year for a family of four.

For God's sake, do not lecture me on what SCHIP was designed to try to do in this country. We are leaving 5.4 million kids behind today who currently

are eligible, and then you tell me there is some rational reason why we should roll over and pass something without a debate that increases the eligibility from where I had it targeted at $44,000 a year and raise it up to $88,200 a year. Why do others think we need to increase the eligibility? It is simple. Because it is too hard to reach the 5.4 million children who are below 200 percent or 300 percent of poverty who are eligible but not enrolled today in this country.

On another topic, the Medicaid FMAP in this country ranges from 50 percent to 75.9 percent with a ceiling of 83 percent, meaning that is how much the Federal Government gives to the States for our portion of their Medicaid payment. SCHIP offers a higher Federal match than Medicaid. The SCHIP match ranges from 65 to 83.1 with a ceiling of 85 percent.

If you listened to me list the numbers, I think you can figure out what is going on, on the Senate floor today. Why do some want to increase the eligibility limits? It is because, for some States under Medicaid, they get a 50-percent match, but under SCHIP they get a 65-percent match. So, you want to expand SCHIP eligibility because then the Federal Government is picking up 15 percent more of the tab. Why wouldn't some want the parameters of SCHIP to increase if we are letting the State off the hook for 15 percent of the cost they are obligated to cover?

As a matter of fact, in full disclosure, let me say that in North Carolina our SCHIP match rate is 74.8 percent, and our North Carolina Medicaid match rate is 64.6 percent.

I think it is important also to remind my colleagues that in the Baucus bill, even though it limits the SCHIP match rate to children and families below 300 percent of poverty, it still does allow Medicaid to, in fact, wrap around that. I call it the Medicaid sandwich. Medicaid covers people up to 100 percent of poverty, SCHIP fills in right here, and then Medicaid goes back right on top.

I am not sure there is a rational, sane person in the world who would design the health care system we currently have. Yet we are on the Senate floor today, and we will be here tomorrow and the next day and we will probably be here the entire week, and we are here trying to rationalize why this program needs to be reauthorized in its current form, why we should drop things that have been bipartisan in the past so we can increase the enrollment size to include somebody here legally but under sponsorship, or people here illegally but who want to be covered. We are here to debate whether the eligibility parameters should be increased.

I return to my colleague from Pennsylvania, to another one of his quotes. He said ''all this stuff doesn't rise to the level.'' Well, I believe it does. Everybody is entitled to their opinion. But I believe this stuff does rise to the level of Senate debate. I believe it rises to the level of public disclosure.

The American people look at SCHIP. And I might note, Mr. President, we had this debate last year as we got ready for reauthorization, when all of a sudden SCHIP dropped the ''S.'' I noticed, with the first two speakers on the majority side today, that everything refers to the CHIP program. I assume I have not picked up the provision in this bill yet that eliminates this as a ''State'' program, and now it is going to be only the ''Children's Health Insurance Program,'' run by the Federal Government, administered by the Federal Government, and the States will not have anything to do with it.

I haven't found that provision yet but, then again, we have not had the bill long enough to read all the nuances of it. We have had it long enough to read the budget aspects of it, and I think Dr. COBURN alluded to that very effectively.

CBO says the Baucus bill spends, in fiscal year 2012, $14.98 billion. Rather than continue that spending level for SCHIP into 2013, the bill somehow drastically reduces the allocation to only $5.7 billion in 2013.

Let me cover that again. In 2012, we allocate $14.98 billion for SCHIP, almost $15 billion. But under the bill's structure in 2013, we allocate only $5.7 billion for the health care of that same population. Somehow we are either going to lose two-thirds of the kids under the program or we are miraculously going to find another $9 billion.

You know, numbers like $9 billion appear frequently up here. It is called debt. It is called debt on our children and our grandchildren. We make it up, we print it, we fund it, it goes into place.

I might add, I am not sure I am the only one who caught onto this. I think Senator BAUCUS caught onto it too when he wrote the bill because in 2013 he also has a one-time charge of $11.4 billion, not counting the 2013 allocation. I was worried that I might not have read the numbers right the first time until I looked at 2013 and I found the one-time charge.

He just doesn't want that amount included as a score under the 5-year timeline. Why? Because as Dr. COBURN said, we are being less than honest with the American taxpayer. We are suggesting that this program can be run for X and we know it is going to cost Y. How in the world can we take something up as serious as children's health insurance and lie about the numbers? If we lie about the numbers, how do we expect the American people to believe us when we say we are only covering 300 percent of poverty, or we are only covering kids?

On that point: We are only covering kids? I know it will be shocking to some—probably not to all—to find out that we currently cover 334,616 adults under the SCHIP program: 334,616 adults under the State Children's Health Insurance Program. Why? Because we allowed States to increase the eligibility under waivers because it was too tough to find the 5.4 million kids who were eligible under the original structure of the SCHIP bill that we wrote and passed in 1997.

In 1996, we conceived a plan, passed in 1997. It went for 10 years—$40 billion. It went for 10 years, $4 billion a year. Before we had ever gotten to the end of the 10 years we already changed the parameters, already changed the eligibility, we already put more money into it. We knew 10 years ago, now 11, soon to be 12 years ago, we needed to fix our health care system. We didn't do it under the Clinton administration, we didn't do it under the Bush administration, we didn't do it in the 104th Congress, 105th, 106th, 107th, 108th, 109th, 110th, 111th—well, maybe in the 111th Congress. We are in the 111th now.

And regarding the assertion that we should not have this health care debate? We should have this debate. We should fix it. For once, the Senate ought to step up and say let's quit continuing to do something that we know is broken and let's fix it. Let's not just increase eligibility of a broken program, let's fix the program. Let's not just talk about supplying an insurance product to a certain segment of America. Let's do it for everybody. Let's have an honest debate and discuss whether every American ought to be insured and let's have a debate as to how we get there.

Over the next 2 days we are going to talk extensively about this program. Today a Grassley amendment has been offered—it strikes the ability for legal immigrants to be brought into the program during those first 5 years. And a Hatch amendment which is very clear. If a State wants to bring in other people into the SCHIP program, then they have to verify that they have reached a threshold where 95 percent of the eligible kids are enrolled in the program. Mr. President, 95 percent of all the eligible kids would have to be in the program in order for this to be expanded—I think this is reasonable. If you are concerned with covering children, then I think this is a slam dunk amendment, and I might add it was part of the bipartisan bill last year.

The last amendment is Kids First, offered by Leader MCCONNELL. I might reiterate one more time, it spends $19.3 billion over 5 years.

It increases the enrollment in SCHIP by 3.1 million kids, as opposed to the Baucus bill that spends $34 billion over 5 years that increases enrollment by 5.7 million but does it by enrolling 2 million kids who are currently under their parents' insurance. That means our additional costs, the cost to the American taxpayer, is $4,000 per child for the

additional 600,000 kids who would have health insurance for the first time under the Baucus bill because they are currently uninsured.

But we have options. We will have more amendments. We will have more debates. I look forward to working with my colleagues on what I think is a very serious piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, a couple of points: Obviously, based upon what my two colleagues have said this morning, we do not agree on a number of points. That is pretty obvious. But I think there is one area of common ground which maybe we can make progress on; that is, the point that was raised by both the Senator from Oklahoma and the Senator from North Carolina about the eligible but not enrolled.

I know one of the biggest problems over time, for example, in Pennsylvania with this program has been that you have a great program but not enough people know about it. If you do outreach by way of television advertising, that is the most effective by far, but any kind of outreach would be welcomed certainly by me and by those who are supportive of the legislation. The problem is, if we do not pass this legislation, all of the good intentions that I think are evident in what was said about getting people enrolled is without merit. So that is an area on which we can agree.

I have to say, one of the things I get from this chart with the carriers on it, one of the points that has been made about this is, because it is a Federal and State program that is obviously supported by public resources, the impression is that somehow it is a 100-percent public program, it is just growing government, and the usual arguments that are made against it.

I understand the philosophy behind it. This is often lost; that this is indeed now for 15 years, and will be, a very successful public-private partnership. These, for example, are in Pennsylvania, the private providers for the Children's Health Insurance Program in our State: Aetna, Ameri Choice, Capital Blue Cross, First Priority Health, Highmark, Highmark Blue Cross Blue Shield of Western Pennsylvania, Keystone Health Plan, Unison Kids and UPMC for Kids. This is the very definition of a successful—remarkably successful—public-private partnership where hundreds of thousands of children in our State and literally millions across the country have been provided health insurance.

With regard to the numbers, where are we now in terms of covered versus not covered under this program? Nationally, the covered number is 6.7 million right now. The number of children who are not covered amounts to 4.1 million children. And 83 percent, or 3.4 million of those 4.1 million uninsured covered by the legislation are currently eligible.

So we have all of these children, more than 4 million children, who are eligible but are not enrolled. Some of the issues we talked about earlier about enrollment, simplifying paperwork, and eliminating bureaucratic areas, we should work on that, and that is what is contemplated by this legislation: funding for outreach and enrollment, which has been pushed by people in both parties in connection with this legislation, and incentives to States to encourage them to provide coverage for those who are eligible but not enrolled.

The point was made also about bipartisanship. Look, the definition of bipartisanship does not mean unanimous. I realize in the Finance Committee there was more Democratic support than Republican support. But the fact remains this program, the birth of this program and the continuation of it, has been bipartisan. The votes in 2007 were evidence of that, and I think even the debate today and the support—I should say more than the debate—the support is bipartisan.

When this is voted on in the Senate, you will have a lot of Democratic support, obviously, but you will also have significant Republican support. That is the definition of bipartisan, in my judgment. Maybe it is in the eye of the beholder, but I am trying to emphasize this is indeed bipartisan.

We are going to have time today in the hours ahead of us on the question of immigration. Two points I wanted to make: One is the 5-year bar. Basically, what we are talking about is a restoration of something that was in place before. Prior to 1996, lawfully residing immigrants, those holding green cards and those defined as ''permanently residing under the color of law,'' those individuals, prior to 1996, were indeed eligible for Medicaid. And this amendment, the Rockefeller-Snowe-Bingaman-Kerry-Wyden, a lineup of names that is bipartisan, by the way—that amendment offers a restoration of eligibility for only some of these immigrants: children and pregnant women who are here lawfully—lawfully—who intend to remain in the United States and who meet all other Medicaid and CHIP eligibility requirements. That is what we are talking about. We are talking about children, legal immigrant children, and pregnant women.

Removing the 5-year bar could help States provide coverage to additional low-income children. What do we mean by that? You would think, listening to this debate, that removal of this is somehow brandnew, that it has never happened before, and no States are doing that. In fact, right now 23 States use their own funds to pay for health coverage for lawfully residing immigrants, immigrant children. Let me say that again: lawfully residing immigrant children or pregnant women, those 23 States, during the 5 years, who have become ineligible for Medicaid or CHIP. If this 5-year waiting period were removed, these States could secure Federal matching funds which would free up State funds to cover additional low-income children.

So this is something States are wrestling with now, and what this would do is provide an option for States to have some help in the coverage they are providing for those individuals. So it is nothing dramatically new, but I think it is humane, and it is prudent based upon what has happened with this program over time.

Let me make one other point about the issue of legal immigration and the so-called public charge: Nothing in the bill changes the agreement a person makes when sponsoring an immigrant, when an immigrant comes to this country. Citizenship and Immigrant Services, so-called CIS, does not consider participation in a public health program a failure to support the immigrant. Longstanding Citizenship and Immigration Service guidance makes it clear that immigrants will not be considered a public charge if they use health care benefits, including Medicaid and CHIP, prenatal or other low-cost care at clinics. So when we are talking about this issue, it is important to put that on the table, what Citizenship and Immigration Services would consider to be a public charge.

I want to get back to some of the provisions in the bill. I wanted to get that chart on rural children. One of the discussions we have had over many months now is, Who benefits from this program? Certainly, children across the board, children in urban and suburban communities. But what is often not emphasized is—and I want to make this point because I have a significant part of our State that is rural, and most of our State, when you get outside of the major urban areas of Philadelphia and Pittsburgh, is indeed rural. Rural children are more likely to be poor. Nearly half of rural children live in low-income families at or below 200 percent of the poverty level.

In this economy, when you consider the confluence of bad circumstances for rural children and rural families, here is what you have: escalating costs for energy, which disproportionately affects rural Americans; significant job loss in rural communities; an inability to have access to health care—I should say a lack of access to health care in rural communities. All kinds of problems.

This bill, among the many other good things it does, would have a disproportionately positive impact, in my judgment, when you look at the data on

rural children. Rural children increasingly rely on children's health insurance. More than one-third of rural children rely upon the Children's Health Insurance Program or Medicaid. One-third of rural children rely upon one of these two programs.

So in this debate it is important that we stress the broad reach of this bill as it pertains to children from across the board, across the demographic and even economic landscape.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I will make this short because I know we have a swearing in.

I wanted to make a few points. When President Obama talks about being responsible, if you sign an affidavit that you will cover and be the sponsor for a legal immigrant in this country, you ought to do that. That is what he is talking about. He is not talking about: I will do it until I can get someone else to take care of my responsibility, talking about it, if you sign an affidavit that you will do it.

The idea that 22 States already do this is great. If States want to do it, that is what makes our Union so great, that 22 States can, except now they cannot afford to do it, and we are going to be bailing them out to the tune of about $300 billion on Medicaid and SCHIP programs in the supplemental or the spending package or the stimulus package that is coming through.

What this bill is going to do is make permanent that people do not have to be responsible when they, in fact, sign an affidavit that they will sponsor a legal immigrant.

One final point I would make is, the Senator from Pennsylvania listed all of those premium assistance programs that Pennsylvania has because that is what they are, premium assistance rather than a regular SCHIP program. Well, in this bill you have extremely limited any new premium assistance programs without an absolute mandate and an absolute mandate on what kind of program you have. You will be in an HMO. You will not have the doctor of choice, and you will not go where you want; you will go where you are sent.

So great points, great need in our country, great debate, but integrity first. Be honest with the numbers about what they really mean. Everybody in this Chamber knows they are not, but we are not going to change that. Even if we offer an amendment, it is not going to go anywhere because nobody knows what to get rid of to be able to afford to pay for that.

I yield the floor.

Mr. CASEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

CERTIFICATE OF APPOINTMENT

The VICE PRESIDENT. The Chair lays before the Senate a certificate of appointment to fill the vacancy created by the resignation of former Senator Hillary Rodham Clinton of New York. The certificate, the Chair is advised, is in the form suggested by the Senate.

If there is no objection, the reading of the certificate will be waived, and it will be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK

Executive Chamber

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of New York, I, David A. Paterson, the Governor of said State, do hereby appoint Kirsten E. Gillibrand a Senator from said State to represent said State in the Senate of the United States until the vacancy therein caused by the resignation of Hillary Rodham Clinton, is filled by election as provided by law.

Witness: His excellency our Governor David A. Paterson, and our seal hereto affixed at 11:00 a.m. this twenty-third day of January, in the year of our Lord 2009.

By the Governor:

DAVID A. PATERSON,
Governor.
LORRAINE A. CORTÉZ-VÁQUEZ,
Secretary of State.

[State Seal Affixed]

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator-designate will now present herself at the desk, the Chair will administer the oath of office.

Mrs. GILLIBRAND, escorted by Mr. SCHUMER, advanced to the desk of the Vice President; the oath prescribed by law was administered to her by the Vice President; and she subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

RECESS

The VICE PRESIDENT. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER.)

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, today with the advent of the 111th Congress, the Senate is considering legislation to renew and expand the Children's Health Insurance Program, sending a clear and definitive message that this country will no longer turn its back on our 9 million uninsured children.

When we pass this bill, we will make it clear that the health and well-being of our children—in bad economic times or, in the future, in good economic times—the well-being and health of our children comes first.

After 2 long years and repeated vetoes from former President Bush, this legislation finally has a chance of becoming law, thanks to the support of a new President who is committed to reforming our Nation's health care system.

It is my sincere hope that the passage of this legislation will be the beginning—the beginning—of a major overhaul of American health care, which ultimately will provide all Americans with the quality, affordable health care coverage we all deserve as Americans.

The Children's Health Insurance Program is a success story. It was created about 13 years ago, in 1996, to provide health coverage to children who would otherwise not be insured. The program provides health insurance to low-income families who do not qualify for Medicaid but who are unable to afford private coverage, to reduce the number of uninsured children in working families—underscore that, Mr. President: in working families—by about one-third.

Despite its huge successes, there is room for improvement. Sadly, millions of American children remain without health insurance, even though the law states they are eligible for it.

Today, we have an opportunity to take decisive action to bridge that gap and to reach children who need this coverage desperately but who are not receiving it. The legislation before us today would provide coverage to an additional 4.1 million uninsured low-income children. It would improve access to dental coverage. It would improve the public health by enabling legal—legal—immigrant children to receive care in doctors' offices rather than taking them to more high-cost, less primary care, emergency rooms.

If signed into law, S. 275 would have a profound impact on children and families nationwide, including in my State

of Ohio, including Toledo and Akron and Canton and Mansfield and Cincinnati and Bellaire. It would provide approximately $294 million to Ohio in fiscal year 2009, helping my State cover approximately 245,000 uninsured children—children such as Emily Demko from Athens County.

Emily was born with Down Syndrome. When her mother Margaret made the decision to stay at home to care for Emily, their family found themselves without health insurance. The Demkos looked into many options, but no private insurer would cover Emily, at any cost, due to her genetic, preexisting condition. Luckily, the Demkos found they were eligible for Medicaid. However, during their 6-month reauthorization meeting, they were informed their income was—get this—$135 per month too much to qualify any longer. Mr. President, $135 too much to qualify for Medicaid any longer.

Since Emily's medical bills were in excess of $3,500 a month, the Demkos had to make decisions no parent should ever have to make. They had to decide what therapies and treatment they could afford for their daughter.

Although they have done their best to manage Emily's medical care, being uninsured has left Emily without access to needed hearing tests, corrective treatment for an eye condition, and several blood tests to scan for conditions likely to occur with Down Syndrome.

It is for children such as Emily that we must support the reauthorization and the expansion of CHIP. Access to health coverage will provide Emily and so many others around our great Nation with the opportunity to live a healthier, happier, more productive life, regardless of their medical condition.

For the third time in my Senate career, I have come to this floor to advocate for the reauthorization and expansion of the Children's Health Insurance Program. I did it in the House 13 years ago, when this program was first conceived and when we first enacted it.

For the third time in my Senate career, I have come to the Senate floor to speak on behalf of the 9 million children in this country who do not qualify for Medicaid but whose families cannot afford health insurance.

For the third time in my Senate career, I have come to this floor to cast a vote in favor of legislation which will enable parents to help their children when they are ill. In my opinion, there are few legislative or ethical priorities more important than that.

This is the third time I have advocated for CHIP on the Senate floor. I believe, I hope, the third time will be the charm.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, there was an amendment offered earlier by Senator HATCH with whom I sit on the Health, Education, Labor and Pension Committee. Senator HATCH has played a major role in health issues in this country and I respect him for that. His amendment, however, to this bill is sort of the same old same old. We have seen this throughout the Children's Health Insurance Program debate. We saw it last year both times when the President vetoed the bill. We saw it raised by opponents in the House of Representatives. We saw it raised many years ago. When the amendment says States should have to enroll at least 90 or 95 percent of their kids under 200 percent of the Federal poverty level before they can enroll children at higher income levels, it pretty much says no more children in the Children's Health Insurance Program. I wish they would simply be more direct saying, We don't want more kids in here. Instead, they say if you can't find close to 100 percent of these children who are eligible—this is a big country, it is a complicated country; so many of the people we are trying to insure are living economically on the margins. There are two children with a single parent who has moved from one job to another. Those children often move across town or to another county as their mother or father get another job—a job that may pay $20,000 a year and a job without health insurance—so the Children's Health Insurance Program is so important to them. So when they build in this ''standard'' that virtually everybody—95 percent of all children eligible have to be enrolled before you can enroll new children who are a little bit better off—a little bit better off isn't a family making $100,000 a year; it is a family making much less than that without health insurance and simply can't afford it. Even mandatory programs we have found around the country don't have a 95-percent take-up rate. It is simply impossible for Government or for private businesses or for social services working with Government to get to 100 percent of the people who are eligible. So what this does is say no more children would enroll.

We know health insurance is becoming less and less affordable for families at every income level. I know what has happened in my State. As the Senate majority leader told us earlier today—an hour ago—85,000 people in this country lost their jobs today. Eighty-five thousand people lost their jobs today. In my State, we have lost 200,000 manufacturing jobs in the last 8 years. It was 200,000 as of last October. That number has gone up. We hear about plant layoffs such as the third shift at Lordstown in northeast Ohio, a General Motors plant that assembles goods. As the Presiding Officer knows from what has happened to his plant in Delaware, we know what happens when people are laid off from these jobs. They cut off the third shift at Lordstown. We are seeing Wilmington, DHL in southwest Ohio, 7,000 jobs over a several week period have been terminated in a city of about 13,000 people. That DHL plant is the largest employer in a six-county area, in each of these six counties—in Clinton County, Brown County, Adams County, Highland County, and two other counties.

The point is we don't want with this economic downturn—we don't want to turn back the clock. It is the worst possible time to cut back on States' tools for helping low-income children. We want these children to become insured, not to find ways to deny coverage. The Hatch amendment does that. That is why it is so important later today, if and when we vote on this amendment.

Another point. There are about 150,000 children in my State. My State has a population of around 11 million. There are about 154,000 of our children in my State—enough to fill Ohio State Stadium. The Presiding Officer, even though he is from Delaware, is an Ohio State graduate. He knows how big that stadium is. It holds more or less 100,000 people in one place—Columbus—in the heart of the State. There are 150,000 children who don't have insurance, enough to fill that stadium one and a half times. That number grows. That was sort of yesterday's number. That number grows every day. Ohio has already lost 100,000 jobs in this recession. If the pace of job loss accelerates this year as expected, more and more children will suddenly become uninsured. President Obama has already said the 2009 economy is going to be even worse than the 2008 economy. That is why Senator INOUYE and so many others in this body, Senator MIKULSKI and others on the Appropriations Committee, are working so hard to put a stimulus package together that will have an impact as quickly as possible as we work our way through the second year of this recession.

In these tough economic times, the risk of being uninsured is even greater. Many Ohio families, as we know too well, are only one emergency room visit away from bankruptcy and foreclosure. Too many have declared bankruptcy, too many people have lost their homes to foreclosure, too many people have lost their jobs to this recession. We should not turn our back on them in providing health insurance to their children. Again, these are mostly people who are eligible for the Children's Health Insurance Program, mostly

children in families where mom or dad or mom and dad have jobs and simply are not making enough to buy health insurance and those employers for whom they work simply don't have the ability to provide insurance to these families. That is why this legislation is so important. That is why defeating the Hatch amendment is so important.

I would add that in the Hatch amendment, the 95-percent rule is especially for those who want to enroll legal immigrant children and pregnant women. Again, that is a standard I don't think we can meet, because no matter how hard these States try, they can't find 95 percent of the people who are eligible. That will mean too many children of legal immigrants, legal people in this country, too many pregnant women simply would not have insurance for their children that we should offer them in this body.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. KYL. Mr. President, the legislation that is before us is a reauthorization of the Children's Health Insurance Program, but it is, as I said yesterday in my remarks, seriously flawed in a number of respects. Because of that, the minority leader, the Senator from Kentucky, and I have offered an alternative. It is called the Kids First Act. The Kids First Act is an effort to reauthorize this important program but address the numerous flaws in the pending proposal so we can adopt something that literally puts kids first.

I spoke yesterday about several of the problems with the underlying bill. First, the problem of crowding out private coverage. We created this Children's Health Insurance Program in order to help families who did not have insurance. But the bipartisan Congressional Budget Office has noted that because of provisions in the underlying bill, there are actually over 2 million people—in fact, 2.4 million people—who will go to the Government insurance program who already have private health insurance that is perfectly adequate to their needs. The reason primarily is because their employers obviously appreciate the fact that it is costing them money to insure their employees' families and it will be a lot cheaper if those families go to this Government-run program. Our effort was never to cause people to leave the health insurance coverage they have to come to a new Government program. Our effort, when we adopted the kids insurance program, was to provide insurance for those who did not have it already.

This crowdout effect is well known, and it is well understood. It can actually be quantified as the Congressional Budget Office did. Last year, we offered a couple of amendments to ensure that the crowdout effect would be minimized. The amendment I offered was not adopted. But recognizing that there was a serious problem, when the Democratic leaders in the House and the Senate wrote the bill that ended up passing both the House and the Senate, though it was vetoed, it was supported by Democratic majorities in both the House and Senate, and it had some language related to crowdout. I thought it was insufficient language, but nevertheless I understood the necessity of dealing with the issue.

That language is not in this bill. So in the committee, I offered the Democratic language. The Senator from Montana, the chairman of the committee, helped draft it. As I said, it was supported by Democratic majorities in both the House and Senate. Essentially on a party-line vote, that amendment was rejected.

We need to deal with the problem of crowdout. The legislation Senator MCCONNELL and I have drafted does put kids first. It tries to deal with the problem of kids who do not have insurance rather than taking families who are already insured and transferring them to a Government program.

Another problem we spoke of is the fact that as this program has expanded, it does not just relate to families who are at the poverty level or even twice the poverty level but three and four times the poverty level. In other words, it can actually cover families in two States—up to $88,000 a year in New York and about $10,000 less than that in New Jersey. That is clearly wrong. We are trying to talk about low-income families. In fact, if you add other assets of a family that are not counted in income, you could literally have $40,000 in additional assets and, in New York, be making $128,000 a year for a family and be eligible for this low-income children's health care—$128,000-a-year income. That is wrong. What that does is take money from the State of the Senator from Oklahoma, it takes money from my State of Arizona and other States and transfers that. We are trying to be as frugal as we can. Our limit is 200 percent of poverty. That is twice the poverty level. That is what we pay for in Arizona. But we are having to pay for more than twice that much for families in New York. That is not fair. The program Senator MCCONNELL and I have offered as an alternative deals with that problem as well.

In addition, we ask that people demonstrate that they are eligible for this coverage. That has always been a part of the program. The bill that is before us weakens those provisions so that you do not have to have the same kind of documentation that you are eligible for the program. It expands the program to legal immigrants in this country who have always had a contract that they will not become part of our public welfare system.

One of the really interesting things is the budget gimmick that is used which Senator MCCONNELL and I believe should not be part of this program. It is a budget gimmick to circumvent the Senate's so-called pay-go rules by which we ensure whatever the costs are, there is a way to cover those costs. The way that is done is that the program, even though it is a 10-year program, as all of our authorizations are—after 5 years, there is just an assumption that it does not cost very much anymore. Of course, under that assumption, we would have to disenroll millions of people from this program. That is never going to happen. Everybody knows that. Everybody knows that gap in financing would be filled, and as a result, the program would actually cost $40 billion more than it is alleged to cost as the bill came out of the committee. And that is by CBO's number, $41 billion-plus.

Those are some of the deficiencies with the legislation.

The amendment Senator MCCONNELL has offered, the Kids First Act, is very targeted and I think a much more responsible approach to the problem. It does reauthorize the children's health care insurance program. It preserves health care coverage for millions of low-income children. It actually adds 3.1 million new children to SCHIP. It minimizes the reduction in private coverage, the so-called crowdout I spoke about earlier, by targeting SCHIP funds to low-income children, not higher income families who may already have access to insurance. By the way, it is offset without new tax increases or a budget gimmick such as the program before us is.

I encourage my colleagues to ask us questions about this amendment. If they have concerns about it or would like to debate, I would love to have that debate on the floor, if anyone would like to engage me in a discussion about why this is not a superior alternative.

The bottom line is, we have two choices. We have a budget buster that does not protect SCHIP coverage for low-income children, that represents an open-ended financial burden on taxpayers and takes a significant step toward Government-run health insurance or the amendment Senator MCCONNELL has filed, a fiscally responsible SCHIP reauthorization that preserves coverage for low-income children. It is fully offset without a budget gimmick or a tax increase, and it minimizes the so-called crowdout effect on employer-sponsored health coverage that people have today.

I think the answer is clear. The Kids First Act is the right solution. And when we have an opportunity to vote on that, hopefully a little bit later this afternoon, my colleagues will take a good hard look at it and see if they don't agree that is a good approach to the reauthorization of SCHIP and support the McConnell amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I appreciate the comments of my friend and colleague from Arizona. The minority leader filed this amendment in 2007. It was not a good idea then. It simply knocks too many children. These are not rich kids. These are sons and daughters of people who are working who are not making a lot of money, are not making enough that they have health insurance or can afford out-of-pocket health insurance. They are working for employers who do not provide it—small businesses, lower income workers. I don't want to do anything that takes away the eligibility of those children.

When I hear about the crowdout provision Senator KYL discussed, I want to make a couple of comments about that. I just don't think it exactly is going to work that way.

The CHIP statute already requires States to determine and monitor whether crowdout is occurring and adopt policies to limit crowdout if it does occur. Most States that cover children at more moderate income levels have imposed 3- or 6-month waiting periods to prevent families from dropping employer-based coverage to enroll in CHIP. There may be a time when families are not going to want to do that.

It is not as though States want to give away this money. States are squeezed today every bit as much as many families are squeezed. States already have a strong interest in monitoring and preventing crowdout. They don't want to spend limited resources on children who already have private health insurance.

This bill does a good job of targeting the lowest income children. The new enrollment options, the performance bonus, and the outreach funding all help to achieve everyone's shared goals to ensure that the most vulnerable are covered.

We accept that our friends on the other side of the aisle want to insure people at 100 percent, 150 percent of poverty, but we also want to extend this to families who still do not have insurance for their children because of their economic situation. These are not Congressmen's kids. These are children whose parents are working at places that do not offer insurance and do not make enough money that they can out of pocket come up with health care coverage for their children.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wonder if anybody has ever asked the question—it has certainly never been answered—if you are a family and you qualify at the new 300 percent and you are buying your own insurance and you are covering your two kids, what happens when you transfer your kids to SCHIP, the Children's Health Insurance Program? What happens to your premium? I can tell you what happens to the premium. Do you know what happens to the premium? It goes down zero because health insurance is sold as an individual or a family product. So by taking two children, if I am earning 300 percent of poverty, and taking them off and transferring—now I am paying for it—and transferring that to the State Children's Health Insurance Program, the taxpayers of this country now will pay for that premium about $2,200 a piece when you can buy it in the private market for $1,100 a piece, but the parents will get no decrease in their insurance premium. That is why the crowdout provision is so negative for the American taxpayer and the generations that follow us.

My friend, the Senator from Ohio, mentioned that everybody wants to cover the 200 percent and below. The fact is, we have done a terrible job of covering the 200 percent and below. There are 5.4 million children out there today who do not have health insurance, whose parents do not have health insurance, who are eligible for Medicaid and SCHIP today, and they are not signed up. What are we doing? We are expanding a program that has only gotten about 51 percent of the kids who are eligible right now signed into the program. We are also being dishonest about what it costs. It is actually going to cost $42 billion more than what we say it is going to cost. Nobody will deny that. So why would we not want to have something that will limit the amount of crowdout because as we take money for kids who are now insured and put it to them through a Government program, it means these same 5.4 million kids are still not going to get covered.

We have not improved the program by increasing the eligibility. What we have done is we have just moved the income scale up to $60,000, some $62,450 a year, and we say: We will now cover your kids, and even if you have them covered now, you will not get any break from your insurance. But the same 5.4 million kids who are in poverty or at 200 percent of poverty still are not covered.

What are we doing? Why wouldn't we want to fix it to where all the kids who are out there today who do not have insurance, who are 200 percent and below the poverty level, why aren't we making sure they are covered? Why are we not doing that? Why are we not saying: States, you can go to the 300 percent if you want but only after you have covered the kids whom the program was designed for in the first place.

There is an amendment by Senator HATCH in that regard. Why would we spend all this extra money?

By the way, we just met with the President. Other than the short-term financial struggles we are in, one of the big concerns with him is the fact that we have an unending entitlement disaster before us and we are getting ready to make it worse. Why would we not address that? Why would we say we are going to help kids but not really help kids? Why would we say we want to help the poorest children and the families who need it the most but still ignore them?

There is an answer to it. There is an answer to it, in that we want to move whichever way we can to eventually have a single-payer system in this country. We gutted the Premium Assistance Program. The Senator from Pennsylvania listed all the great things about the Premium Assistance Program. He listed all the different programs in Pennsylvania. Those are gutted under this bill. You can have one, but by the time you get it, nobody will want to have it.

We have taken what people have and said maybe we could spend $500 per kid per year to keep them in a health insurance program that the parents might have at work, but instead we are taking them all out and putting them in a Government program that costs twice as much as it does to buy them the same insurance in the open market.

Crowdout is a real phenomenon, but the most important thing is it helps the people who need it the least the most. And it helps the least those people who need it the most. That is what we are doing in this bill. We are not helping the lowest. We are only moving it up the chain and we are saying if you make $62,000 a year in this country, your children can be covered by the Government.

Why would you not want to do that? We do not have any other Government program that people do not voluntarily take if we put it out there. That is in the face of the fact that this year—hear my words very clearly—this year the true Federal budget deficit will be $1.6 trillion. The Government will spend $24,000 per family more than it takes in. Hear those words—$24,000 more per family it will spend than it takes in.

What is the future to be for this child at the 300 percent above poverty level? Their parents make $62,000 and we are going to give them this gift of health insurance today. But you will not be able to afford a college education. You certainly will never afford a home. It is doubtful you will ever be able to afford a car that is reliable. You will be in a debtor nation. Those are the consequences of our actions in the name of

wanting to expand a program that today is highly ineffective in addressing the needs of the real poor children in this country.

Why would we do that, and just say: Don't worry, you have a pricetag to pay if you ever hope to get out of college or have the ability to get out of college? By the way, we are going to up your taxes if you get out there and get it up here on the front end.

This body is abandoning the very principles this country was built on. This country was built on a heritage of sacrifice, sacrifice by the common man for the common good to create a great, bright shining future for the generations that follow. This bill doesn't fit with that heritage. This bill, as a matter of fact, undermines that heritage. In the name of helping children, we are hurting those children's children. We are stealing opportunity from those children's children.

As I said earlier this morning, I want every child in this country insured. If we took the money that was out there today in Medicaid and SCHIP and the State contribution to it, we could insure every child in this country. We could create an insurance policy for every child in this country that gives them total screening exams, could give them prevention care, could give them acute care, and could give them hospital care. Yet when we run it through the Government, it costs twice as much because of the inefficiencies that are inherent in the system.

Later on I am going to offer a limitation based on improper payments. The American public may not know this. Certainly Members of Congress know. We do not know how much money is wasted in Medicaid because Medicaid has refused to report it. By law they are mandated to report it. They have refused to report it. We now have the information on 17 States on improper payments. The average is 10.5 percent on the 17 States we have looked at. Of that, 90 percent of those are overpayments. In New York City alone their own inspector general said at a minimum $15 billion a year is wasted in fraud, abuse, and deceit on the Medicaid Program. Where have we addressed any of that in this? Where have we put the safeguards to make sure this doesn't happen here? We have not done that.

We are not fixing the problems that are in front of us. What we are doing is creating more problems in the name of expanding a children's insurance program and limiting the future of the things that have been very successful with it, such as premium assistance, and taking that away.

There is going to be crowdout and the crowdout is going to benefit the most wealthy of the upper middle income because in some States, by the time you count exclusions, you can earn $120,000 a year and have your kids on SCHIP. We are going to help them. But not the kids of the parents working at $7 an hour, both of them, making $28,000 or $30,000 a year, of which half of them are not on either Medicaid or SCHIP. Why would we do that? Do we truly care about children's health? Are we really about trying to solve it?

Where are the ideas of combining where the biggest health care disparities are in our country? We know where those are. Why not design a program to go and attach and direct health care dollars to the large health care disparities? We know it pays big returns in terms of childhood obesity, in terms of precluding the onset of smoking, in terms of prevention and vaccinations, in terms of well-child care? Why would we not look at where the problems are and try to direct dollars to where the problems are? Instead, we are going to allocate across this country, to those who can now afford it, we are now going to start paying for it.

Even if we wanted to do that, why would we do it at twice the cost of what you could buy in a private market? Mr. President, $1,156 is the average market cost to insure a child in this country. Why would we spend $2,200 to get the same thing? So we can say we did something?

If, in fact, you could take $1,156 or $1,200 for every child out there—we have more than enough money with what we are spending today to accomplish that—we could buy them all an insurance policy.

I am not sure this bill is about children. I am not sure it is about children's health care. I have some doubts when we are not frugal. If it is about children's health care now, it is certainly not about those children's long-term financial security, when we are not even going to be honest with how much this bill costs. We have pulled a trick so we do not have a pay-go rule, and the trick keeps us from offsetting $42 billion in expenses associated with this bill. Everybody knows that. Nobody will say that is not right. Nobody wants to talk about that. That is what is wrong.

That is why people do not have confidence in the Congress. It is because we have this sleight-of-hand. We want to do something good but we don't want to tell you what it costs and we don't want to get rid of programs that don't work in order to be able to do something good. We are going to hide it under the blanket. So we are hiding $42 billion under the blanket. We are playing the inside baseball game, not being honest with the American people about what it costs; not being honest with the American people that it is a lot cheaper to give premium assistance than it is to give a program directly to a child; not being honest about the fact that this costs twice as much as what you could buy a health insurance policy for, for every child in this country.

We are not being honest at all, so our integrity is in question. Would we do the right thing in the long term for these kids that we say we care about their health care? I do not have the confidence we will. I have the confidence that this train is going to roll, we are going to do it just the way we have done it. There are still going to be 5.4 million kids out there 10 years from now, when we look at eligibility. It will be the same 5.4 million under the 200 percent of poverty level that we did not reach, that we didn't get out and actually make a difference. And then we are going to pay a larger cost as they mature as adults because what we could have prevented will not have been prevented, what we could have taught will not be taught, and the health care costs associated with that will be tremendous.

Mr. President, 5.4 million children are presently eligible for either SCHIP or Medicaid and we have done nothing to make sure those kids get a program that is readily available to them today. We have done nothing. We put $100 million in for outreach and said we will feel good about it because maybe that will reach some of them. We will still have millions of children who are eligible for these programs who will not get it.

We are going about approaching it the wrong way. We ought to be saying let's have a bill that insures every American child. Let's do that. Every American child, universal access with an insurance policy for every American child, why won't we do that? That is what we should be doing. Let's do it for every child. Then the insurance rates on adults will modulate and then husband and wife will not be paying a falsely elevated price once their kids get pulled off of their insurance policy and go into a Government program. Why not buy them all something, from then until the time they are 21, that covers them, that gives them the prevention care, that gives them the counseling, that gives them the immunizations? We know what it costs and we know what we can do it for. Why not do that?

Instead, we have created this complex, convoluted system that can be gamed. The estimate on Medicaid fraud—listen to this—the estimate on Medicaid fraud is $60 billion a year. That is enough to pay for where we cheated on this program if we would get rid of 10 percent of it a year over the next 10 years, if we got rid of 10 percent of the fraud. There is nothing in here on fraud. There is nothing in here to make the States accountable for the money we send out there.

We have done a poor job. We claim we want to help children, we claim we want children to have health insurance, yet we mortgage those very children's futures by not being honest about how we are going about doing it,

about how we are going to pay for it and what the ultimate results will be.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I appreciate as always, even when we disagree, the words of the Senator from Oklahoma. He and I have worked, from our time in the House, on international health legislation together. We come at things from very different perspectives. But I often come down in the same place. I would love to hear more about his plan on children's health, to extend universal coverage to all children.

I was driving to the airport this morning after leaving my mother in Mansfield, and heard Bill Considine, who is the president of Akron Children's Hospital, one of the premier children's hospitals in my State and in our country. Mr. Considine, the CEO of that hospital, had some interesting things to say about what I believe he called Kids Care, which may be similar to what Senator COBURN was talking about.

I hope we can work some things through there. I want to disagree, though, for a moment briefly with Senator COBURN's comments about we absolutely want to—we do not want 50 percent of children covered who are at 200 percent of poverty or 300 percent or beyond for that matter.

We obviously want to do better. We have done generally fairly well locating those children and signing them up, those children who are eligible.

This legislation goes a good bit further, and the efforts to, if you will, encourage and find those children who are eligible and sign them up, those efforts have been very bipartisan in the last dozen years.

The Presiding Officer from Vermont has been part of this. He has always had an abiding, intense interest with what we do with children's health care. I extend this back a couple of sessions ago—Senator FRIST, the Republican leader, and Senator BINGAMAN, a Democrat from New Mexico; and Senator LUGAR, a Republican from Indiana, with Senator BINGAMAN; and at other times Senator GRASSLEY, a Republican from Iowa, Senator HATCH a Republican from Utah—all of them have been part of, and many on my side of the aisle have been part of, finding ways to get people to sign up, simplification of paperwork and bureaucratic requirements, including language directly from legislation introduced by Senators LUGAR and BINGAMAN; providing funding for outreach and enrollment, which is language originally introduced by Senators FRIST and BINGAMAN and pushed and supported by Senators GRASSLEY and HATCH in the legislation in the last Congress.

It provides for incentives for States to encourage and to provide coverage for those eligible but unenrolled children. We can certainly learn from Senator COBURN to do more, but this legislation is replete with provisions to bring in more children. It does not mean we do not enlarge the eligibility to 300 percent of poverty, nor does it mean we do not look down the road, I hope, sooner than later with the relationship that Senator COBURN has built with President Obama, both as freshmen Members of the Senate and since Senator Obama has become President, to work together in finding ways to do this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank my colleague for his comments. There is an easy way to solve this; it is called auto enrollment. You just write a bill. Anybody in any region under 200 percent who has a claim of deduction for children is automatically enrolled in SCHIP or Medicaid. It is not hard. We do not want to do that. Why are we not doing that? Because we do not want to help all of these 5.4 million children. We do not want to do that.

We have all of these incentives that have not worked in the past. We have done all of these things. All you have to do is auto enrollment. We can write a law. We can pass it. We can say: The IRS can look at every family who has children under 200 percent who files a tax return or files for the earned income tax credit, and their children are automatically enrolled. They automatically get a notice that says: Here is your insurance. Here is your State card. You have coverage.

It is not hard. We can do that. But we have not done it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I wanted to pick up where I was before lunch. I am glad to see my good friend from Ohio. We were having conversations before lunch on this bill. Clearly, it is an important piece of legislation.

As Dr. COBURN and I said before lunch, I think every Member of the Senate, I think every Member of Congress, and probably everybody in the country believes it is important that we cover children; that the prevention and wellness aspects of having coverage means we have a healthier community; that we take those who, by the way, are historically more healthy, younger folks, and we give them the assurances of check-ups and the ability to visit a doctor so that we minimize anything that can happen to them. In 1996 and 1997, the Senator from Ohio and I were both on the Energy and Commerce Committee. We were involved in crafting the original legislation. I remember it today as well as I do then. The legislation was targeted at a specific group of our country's children: those over 100 percent of poverty whose families made too much for Medicaid but those with not enough income between their parents to be able to afford health care at the time.

My gracious, health care has done nothing but get more expensive since 1997. We appropriated and authorized $40 million for a 4-year program. The target—I can't remember what the target was for the number of kids—but today, at 100 percent of poverty for a family of four, they would have an income of $22,000. At $22,000 they apply for Medicaid, regardless of what State they live in, and health care is provided under Medicaid for that family.

As Dr. COBURN pointed out, I think rather clearly, for Medicaid and SCHIP today, we have probably eliminated access to about 40 percent of health professionals because they choose not to participate in the programs. Why? It is because the reimbursements are so pitiful in those two programs, regardless of the State. Doctors have chosen to opt out of providing that care and focus just on the Medicare and private market or just on the private market.

So just the creation of Medicaid and SCHIP means we have eliminated some choices for these people where this coverage is their only option, it is their safety net. Now, if I had my druthers, I would rather be here debating overall health care reform because I believe every American should have the ability to be insured.

I am not sure I would have much disagreement in Congress or in America on that. We will have a big disagreement on how we get there, but we can get there. Were we to have that debate today, we would not be here talking about the expansion of one program that hits a small group of Americans and is targeted to put them in a one-size-fits-all program that only 40 percent of the health care professionals even participate in.

Now, having said all of that, SCHIP is up for reauthorization. We are now 10 years down the road, and we are talking about, How do you change this bill to apply what we have learned? Can we reach new efficiencies in cost? Can we cover more people? If so, how? Which States have done well? Which states can we learn from? Which have done poorly? Which states should we work with in the legislation to try to prod?

Well, we find in this legislation that in 10 years, we have moved from 200 percent of poverty to 300 percent of poverty. I do not have any big disagreement with that, with the rise in health care costs. Three hundred percent of poverty for a family of four is $66,000 a year.

So under this program—SCHIP currently, not under the reauthorization bill—if a child lives in a household that has an income of $66,000, above $22,000, they are eligible in several states for SCHIP today.

So what is our experience so far? As we get ready for this reauthorization, we have 7.4 million children enrolled in SCHIP in 2008. But the average monthly enrollment for 2008 was 5.5 million, meaning that somewhere, somehow we have had almost 2 million drop out. They have moved to a different State. The income of their family changed. They are no longer eligible. So 5.5 million covered children today seem to be sort of the fixed point.

Well, how many are eligible today but not covered? I think my colleagues would be amazed to find out it is 5.4 million. We are covering 5.5 million, but we are not covering 5.4 million who are eligible under today's guidelines.

So in typical Washington response, what do we do? We come out with a reauthorization that expands the eligibility. Already we have in place a waiver where New Jersey can currently go up to 350 percent of poverty. Well, what is that? That is $77,175. Now in the reauthorization bill, we are going to grandfather the 350 percent, and we are going to go up to 400 percent for New York. What is 400 percent? Well, that is $88,200. How do those 5.4 million who were eligible before get enrolled? Well, the answer is, they are not. This is what Dr. COBURN was talking about. How about the kids nobody is going out to enroll? Do auto enrollment. It is easy.

But that is not what this bill is attempting to do. This bill is attempting to increase the eligibility to get a bigger slice of America eligible for Government programs so that at some point the number of folks who are on Government programs—Medicaid, Medicare, SCHIP, VA, the list goes on—is well over 50 percent of America, and then the die is cast. We go to a single-payer system. The Government runs it, the Government tells us how much we get, the Government tells us where we go, and the American taxpayer pays for everybody.

Now, here is the decision the Senate has—the House has already voted this bill out. We have a decision whether we are going to stand up for those 5.4 million. Those are the tough ones. Those are the ones who did not walk into the door and raise their hand when their parents were told they were eligible and say: I want to enroll. I would like health care. I would like prevention. I would like a primary care doctor. I would like a medical home. No, they are the 5.4 million children who are out there to whom no State is reaching out. They are just letting them fall by the wayside. Rather than focus on the 5.4 million, we are focusing on how we increase eligibility, how we change the income parameters.

Let me point out New Jersey, which is grandfathered to 350 percent of poverty under this bill, ranked 47th in the country at enrolling children who are at 100 percent to 200 percent of poverty. Let me say that again. A State that we have allowed to be grandfathered in at 350 percent of poverty ranks 47th out of 50 in the United States at enrolling kids between 100 and 200 percent of poverty.

As a matter of fact, 28 percent of their children are uninsured in that 100 to 200 percent of poverty. Yet once again we are going to grandfather them and allow this incredible expansion to continue. So where is their focus? Let's go after the easy ones. Let's go after the ones in families who are easier to find and who are easy to enroll.

Well, why does that happen? Let me point out to my colleagues, Medicaid gets a matching rate from the federal government, depending upon which State you are from, and that rate is from 50 percent to 75.9, with a ceiling of 83. So as the State makes a Medicaid payment of $1, depending upon what State you are from, the Federal Government reimburses anywhere from 50 cents to 83 cents.

But if you are enrolled in SCHIP, the range goes from 65 to 85. So if you are on the bottom, if you are a State on the bottom, why would you lobby for expanded eligibility? It is because if you are on the bottom, you are going to have an increase in the Federal share of what you pay out from 50 to 65 cents. It is 15 cents of every dollar. You are crazy, if you are a State, for not lobbying for this because you are going to spread the cost over the entire taxpayer base. It makes a lot of sense if your focus is not on 5.4 million children and how they get covered and how they get health care.

If you are only focused on how you get a bigger piece of the Federal pie, if you are only focused on how you get a bigger share of space at the trough, then this makes a tremendous amount of sense. But from the standpoint of developing health care policy, it makes absolutely no sense whatsoever.

I don't take my position just looking at one section of the bill. Dr. COBURN pointed out, as I did earlier, that the financing of this bill is suspect. In fiscal year 2012, which is the last of 5 years, we allocate $14.98 billion to fund the program, almost $15 billion. Yet in 2013, the bill reduces the allocation to $5.7 billion. How do you have a health care program for children, with all these people enrolled, that is sucking up $15 billion a year, and all of a sudden, the next year it drops to $5.7 billion? The answer is, you don't. We all know it. The reality is, you have to go to the next 5-year period to find the answer. The answer is, starting in year 6, out of the next 5-year budget, we do a one-time payment of $11.7 billion on top of what it costs us to run the program for 2013.

So what does that mean? Frankly, it means the accounting methods used in Washington are not accounting methods any family in America could use because their creditors would walk in the door and shut them down. Yet we get up here every day and claim we do things just like people at home. In fact, we know when it comes to budgets, there is no American family who can get away with what we get away with, especially when it is this obvious. One year it costs us $15 billion. The next year it costs $5.7 billion. There are only two ways you accomplish that. You either reduce enrollment drastically or you magically come up with the money and you stick it in and say: Oops, we didn't understand that was going to happen.

We understood it was going to happen. It is done to fit the parameters, to get around pay-go rules so you can actually take this money and stick it right onto the deficit and the debt of the country. In other words, we are going to provide our children health care with one hand, and we are going to rob their financial future with the other, all at the same time. It is miraculous that we would even attempt to do this. At least we could ask for honesty and transparency in how we are funding this program.

It is important that we sort of recap. What is SCHIP? I think a lot of people who might not have been in Congress very long, certainly weren't here in 1996 and 1997 when we passed it, people across the country might be saying: I have never heard of this program. Again, we saw the need in 1996 to create an insurance product for children's health, for those people who financially didn't qualify for Medicaid and didn't make enough to purchase insurance on the open market. SCHIP was created with the vision of trying to take kids from 100 percent of poverty to 200 percent of poverty and make them eligible for a program where 100 percent of them would have health care. Nationally, the parameters grew from 100 percent to 300 percent, and we still haven't met the original 1996 mission of covering all the kids. Because with 5.5 million people covered today, average monthly number, we still have 5.4 million over here who are eligible and don't have insurance. Clearly, we have a tremendous amount of work to do to get the SCHIP program to fulfill its original mission.

Let me go specifically to the bill before us. CBO estimates the bill will increase outlays by $32.3 billion above the baseline over 5 years and $65 billion over 10. The cost is offset by a tobacco tax. I am from North Carolina. I can get up and wail about how this is unfair. It is not the first time Congress has done it. It is the most regressive tax there is. In essence, we are taking a group who financially are challenged and, according to every analysis I have looked at, the people who are going to be most taxed by a tobacco increase are those people in the lower socioeconomic levels. So, in essence, we are

not spreading this across taxpayers. We are asking the parents of these children to pay for the expansion in eligibility because we are going to tax them for every cigarette they buy and consume. We are going to hope that they quit. When they quit, I am not sure how we are going to fund the program except probably do it the same way we are doing it in the year 2013. We will come up with the money in some way and some fashion.

It is important we realize today we have something we call a Medicaid sandwich. Medicaid starts here; SCHIP goes here; Medicaid wraps on the top. It is hard to believe we could have something designed that is so complicated for the States, that Medicaid applies here to some; SCHIP applies here to others; and Medicaid applies on top of that to an even larger group. If it seems confusing, it is. If it is this confusing, one has to ask: Why don't we change it? Why don't we fix it? Yet as I continue to go through the Baucus bill, what I find is that we are making it more complicated. We are designing it in a fashion that aggressively goes after an increase in enrollment but does not go after the 5.4 million children who currently today are unenrolled in the program but are certainly eligible. As a matter of fact, the Baucus bill spends $34 billion over 5 years. It targets 5.7 million new children. I might add, 2 million of those children today are currently covered under their parents' insurance. So we have actually got a net pickup of 3.7 million kids who were uninsured. That is $34 billion.

There is an alternative plan. It is called the McConnell substitute. It is called Kids First. It uses $19.3 billion over 5 years to enroll 3.1 million kids who are uninsured today. So what do we get with the $34 billion investment that we are not getting with a $19.3 billion investment? The answer is quite simple: 600,000 uninsured kids who are enrolled under the Baucus bill. When you do the simple math on that, you find out you are paying $4,000 per enrollee under the Baucus bill.

Now, I don't expect everybody to associate with this, but last year I had a son who was a senior in college. Because we have these funky Government rules that say no matter where you are in your education process, when you become 22, you are no longer eligible to be under Government insurance for your family—it doesn't apply just to Members of the Senate or to Congress; it applies to every Federal employee—I was forced, as a parent, to go out and go through the thought process of getting my son insurance. Sure, he is 22 years old. He is healthy as a bull. There is no reason I should suspect he is going to get sick. But what if something happens to him.

So I immediately did what every good Federal employee would do. I called the correct office up here, and I said: This has to be something you have run into. Have you got some type of gap insurance I can turn to and I can purchase for that 22-year-old healthy son? They said: Certainly, Senator. We have negotiated with the same company, the same plan he was under, and he can go on that tomorrow. I said: How much is that? They said: $5,400 a year, for a 22-year-old, healthy-as-a-bull senior in college.

I did probably what every parent would do. I called the college and said: Have you got a plan? Here is the situation. They said: Absolutely. We have negotiated with the same company, with the same plan he was under as a child of a Federal employee. I said: What is the premium? They said: $1,500 a year.

Now, that lesson I actually learned when I became a Member of Congress. When I became a Member of Congress, I chose the same insurance plan I was under in Winston-Salem, NC, working for a company of 50 employees, the same exact plan paying the same 25 percent, and the only difference was my health insurance cost went up $100. Why? Because a company of 50 employees negotiated a better plan than the U.S. Government on behalf of 2 million employees. But it had been 14 years. I had forgotten that. I relearned it firsthand though with my son, when all of a sudden I realized he got a plan for $1,500 that the University of North Carolina Chapel Hill had negotiated, and the Federal Government had negotiated the same plan at $5,400. No wonder parents are confused. No wonder most Americans are confused. What a screwed up market this is. How unbelievably complicated is it for an individual to try to go out and access insurance, and at what point do you actually know that you have found a value?

Let me try to bring some relevance to this story. For that 22-year-old, healthy-as-a-bull senior in Chapel Hill, his health care plan was $1,500 a year. For all these 600,000 kids we are adding to SCHIP, we are spending $4,000 a year to insure them. The average cost per policy for somebody under 18 in America today is about $1,132. Yet under the Baucus bill we are going to invest $4,000 per child, per those 600,000 children, to make sure they are covered—not a wise investment. But considering my experience with the Federal Government, I can understand why, for some people here, that makes absolutely perfect sense.

Let's assume for a minute somebody is going to say my numbers are wrong. I am sure they will before the debate is over. Let's assume for a minute we are trying to figure out the number of increased enrollees—and I am not talking about the ones who had their own insurance and we just shifted them over to government insurance—what are we paying for them? We are paying about $2,200. They are still paying $700 more a year to insure every child 18 and under than I paid in premiums to cover my 22-year-old, healthy-as-a-bull senior in college. So we are overpaying at least by $700. At most, we are overpaying by almost $2,500. Somewhere in that range, I would hope the American people would say: Hey, let's stop for a second. Let's call time out. Let's go back and get Congress to re-look at this program because this doesn't make a lot of sense.

I am not getting into any of the aspects that have already been addressed which deal with the loopholes that were created. I actually sat on the floor and heard somebody say this was a bipartisan bill. If you count one Republican vote out of the Finance Committee, then you are right, it is bipartisan. But I am not sure that is President Obama's interpretation of what bipartisanship is. He came to the Hill. He had lunch with us today because he is trying to get more Republicans to support a stimulus package because he doesn't want to just win it, and he doesn't want to win it by one vote. He wants the American people to understand that there is confidence up here in the legislation that is passed. He probably should have talked about this bill. It is going to be bipartisan, not by many votes.

If that is the type of bipartisanship we want, then it is going to be a long couple of years.

My hope is we can actually get something done. There are so many areas I could talk about on this bill, but it would keep me here forever, and I see my good friend, Senator WHITEHOUSE, is in the Chamber.

Let me end with this. I am sure I will come back. What I want Members to search their souls and ask is, Is it really the Federal Government's responsibility and, more importantly, the taxpayers' responsibility that a family making $88,000 be included in a plan that is designed and was originally designed to take care of kids between 100 and 200 percent of poverty? Do we feel bad that today 5.4 million children who are eligible at 100 percent to 200 percent of poverty are not enrolled in the program?

This is not the first time I have had a test like this. My own President, last year, proposed we increase spending for HIV/AIDS patients in Africa from $15 billion to $50 billion, and to many people's amazement, TOM COBURN and I supported the President. Then all of a sudden they made a change in the program. The program had always said 50 percent of the money had to go to the treatment of HIV and AIDS patients, meaning they actually had to deliver medicine to them.

Well, when all of a sudden the countries that got these Federal grants to carry out these programs in Africa

looked at the program, they said: My gosh, for us to get from committing $7.5 billion all the way up to $22.5 billion in delivering medicines to people who have HIV or AIDS, that is going to be tough. We are going to have to work to find these people. It is going to be dangerous in some cases for us to get drugs out.

What did the White House do? They dropped the requirement in total. They did not require one dime of that $50 billion to actually go to the delivery of drugs to HIV and AIDS patients. So what did we do? We held up the bill. We were taking flak from our own President because other people wrote a bill that was structured poorly. It actually did not accomplish what we set out to have with PEPFAR originally.

At the end of the day, they put back in the requirement of 50 percent, and today, for the multiple countries this applies to, we have a commitment that $22.5 billion is going to go to actually treat individuals who have HIV and AIDS—our original intent of the program. We just expanded it.

Now, we were not going to get there just by saying it is difficult, therefore we do not think we should do that. And we are not going to cover these 5.4 million kids who are eligible but not enrolled if we say: Do you know what. This is hard. And since it is hard, why don't you change the program so the eligibility is wider so we can get some of the kids who are out here in different income groups who are easier for us to enroll than for us to go and find the 5.4 million who are so hard to find.

Well, I am going to say to my colleagues, just like I said to my President: No. That is not what we intended to do. We put this program together to make sure the most at-risk kids in this country had health coverage, so they had a medical home. To suggest we are now going to change the parameters of this and allow a larger income pool to come in because it is hard to reach out and find these 5.4 million people, no; it is not going to happen. It may happen, but it should be as difficult at happening as it possibly can.

I look forward to the debate we are going to have. It is my hope we will have an opportunity to actually look at honest budget numbers that share with the American people exactly what this costs, that we can look at the eligibility requirements with predictability, understand who is going to have an opportunity to be enrolled, and, hopefully, at the end of the day, when a bill passes—whether we vote for it or not—that we can all look at it and say: There is a real chance that 100 percent of the kids at 100 percent to 200 percent of poverty have a real opportunity to be enrolled in this program. I fear without changes to this legislation that will not happen. We will not have fulfilled what we set out to do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I see my colleague and friend from Virginia, Senator WEBB, who is prepared to speak, and we will recognize him in just a moment.

I would note there would have been, by our estimates, 3.3 million children who would have been covered had the bill passed in 2007. That would have been one very good way to reduce the number of children in this country who are not protected by health insurance.

Mr. BURR. Mr. President, will the Senator yield for a question?

Mr. WHITEHOUSE. Of course.

Mr. BURR. Would any of those 3.3 million children have been in 100 percent to 200 percent of poverty?

Mr. WHITEHOUSE. As I understand it, the bill contained both funds and programs for outreach that would have supported the States in their initiatives to find the children who, because their parents were moving or for one reason or another, were eligible but had not entered into these State programs. So I think the answer to that question would be yes.

Mr. BURR. Let me suggest to the Senator—and I will not ask him to yield much longer—there was the same expansion of eligibility in last year's bill, so the likelihood is any increase in enrollment would have been spread across not just the 100 percent to 200 percent of poverty, but all the way up to the 400 percent of poverty.

Mr. WHITEHOUSE. I think the increase in enrollment would have spread wherever the program went. There are very few areas, as the Senator knows, where the eligibility level is 400 percent of poverty. In the vast majority of the country, in my State, for instance, it is well below that. It is a program that supports working families, that supports low-income working families, that makes sure their children get health care.

But for a number of reasons, probably the most prominent of which is people moving from location to location and not being registered with the local program, there are outreach requirements. I would be happy to work with the Senator on improving those outreach requirements in any way he wishes. But I think to hold the entire bill and his support—I think in this case we are estimating it will now reach 4.1 million children—hostage because of not having gotten the outreach better is a strategic mistake.

If your goal is to insure more children, then you should go about it by insuring more children. If the outreach is a problem, then we can happily make that better. But for outreach to be criticized, when it was President Bush who vetoed that bill, I am not sure how the distinguished Senator from North Carolina voted on that—

Mr. BURR. Mr. President, I would be happy to disclose to my colleague that I voted against the bill, for the same reasons that without changes I will oppose it this year because the eligibility requirement is being expanded.

As I said, and I thought fairly clearly, when you expand eligibility, you take the pressure off of making sure the enrollees come from the most at risk. It is my hope we can modify this bill. I am not embarrassed to be on the Senate floor and talk about the aspects of this legislation that I am unhappy with. But certainly I can count, and I know the majority can move this bill at any point they feel comfortable, and I am sure they will.

At the end of the day, it is my hope we will cover as many of the originally targeted children in that 100 percent to 200 percent of poverty as possible.

Mr. WHITEHOUSE. I understand the Senator from Virginia wishes to speak. I will simply respond before I yield the floor to Senator WEBB that I have had quite a number of years of experience with our Children's Health Program in Rhode Island, back to the years when I came in with Governor Sundlun in a bad economic crisis in Rhode Island—probably the largest percentage deficit in the State budget of any State ever recorded. Even in that very gloomy fiscal environment, Governor Sundlun insisted we build a statewide universal health care program that protected children.

SCHIP is very much in line with that. The people who have been working on that for these many years in Rhode Island—and I suspect it is the case in many other States—feel a real passion for trying to make sure children get health care, that they get the health care to which they are entitled.

So I am not sure the notion that by just putting more pressure on them, by just refusing to add any other children until they have done this, is really a productive or fair way to go about reaching the children who have not been reached. What the bill does is provide outreach funds and empower these people who care so deeply about this issue to actually get out there and work harder to find them, have the additional resources to find people. From my work in law enforcement, my work with schools, my work on health care, there are a lot of people who live apartment to apartment, very hand to mouth, and it is a very significant challenge to keep up with them. The resources to do that, I submit, would be the best way to solve that problem, not holding one set of children hostage to providing health care for another set of children.

With that, Mr. President, I yield the floor for the distinguished Senator from Virginia.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Virginia.

Mr. WEBB. Mr. President, I thank the Senator from Rhode Island, and I

am here to speak in favor of this legislation. This is a very important piece of legislation. It is long overdue. I also would like to point out that I have an amendment I will offer.

I am very concerned about the way this legislation is going to be funded. We all have our own issues with respect to whether tobacco should be used or not used, but to fund an entire program based on a tobacco tax, I think, is not the way to go for a number of reasons. So I am offering an amendment that will help offset this highly regressive, 61-cent-per-pack increase in the cigarette tax that is being used to fund this bill, and to add on to the bill a tax on carried interest, which is the compensation that is received by hedge fund managers. This proposal would generate $11.2 billion in revenue over 5 years. Tobacco taxes would thus be raised by a more reasonable 37 cents a pack to make up for the shortfall between the revenue being generated by this amendment and the costs of the CHIP reauthorization.

Tobacco is already federally taxed at 39 cents per pack for the CHIP program. All 50 States and the District of Columbia also impose an excise tax on cigarettes above this tax. For instance, my State of Virginia adds 30 cents on top of the present tax. In these difficult times, many States, including Virginia, are considering an increase in their State excise tax.

So we would have, with the amendment I am going to offer, the 39-cent Federal tax that is already in place on a pack of cigarettes, an additional 37 cents—instead of an additional 61 cents—plus the State taxes on cigarettes; and a big proportion of this—all the Federal tax—going to fund a health program.

I would like to be clear that there is no question in my mind about the fact that we do need to reauthorize and expand this program. But I do not think it is a proper to fund this program on the backs of people who, for better or worse, smoke cigarettes. I am a reformed smoker. Many of my contemporaries in the Senate are reformed smokers. I am not encouraging anyone to smoke cigarettes. I hope you do not. I just believe although tobacco taxes are already a popular source of revenue, it does not change the reality that this tax is regressive.

We had a Congressional Research Service report brought to my office, and I am going to quote from it. It said:

> Cigarette taxes are especially likely to violate horizontal equity and are among the most burdensome taxes on lower-income individuals. Only about a quarter of adults smoke, and less than half of families have expenditures on tobacco. Tobacco is more heavily used by lower-income families than are other commodities, and is unusual in that actual dollars (in addition to the percent of income) spent on tobacco products decline in the highest income quintile.

My amendment will help soften the blow of the increase in the cigarette tax.

Let me provide some background on carried interest. A partner of a private equity or hedge fund receives two different types of compensation. First, hedge fund managers receive management fees that are linked to the assets they oversee. Second, they receive what is called "carried interest," which is compensation based on the percentage of the profits generated by the assets they manage. Currently, carried interest is taxed at a capital gains tax rate. As noted by Peter Orszag, who is now a member of the Obama administration, in his 2007 testimony, many economists view carried interest as:

> Performance-based compensation for management services provided by the general partner rather than as a return on financial capital invested by that partner.

Given that carried interest is performance-based compensation, it makes sense to tax it as ordinary income. This compensation has been earned by many of the same people who helped bring about the present financial crisis. The Financial Times stated these managers "have made fabulous sums in recent years." Given the need to pay for children's health insurance, it makes more sense to have these persons, who are better positioned to pay for it, pay a greater percentage of the cost.

When it comes to taxing carried interest as ordinary income, there is a wide acceptance in support of this proposal among thinkers and editorial writers across the country. The Financial Times itself editorialized "this repair should be done at once." They made that statement 2 years ago.

I have a string of editorials that support the idea of closing this carried interest loophole as a matter of fairness. I ask unanimous consent they be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WEBB. They include editorials from the Washington Post, New York Times, USA Today, the Philadelphia Inquirer. In fact, the Washington Post in 2007, in talking about this particular tax break, said this:

> The only mystery is why Senate Democrats don't have the good sense to grab on to this as their centerpiece domestic issue. It's hard to think of an issue that better taps into the public anxiety about the markets and the economy, the anger about income inequality, or the disgust with a political system that bends to the will of powerful interests.

The Washington Post continued:

> This is a make-or-break issue for Democrats. If they can't unite around this issue, then they aren't real Democrats and they don't deserve to govern.

The New York Times in 2007 talked about this issue, mentioning:

> With income inequality surging along with the need for tax revenue, supporters rightly conclude that it is untenable for the most highly paid Americans to enjoy tax rates that are lower than those of all but the lowest income workers.
>
> Congress will achieve a significant victory, for fairness and for fiscal responsibility, if it ends the breaks that are skewing the tax code in favor of the most advantaged Americans.

There are others and, as I mentioned, I will insert the full text of these editorials at the end of my comments.

I also should point out that our new President, President Obama, has supported throughout his campaign the idea of taxing carried interest as ordinary income.

So the choice is this: Do we help fund this program, which we all agree is critically necessary, with a well-deserved tax adjustment for some of those who are the most capable of absorbing a new tax, or do we take money exclusively from tobacco, causing people who in large part are in the same economic circumstances as the beneficiaries of this health insurance program to foot the bill?

Let's think for a moment about the irony of that. We are taxing a practice that we deem unhealthy in order to fund a health program, and we supposedly want this practice to go away, but if it goes away, we are not going to be able to fund our health program.

So we need to find a way to fund health care needs that is sustainable and fair, and a declining revenue source is not sustainable. I hope my colleagues will join me in supporting this measure, which will partially offset the cigarette tax that is a part of the bill. I again wish to express my strong appreciation to Chairman BAUCUS and to others, such as my colleague from Rhode Island, who have worked so hard on this bill and who work to help those in our system who are most in need of medical care.

With that, I yield the floor.

EXHIBIT 1

EDITORIALS SUPPORTING CLOSING PRIVATE EQUITY/CARRIED INTEREST LOOPHOLE AS MATTER OF FAIRNESS

[From the Washington Post, Sept. 9, 2007]

PRIVATE-EQUITY TAX BREAKS, A CALL TO BE UP IN ARMS

Even by Washington standards, the private-equity industry certainly went over the top in conjuring up the economic woes that would befall the United States if their cherished tax breaks were taken away.

Pensioners would be destitute. Wall Street would pack up and move to Dubai. The hedge fund industry would disappear. Federal revenue would plummet. Entrepreneurial risk-taking would grind to a halt. And the urban underclass would slip even deeper into poverty.

And all that just because some of the richest people in the world would have to pay the same 35 percent tax rate on their income as dentists, lawyers and baseball players.

There is no mystery as to why the industry bothers to make these ridiculous and contradictory arguments—billions of dollars in tax windfalls are at stake.

The only mystery is why Senate Democrats don't have the good sense to grab onto this as their centerpiece domestic issue as they head into the 2008 campaign. It's hard to think of an issue that better taps into the public anxiety about the markets and the economy, the anger about income inequality, or the disgust with a political system that bends to the will of powerful interests. And if Republicans go through with their threats of a filibuster and a presidential veto, Democrats ought to put aside all other business and call their bluff.

This is a make-or-break issue for Democrats. If they can't unite around this issue, then they aren't real Democrats and they don't deserve to govern.

[From the Washington Post, July 13, 2007]

EQUITY FOR PRIVATE EQUITY; LEGISLATION TO RAISE TAXES ON FUND MANAGERS' INCOME

Investment partnership funds can be enormously profitable, highly secretive and lightly regulated. People tend to get suspicious.

As a result, government bodies periodically try to tamper with private equity firms, hedge funds, venture capital firms and the like. This largely unregulated industry does a lot to stabilize America's financial system by fostering innovation and bringing inefficient or undervalued markets closer to equilibrium, and most of these attempts to regulate or reconfigure the industry would be bad for the U.S. economy. But this time around Congress has proposed legislation that makes sense.

A House bill would set a higher tax rate for ''carried interest,'' the cut of profits typically awarded to fund managers at private equity firms and other investment partnerships. In these investment partnerships, a fund manager typically manages the investment made by himself and various limited partners, with the manager usually contributing about 1 percent of the investment. The fund manager then usually receives 2 percent of the assets he manages annually and 20 percent of the profits earned on the investment when it is sold. Even though this 20 percent cut makes up the bulk of the manager's compensation, and even though it is awarded for managing others' money, under current tax law this income is treated as capital gains rather than ordinary income. As a result, fund managers who make zillion-digit incomes from carried interest can be taxed at the same rate (15 percent) as a part-time janitor.

The House bill, sponsored by Sander M. Levin (D-Mich.), Ways and Means Committee Chairman Charles B. Rangel (D-N.Y.), Financial Services Committee Chairman Barney Frank (D-Mass.) and 13 other Democrats, would close this loophole for fund managers and treat their ''carried interest'' earnings as regular income taxable at the ordinary 35 percent top-income rate that high-earning employees in other industries must pay. The bill would not affect the other investors in these funds, nor would it affect the tax rate for profits that fund managers make on investments with their own money.

A Senate bill that also attempts to bring equity to the private equity industry would force investment partnerships that are publicly traded—right now, only a handful—to pay corporate income taxes. Support for the Senate bill has gained some momentum because of Blackstone Group's splashy initial public offering, one of the largest in history. The Senate's corporation-rather-than-manager-based solution seems less effective, however, because companies can easily move overseas (as many have already done), while individuals are less likely to do so. Investment partnerships can also simply choose not to go public.

Critics of the two bills argue that investment fund managers should be rewarded for taking high risks. But these fund managers, for the most part, are not risking their own money, and they're paid management fees during the duration of their partnerships, so they have steady incomes. Besides, plenty of risky industries don't enjoy comparable tax benefits. Income earned from managing an investment partnership fund should be treated just like the income earned for providing any other service.

[From the New York Times, June 25, 2007]

RAISING TAXES ON PRIVATE EQUITY

So much for the argument often made by managers of hedge funds and mavens of private equity that higher taxes would cripple their business.

The prospect of higher taxes did not dent, in the least, the initial public offering on Friday of the Blackstone Group, the giant private equity firm. The week before, a bill was introduced in the Senate to raise taxes on private equity firms that go public. On the day of the offering, a House bill was introduced that would raise their taxes, whether they're publicly traded or not.

And yet, Blackstone had a debut that was one of Wall Street's biggest, its thunder muted only by the announcement by its longtime rival, Kohlberg Kravis Roberts, that it, too, planned to go public.

The bills in Congress take aim at a provision of the tax law that has allowed private equity and hedge fund operators to pay a lower capital-gains tax rate of 15 percent, instead of the ordinary top income-tax rate of 35 percent, on the performance fees that make up the bulk of their huge paychecks.

With income inequality surging along with the need for tax revenue, the bills' supporters rightly conclude that it is untenable for the most highly paid Americans to enjoy tax rates that are lower than those of all but the lowest-income workers.

Fairness is not the only reason to change the rules. The private equity industry is on shaky ground when it claims that current practice is a correct application of the law.

Many of the firms' partners are not investing their own money in the various funds and ventures, and so have no direct risk of loss, the general test for claiming capital-gains treatment on one's earnings. Moreover, the tax rules in question were developed decades ago for enterprises that had passive investors to whom gains were passed along. Hedge fund managers and private equity partners are not passive. They're actively managing assets, and should be taxed accordingly as managers earning compensation.

The challenge now is to develop a single bill that can withstand the formidable lobbying efforts of the private equity industry to water it down.

To do so, the final bill should clearly apply to other firms where partners may also receive most of their pay as capital gains, such as oil and gas partnerships. It will also be necessary to narrow the bill, where appropriate. For instance, it could include a mechanism to allow some compensation to be taken in a form similar to incentive stock options.

Congress will achieve a significant victory, for fairness and for fiscal responsibility, if it ends the breaks that are skewing the tax code in favor of the most advantaged Americans.

[From USA TODAY, July 23, 2007]

WEALTH MONEY MANAGERS MAKE MORE, GET TAXED LESS

As many business executives, doctors, lawyers and other skilled professionals know, the top income tax rate is 35%. The top rate on dividends and long-term capital gains is 15%.

Whether it makes sense to tax the output of expertise and hard work at more than twice the rate of investment returns is debatable. But, for better or worse, that's the way it is.

Except, that is, when it isn't. Owners of companies, ranging from small real estate partnerships to multibillion dollar hedge funds and private equity firms, have devised a way to erase this distinction. Their managers pay 15% on their income by dressing it up as investment returns—even though they bear no investment risk or put none of their own money in play.

Nice work if you can get it. But in this case it constitutes a frontal assault on fairness. Why should such people pay only 15% when senior corporate executives pay 35% for making many of the same types of business decisions? More to the point, it's hard to see the logic (or the justice) in a school teacher or bus driver with taxable annual family income as low as $63,700 paying 25% when someone like Blackstone Group CEO Stephen Schwarzman can make nearly $700 million on the day his firm went public and pay at most 15%.

Congress is rightfully re-examining the issue. Reps. Sandy Levin, D-Mich., and Charles Rangel, D-N.Y., have a proposal. In the Senate, Max Baucus, D-Mont., and Chuck Grassley, R-Iowa, have a useful, if narrower, bill.

The practice they are seeking to ban or limit is a transparent ruse. Here's how it works using the example of a private equity firm: The partners raise capital from banks, pension funds and other large investors, which they use to buy companies and resell them. Their investors give them some direct compensation, which is taxable as income.

But most of the compensation comes in the form of an investment vehicle known as ''carried interest,'' which gives them a right to a portion of the profits they generate (typically 20%). That portion of the profit is taxed 15%, just as if they supplied 20% of the capital at the outset.

It's a creative practice, but with a result that says the rich get to write their own rules. That's not a new problem in the American tax system, but it is nevertheless repulsive. Income is income, or so you'd think.

Supporters of this scam argue that these money managers actually are risking their own investments. It's just not money, in their case, but their ''sweat equity,'' their time, their expertise. But the same could be said of the lawyer who takes a case on a contingency fee, the movie actor who negotiates a cut of the box office receipts, the financier who chooses to work for a firm known for paying enormous bonuses during good years. In most, if not all, of such cases, these people pay income taxes.

And so should partners in these exotic investment firms. More so because the tax they avoid paying is money that has to be made up by people of lesser means—or borrowed from later generations by adding to the budget deficit.

These schemes add insult to injury at a time of increasing wealth concentration. It is time to end them.

[From the Philadelphia Inquirer, Sept. 19, 2007]

EQUITY MANAGERS' LOOPHOLE; BILLION-DOLLAR BREAKS

For years, a relatively few players in the corporate takeover game have benefitted from a tax loophole that costs the federal government billions annually.

Now a push is under way in Congress to tax these wealthy managers of private equity funds at the same income-tax rates as everyone else. Congress should end this unfairness in the tax code.

Most workers pay income taxes on a graduated scale, with marginal tax rates running from a low of 10 percent, to a high of 35 percent for the wealthiest wage earners. But managers of private equity funds, who usually do extremely well for themselves, pay only a capital gains tax rate of 15 percent on most of their income. That's because the tax code considers their wages "carried interest," even though this compensation can run into hundreds of millions of dollars per individual. The preferential treatment can be worth millions of dollars to such a manager.

Rather than being taxed on compensation for services rendered, these managers are taxed as though they had invested a 20-percent stake in the fund. But, even though they sometimes gain equity stakes in the companies they buy and manage, they don't have capital at risk in the ventures. They're really being compensated for their expertise and effort.

This definitional fiddle creates a class of service provider that is taxed a preferential rate. Economist Greg Mankiw, former chair of the Council of Economic Advisers under President Bush, has said that carried interest should be taxed at the same rate as other compensation for such services. As it stands now, an executive in a financial-services firm is taxed differently from the manager of a private equity or a hedge fund.

There's no good reason why a person earning $200 million per year should pay a lower tax rate than a single worker earning $45,000 annually and paying 20 percent in taxes.

The loophole costs the Treasury several billions of dollars per year. The sum is small compared with the overall federal budget. But in a budget season in which Congress and the president are feuding over a difference of about $22 billion, such sums do matter.

Some argue that taxing these fund managers at a higher rate would harm ordinary investors, such as those enrolled in state employee pension plans, because the fund managers would demand higher compensation. But the evidence is slim. The liberal Center on Budget and Policy Priorities, a nonprofit think tank in Washington, said the impact on investors would be "quite small."

And this glaring inequity shouldn't be preserved on the presumption that a tiny fraction of it will trickle down to the folks already paying their fair share.

[From the Washington Post, Nov. 8, 2007]

NO PAY, NO PATCH

Nearly everyone wants to "patch" the alternative minimum tax. Not everyone wants to pay to do so. That is the challenge facing lawmakers as they race to install yet another temporary fix on the tattered federal tax system in time for the Internal Revenue Service to produce forms reflecting the change. How this job is accomplished will show whether congressional Democrats are willing to live up to the pay-as-you-go obligations they imposed on themselves when they retook control of Congress—and whether Republicans can regain any credible claim to being committed to fiscal discipline.

The alternative minimum tax was created in 1969 to dun a tiny number of the super-rich who managed to avoid paying any income taxes. Because the tax isn't indexed for inflation and because the 2001 tax cut lowered regular tax rates, the AMT, without adjustments, will affect millions of taxpayers who everyone agrees were never its intended targets. But exempting those millions will cost a lot in forgone revenue, money that the Bush administration has built into its budget numbers. Because fixing the problem is expensive and complicated, lawmakers have chosen for years to slap a Band-Aid onto it—and bill the cost to future generations. This year's model totals $50 billion, $76 billion when the cost of extending expiring tax provisions and other changes is included.

To its credit, the House Ways and Means Committee has produced an AMT patch whose costs are offset by other changes, including eliminating the carried-interest deduction that allows private equity and hedge fund managers to pay taxes at far lower rates than other wage-earners. This is far from a perfect solution: It would take 10 years of revenue to pay for the one-year patch.

It's preferable, though, to the approach of congressional Republicans and the Bush administration, which is to not offset the tax cut with new taxes or spending cuts. House Minority Leader John A. Boehner (R-Ohio) was illustrative of the irresponsibility. "Tax relief pays for itself by creating more American jobs for more taxpayers to strengthen our economy," he said in a statement. Perhaps Mr. Boehner believes that the Tax Fairy will simply leave $50 billion under the IRS's pillow; there is no economic basis for his statement that "tax relief pays for itself." Moreover, if Mr. Boehner doesn't like the way Democrats propose to finance the patch, what would he cut instead?

Republicans may not be the only obstacle to responsibility. Senate Democrats say they want to comply with the pay-go requirement, and there were hopeful signs last week from Majority Leader Harry M. Reid (D-Nev.). "I'm not in favor of waiving pay-go rules," he said. "I think we cannot waver on that." But Senate Finance Committee Chairman Max Baucus (D-Mont.) has been less definitive, saying only that he'd like to comply with pay-go to the extent possible; he has also not been eager to close the carried-interest loophole. Once the pay-go rule is ignored, though, lawmakers won't be able to discipline themselves in the future. This is a key test for the party that wants to wear the mantle of fiscal responsibility.

[From the New York Times, Nov. 8, 2007]

ALTERNATIVE TAX SHOWDOWN

The House and Senate are poised to vote on a vitally important tax bill that poses a test for each chamber of Congress. In the House, the vote on a short-term fix for the alternative minimum tax will test whether Democratic representatives have the courage of their convictions. In the Senate, the vote will test whether Democratic senators have any convictions at all, or just a belief in keeping the world safe for campaign contributors.

Under current tax law, 23 million taxpayers will owe the alternative tax for 2007, up from 4 million last year. The tax was originally intended to apply to multimillionaires. But most of this year's alternative taxpayers make between $100,000 and $500,000 and about a third make less than $100,000. They all have good cause to feel rooked and to expect help from Congress.

The challenge is the "pay-as-you-go" budget rule adopted when Democrats took control of Congress this year. New tax relief must be paid for, either by raising taxes elsewhere or by cutting government benefits like Medicare or Social Security that cover everyone who is eligible. The one-year cost of shielding millions of Americans from a tax they should not have to pay is $51 billion.

The House tax committee met the challenge, drafting a bill that provides the needed tax relief and plugs the resulting budget gap, mainly by raising taxes on private equity partners and hedge fund managers. The bill is good policy. The tax relief assuages justifiably aggrieved taxpayers. Tax increases on private equity firms and hedge funds rectify outdated rules that have allowed the very wealthiest to enjoy tax rates lower than those paid by middle-income Americans and, in some cases, to defer taxes indefinitely.

But key Democratic senators, among them New York's Charles Schumer, who is the main fund-raiser for Senate Democrats, are balking. They know they must provide alternative tax relief, but they don't want to tax private equity and hedge funds to pay for it. Their defense of the industries' morally indefensible tax breaks is tawdry. As The Washington Post reported yesterday, in the first nine months of 2007, as pressure built to dismantle the tax breaks, investment firms and hedge funds contributed $11.8 million to candidates, party committees and leadership political action committees. That's more than was given in 2005 and 2006 combined. More than two-thirds of that money went to Democrats.

The Senate's equivocating has rubbed off somewhat on the House. The bill is still expected to pass the House, as early as tomorrow, but some members have wondered aloud why they should support a tough measure if the Senate is determined to kill it.

The answer is that it is the right thing to do. The House bill holds true to the pay-as-you-go rule when doing so matters most, that is, when large sums and difficult trade-offs are at stake. It undoes a tax injustice. And maybe, just maybe, the money men in the Senate can be swayed by example.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, this week we have the chance in the Senate to provide health insurance to 4.1 million children in this country who now don't have it, to cover 11 million children total. All we have to do is the right thing and pass H.R. 2, the Children's Health Insurance Program.

I know the distinguished Presiding Officer from Nebraska and the distinguished Senator from Virginia, who has just spoken so eloquently, have shared the experience I have had in my home State of Rhode Island, and that is to travel around and hear personal stories from people whose lives and whose health have collided with our broken, dysfunctional health care system. Too often, families in this country can't afford to pay for the care they need. As our economic troubles worsen, that problem only grows more acute. Too often, they can't even get in to see a doctor. Too often, when they

do receive care, it falls short in quality, in efficiency, in effectiveness, and in timeliness.

The crisis in our health care system affects all of us, but it is greatest and it is most tragic when it affects our children. That is why Congress created the Children's Health Insurance Program which for years has given millions of uninsured, hard-working American families access to health care for their kids.

The program has not only expanded health care coverage for children, it has encouraged States to be flexible, innovative, and responsive in meeting their families' health care needs. We come from 50 different States with 50 different sets of history, demographics, and economics, and as a result, the States come up with different programs. That is something to celebrate, not to bemoan. The program has safeguarded the vulnerable, it has united families, and it has invested in the future of our Nation. It is a special program of all the things that we do here.

The Children's Health Insurance Program means that children are more likely to receive medical care for common conditions such as asthma or ear infections. It means that children end up with higher school attendance rates, and that children have higher academic achievement. It means that children have more contacts with medical professionals. It means that children receive more preventive care. It means that children go to the emergency room when it is an emergency, and when it is not, they have someplace else to go that allows them and their families to stay out of those expensive urgent care settings. So as we have done for the past 2 years, this week we are working to pass legislation to ensure that every eligible uninsured child in America can get regular checkups when they are well and can get medicine when they are sick.

Not long ago, former President Bush denied children needed health care coverage by vetoing this legislation. But the American voters have spoken and we are in a new era in this country—a new era for peace of mind, for security, and for dignity for American children and for their families. With a new Congress and a new President committed to health care for all American families, I could not be more hopeful as we discuss this bill today.

I am especially proud to serve with my senior Senator, JACK REED of Rhode Island, and to support him in this fight. I have been in the Senate for 2 years now. Before I even got here, JACK REED was one of the most prominent, most ardent, and most determined fighters for our Nation's children. Frankly, it is in significant part due to his relentless work that we have come this far.

I am proud also to represent a State that has one of the lowest rates of uninsured adults and children in the Nation. It was not easy. Rhode Island worked hard over the past 15 years to achieve this success. It began with the RIte Care Program in 1993. In 2001, the creation of the Children's Health Insurance Program allowed Rhode Island to further reduce uninsurance rates in the State. I am proud to be on the team of former Governor Bruce Sundlun who turned 89 a few days ago. When he was Governor, he created the original RIte Care Program. His vision and determination to do this, in a time of grave economic straits for Rhode Island, has yielded immense rewards. Now, as health care costs skyrocket and the number of people in this country who lack health insurance approaches the staggering number of 50 million—50 million Americans, and so many of them children—we in Congress have an obligation to strengthen initiatives like RIte Care through which States have made health care more accessible.

Today, 4.1 million uninsured children are waiting for us to pass this bill; 4.1 million children who might not see a doctor this winter when they get the flu because their parents can't afford to pay out of pocket for the visit; 4.1 million children who might delay needed vaccinations or other preventive care because their parents have to buy food instead; 4.1 million children who might not get an inhaler or insulin or—heaven forbid—chemotherapy because in this economic downturn, the money just isn't there.

Who could say no to uninsured, vulnerable children? Should we not at least be able to agree on that? Why would anyone say no? We plan to raise taxes on cigarettes, a tax that the American Cancer Society says could prevent nearly 1 million deaths and keep nearly 2 million children from starting to smoke; a tax with health savings that could ultimately decrease government costs for government health care programs; a tax that the Congressional Budget Office confirms will fully offset this bill so as not to add to our deficit. I don't think that would be a good reason to deny vulnerable children the safety and security of health insurance.

During the course of this discussion, some Members have tried to make this debate about illegal immigration. It is not. We should not permit the very difficult issue of illegal immigration to affect this bill to deny millions of children the health care they badly need. That would be a grave mistake. That would be a wrong.

Let me be very clear: Only children who are legally in the United States are eligible to receive coverage under Medicaid or the Children's Health Insurance Program. They must document their immigration status. Medicaid agencies use information provided by the Bureau of Citizenship and Immigration Services to confirm the status of legal immigrants applying for benefits. Further, this bill does not even require States to cover legal immigrant children. It simply provides and supports that option.

Legal immigrants pay taxes, they serve in our Armed Forces, and just like the rest of us, they play by the rules. They are our future citizens, and insuring their children makes sense. This was the law until 1996 when sweeping restrictions affecting legal immigrants were made. Since 1996, we have become wiser, and many of those restrictions have been reversed on a bipartisan basis by Congress. The provision in this legislation covering legal immigrants is fully consistent with that trend back to 1996 levels.

This Nation is slowly emerging from a dark time when our ideals and our virtues were too often hidden in the shadows, when we let our fear overcome our principles and our better judgment, when we lost sight of our priorities and left millions of people in the cold and millions of children uninsured. That time can end now.

This bill is a chance to show these millions of Americans that we have heard them and that we stand ready to help. We know how tough it is for working families in this economy. If there is one worry, one burden we can take off those parents' shoulders so they can be sure their children have the health insurance every American deserves, we should stand ready to help. This country should once again own its duty to protect those who cannot protect themselves and to restore dignity and hope where it has diminished.

I close by applauding Chairman BAUCUS and the Finance Committee for bringing this vitally important and long overdue legislation to the floor.

I urge all of my colleagues—it would be wonderful if we could do this together—to allow these 11 million children to be covered by health insurance, to have access to the health care they need, to grow up healthy and strong and ready to seize the boundless opportunities that are at the heart of the American dream.

I think we will find in the months and in the years ahead that there will be things we cannot do to help families. I know everybody in this Chamber wants to do everything they can, and we want to work as hard as we can, but the economic situation is dire, and we are not going to be able to do everything we would like. But this is something we can do. This is something we can do for American families and for their children, and I hope very much we will do it.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ASSIGNMENTS

Mr. REID. Mr. President, in accordance with S. Res. 18, I announce that the following Democratic Members have been assigned to the following committees: Agriculture, Mr. BENNET and Mrs. GILLIBRAND; Banking, Mr. BENNET; Environment and Public Works, Mrs. GILLIBRAND; Foreign Relations, Mrs. GILLIBRAND; Homeland Security, Mr. BENNET; Aging, Mr. BENNET and Mrs. GILLIBRAND.

The PRESIDING OFFICER. The RECORD will show the appointments.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that, at 5:25 p.m. today, the Senate resume consideration of the DeMint amendment, No. 43, with the time until 5:45 p.m. for debate with respect to the amendment, with the time equally divided and controlled in the usual form, with no amendment in order to the amendment prior to a vote; that at 5:45 p.m. the Senate proceed to vote in relation thereto; that upon disposition of the DeMint amendment, the Senate resume consideration of the Hatch amendment, No. 45, with 2 minutes of debate equally divided and controlled prior to a vote in relation to the amendment, with no amendments in order to the amendment prior to a vote; that upon disposition of the Hatch amendment, the Senate proceed to executive session and the Banking Committee be discharged from further consideration of the nomination of Daniel K. Tarullo to be a member of the Board of Governors of the Federal Reserve System; that the Senate then proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action; that the Senate then resume legislative session; further, that after the first vote in this sequence, the remaining votes be 10 minutes in duration.

If I could say to Senators within the sound of my voice, we would be having more votes today, but I conferred with Senator MCCONNELL. The Finance Committee is involved in marking up the economic recovery plan. There are scores of amendments they are trying to work through so we are limiting the number of amendments today. We are going to work hard tomorrow, as I indicated when we opened today. We are not going to have morning business all week. We are going to get these amendments processed as quickly as we can.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, I see the very distinguished Senator from Arkansas in the Chamber to take over managing this bill.

Before I leave the floor, I want to make two points. I have been here while a great deal of discussion has taken place about 5.4 million children who are eligible for children's health care but who, through lack of effort, it is claimed, the State programs are not finding. The purpose of the argument has been to argue if we could make the States find these kids, they would be the ones for whom the program was truly designed, and that the 4.1 million additional children we are going to help with this legislation are sort of a distraction from that figure.

I have not been able to source that 5.4 million number to anything. I would note on a population basis, my State of Rhode Island is one three-hundredth of the country. So if there are 5.4 million kids out there, in that circumstance, Rhode Island should have, by my math, 18,000 of them. We only have 12,000 kids in the CHIP-funded portion of what we call the RIte Care Program.

From my own experience, the likelihood of there being 18,000 eligible children in our small State who cannot be found makes no logical sense at all, which gives me significant pause about the validity of this 5.4 million number upon which so much of our colleagues' argument stands.

The other point I would make is there are many States that could reach more eligible children, but the funding is not there for them. Rhode Island is one such State. When other States return funds, we get access to that pool, and we can expand our coverage.

So, in fact, by supporting this legislation, you will enable the State programs to reach whatever that group of kids is, whether it is 5.4 million or 540,000. I do not know what the number is. Madam President, 5.4 million sounds very unlikely. But even setting that question aside, the fact that we would vote against this piece of legislation in order to help those 5.4 million kids makes no sense whatsoever because this legislation contains both the funding and the outreach tools to allow the State programs to reach those very kids.

So that argument, at least from this Senator's perspective, appears to hold no water whatsoever, or at least requires substantially better justification and support before it should be counted on, at least in my view, by any Senator as a reason to oppose this piece of legislation.

With that observation, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 43

Under the previous order, the time until 5:45 will be equally divided and controlled prior to a vote on amendment No. 43, offered by the Senator from South Carolina, Mr. DEMINT.

The Senator from South Carolina is recognized.

Mr. DEMINT. Thank you, Madam President.

I wish to take a few minutes to talk about an amendment I am offering as part of the children's health plan we will be voting on probably later this week.

I think it is important, as we talk about expanding the program, we do it responsibly and make sure we do everything we can to keep personal responsibility as part of the plan. All of us, Republicans and Democrats, look forward to the day when every American family has a health insurance plan they can afford and own and keep.

The children's health plan is, I see, maybe an interim step to that. It was started to help America's poorest children be insured. The plan we are discussing today, however, expands the children's health plan to children over 200 percent of poverty. One of the things we want to make sure does not happen is people who have private insurance and have taken responsibility for health insurance for their family are not encouraged to drop their private insurance and to join a government children's health plan.

There are ways we can do it, and some States already do this. This is by adding cost-sharing provisions for those who take advantage of the government children's health plan. That is what my amendment is about: making sure States that provide Government health coverage to families over 200 percent of poverty have some cost-sharing arrangement to send the signal that this is not a permanent subsidy from Government but a temporary bridge to help families who need some help getting health insurance for their children to get the help they need.

So let me talk a little bit about what is in there.

Again, the main goal of this amendment is to stop the people moving from private plans—that they are paying for and taking responsibility for—to a Government-sponsored plan so there is accountability, and that is what we want to make sure is in this system.

We need to remind our colleagues the children's health plan was created for America's poorest children. I wish a lot of our emphasis and debate was on: How can we get more children under 200 percent of poverty actually registered for the program? There are millions of children today who qualify for the current children's health plan who are not registered, either for what we call SCHIP or for Medicaid. Instead of just taking those numbers up and expanding the people who can take advantage of the program, we should be trying to get those who are most needy registered for the program. Instead, I am afraid we are going to crowd out those folks, as we provide insurance for other families. In some States, under this plan, families making over $70,000 a year, with a family of four, can take advantage of Government health plans.

So what we are going to have is one person making $70,000 a year paying for their own private insurance and their neighbor making the same amount who has Government health care. There are ways we can discourage it. A number of States already require that the beneficiaries of this children's health plan pay a copay or a small part of the cost of the health insurance, and that is what this amendment does.

My amendment specifically would require that States that are offering the children's health plan to families above 200 percent of poverty have some minimum cost-sharing. We protect the beneficiaries by saying that no State can charge a user of the children's health plan more than 5 percent of their monthly income, and we don't have a minimum. So we expect most States to have a very minimum cost-sharing plan put in place.

What we are doing does not replace or change anything that States already have set up for cost-sharing. In fact, I think it will make it fairer for them. The way the system will work, unless we pass this amendment, is the people in States that are participating in the costs of this plan will help pay more for those States that don't have any cost-sharing. So it is not fair, if we have some States encouraging personal responsibility and cost-sharing, to put more of a burden on them to pay for States that might not do the same.

My belief is that every State would implement for families over 200 percent of poverty a cost-sharing arrangement. What this does is just lays out some basic parameters that give the States complete flexibility, whether it is a copay, whether it is a percent of the insurance, but not to exceed 5 percent of the income of any of the recipients.

I understand this is the next amendment to be voted on. I encourage all of my colleagues to do everything we can to stop any incentives that move people from private insurance to Government insurance, create some accountability and personal responsibility in this plan for the ones with higher incomes, and to save more of the dollars for those who are most needy in the plan.

Again, I encourage a vote, and I reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Madam President, I ask unanimous consent that the time during the quorum call be divided evenly, and I suggest the absence of a quorum.

Mr. DEMINT. Madam President, reserving the right to object, I understand I have 2½ minutes left; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DEMINT. And the quorum call will be applied against that time; is that correct?

The PRESIDING OFFICER. Equally applied to the Senator 2½ minutes and the time remaining on the majority side.

Mr. DEMINT. If the Senator would agree, I don't have much time left, and if I could reserve that time. If there is no opposition, obviously, I don't need to use any additional time.

Mr. PRYOR. That is agreeable.

Mr. DEMINT. I thank the Senator.

Mr. PRYOR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I move to table the DeMint amendment No. 43 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necesarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. CHAMBLISS).

The PRESIDING OFFICER (Mr. TESTER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—60

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Pryor
Bingaman	Hutchison	Reed
Bond	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown	Kaufman	Sanders
Burris	Kerry	Schumer
Byrd	Klobuchar	Shaheen
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden

NAYS—37

Alexander	Enzi	McConnell
Barrasso	Graham	Murkowski
Bennett	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Voinovich
Crapo	Martinez	Wicker
DeMint	McCain	
Ensign	McCaskill	

NOT VOTING—2

Chambliss	Kennedy

The motion was agreed to.

AMENDMENT NO. 45

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 45, offered by the Senator from Utah, Mr. HATCH.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, to remind my colleagues, the Hatch amendment, No. 45, says that before a State is permitted to cover legal immigrants through CHIP and Medicaid, it must demonstrate to the HHS Secretary that 95 percent of its State children who are citizens under 200 percent of the Federal poverty level are enrolled in either the State's Medicaid Program or CHIP.

My amendment does not prohibit legal immigrant children from being covered, but it does set some of the parameters. Again, I believe our U.S. children who are citizens should be covered first. If you cover 95 percent, then you can go on and do more. Once those kids are covered, I am happy to work with my colleagues to cover legal immigrant children, but our U.S. citizen kids should be covered first. That is all I am saying, and I think it is reasonable.

Mr. President, I think this is a reasonable amendment. I am prepared to ask unanimous consent to have a voice vote on it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, basically the amendment requires States to certify that 95 percent of their CHIP

children, or Medicaid, are being paid first before the children of legal immigrants. No State meets that requirement.

I might also say the nationwide average for covering children under 200 percent of poverty is 80 percent. No State reaches 95. It is too high a standard.

More than that, we do include in this bill provisions for bonus payments to States to encourage them to cover low-income kids first. I think it would be inappropriate and unfair to make it an ironclad requirement that States must certify 95 percent. These are kids who are sick through no fault of their own. Their parents are paying taxes. They are full citizens—they are legal immigrants, but they are already incorporated into the system, being taxed, et cetera, and their kids should not be penalized.

I strongly encourage us not to adopt this amendment because no State can certify to 95 percent.

The PRESIDING OFFICER. All time has expired. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that we withdraw the call for a rollcall vote and voice-vote this amendment.

The PRESIDING OFFICER. The rollcall vote has not been ordered.

The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have conferred with the Republican leader. This will be the last vote today. The Finance Committee is still meeting, and they expect to continue working tonight. I spoke to the chairman just a short time ago. He is going to do everything within his power to finish the markup tonight. We are going to get back tomorrow and again have no morning business. We will be back on this bill tomorrow. Everyone who has amendments to offer, get them ready.

EXECUTIVE SESSION

NOMINATION OF DANIEL K. TARULLO TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The PRESIDING OFFICER. Under the previous order, the nomination is discharged and the Senate will proceed to executive session to consider the nomination, which the clerk will report.

The bill clerk read the nomination of Daniel K. Tarullo, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Daniel K. Tarullo, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 17 Ex.]

YEAS—96

Akaka	Enzi	Menendez
Alexander	Feingold	Merkley
Barrasso	Feinstein	Mikulski
Baucus	Gillibrand	Murkowski
Bayh	Graham	Murray
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Nelson (NE)
Bennett	Hagan	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Risch
Brown	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Burr	Isakson	Sanders
Burris	Johanns	Schumer
Byrd	Johnson	Sessions
Cantwell	Kaufman	Shaheen
Cardin	Kerry	Shelby
Carper	Klobuchar	Snowe
Casey	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Udall (CO)
Corker	Levin	Udall (NM)
Cornyn	Lieberman	Vitter
Crapo	Lincoln	Voinovich
DeMint	Lugar	Warner
Dodd	Martinez	Webb
Dorgan	McCain	Whitehouse
Durbin	McCaskill	Wicker
Ensign	McConnell	Wyden

NAYS—1

Bunning

NOT VOTING—2

Chambliss Kennedy

The nomination was confirmed.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Ohio.

ECONOMIC RECOVERY

Mr. BROWN. Mr. President, the severity of this economic crisis requires the Federal Government to respond quickly and forcefully. The economic recovery proposal we are considering has two key objectives: stimulating the economy and creating jobs. Congress currently is negotiating where the funds will be spent—on infrastructure projects, on health care and safety net programs, on developing alternative energy for the 21st century economy. As we decide how to spend these tax dollars, it is imperative we consider where to spend them or, rather, on whom. These funds must create American jobs. To do that, we must ensure that Federal funds are used to buy American services and American products.

Our economy is suffering from the highest unemployment rate in more than a decade and a half. In 2008, we lost 2.6 million jobs, the largest job losses in 1 year in more than six decades. Our unemployment rate jumped to 7.2 percent. We all know that number doesn't tell the real story, the real human story. The more accurate measure of joblessness, the unemployed and the underemployed, or workers whose hours have been cut, is almost 14 percent. More than 533,000 jobs were eliminated in December. Yesterday, some of America's strongest, most prestigious companies announced more than 55,000 job cuts in 1 day. Among them was General Motors, which announced it would cut a shift at its Lordstown plant in Mahoning County in northeast Ohio. As President Obama said:

> These are not just numbers on a page. There are families and communities behind every job.

Communities such as Moraine and Chillicothe and Canton understand what happens when there is a major layoff. They don't need to hear the new job numbers. They understand it when small businesses close and diners empty out.

Manufacturing jobs keep American communities strong, and the steepest job losses are occurring in manufacturing. Nearly one in four manufacturing jobs has simply vanished since 2000, and 40,000 factories have closed in the last 10 years. Last year, manufacturing accounted for nearly a third of all lost jobs, while factory orders plummeted to record lows. Inventories are piling up because no one is buying. This leads to production cuts and then massive job losses that we will likely see more of this year. President Obama said it is likely going to get worse in 2009 before it gets better.

A loss of manufacturing is about more than jobs; it is about the loss of the Nation's middle class. I want to lay out what exactly the benefits of manufacturing are to this Nation.

Many of us represent large manufacturing workforces. All of us represent some manufacturing, some in more States than others. We all recognize or all should recognize the importance of manufacturing to our national security

and to our domestic security—for families, neighborhoods, communities, for the Nation.

Let me cite the benefits of manufacturing:

No. 1, these jobs pay better on average than others.

No. 2, manufacturing jobs have a stronger multiplier effect, supporting as many as five other jobs. For instance, an auto assembly plant obviously creates other jobs—suppliers and tool and die shops and machine shops and parts manufacturers, and all that those jobs create. Manufacturers are large taxpayers supporting vital public services and schools in communities across the Nation.

No. 3, if you have a large industrial plant in a school district, that school district gets an awful lot of help in local property tax dollars from the manufacturing plant.

No. 4, American manufacturers are on the cutting edge of new technologies in the clean energy economy of tomorrow.

No. 5, if we are to end our dependence on foreign oil, we need to do more manufacturing here rather than allowing it to go offshore, especially in alternative energy.

No. 6, our national security depends on a strong defense industrial base to supply troops and protect our national interests.

Without a bold economic recovery plan that makes manufacturing a priority, the job losses will continue throughout this year and into next.

''Buy American,'' established in 1933 by President Roosevelt, requires that Federal purchasers prefer U.S. products. In other words, if the product is made in the United States at a decent price, then Federal purchasers must buy those products. But over the years, waivers of those preferences have been abused to create giant loopholes in ''Buy American.'' In other words, when we should be buying American, we are often buying Chinese or from some country in the European Union or Mexico. U.S. tax dollars whenever possible should go to create U.S. jobs. It is pretty simple. It is something people at home simply don't understand—nor do I—why we, as a country, as a government, don't use our tax dollars to create American jobs.

I am concerned about the lack of transparency in the waiver process and how that can lead to lost business, lost jobs, lost work, the actual steel, iron, cement, and other materials coming from overseas and not creating jobs in our country.

The Obama administration's stated goal is to make the biggest investment in the Nation's infrastructure since President Eisenhower created the Interstate Highway System more than 50 years ago. Imagine all this infrastructure, steel, concrete, all the materials we are going to buy with tax dollars, what it will matter if these products are made in the United States and not somewhere else. That is what we did mostly with the Interstate Highway System 50 years ago.

So when we are building infrastructure, whether it is water or sewer lines in Denver or whether it is a bridge in Minneapolis, this ''Buy American'' provision says we should be buying American and creating jobs here.

We have a responsibility to taxpayers to ensure that these dollars are creating jobs. Inclusion of ''Buy American'' requirements in the recovery proposal would be the most effective way to ensure that tax dollars are spent in the United States to create jobs. We have a responsibility to give American manufacturers the opportunity to bid on the steel and the iron and the other products that will be in demand from these massive investments in our infrastructure.

We have ''Buy American'' provisions in Federal statutes that provide that preference to use domestic materials, such as steel and other products and components, in federally funded highway and transit projects for State and local authorities. These need to be applied to the maximum extent possible as we try to revive the economy, as we move the Obama stimulus package through the Chamber.

Just last week, the Government Accountability Office reported on the benefits of Buy American policies. This is what the GAO said:

> The types of potential benefits to this program include protecting domestic employment through national infrastructure improvements that can stimulate economic activity and create jobs. . . .

This recovery proposal is about creating direct jobs with taxpayer dollars and then spin-off jobs with taxpayer dollars.

Let me be clear. This is not about stopping or slowing international trade. It is about using provisions in U.S. law consistent with our international obligations that allow for a preference for domestically produced goods financed by our U.S. taxpayer dollars.

Only if we do this will the recovery effort have the impact our towns and cities so desperately need. Why spend tens of billions—no, hundreds of billions—of dollars for infrastructure if we are not going to spend that money on American made products to create jobs directly and the spin-off jobs that come from that manufacturing?

American taxpayers deserve no less. Congress must act in good faith to create the most jobs here, especially in manufacturing. Enforcing the Buy America requirements already on the books and, to the extent we can, applying them to this stimulus bill is simply the right thing to do.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise tonight to speak of the Children's Health Insurance Program and the debate we are having in the Senate.

I appreciate what my colleague from Ohio just spoke of, the tremendous trauma that has been caused across the country with this terrible recession so many families are living through. I appreciate the fact he reminded us about what has been happening in our States and our communities as a result of this economic horror that so many families are living through. That horror and that trauma will only be increased in the months and years ahead if we do not pass this children's health insurance legislation. I think it is directly related to what we are talking about here when it comes to the terrible recession so many families are living through.

So I want to speak about the bill and deal with some of the questions that have been raised about the bill. But in particular, I want to, first, step back from the bill, from the debate, even step back for a few minutes from the program itself, to reflect on what the reality is for families.

I think when we speak of families and children's health insurance we speak and we think mostly about parents and the relationship they have to their children and what they want for their children. They, of course, want their children to succeed in life. They have hopes and dreams for their children. But, of course, for a parent, and especially for a mother, who is often providing most of the care for a child, her initial hopes, her initial fears, her concerns at the beginning of that child's life are very basic: Will that child be born healthy? Will that child grow and develop as he or she should?

I was thinking back to 2007 when we were having this debate at that time, thinking of the love of a mother and what she can provide for a child, especially a very young child. That mother can provide all of the protection she can muster for that child, she can envelop or embrace that child with protection and love and nurturing and all the wonderful things that a mother—a parent but especially a mother—can provide for a child. But there are some things that no matter what that mother does, no matter how much she loves her son or her daughter, there are some things she cannot provide on her own. She cannot provide health insurance on her own. She cannot provide medical care if she is not trained in that profession as a doctor or a nurse.

So there are a lot of mothers out there who have children they worry about every day of the week. They go to bed worrying what if that child has a problem in the middle of the night or some kind of a health care challenge in the middle of the day, what will happen to that child?

So when we are thinking about this debate and this issue, we should think

about the love of a mother and what she can and cannot provide. That is one of the reasons why as a country we come together to solve problems such as this. We know an individual person cannot build a road, so we come together and provide public resources to build a road. We know one person or one family cannot provide law enforcement protection, so we all contribute to that. The same is true on health care. No matter how much that mother loves her child, she cannot on her own provide health insurance.

So what did we do? We created a program which in my State of Pennsylvania is called the Children's Health Insurance Program—CHIP for short. The program ''name'' is kind of redundant because the last word of the acronym is ''Program.'' But the CHIP Program then developed into a national program, as the Presiding Officer knows from his time in the House of Representatives, the so-called SCHIP, State Children's Health Insurance Program. That is what the debate is about.

What did we do? We created a program which now covers 6.7 million American children, most of whom, probably the overwhelming majority of whom would not have any health insurance coverage because, as we know, these are families who are above the income levels for Medicaid but they are often below or outside the category of families who have employer-sponsored health insurance. So they are in that gap: lower middle or middle-income families, in many cases. So we have covered 6.7 million children. That is wonderful. The only problem is there are millions more who are not covered.

This bill—strip away all the debate, all of the back and forth, all of the fighting about this—at its core, just as it did a couple years ago, is to provide health insurance to more than 4 million additional children. So 6.7 million, roughly, and you add 4.1 million, that is what you are talking about.

So we have the program in the legislation now to cover more than 10.5 million American children. Few, if any, generations of Americans who have served in a legislative body could say they cast a vote to cover that many children. It is a tremendous opportunity for a child, for their family, for the community and neighborhood they live in, for their State, and for their country now and in the next months and years ahead, but it is also important to all of us down the road.

Who would you want to hire 20 years from now? A child we invested in? A child who had health care in the dawn of his or her life? A child who had early learning opportunities? A child who had a good healthy start in life? I think as an employer you would want to hire a person who had that investment. They are bound to be more productive. So there is a long-term workforce argument. But even if that argument was not there, this is the right thing to do for the obvious reasons.

Now, what are we talking about? We are talking about health care and benefits. There is a long list of benefits I won't go through. We have charts we have all pointed to, and we will continue to do that.

But just consider one aspect of the benefits, one that I focus on because I think it is crucial to the life of a child and crucial to their—I should say, not just crucial, determinative of the kind of future they are going to have or not have, and that is well-child visits. One of the benefits that is covered in Pennsylvania is that in the first year of the life of that child he or she will get six well-child visits. Every child in America should have that opportunity. Every family should have the peace of mind to know that if all does not go well, at least their child has health insurance, and in the first year of their life they have been to the doctor at least six times, and they have been to the dentist and any other specialty they can get to and that the benefits cover.

So if we want to just focus on one benefit of the children's health insurance: a kid gets to the doctor six times in a year—pretty important. I am not a doctor, but we all know the benefit, as parents and as legislators from our work.

Another aspect of this legislation that does not get a lot of attention: When people hear about a government-inspired initiative, or a program in this case, that is partially paid for with public dollars, we often hear about: Well, that is just for communities where people are low income, but they are covered by Medicaid, so why do we need to help them? It does not help people kind of across the length and breadth of the country. It is somehow targeted to one group and, therefore, it is not good for everyone.

Well, I just made the case about the workforce long term. But one aspect of this issue in terms of a group of children who are often not in the headlines but benefit directly and are reliant upon the Children's Health Insurance Program and the Medicaid Program for children is that a lot of poorer families with children are in rural areas—people who live in rural areas across the State of Pennsylvania and across the country.

In my State of Pennsylvania, when you get outside of Philadelphia and Pittsburgh and Erie and Harrisburg—a couple of major urban areas—we are a very rural State. We have literally millions of people who live in the demographic category that we refer to as rural areas. Those children—one-third of them—rely upon either the Children's Health Insurance Program or the Medicaid Program. So it helps a high percentage of rural children.

In the midst of this economy, when those rural communities in Pennsylvania and across the country have been disproportionately adversely impacted by high energy costs, including everything from gasoline to home heating oil, to all kinds of other energy costs, when they have also been hit hard by the downturn in the economy—job losses are rampant in rural communities—when you factor in those realities with the dependence or reliance they have on this program, it is critically important we provide as much in the way of resources as we can and outreach to get those children enrolled in rural areas, as well as in our urban and even suburban communities.

I want to conclude with a recitation of some myths and facts, some of which we have heard on the floor in the debate over the last couple days. I will do just one, two, three, four—about four or five myths.

Myth No. 1, the children's health insurance bill reduces documentation requirements, allowing illegal immigrants to receive benefits. That is the myth.

Here are the facts.

Fact No. 1: Under current law, only individuals applying for Medicaid are subject to the citizenship documentation requirements. This bill actually extends those requirements to the Children's Health Insurance Program, requiring documentation in CHIP just like documentation is required in the Medicaid Program. You would never know that by some of the debate here.

Fact No. 2 about this documentation issue: Because the requirements have resulted in the widespread denial of coverage to many citizens, the children's health insurance bill also gives States a new way to prove citizenship through matching Social Security Administration records. So that is further help on documentation.

Fact No. 3 under this section: These citizen documentation provisions are the same as they were in the children's health insurance bill passed in the Senate overwhelmingly—overwhelming—with bipartisan support in 2007. So it is the same. So for those who are creating the myth that somehow it is new, that is not true.

Myth No. 2: The bill ends the mandatory 5-year waiting period for legal immigrants to receive benefits—opening the program to abuse by illegal immigrants. It is another myth.

Fact No. 1 under this myth: The bill allows but does not require—it allows but does not require—States to cover legal immigrant children without forcing them to wait 5 years for coverage. Why should a child who is a legal immigrant or why should a pregnant woman in the same circumstance—why should they have to wait 5 years? Does that make any sense at all? Does that make any of us safer or does that make our country better to have vulnerable people wait to get these benefits, especially when 23 States are doing this

now? By listening to the debate, you would think this is some new concept that just fell out of the sky. Twenty-three States right now are doing this. So what does this bill do? It allows States to cover legal immigrant children without forcing them to wait 5 years for coverage.

Only immigrant children here legally—legally—are eligible for the benefits provided by Medicaid and the Children's Health Insurance Program. So if anyone uses the word ''illegal'' in this context, you know automatically they are deliberately attempting to mislead people.

Children and pregnant women who will now be eligible must document their immigration status. State Medicaid agencies use the Bureau of Citizenship and Immigration Services' automated SAVE system to verify the immigration status of legal immigrants applying for Medicaid. So that is a protection that is built into this bill.

The next myth: This bill will allow children from families making over $80,000 per year to receive coverage while poor children are still not enrolled.

That is another myth. This bill would extend coverage to 4 million more low-income children and help struggling families in this time of economic downturn. The CHIP bill prioritizes enrolling low-income children by establishing a performance-based system to reward States for enrolling low-income kids while giving them new tools to do so. So we incentivize States to go out and enroll more children, which is a worthy thing to do, and critically important.

Under the bill, States would be allowed to designate CHIP funds to help families afford private coverage afforded by employers or other sources.

Finally, under this section, the bill maintains provisions to reduce the Federal match rate for the cost of covering children above 300 percent of the Federal poverty level.

Let me get to two more myths, and I will conclude.

The next myth: The revenue stream to pay for the Children's Health Insurance Program with tobacco tax is unsteady and will not be able to fund the program in the future, increasing the burden on taxpayers.

That is the myth. We have heard that a lot. The fact is, according to the nonpartisan Congressional Budget Office, the proposed $31.5 billion in spending will be fully paid for by the fee increase to tobacco products over the authorized 5-year timeframe.

Finally, this myth: Democrats have made unilateral changes to CHIP, which has jeopardized the bipartisan support of the previous version passed by the Senate.

Fact: The CHIP legislation introduced this year is almost identical to the legislation in 2007 which received broad bipartisan support in the House and the Senate. Two prior bipartisan efforts were blocked by President Bush when he vetoed the legislation.

Providing health care for children is not a Democratic or Republican issue. We know that. It is a moral issue and one that all Senators should support. The few unresolved policy disagreements were put to a vote in the committee. So we have had a committee vote as well.

So I would conclude tonight with where I began. What is the Senate going to do when faced with the question, the stark and fundamental question: Are we going to act this week to cover 4.1 million more children? It is up or down.

There have been a lot of discussions about so-called immigration issues which I think have been misleading. A lot of the debate is about numbers. But we are either going to act to do this, to cover 4 million kids, or not.

Finally, what will the Senate do this week to speak to that one mother and to say to her: We understand a little bit—a little bit—about what you are going through, and we understand that with all of the love you surround your son or daughter with, we know you cannot provide them health insurance on your own. We are going to help you because we have the program that has been in place for 15 years, which is one of the best pieces of legislation this body or the other body ever voted on; we know how to help you, and we are going to do everything we can to help you. We know this economy is especially tough on that mother and that family. We are going to act to help you through this difficult period in your life so that you can have the peace of mind to know that your son or daughter at least—at least—is covered by health insurance and can get six visits to the doctor in a year. That is not asking too much of all of us and of the American people, to show some degree of understanding and some degree of solidarity with that mother and her children.

Thank you, Mr. President. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ERIC HOLDER NOMINATION

Mr. DURBIN. Mr. President, I rise in support of the nomination of Eric Holder to be Attorney General of the United States. As a member of the Judiciary Committee, I have given especially close consideration to this nomination. I met privately with Eric Holder, reviewed his record, listened to his sworn testimony, and I have come to the conclusion that he will be an outstanding Attorney General.

On January 15 and 16, the Judiciary Committee held a hearing on Mr. Holder's nomination where he was asked many questions from the committee members on both sides of the aisle. He stayed until every member of the committee had asked every question they wished. Then, following the hearing, Mr. Holder responded to literally hundreds of written followup questions from members of the committee.

Last week, the Judiciary Committee was scheduled to vote on his nomination. Despite a lengthy 2-day hearing which included multiple outside witnesses and Mr. Holder's timely response to the questions, the Republicans asked to postpone the committee's vote on Mr. Holder's nomination. That is their right under the Senate rules, but it is disappointing that despite Mr. Holder's full cooperation, we have been unable to move forward on this nomination to this point. As a result, the crucial position of Attorney General remains unfilled and the Obama administration's national security team is incomplete.

Due to the delay, the committee will now vote on Mr. Holder's nomination as early as tomorrow. I urge my colleagues on both sides of the aisle to support the nomination so we can have new leadership in place at the Justice Department.

I believe Eric Holder has the experience, independence, and commitment to the rule of law to reform the Justice Department. He will be one of the most qualified Attorneys General, having previously served as Deputy Attorney General, U.S. attorney, judge, and a career Justice Department attorney. Mr. Holder will need to bring all of that experience to bear to restore the integrity of the Department which has descended to a sad state today.

However, it is more than just experience that he will bring. The Attorney General is the people's lawyer, not the President's lawyer, so he or she needs to have the backbone on occasion, if necessary, to stand up for what is right, even if it means disagreeing with the President.

I have had many differences of opinion with John Ashcroft, our former Attorney General under the previous President, but there was a moment in history when he was literally in an intensive care unit and asserted his authority as Attorney General to say no to the President. It took courage. It took commitment. It took professionalism. We should expect nothing less of those who serve in that capacity.

There can be little doubt about Eric Holder's willingness to say no to the President. He has demonstrated a lot of independence throughout his career. As Deputy Attorney General, he recommended expanding the Starr investigation into the Monica Lewinsky affair, and he recommended the appointment of a special prosecutor to investigate a member of President Clinton's Cabinet. He has been involved in the investigation and prosecution of Members of Congress in both political parties.

The testimony of former FBI Director Louie Freeh, in support of Mr. Holder, is a good indication of his independence. No one would accuse Mr. Freeh of being a partisan Democrat. He was a strong supporter of former New York mayor Rudy Giuliani and also of JOHN MCCAIN's efforts when he ran for President. He has been a vocal critic of former President Clinton. Mr. Freeh included his decisions to pardon Marc Rich and offer commutation to the FALN as things he disagreed with. But Mr. Freeh enthusiastically supports Mr. Holder's nomination. Here is what he said:

> The Attorney General is not the President's lawyer. . . . the President has a White House counsel for those purposes. And I know that Eric Holder understands the difference. I think he would be very quickly able to say no to the President if he disagreed with him. And I think that's the confidence and trust we need in that position.

Mr. Holder is also supported by dozens of other prominent Republican lawyers, such as former Attorney General William Barr and former Deputy Attorney General Jim Comey, a man who, incidentally, distinguished himself during the previous administration in his service at the Justice Department.

President Obama respects Eric Holder's independence. At his hearing, Mr. Holder testified about a conversation he had with the President after he accepted the offer. The President said:

> Eric, you've got to understand you have to be different. You know, we have a pretty good relationship. That's probably going to change as a result of you taking this position. I don't want you to do anything that you don't feel comfortable doing.

What a refreshing exchange. It gives me hope that the Attorney General, if it is Eric Holder, in this Justice Department will chart a new and important course for this Nation.

In addition to Mr. Holder's experience and independence, there is little doubt about his commitment to the rule of law. I voted against the two previous Attorneys General because of their involvement in one issue: torture.

As White House Counsel, Alberto Gonzales was an architect in the Bush administration's policy on interrogation, a policy which has come into criticism not only in the United States but around the world. His successor, Michael Mukasey, refused to repudiate torture techniques such as waterboarding. That was unfortunate because Mr. Mukasey really brought a stellar resume to the job, but that really was a bone in my throat that I couldn't get beyond, and I voted against his nomination.

Now, during his confirmation hearing, Eric Holder gave a much different response. When asked directly, he said: ''Waterboarding is torture.''

Those three words resonated throughout the committee room and across the Nation among many Americans who had been concerned about this important issue and literally gave a message to the world that there was a new day dawning in Washington.

I also asked Mr. Holder the same question I asked Attorneys General Gonzalez and Mukasey: Does he agree with the Judge Advocates General, the four highest ranking military lawyers, that the following interrogation techniques violate the Geneva Conventions: painful stress position, threatening detainees with dogs, forced nudity, or mock execution. Mr. Holder said:

> The Judge Advocate General Corps are in fact correct that those techniques violate Common Article 3 of the Geneva Conventions.

Some of my colleagues on the other side of the aisle have suggested that Eric Holder's opposition to torture will somehow lead to a witch hunt against former Bush officials. Frankly, this seems like a weak excuse to delay the confirmation of a well-qualified nominee.

Here are the facts: President Obama and Eric Holder made it clear that while no one is above the law, the administration is going to move forward, not back. The goal to investigate the Bush administration does not come from the Obama administration but from others such as retired major general Antonio Taguba, who led the U.S. Army's official investigation into the Abu Ghraib prison scandal.

Here is what General Taguba recently said:

> The Commander in Chief and those under him authorized a systematic regime of torture. . . . there is no longer any doubt as to whether the [Bush] administration has committed war crimes.

In the words of General Taguba:

> The only question that remains to be answered is whether those who ordered the use of torture will be held to account.

Indeed, the facts are troubling. Former President Bush and former Vice President Cheney have acknowledged authorizing the use of waterboarding which the United States had previously prosecuted as a war crime. Susan Crawford, the Bush administration official who ran the Guantanamo military commissions, said that the so-called 20th 9/11 hijacker cannot be prosecuted because ''his treatment met the legal definition of torture.''

Now it appears some Republicans are holding up Eric Holder's nomination because of the problems of the previous administration. A headline in the Washington Post this last Sunday highlighted the irony. It said: ''Bush Doctrine Stalls Holder Confirmation.'' Apparently, some Republicans are opposing Eric Holder because of their concern that former Bush administration officials may be prosecuted for committing war crimes.

Here is what the junior Senator from Texas said:

> I want some assurances that we're not going to be engaging in witch hunts.

But Mr. Holder has made it clear in his testimony there will be no witch hunts. He testified:

> We will follow the evidence, the facts, the law, and let that take us where it should. But I think President-elect Obama has said it well. We don't want to criminalize policy differences that might exist between the outgoing administration and the administration that is about to take over.

The junior Senator from Texas also expressed concerns about Eric Holder's ''intentions . . . with regard to intelligence personnel who were operating in good faith based upon their understanding of what the law was.'' But Mr. Holder has made his intentions clear. He testified:

> It is, and should be, exceedingly difficult to prosecute those who carry out policies in a reasonable and good faith belief that they are lawful based on assurances from the Department of Justice itself.

What more would you expect a man aspiring to be Attorney General to say? It certainly would be inappropriate to seek an advance commitment from any nominee for Attorney General that they will definitely not investigate allegations of potential criminal activity. No responsible Attorney General would ever say that, nor should that person be confirmed if they made that statement.

Senator LINDSEY GRAHAM, another Republican member of the Judiciary Committee, recognizes that fact. Senator GRAHAM, also a military lawyer still serving, said:

> Making a commitment that we'll never prosecute someone is probably not the right way to proceed.

He went on to say:

> I don't expect [Holder] to rule it in or rule it out. In individual cases if there's allegations of mistreatment, judges can handle that and you can determine what course to take.

I think Senator LINDSEY GRAHAM has hit the nail on the head. I hope no one will use this false specter of a witch hunt as an excuse to oppose a fine nominee.

I say to my colleagues, if you have an objection to Eric Holder based on his qualifications, vote against him. But don't oppose him because the previous administration may have been guilty of wrongdoing which may lead to a prosecution. There are too many hypotheticals in that position. In fact,

these misdeeds are the reasons we need Eric Holder's leadership.

Here is what President Obama has said about the need to reform the Justice Department:

> It's time that we had a Department of Justice that upholds the rule of law and American values, instead of finding ways to enable a President to subvert them. No more political parsing or legal loopholes.

I think Eric Holder is the right person to fill the vision of President Obama. After 8 years of a Justice Department that too many times put politics before principle, we now have a chance to confirm a nominee with strong bipartisan support who can restore the Department to its rightful role as guardian of our fundamental rights.

I urge my colleagues to support Eric Holder's nomination.

AMENDMENT NO. 39

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending Baucus amendment No. 39 be agreed to, the motion to reconsider be laid upon the table, and the bill, as thus amended, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 2 on Wednesday, the time until 11 a.m. be for debate with respect to McConnell, et al., amendment No. 40, with the time equally divided and controlled between the majority and Republican leaders or their designees; that no amendments be in order to the amendment prior to a vote in relation to the amendment; that at 11 a.m. the Senate proceed to vote in relation to the McConnell amendment, No. 40; provided further, if the McConnell amendment is agreed to, the bill, as thus amended, be considered as original text for the purpose of further amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CHANGES TO S. CON. RES. 70

Mr. CONRAD. Mr. President, section 227 of S. Con. Res. 70, the 2009 Budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels in the resolution for legislation making improvements in health care, including, under subsection (a), legislation that reauthorizes the State Children's Health Insurance Program, SCHIP. The revisions are contingent on certain conditions being met, including that such legislation not worsen the deficit over the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018. In addition, section 227 limits the amount of the adjustment in outlays to no more than $50 billion over the period of the total of fiscal years 2008 through 2013.

I find that Senate amendment No. 39, an amendment in the nature of a substitute to H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009, satisfies the conditions of the reserve fund to improve America's health. Therefore, pursuant to section 227, I am adjusting the aggregates in the 2009 budget resolution, as well as the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 70 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 227 DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE AMERICA'S HEALTH

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2008	1,875.401
FY 2009	2,033.468
FY 2010	2,212.116
FY 2011	2,420.408
FY 2012	2,513.164
FY 2013	2,633.975
(1)(B) Change in Federal Revenues:	
FY 2008	−3.999
FY 2009	−63.931
FY 2010	28.718
FY 2011	−7.662
FY 2012	−144.431
FY 2013	−116.244
(2) New Budget Authority:	
FY 2008	2,564.237
FY 2009	2,548.889
FY 2010	2,574.071
FY 2011	2,701.088
FY 2012	2,744.638
FY 2013	2,871.918
(3) Budget Outlays:	
FY 2008	2,466.678
FY 2009	2,575.667
FY 2010	2,630.249
FY 2011	2,718.860
FY 2012	2,728.215
FY 2013	2,861.791

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 227 DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE AMERICA'S HEALTH

[In millions of dollars]

Current Allocation to Senate Finance Committee	
FY 2008 Budget Authority	1,102,801
FY 2008 Outlays	1,104,781
FY 2009 Budget Authority	1,092,354
FY 2009 Outlays	1,093,724
FY 2009–2013 Budget Authority	6,161,994
FY 2009–2013 Outlays	6,170,488
Adjustments	
FY 2008 Budget Authority	0
FY 2008 Outlays	0
FY 2009 Budget Authority	10,621
FY 2009 Outlays	2,387
FY 2009–2013 Budget Authority	50,062
FY 2009–2013 Outlays	32,819
Revised Allocation to Senate Finance Committee	
FY 2008 Budget Authority	1,102,801
FY 2008 Outlays	1,104,781
FY 2009 Budget Authority	1,102,975
FY 2009 Outlays	1,096,111
FY 2009–2013 Budget Authority	6,212,056
FY 2009–2013 Outlays	6,203,307

GEITHNER NOMINATION

Mr. KOHL. Mr. President, yesterday the Senate confirmed Timothy Geithner as the Secretary of Treasury with my support. Mr. Geithner has the experience and the knowledge to lead the country through these economic hard times.

The Treasury Department is facing an uphill battle to provide appropriate monetary policy and regulations to get our economy back on track. Congress has been working with Federal Reserve and the Treasury Department to find ways to jump-start our economy. Congress recently approved the release of the second half of the TARP funds and is working with the new administration to create an effective economic stimulus package. I am pleased that President Obama and Mr. Geithner have committed themselves to restructuring the TARP but stress the importance of reforms which increase accountability, transparency, and help homeowners. Furthermore, the Treasury Secretary must implement meaningful and effective policies to avoid another system-wide failure and promote long-term economic stability. Mr. Geithner's career in the Treasury Department and the Federal Reserve Bank of New York has made him well qualified for the difficult task at hand.

Mr. SPECTER. Mr. President, I have sought recognition to discuss my vote against the nomination of Mr. Timothy F. Geithner to be Secretary of the Treasury.

I was originally inclined to support the nomination to enable President Obama to get his team together and begin addressing the economic crisis. As I have said publicly, I want to be supportive of President Obama and I understand the importance of assembling his full economic team to address

the critical problems facing our Nation's economy. After considerable thought, I have decided I cannot support this nomination. I have since taken a close look at the circumstances of Mr. Geithner's failure to pay Social Security and Medicare payroll taxes from 2001 to 2004 while an employee at the International Monetary Fund—IMF. Then, I spoke to Finance Committee ranking member CHUCK GRASSLEY who provided some additional insight. Based on those factors, I decided to vote against Mr. Geithner.

International organizations such as the IMF are exempt from the employer contribution of payroll taxes, so U.S. citizens who work there are required to pay their portion as if they are self-employed. During an IRS audit conducted in 2006, it was discovered that Mr. Geithner failed to pay these taxes and he then paid what was owed for tax years 2003 and 2004. Despite having made the same error in previous years, he did not pay for 2001 and 2002 because the statute of limitations had expired. Only after the non-payment was discovered during the vetting process by the Obama transition team in late-2008 did Mr. Geithner finally pay for tax years 2001 and 2002.

Mr. Geithner was paid an extra sum, or tax allowance, by the IMF with the expectation that he would use it to pay the IRS for his payroll tax liabilities. According to remarks by Senator GRASSLEY at Mr. Geithner's confirmation hearing, ''Furthermore, the nominee received a tax allowance from the IMF to pay the difference between the 'self-employed' and 'employed' obligations of his Social Security tax.'' At his confirmation hearing, Mr. Geithner acknowledged receiving various documents detailing his obligations as an American employee at the IMF. The IMF provides its employees with a tax manual at the time they are hired that includes information describing how to pay self-employment taxes. Page 2 of the document states, ''U.S. citizens who are staff members are required to pay U.S. tax are entitled to receive tax allowances.'' Page 12 of the document states, ''Employees of international organizations are considered self-employed for purposes of social security taxes. As such, they must pay both the employer's and the employee's share of social security taxes. The Fund gives you a tax allowance for the employer's share of social security taxes only. You are responsible for the employee's portion of this tax.'' Mr. Geithner signed a document each year in order to receive this extra tax allowance. At the end of the tax allowance form are the words, ''I hereby certify that all the information contained herein is true to the best of my knowledge and belief and that I will pay the taxes for which I have received tax allowance payments from the Fund.'' Also, the IMF provides its employees with detailed statements of their liabilities.

These errors set a bad example for other taxpayers when the Government seeks to collect back taxes. We can be assured that the precedent set by Mr. Geithner's neglect will be cited repeatedly by future offenders. Mr. Geithner's conduct would be problemsome on the confirmation of any high-level officers, but especially so for Secretary of the Treasury. The Secretary has within his jurisdiction the Internal Revenue Service which is responsible for collecting taxes. With the full Senate confirming Mr. Geithner, it is a virtual certainty that other taxpayers will cite his situation as a reason or excuse for their not having paid taxes. If the issue of failure to pay taxes goes to court in either civil or criminal proceedings, it will be an obvious defense or argument by defense counsel in mitigation or defense.

President Obama has placed ethics reform as a top priority for his administration. In his inaugural address, he said, ''Those of us who manage the public's dollars will be held to account, to spend wisely, reform bad habits, and do our business in the light of day, because only then can we restore the vital trust between a people and their government.'' That is the appropriate tone to set an example, especially for young people, where in the past election there has been a resurgence of interest in voting and government. We ought to do everything we can to maintain that interest and momentum.

ECONOMIC STIMULUS

Mr. SPECTER. Mr. President, I also wish to discuss the precarious state of our United States economy, which is facing one of the most dire economic crises in history. As a member of the Senate Appropriations Committee, I understand that it is imperative that the Federal Government use all means at its disposal to address these problems.

It is critical as we move forward that the Appropriations Committee and the Senate focus on spending our Nation's dollars on worthwhile projects, which both benefit the American people on their merits and will also lead to an increase in jobs.

To this end, I wish to highlight a few projects in my home State of Pennsylvania which appear to have significant potential to stimulate economic investment, as well as return our unemployed workers to the workforce.

The fastest way to put people to work on transportation infrastructure projects is to finance highway repairs. These repairs support construction jobs that can start immediately. Additionally, infrastructure repairs ensure an acceptable level of safety and reliability on existing highway networks, which is critical in a State like Pennsylvania that has 6,000 structurally-deficient bridges.

According to the Pennsylvania Department of Transportation, Pennsylvania could obligate $1.5 billion on 313 shovel-ready highway repair projects. These projects all focus on Pennsylvania's bridge deficiencies, pavement needs and safety concerns, as well as create jobs and achieve meaningful infrastructure improvements. Additionally, all of the highway infrastructure repairs can be put out to bid within 6 months, with construction starting shortly thereafter.

The Pennsylvania Department of Transportation has also provided me with a list of 147 public transportation projects totaling $700 million that, according to transit agencies around the State, are ready to begin. The projects include replacing catenary pole involved in electrified train service, station improvements, alternative fuel bus purchases and intermodal centers.

The Port of Pittsburgh Commission in Pennsylvania has identified over $580 million in shovel-ready project work that could be started in 6 months, of which $430 million could be completed in 2 years and the remaining $150 million could be completed in 3 years.

The largest share of that money would be applied to the Lower Monongahela Improvement Project for Locks and Dams 2–3–4, a project 5 years behind the original completion date of 2004. Without investment from the economic stimulus, the project will not otherwise be completed until the 2019–2022 period. Stimulus funding could result in a working, reliable chamber, a major improvement over the current schedule. Funding can also be provided for emergency repairs to Emsworth Dam.

These projects would add or preserve tens of thousands of high-skilled, high-paying jobs for the southwest Pennsylvania region, including permanent employees at facilities that depend on river transportation, such as U.S. Steel's Clairton Coke Works, ArcelorMital's Coke Works, Eastman Materials, Welland Chemical, Kinder Morgan, Ashland Petroleum, Consol Energy and the Elrama Power Plant.

Previous delays have resulted in increasing costs, interruptions to service and benefits foregone. The U.S. Army Corps of Engineers calculates that the region has already lost over $1.2 billion in benefits that can never be recuperated.

Health care is one of the largest drivers of our economy and a worthwhile investment in the physical and economic health of the country.

In 2002, the Northeastern Pennsylvania Medical Education Development Consortium was formed to explore the feasibility of locating a new medical college in northeastern Pennsylvania. A 2006 feasibility study made the need for a medical school clear. This region of Pennsylvania has shortages of physicians in many specialties and over one-

third of the practicing physicians are expected to retire in the next decade.

To address this critical need, the Commonwealth Medical College is scheduled to open in 2009 and has already received investments of $35 million from the Pennsylvania Redevelopment Assistance Capital Program and $25 million from Blue Cross of Northeastern Pennsylvania, as well as State, Federal, and private philanthropic sources.

Additional funding will be used to support construction of the college, which will attract medical and biomedical research to northeastern Pennsylvania, improving the local and regional economy, as well as the health of the population. Over the next 20 years, the Commonwealth Medical College is expected to greatly increase the number of physicians in the area, add $70 million to the local economy and create 1,000 jobs.

This project also has national implications, as the research conducted there will focus on healthcare conditions affecting the aging population, including research on cardiovascular disease and diabetes.

There are numerous higher education projects throughout the Commonwealth of Pennsylvania which exemplify the types of activities that this country should target as it searches for an effective means to stimulate the economy. These meritorious projects provide necessary infrastructure improvements to many colleges and universities in my home State, while at the same time creating a myriad of new jobs and stimulating the economy. It is my understanding that all of these projects are ready for construction within 6 months or sooner.

Specifically, the Pennsylvania State System of Higher Education, which represents 14 public universities in my home State, provided me with a list of 47 projects totaling $445 million. These programs focus on new building construction, renovations to existing buildings and energy conservation measures. The Pennsylvania Commission for Community Colleges, which represents the 14 community colleges throughout Pennsylvania, also provided me with a list of 34 projects totaling $128 million. Selected projects include building renovation and construction, public safety programs, infrastructure repairs and upgrades, and new resources for education and training.

In regard to the private colleges and universities in Pennsylvania, the Association of Independent Colleges and Universities of Pennsylvania, which represents 86 private institutions, provided me with a list of 42 projects totaling $385 million. Many of these projects focus on the construction of new academic buildings, the renovation and expansion of training facilities and improvements to existing infrastructure.

In many cities and small towns in Pennsylvania aging sewer pipes and treatment plants are malfunctioning, leading to sewage contamination of local freshwater. In many areas across Pennsylvania, and the country, water infrastructure is 50, 60 years old or much older.

Throughout Pennsylvania the need for funding is great, because without it many of my constituents, a significant number of whom are retired and on a fixed income, are facing sewer rate increases of up to 100 percent. An investment in water infrastructure is a wise one, as it will lead to construction jobs in areas where jobs are often hard to come by, while relieving a significant financial burden on residents.

In western Pennsylvania, the Allegheny County Sanitary Authority, which services communities in and around Pittsburgh, is assisting municipalities in that region seeking to meet clean water compliance standards. Currently, the Pittsburgh region is facing its largest and most costly public works project thus far, the rehabilitation and long-term maintenance of 4,000 miles of sewers that serve nearly one million residents in the area. Additionally, in central Pennsylvania, the Borough of Philipsburg's outdated storm and wastewater collection system overflows during periods of heavy rain. The cost of modernizing this sewer system is significant, but it is necessary.

While these are just two examples of water and sewer projects in Pennsylvania, an investment in wastewater infrastructure would create construction jobs, and ease the financial burden on the residents in many economically disadvantaged regions of Pennsylvania.

The Environmental Protection Agency's Brownfields Remediation Grant Program provides funding for private developers to take real property business sites with environmental concerns and clean them up in order to redevelop. Redeveloping this land creates space for new businesses—with new jobs—to expand in areas that might not otherwise be available. Pennsylvania alone has an estimated 150,000 acres of brownfields with great potential for re-use.

Brownfields cleanups create jobs not only through the workers needed to do the cleanups themselves, but subsequently with the new businesses that occupy the property. I recently met with a developer in Pennsylvania who is prepared to immediately undertake cleanup projects totaling $283 million in my home State. Combined, his projects could create an estimated 322,225 new jobs in Pennsylvania.

For every $1 invested into brownfields cleanups, an estimated $15–20 are immediately returned to the economy in the form of job creation and State and Federal tax revenue. Jobs created by brownfields cleanups—both before and after—are taken by locally available workers, stimulating local economies. This is exactly the result we should be requiring from every program in the stimulus package.

These projects include cleanups in Bensalem, King of Prussia, Lehman Township, Bridgeport, Frazer, Norristown, Malvern, Limerick, Conshohocken, West Norriton, and Bala Cynwyd, Pennsylvania. These are all areas in Pennsylvania that could certainly use targeted economic development. I understand that there is a question over how fast this money can be spent, and I agree that money from the stimulus be put to use as soon as possible after passage of the bill. However, the developers with whom I have spoken have all assured me that brownfields funding can be used within the 120 day benchmark to determine shovel-ready projects. Programs, such as this one, should be the focus of the stimulus.

I recently met with a group of Pennsylvania State Senators and Representatives who expressed their concern over cleanup efforts in the Chesapeake Bay Watershed, a large watershed which covers much of Pennsylvania, Maryland, and Virginia. Cleanup efforts from agricultural runoff and other environmental impacts can be expensive. The Watershed Rehabilitation Program can mediate some of the enormous costs to individual landowners—often small business farmers—who are tasked with the cleanup of their own property.

These cleanup efforts will require labor—stimulating the workforce while simultaneously making our environment a cleaner place for our children and grandchildren.

Military construction projects funded through the stimulus must be identified as priorities by military leadership and be at or near design completion so that construction can be started in short order. These projects must help modernize our military support structure and defense capabilities. The following projects are both shovel-ready and of vital importance to the State, the military and the Nation.

The End Item Shipping and Receiving Facility at Letterkenny Army Depot is a perfect example of a shovel-ready project that will create construction work for Pennsylvanians and will enhance Letterkenny's capability to support the movement of military equipment. The identified site is on Federal land, close to utilities, next to rail and ground transportation and in the depot industrial area. Design is complete and Congress authorized $7.5 million for the facility in the John Warner National Defense Authorization Act for 2007—P.L. 109–365. Regrettably, this valuable project failed to move forward and additional funding is needed to complete the project at this time.

Another vital military construction project is the Hermitage Readiness

Center, in Hermitage, PA. When complete, the facility will support 128 Pennsylvania Army National Guard members who are currently housed in substandard and undersized buildings. This project is a high priority for the Pennsylvania Adjutant General, as land has been acquired and the design is 99 percent complete. I am told that construction could be started within 3 months, creating construction jobs almost immediately.

A third military construction project is the Combined Surface Maintenance Shop at the Fort Indiantown Gap Vehicle Paint Prep Facility in Annville, PA. This facility will reduce hazardous waste associated with paint operations, create safer working conditions, increase productivity and reduce costs. I understand that land and environmental reviews are complete and the design is 75-percent complete, allowing for construction within 3 or 4 months, were funds to be made available.

Vital funding in the economic stimulus bill will allow us to improve the care we provide to our veterans. According to the Pennsylvania Department of Military and Veterans Affairs, necessary improvements to the Southeastern Veterans' Center in Spring City, PA, could commence with $17 million in Federal funding. A new long term health care facility would replace the ten substandard modular units currently on the premises of the Southeastern Veterans' Center. This proposed project will include the construction, furnishing and equipping of a multi-story facility with the capacity to provide skilled nursing care and dementia care for 120 residents. Further, this project will provide appropriate housing for the veterans and will enable the Southeastern Veterans' Center to entirely vacate the substandard modular units, while reducing costly maintenance.

In addition to major construction projects, I understand that Pennsylvania has nearly $119 million in non-recurring maintenance and minor construction projects that are needed and could be completed in Fiscal Year 2009 were funds made available at this time. The importance of these smaller projects should not be ignored, as many of them hold the potential to impact positively the lives of our veterans in short order.

Providing funds in the economic stimulus package for construction and maintenance projects at national parks could have a stimulating affect on the economy and put people to work. Among the projects in Pennsylvania that could benefit from economic stimulus funding is the Flight 93 National Memorial, which will honor the 40 passengers and crewmembers of United Airlines Flight 93 who gave their lives to save countless others on September 11, 2001. I have worked with members of the Pennsylvania delegation to secure funding for this most important project in the annual appropriations bills. However, it is my understanding that an additional $6.2 million is required for the first phase of construction to commence.

Additionally, according to the Congressional Research Service, recent estimates suggest that the National Park Service has a deferred maintenance backlog of almost $10 billion. Deferred maintenance projects often include important construction work on buildings, trails, recreation sites and other infrastructure within the parks. For example, according to Gettysburg National Military Park officials, the current maintenance backlog at the park would cost $55 million to complete. In addition, there are deferred maintenance projects at Valley Forge National Historical Park, Independence National Historical Park and the Delaware Water Gap National Recreation Area Park, among others.

Funding these projects will not only put people to work, but will go a long way to support the ongoing efforts to preserve, protect and enhance our country's most precious and historically significant national treasures.

In conclusion, while I would like to hear further from the administration and other economic experts to give us guidance on addressing the current economic crisis, the projects which I have outlined in Pennsylvania are the kind of expenditures that will provide the most realistic opportunity to stimulate the economy.

TRIBUTE TO SENATORS

KEN SALAZAR

Mr. HATCH. Mr. President, I stand before the Senate today to voice my great respect and hope in the Senator from Colorado, the Honorable Ken Salazar, who has recently left this Chamber in order to serve as Secretary of the Interior under the Obama administration. It is with sorrow that I say goodbye to my good friend who has served with honor and dedication since 2005. Although Ken only served for a few years in the Senate, he has left his mark on us all and will be remembered for his dedication and service not only to his country but to Utah's neighbor the great State of Colorado.

Ken Salazar's personal history is a testament to his character and accomplishments. His family first settled in America just over 400 years ago, 12 generations back. Ken's parents knew the value of teaching their eight children about hard work and dedication, and from them he learned the worth of industry on his family's ranch growing up. Those early years on the ranch taught Ken about the importance of hard work, integrity, and dedication. It is also from these early experiences that Ken grew to love the beauty of the natural resources our Nation has to offer.

I am confident that the years of experience Mr. Salazar has worked on environmental policy in the West will serve him well in his new position as Secretary of the Interior. He has a deep-rooted passion for clean, renewable, and affordable energy as well as protecting our country's precious natural resources. I believe he will take quite naturally to his new role as our Nation's top public lands manager, and we will be well served by his sensitivity to those natural treasures we value the most.

In short, Ken Salazar has the experience and the passion required for the role he has taken on as Secretary. I thank him for his excellent service in the Senate and look forward to seeing good things from him in the coming years.

AFRICA

Mr. FEINGOLD. Mr. President, in recent years more and more observers have noted Africa's failing states, ungoverned spaces and pirate-infested waters, and the threat they pose to our own national security. I have long raised these concerns on this Senate floor and I am pleased that they are receiving increasing attention. However, it is not enough to simply acknowledge Africa's security challenges; nor is it sufficient to shift resources toward them, although that is a good start. We must institute long-term strategies to further our national security goals while developing sustainable partnerships with Africans that advance our mutual interests and support nascent democratic institutions.

As a 16-year member and the current chairman of the Subcommittee on African Affairs, I have closely followed U.S. policy toward the continent for many years. Too often, I have found that our approach has been driven by short-sighted tactics designed to buy influence or react to crises. In the absence of comprehensive interagency strategies, these tactics often undermine long-term efforts to build civilian institutions and strengthen the rule of law. This must change if we are to successfully pursue our strategic objectives on the African continent. It remains critical—and long overdue—that the United States develop a carefully planned and long-term approach to both promoting stability and combating terrorism in Africa. I would like to offer some thoughts today on key components of such an approach.

During our December recess, I traveled to the headquarters of the new Africa Command in Stuttgart, Germany and discussed a range of issues with senior officials there. Although I have been focused on AFRICOM since its inception—and on the idea of such a command prior to that—I was reminded during my trip of the very important and strategic roles that AFRICOM, if

advanced properly, can play. These roles include helping to develop effective, well-disciplined militaries that adhere to civilian rule, strengthening regional peacekeeping missions, and supporting postconflict demobilization and disarmament processes. If carried out properly, AFRICOM's work can complement that of the State Department, USAID, and other U.S. Government agencies working on the continent and help contribute to lasting peace and stability across Africa.

It is because of the significant need for this important work that we must support AFRICOM, while also working to ensure that it adheres to its defined military mandate and defers to the State Department as the lead on policy matters. The challenge for AFRICOM is to strike the right balance with our civilian agencies and not become our primary representation throughout Africa. Serious work remains to be done in ensuring that the Command is operating within comprehensive interagency national security strategies and squarely under the authority of our Chiefs of Mission. I also remain concerned that AFRICOM has been unable to adequately convey its role within a larger policy framework to Congress, to the American people or to African governments and regional organizations—perhaps its most important partners.

It is true that the Command's initial rollout was fraught with mistakes and the Command understandably received a cool reception on the continent, among civilian agencies and here in Congress. But I am confident from my recent meetings that the staff in Stuttgart has recognized and is learning from these setbacks. Rather than merely criticizing, we in Congress should work across the spectrum of agencies here in Washington as well as with AFRICOM's leadership to help craft a combatant command that is doing the right job, for the right reasons and can thus be adequately resourced. In the months ahead, I intend to use my role as chairman of the Subcommittee on African Affairs to do just that.

I hope, however, that no one thinks for a minute that military tools alone are sufficient to transform the underlying causes of violence and instability in Africa. To promote long-term stability, it is crucial that we strike a better balance between our military relationships and our support for civilian institutions and the rule of law.

Achieving that balance is no small task and it will only be possible if we invest seriously in new institutional capacities for our civilian agencies on the continent. This begins with ensuring our embassies have the Foreign Service officers and resources they need to do the job properly. We cannot continue to shortchange our embassies across Africa while we focus on one or two other locations around the world. We need to make sure our embassies have sufficient resources to meet the challenges of today, and to identify the challenges of tomorrow. And we need to make sure our presence includes the right kind of people—trained political and economic officers who can get out and about to do their job.

By expanding our diplomatic presence in Africa, including outside the capitals, we increase our ability to learn about the continent—its governments, its people and its cultures. Right now, we do not have the necessary human resources or expertise on the African continent to gather this information and anticipate emerging crises or fully understand existing ones. Diplomatic reporting and open source collection in Africa are a critical complement to the clandestine work of the intelligence community, and I have long called for more resources for both. I have also called for an integrated, interagency collection and analysis strategy, which is why Senator Hagel and I last year introduced legislation to establish an independent commission to address this long-term, systematic problem. This legislation was passed by the Intelligence Committee last year and, although Senator Hagel has retired, I intend to reintroduce this legislation this year.

Developing these capacities and a balanced approach is in our national security interest and is necessary if we are to better address areas of concern in Africa. At present, there are several devastating crises that we cannot ignore, including in Congo, Nigeria, the Sahel, Sudan and Zimbabwe. But I believe one region stands out for its particular significance to our national security, and that is the Horn of Africa and specifically the deepening crisis in Somalia. I would like to spend the rest of my remarks discussing the situation in this region, where the need for a carefully planned and long-term approach is particularly urgent.

During my December trip, I also visited Djibouti. There, I met with many leading figures in Somalia, including the Prime Minister of the Somali Transitional Federal Government, the leadership of the opposition Alliance for the Re-Liberation of Somalia, the UN Special Representative for Somalia, the President of Somaliland and members of Somalia's civil society. I also met with Djiboutian government officials and members of civil society, as well as with our diplomats working on Somalia out of both Djibouti and Nairobi, who are extraordinary and deeply committed individuals.

Tragically, the situation in Somalia continues to get worse. Six months ago I stood on the Senate floor to discuss Somalia's humanitarian crisis—the worst in the world. According to a local human rights group, an estimated 16,000 people have been killed since the start of 2007, with over 28,000 people wounded and more than one million displaced. USAID now estimates that 3.2 million people—soon to be half of the population—are in need of emergency assistance, including hundreds of thousands of refugees in neighboring countries. The stories and images of human suffering coming out of Somalia are horrifying.

In addition to the humanitarian impact, I am deeply concerned by the potential impact of this crisis on our national security. With the Ethiopian army withdrawing, the transitional government remains deadlocked, new militias are forming, and existing ones continue to gain new territory. And while the Somalis are a moderate people, the terrorist group al Shabab has grown in ranks and expanded its reach. Moreover, just last month, several senior officials, including CIA Director Hayden and Joint Chiefs Chairman Mullen, said that al-Qaida is extending its reach in Somalia to revitalize its operations.

The Bush administration's approach to Somalia—endorsing the Ethiopian invasion, backing an unpopular transitional government and launching periodic military strikes in the absence of a broader coherent strategy—was an abject failure. Without a carefully crafted strategy for Somalia, we have long relied on short-sighted tactics and a ''manhunt'' approach, rather than investing fully in efforts to promote a sustainable peace and help build legitimate and inclusive institutions. The result has been increased anti-Americanism, which helps enable extremist groups to effectively recruit and operate.

With the Obama administration now in office, there is a critical opportunity, as well as an urgent need, to identify the lessons of this failed policy and signal a break from the past. One of my top priorities is to work with the Obama administration to develop a new comprehensive interagency strategy to bring stability to Somalia and the wider Horn of Africa. Support for the Djibouti process should continue, but we need to be far sighted about what it will take to translate diplomatic initiatives into security for the people of Somalia. That effort must include efforts from the ground up to build legitimate and inclusive governance institutions that respond to the needs of ordinary Somalis. For only when those institutions take hold will we finally be able to limit the appeal of violent extremism and achieve sustainable peace and security—and bolster our own national security.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by

the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

You are asking Idahoans to write about gas prices? You mean you do not know? I think Washington D.C. may as well be registered as another planet because I think your colleagues are so far from reality of the rest of the people it is absolutely outrageous.

Your colleague Barbara Boxer of California said that she wants Americans to use alternative routes of transportation and that it is a good thing that gas prices force people to take the bus, ride bikes, or walk to their destination because it helps reduce global warming.

I have something to say to you and to Boxer and you can tell her for me.

I am a driver for a living. I deliver products right here in Boise. I have to drive I have no choice. I am also a salesman, and a night supervisor. To Senator Boxer, I live in Idaho. I do not have the option of riding the bus. I cannot walk my deliveries or ride my bike with my products? Is she insane?

I find it absolutely insulting for her to talk down to me like that. She and her liberal Senators love these high gas prices because they want to use it as an excuse to make us live how they want us to live to fight so-called global warming, while she and Al Gore fly in jets. That's Eco-Socialism in my opinion.

Senator Crapo, I have three jobs. Three jobs. And I am still having problems fueling up. I have had to open credit card accounts for the first time in my life. And my debt is still going up.

You'd think with three jobs and three paychecks for one person. I am not married no kids. I would be starving with fuel prices if I had a family. I am just barely paying my bills on time as they are, to about $1500 a month not including gas prices.

Starting in 2005 till 2007, I did very well financially, I was saving up and putting money away in my savings account. I loved myself for putting money away. This month in June I had to take one-quarter of my life savings out of my bank to pay for bills including gas because the price skyrocketed from $3 to $4 a gallon in one month.

This is outrageous. I am so angry at Congress right now. . . You have no idea.

I think it is 80 percent the Government's fault for this and 20 percent the oil companies. The only thing the oil companies are doing wrong is speculating the price of oil for really dumb reasons. Like if you so much as sneeze the price would go up in panic.

Congress has done this because you refuse to drill for oil in ANWR to save a deer called caribou! Congress is more worried about a stupid deer than they are about my life? More worried about the mating season of the caribou than they are about the economy? My jobs? My gas prices? My bills? My lifestyle? I am sorry I thought you were the people's Congress? Not the caribou's congress! Do we have an animal congress I should know about?

You won't allow drilling off shore? Well did you know that China is drilling for oil off the coast of Florida? But we cannot? Why? This is outrageous.

Do not listen to those radical environmentalists. They were wrong about the second ice age in the 70s. When I was kid in school in the 1980's, my teachers told me by the year 1999 New York would be underwater and Los Angeles would be a bunch of Islands. It has not happened. Of course the earth's temperature changes and jumps over time. The earth's climate changes all the time, has been since the earth cooled and formed. The earth's temperature does not stay the same all the time. There are so many scientists and people who disagree with Al Gore, but if we disagree we are labeled ''flat-earthers'' and ''Holocaust Deniers.'' How dare Al Gore tell me that I have no first amendment right to disagree with him on climate change.

My question for the Republican Party is this. Why did you not approve drilling for oil when you had Congress lock, stock, and barrel? In 2002, I cheered when the GOP took back the Senate and we had both Houses plus the White House. I yelled, ''Yes! At last we can get some real work done!'' But what have you done with those four years of three Branches with GOP? Nothing! You took your voters for granted and then you were surprised when you lost in 2006.

I have spoken to many Republicans, Moderates, Independents, Moderate Democrats, and Conservatives who are seriously thinking of either staying home or voting Democrat based on the GOP's laziness. Although I do not trust Democrats with the economy, why should we the voters reward Republicans? Give us a reason? Answer . . . gas prices! Point out that it is the Dems who want the price high! Even Barack Obama admitted that he wanted it to go high just not so fast.

Senator Crapo. You want to help me? A person with three jobs and struggling with gas prices? I have not had a vacation since March of 2007! I can't even take a one day vacation to Jackpot anymore! Senator Crapo I work all seven days a week! I get no weekends! And I still struggle to pay gas prices! About $15 a day! Not a week! A day!

Drill here! Drill now! Drill in ANWR! Drill in America!

Tell your friends drill.

AARON BANKS, *Boise*.

Hi. Thank you Senator for your sincere concern for Idaho Residents.

I am 58 next month, and on disability from a very severe fire I was trapped in several years ago.

Though I do get an income, this is where it goes:

Receive $625.00 a month

1. $200.00 a month mobile home space rent
2. $156.00 a month mortgage payments for my mobile home . . . which without the owner of the mobile home, I would not be on my way to being a first time home owner!
3. $48.00 a month mobile home insurance
4. $40.00 a month vehicle insurance . . . it is a 1988 Plymouth Voyager van that I have had since 1988.
5. $39.00 phone bill . . . which was supposed to reduced several months ago through my social worker, an still remains at the normal price and I do not have long distance.
6. $30–40 electricity monthly . . . do not have an air conditioner for summer but do open my windows and use my ceiling fans that helps.
7. $125–and up in winter for gas to run my heater monthly . . . that is after I receive fuel assistance which for some reason only lasts 1–2 months and only use the heater to warm up the area so can start my wood stove which is usually one–half hour.

So if I am lucky, all I can afford to do is put up to $20.00 a month in gas which gives me almost 1/4 tank and that has to last the month.

I have medical problems that mean many trips to the doctor and pharmacy, and with such a low amount of gas I have to depend on others for rides when I run out of gas.

Thank you for your sincere concern and we are all hoping and praying that gas will once again come down to where people like me can afford to purchase more.

LORETTA LOWERRE, *Nampa*.

First of all, I am disappointed that you provide prefixes for all kinds of people except the only class of people (with one exception—MSgt) that have official (not courteous) titles in these United States—the military. My title is Colonel.

Second, from your letter on gas prices that you sent me, you are starting to understand that the Congress holds most of the blame for high oil (and thus gas) prices. Congress has failed to act in the thirty years since the last gas crisis, continually failing to take responsible action to make sure domestic supplies are developed and used to reduce dependence on foreign oil.

It should be clear that the single most deleterious action of Congress over the last forty years was the Environmental Protection Act. It has desperately needed revision since the early seventies and because it was not, the economic impact on America has been extreme. The inability to build domestic gas refineries, increase domestic oil production and take advantage of resources in ANWR are only a few of the unintended and disastrous impacts of that act. An environmentalist has only to write a single letter to cause the price of any such proposal to escalade exponentially. The latest case of the proposed nuclear reactor in Idaho is an example. One man writing one letter can cause the waste of hundreds of thousands of dollars to ''prove'' the lack of environmental impacts of such a proposal.

The price of a house in Idaho has risen by 10–15 percent, for instance, because of the ludicrous and technically flawed environmental studies and reactions on the spotted owl.

Still no action in Congress to alleviate the situation. We simply need someone to stand up and take the actions necessary to replace political correctness with what used to be common sense.

So the bottom line, Senator, is that Congress bears the responsibility to stop passing stupid laws and start reigning in those that are hurting the nation's ability to do the right things rather than the politically correct things. Do you have the courage to start?

ROBERT KEENAN, *Meridian*.

You asked what the high gas prices are doing to me. It has become very difficult to even do normal things. I cannot afford to go

up town and buy necessary things. Since I am on Social Security Disability my sister and I have been living off my money. Since my sister does not have a car and I cannot afford to buy one for her, nor could I afford the gas. She would love to go to work. How would she get there? Idaho, and particularly this area has a really horrible public transportation system. It truly is a disgrace to our state. My sister walks as much as possible. Our nation needs to stop depending on foreign oil. I love all the animals and have tried to protect them as much as possible, but we need to start taking care of our families first.

The oil companies are making over the profit margin; that is disgusting by itself. I do not trust one thing they say or do. Therefore, we need to have alternative fuel. The wind can run electricity. The air can fuel a car, water can do both, after seeing the pictures of a car that runs on air. America, the greatest country in the world needs to step up to the plate. Oil companies need to step up to the plate before they become the dinosaurs. Therefore, we need to drill. Do it. Many families like mine are being devastated by the high gasoline prices which makes high food prices we cannot afford. Thank you for your time.

MARIAN RUHLING, *Nampa.*

Hello—This is in response to a solicitation from Senator Crapo regarding personal stories on how high energy prices are affecting lives.

Greed is the source of most of the world's evil. I know I sound like an ideologue, but please read on.

It is hard to disaggregate the effects of the high cost of energy from other economic hits our family is experiencing. When construction activity slowed in Valley and Adams County, wage earning families left our valleys looking for jobs elsewhere. So long, Tamarack?

The resulting reduced school enrollment (now compounded by the end of Craig-Wyden) in our districts led me to being one of the teachers RIF'd from the Council School District. Fortunately, I found work part-time in the McCall School District. Unfortunately, this 70 mile, round-trip commute (in my 2000 140,000+ mile Dodge AWD Caravan—needed for unpredictable roads) costs me $9.00–$12.00 a trip! I would like to buy a more fuel efficient Subaru—but I cannot afford to.)

My school-age children suffer because programs are being severely reduced—Shop and Art are gone. Some high school courses will only be offered every other year. Summer school for poor learners is truncated. Field trips? Sports? Are you kidding? Both are severely reduced. How can our small-town children go out and experience the world when there isn't even money for gas?

As consumers, our family lives so far from ''the source'' that not only gas, but also milk and other basic commodities seem to cost at least 25 percent more than they did a year ago. Last year I was able to find milk for $2.29 gallon; now milk costs close to $4.00/gallon. Healthy bread costs close to $4.00/loaf. As a family, we certainly have not received a COLA to offset these price increases.

As middle-class professionals (my husband is a forester) and as parents, the drain on our budget means belt-tightening for any of ''fun things'' like vacation trips. Additionally, we have experienced a health crisis (and have met our catastrophic limits). I now must commute to Fruitland (140 miles round trip) every 2 weeks for chemo; in the fall I will need to commute 5 days a week for radiation for 6 weeks! (My doctor cavalierly denied me two prescriptions for drugs since they are also available OTC. ''They only cost a few dollars.'' He casually shrugged off my request for RXs. Well, the two drugs cost more than $30 altogether. I do not think that the upper-middle-class and upper-class have a clue that there is an exponential difference between a few bucks (a latte) and $30—a chance to visit a museum or movie, or halfway fill up a gas tank to make it to a chemo session!)

I believe that our tax system rewards the rich on the backs of the poor and middle class. I believe that oil companies and owners of stocks are making fortunes as the little guy suffers.

I believe we should take global warning seriously and allow tax credits for the development of alternative energy. We need to take recycling very seriously. We also need to be a world economic partner on a fair playing field (Kyoto convention), quit out-sourcing to countries that do not provide the labor protections we do to our workers, and build respectful relationships among all peoples and all cultures—as a first step to world peace and understanding and a step away from the ugliness of war.

I also believe that limiting population growth and sharing the world's resource's equably is the only way we will ever establish peace on earth.

Locally, for our family, what have been the effects of high energy costs? Higher food and medical costs, loss of job, reduced school programs for my children, dwindled savings, ''making do'' with older cars and housing needs, fewer amenities, no vacation.

Glad you asked.

LYNN, *Fruitvale.*

I read your letter sent out today.

Glad to hear that at least one of our Senators in Washington gets it. I hope there are more of you in DC that can support the policies you want to support in your letter.

We do need to start drilling again in the US and Off-Shore. We need to make sure that we take precautions to avoid damage to the environment. We cannot sacrifice one for the other. But we must start drilling again, and do so in a respective manner of Mother Nature.

And we are going to need some new refining capability. Again, do it new technology and with respect to our environment. Build it in Eastern Idaho—we have the space and we could use the jobs and economic boost. Tough to get oil here, but if they need a place for it, bring it here.

We must start the nuclear programs again. We need to build some new reactors soon. I do not know for sure, but I am betting some of our older reactors are getting long in the tooth, and if they go off the grid, then what happens? Besides we need more power and money spent to renew our grid system.

We need to take a serious look at Ethanol. I am not sure it is all it is being promoted to be. I am not sure the benefits outweigh all of the costs. With the flooding in the Midwest, I wonder what the cost of corn will be now? But it is not just food issues, but the processing issues as well.

Wind Power should be promoted as well. But a Nuclear Power Plant is much easier on the eyes than 1000 wind towers, and not as susceptible to the changes in the wind.

Coal alternatives should be looked at as well. We need to check if the benefits we can gain from technology like coal gasification are valid and have low impact. Some of the claims you hear and read about look promising. But as I am learning with Ethanol, there may be some significant costs to chase this type of technology.

But the short of it—we need to develop our energy and become more independent. The amount of jobs created would be incredible in the process. You want a better health care system and less unemployment and less government care programs—just set the energy companies loose (for a change) and see this economy rebound in a heartbeat. These energy companies can afford health care plans and benefits for their workers. Our current policies are killing us—and I really hope there are enough Senators and Representatives in DC to turn this around. We have been shooting ourselves in the foot for more than 20 years. Guess it took that long for the ''brain'' to finally realize the pain in doing so.

Good Luck.

STEPHEN KAISER, *Rigby.*

TRIBUTE TO ARDIS DUMETT

Mrs. MURRAY. Mr. President, I rise today to recognize Ardis Dumett for her 20 years of service to the U.S. Senate and the people of Washington State. Ardis has served on my staff for the last 16 years of her distinguished public career. For 4 years prior to her service in my office, she worked for the revered Senator Henry ''Scoop'' Jackson. On January 20, Ardis retired from my office. We are sad to see her go and hope that she enjoys her well-earned retirement.

Throughout her career, Ardis has been a thoughtful and dedicated public servant. Initially, as my constituent services director, she led by example in her commitment and compassion to the constituents of Washington State. Covering immigration and environmental casework, she ensured the people of my State were well served by their Federal Government.

As the director of special projects in my Seattle office, she worked on numerous issues on my behalf over the years, ranging from the environment and emergency response to tribes and the transfer of military property. She worked tirelessly to guarantee that our State's people and communities received a fair process—and often a successful outcome—when working with Federal agencies. Over the years I have received many notes from constituents thanking me for Ardis' diligent work.

I would like to thank Ardis for her years of service to me and the people of Washington State. Her career is a tremendous example of public service; and her dedication to her work is truly appreciated. I wish her all the best in her future endeavors.

ADDITIONAL STATEMENTS

UNI-CAPITOL WASHINGTON INTERNSHIP PROGRAMME 2009

● Mr. CRAPO. Mr. President, I am proud to be involved for a third year in

the Uni-Capitol Washington Internship Programme, UCWIP, an exchange program in which outstanding college students from Australia's top universities compete to serve as interns for the U.S. Congress. The program is in its 10th year of bringing the Washington experience to our friends from Australia, firsthand. In addition to working in congressional offices, the program provides students with a number of other opportunities and activities including visits to historic sites, visits to government agencies, meetings with government leaders, and educational events.

This year, Nicholas Tam, a student from Melbourne University in Australia, is taking a 2-month hiatus from his law degree to help me serve Idaho constituents. Of the program, Nick says, ''Working with Senator CRAPO has been a gateway to developing a nuanced, sophisticated understanding of the United States and its precise position and role in the world. UCWIP has been culturally enriching and enhancing of my own professional development. It has been a real privilege to aid in the advancement of strong conservative principles whilst working here in the United States Senate.'' Nick is a terrific temporary addition to my staff and, like past interns, an intelligent individual, hard worker and personable.

Director Eric Federing and his wife Daphne have shown a decade of tireless commitment to enlarging the educational experience of Australian students. Now with 81 program alumni, this educational and highly successful exchange program has earned a rightful place among leading international academic exchange opportunities. I am honored to continue to participate in this well-crafted and successful program.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:52 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 181. An act to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 26. Concurrent resolution providing for an adjournment of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–547. A communication from the General Counsel, Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Golden Parachute Payments'' (RIN2590–AA08) received in the Office of the President of the Senate on January 24, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–548. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; Rio Grande City, Texas'' (MB Docket No. 08–141) received in the Office of the President of the Senate on January 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–549. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition 'Analog Nightlight' Program'' (MB Docket No. 08–255) received in the Office of the President of the Senate on January 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–550. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the certification to Congress on the effectiveness of the Australia Group; to the Committee on Foreign Relations.

EC–551. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the quarterly report of the Department of Justice's Office of Privacy and Civil Liberties; to the Committee on the Judiciary.

EC–552. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''Secure Our Schools Program, FY 2008—Annual Report to Congress''; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, without amendment:

S. 336. An original bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes (Rept. No. 111–3).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nominations beginning with Brigadier General Donald A. Haught and ending with Colonel William M. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Brig. Gen. John M. Croley and ending with Brig. Gen. Tracy L. Garrett, which nominations were received by the Senate and appeared in the Congressional Record on January 8, 2009.

Army nominations beginning with Brigadier General Peter M. Aylward and ending with Colonel Michael T. White, which nominations were received by the Senate and appeared in the Congressional Record on January 14, 2009.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Edmund P. Zynda II, to be Major.

Air Force nomination of Daniel C. Gibson, to be Major.

Air Force nominations beginning with Donald L. Marshall and ending with Charles E. Peterson, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Paul J. Cushman and ending with Luis F. Sambolin, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Christopher S. Allen and ending with Deepa Hariprasad, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nomination of Ryan R. Pendleton, to be Lieutenant Colonel.

Air Force nomination of Howard L. Duncan, to be Lieutenant Colonel.

Air Force nominations beginning with Jeffrey R. Grunow and ending with Pamela T. Scott, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nomination of Eugene M. Gaspard, to be Colonel.

Air Force nominations beginning with Michael R. Powell and ending with Valerie R. Taylor, which nominations were received by

the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Mary Elizabeth Brown and ending with Gerald J. Laursen, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Gary R. Califf and ending with C. Michael Padazinski, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Stephen Scott Baker and ending with Phillip E. Parker, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Joseph Allen Banna and ending with Joseph Tock, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Air Force nominations beginning with Keith A. Acree and ending with Steven L. Youssi, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nomination of Scott A. Gronewold, to be Colonel.

Army nominations beginning with Robert L. Kaspar, Jr. and ending with David K. Scales, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nomination of Emmett W. Mosley, to be Colonel.

Army nominations beginning with Andrew C. Meverden and ending with April M. Snyder, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nominations beginning with Douglas M. Coldwell and ending with Stephen Montaldi, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nomination of Thomas S. Carey, to be Major.

Army nomination of Scottie M. Eppler, to be Major.

Army nomination of Pierre R. Pierce, to be Major.

Army nominations beginning with Cheryl A. Creamer and ending with Aga E. Kirby, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nominations beginning with Kathryn A. Belill and ending with Suzanne R. Todd, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nominations beginning with Christopher Allen and ending with D060522, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nominations beginning with John L. Ament and ending with Wendy G. Woodall, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Army nominations beginning with Terryl L. Aitken and ending with Sarahtyah T. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nomination of Matthew E. Sutton, to be Lieutenant Colonel.

Marine Corps nomination of Andrew N. Sullivan, to be Lieutenant Colonel.

Marine Corps nomination of Tracy G. Brooks, to be Lieutenant Colonel.

Marine Corps nominations beginning with Peter M. Barack, Jr. and ending with Jacob D. Leighty III, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with David G. Boone and ending with James A. Jones, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with William A. Burwell and ending with Balwindar K. Rawalayvandevoort, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Kurt J. Hastings and ending with Calvin W. Smith, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with James P. Miller, Jr. and ending with Marc Tarter, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nomination of David S. Pummell, to be Major.

Marine Corps nomination of Robert M. Manning, to be Major.

Marine Corps nomination of Michael A. Symes, to be Major.

Marine Corps nomination of Paul A. Shirley, to be Major.

Marine Corps nomination of Richard D. Kohler, to be Major.

Marine Corps nominations beginning with Julie C. Hendrix and ending with Mauro Morales, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Christopher N. Norris and ending with Samuel W. Spencer III, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Anthony M. Nesbit and ending with Paul Zacharzuk, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Gregory R. Biehl and ending with Bryan S. Teet, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Travis R. Avent and ending with Gregg R. Edwards, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Jose A. Falche and ending with Clennon Roe III, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Keith D. Burgess and ending with Brian J. Spooner, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Mark L. Hobin and ending with Terry G. Norris, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Marine Corps nominations beginning with Kevin J. Anderson and ending with Edward P. Wojnaroski, Jr., which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

Navy nomination of Steven J. Shauberger, to be Lieutenant Commander.

Navy nomination of Karen M. Stokes, to be Lieutenant Commander.

Navy nominations beginning with Craig W. Aimone and ending with Matthew M. Wills, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mr. AKAKA, Mr. BROWN, and Mr. SANDERS):

S. 330. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. SHELBY, Mr. DURBIN, Mrs. FEINSTEIN, Mr. BAYH, Mr. TESTER, Mr. GRAHAM, Mr. SESSIONS, and Mr. ROBERTS):

S. 331. A bill to increase the number of Federal law enforcement officials investigating and prosecuting financial fraud; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. BROWNBACK):

S. 332. A bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MIKULSKI (for herself, Ms. STABENOW, Mr. CARDIN, and Mr. WEBB):

S. 333. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles; to the Committee on Finance.

By Mr. LUGAR:

S. 334. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 335. A bill to amend part D of title IV of the Social Security Act to repeal a fee imposed by States on certain child support collections; to the Committee on Finance.

By Mr. INOUYE:

S. 336. An original bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER (for himself and Ms. LANDRIEU):

S. Res. 22. A resolution recognizing the goals of Catholic Schools Week and honoring the valuable contributions of Catholic schools in the United States; considered and agreed to.

By Mr. CASEY (for himself, Mr. SPECTER, Ms. SNOWE, and Ms. COLLINS):

S. Res. 23. A resolution honoring the life of Andrew Wyeth; considered and agreed to.

ADDITIONAL COSPONSORS

S. 66

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 66, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 85

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 85, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 96

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 133

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 133, a bill to prohibit any recipient of emergency Federal economic assistance from using such funds for lobbying expenditures or political contributions, to improve transparency, enhance accountability, encourage responsible corporate governance, and for other purposes.

S. 213

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 256

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 256, a bill to enhance the ability to combat methamphetamine.

S. 271

At the request of Ms. CANTWELL, the names of the Senator from California (Mrs. BOXER), the Senator from Rhode Island (Mr. REED) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 271, a bill to amend the Internal Revenue Code of 1986 to provide incentives to accelerate the production and adoption of plug-in electric vehicles and related component parts.

S. 298

At the request of Mr. ISAKSON, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 298, a bill to establish a Financial Markets Commission, and for other purposes.

S. 326

At the request of Mr. MCCONNELL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 326, a bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program through fiscal year 2013, and for other purposes.

S. 328

At the request of Mr. ROCKEFELLER, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Wisconsin (Mr. KOHL), the Senator from Vermont (Mr. SANDERS), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 328, a bill to postpone the DTV transition date.

S. RES. 9

At the request of Mr. LUGAR, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. Res. 9, a resolution commemorating 90 years of U.S.-Polish diplomatic relations, during which Poland has proven to be an exceptionally strong partner to the United States in advancing freedom around the world.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mr. AKAKA, Mr. BROWN, and Mr. SANDERS):

S. 330. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the Medicare program; to the Committee on Finance.

Mr. DURBIN. Mr. President, in the 6 years since Congress passed the Medicare Modernization Act, life for seniors has become increasingly difficult. The majority of seniors live on a fixed income, but face the challenge of paying more with less as the costs for everything continue to rise. Housing costs, basic nutrition, and healthcare needs are more expensive.

The addition of a prescription drug benefit to Medicare was long overdue, and many senior citizens and people with disabilities are relieved to finally have drug coverage. But the drug benefit was not structured like the rest of Medicare. For all other Medicare benefits, seniors can choose whether to receive benefits directly through Medicare or through a private insurance plan. The overwhelming majority choose the Medicare-run option for their hospital and physician coverage.

Unfortunately, no such choice is available for prescription drugs. Medicare beneficiaries must enroll in a private insurance plan to obtain drug coverage and with that are subjected to the multiple changes drug plans are allowed to impose on seniors year after year.

Each drug plan has its own premium, cost-sharing requirements, list of covered drugs, and pharmacy network. After you have identified the right drug plan, you have to go through the whole process again at the end of the year because your plan may have changed the drugs it covers or added new restrictions on how to access covered drugs.

Seniors are having trouble identifying which of the dozens of private drug plans works best for them. The complexity of the program has made beneficiaries more vulnerable to aggressive and deceptive marketing practices as some insurers try to steer seniors into more profitable Medicare Advantage plans. Some seniors have been signed up for Medicare Advantage plans without their knowledge, and, unfortunately, there have also been dishonest insurance agents who have misrepresented what benefits would be covered. Anyone who has visited a senior center or spoken with an elderly relative knows that the complexity of the drug benefit has created much confusion.

Drug plans often do not tell beneficiaries that they can appeal a drug plan's decision to deny coverage for a drug, even though they are required to do so. Beneficiaries who do appeal soon find that it is a long and difficult process.

Multiple studies have shown that private drug plans have not been effective negotiators, which means seniors end up paying more than they should. A report by Avalere Health released in late 2008 revealed that the average beneficiary will see a 24 percent increase in their monthly premiums for 2009. The top 10 most popular plans by enrollment will increase their premiums by more than 30 percent.

Today, I am introducing the Medicare Prescription Drug Savings and Choice Act. The bill would create a Medicare-operated drug plan that would compete with private drug plans and would give the Health and Human Services Secretary leverage to negotiate with drug companies to lower drug prices.

The Health and Human Services Secretary would have the tools to negotiate with drug companies, including the use of drug formulary. The best medical evidence would determine which drugs are covered in the formulary, and the formulary would be used to promote safety, appropriate use of drugs, and value.

The bill would establish an appeals process that is efficient, imposes minimal administrative burdens, and ensures timely procurement of non-formulary drugs or non-preferred drugs when medically necessary.

This is the kind of drug plan that Medicare beneficiaries are looking for. According to a survey by the Kaiser Family Foundation, two-thirds of seniors want the option of getting drug coverage directly from Medicare, and over 80 percent favor allowing the Government to negotiate with drug companies for lower prices.

Seniors want the ability to choose a Medicare-administered drug plan and deserve a simpler, more dependable, and less costly program that prioritizes their needs. Let's give them this option—just as they have this choice with every other benefit covered by Medicare.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Prescription Drug Savings and Choice Act of 2009''.

SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) IN GENERAL.—Subpart 2 of part D of the Social Security Act is amended by inserting after section 1860D–11 (42 U.S.C. 1395w–111) the following new section:

''MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

''SEC. 1860D–11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2010), in addition to any plans offered under section 1860D–11, the Secretary shall offer one or more medicare operated prescription drug plans (as defined in subsection (c)) with a service area that consists of the entire United States and shall enter into negotiations in accordance with subsection (b) with pharmaceutical manufacturers to reduce the purchase cost of covered part D drugs for eligible part D individuals who enroll in such a plan.

''(b) NEGOTIATIONS.—Notwithstanding section 1860D–11(i), for purposes of offering a medicare operated prescription drug plan under this section, the Secretary shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered part D drugs in a Medicare operated prescription drug plan and shall encourage the use of more affordable therapeutic equivalents to the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Secretary shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, including the use of a formulary and formulary incentives in subsection (e), to reduce the purchase cost of covered part D drugs.

''(c) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A). Such a plan may offer supplemental prescription drug coverage in the same manner as other qualified prescription drug coverage offered by other prescription drug plans.

''(d) MONTHLY BENEFICIARY PREMIUM.—

''(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A) to be charged under a medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2010 and each succeeding year shall be based on the average monthly per capita actuarial cost of offering the medicare operated prescription drug plan for the year involved, including administrative expenses.

''(2) SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE.—Insofar as a medicare operated prescription drug plan offers supplemental prescription drug coverage, the Secretary may adjust the amount of the premium charged under paragraph (1).

''(e) USE OF A FORMULARY AND FORMULARY INCENTIVES.—

''(1) IN GENERAL.—With respect to the operation of a medicare operated prescription drug plan, the Secretary shall establish and apply a formulary (and may include formulary incentives described in paragraph (2)(C)(ii)) in accordance with this subsection in order to—

''(A) increase patient safety;

''(B) increase appropriate use and reduce inappropriate use of drugs; and

''(C) reward value.

''(2) DEVELOPMENT OF INITIAL FORMULARY.—

''(A) IN GENERAL.—In selecting covered part D drugs for inclusion in a formulary. the Secretary shall consider clinical benefit and price.

''(B) ROLE OF AHRQ.—The Director of the Agency for Healthcare Research and Quality shall be responsible for assessing the clinical benefit of covered part D drugs and making recommendations to the Secretary regarding which drugs should be included in the formulary. In conducting such assessments and making such recommendations, the Director shall—

''(i) consider safety concerns including those identified by the Federal Food and Drug Administration;

''(ii) use available data and evaluations, with priority given to randomized controlled trials, to examine clinical effectiveness, comparative effectiveness, safety, and enhanced compliance with a drug regimen;

''(iii) use the same classes of drugs developed by United States Pharmacopeia for this part;

''(iv) consider evaluations made by—

''(I) the Director under section 1013 of Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

''(II) other Federal entities, such as the Secretary of Veterans Affairs; and

''(III) other private and public entities, such as the Drug Effectiveness Review Project and Medicaid programs; and

''(v) recommend to the Secretary—

''(I) those drugs in a class that provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that should be included in the formulary;

''(II) those drugs in a class that provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that should be excluded from the formulary; and

''(III) drugs in a class with same or similar clinical benefit for which it would be appropriate for the Secretary to competitively bid (or negotiate) for placement on the formulary.

''(C) CONSIDERATION OF AHRQ RECOMMENDATIONS.—

''(i) IN GENERAL.—The Secretary, after taking into consideration the recommendations under subparagraph (B)(v), shall establish a formulary, and formulary incentives, to encourage use of covered part D drugs that—

''(I) have a lower cost and provide a greater clinical benefit than other drugs;

''(II) have a lower cost than other drugs with same or similar clinical benefit; and

''(III) drugs that have the same cost but provide greater clinical benefit than other drugs.

''(ii) FORMULARY INCENTIVES.—The formulary incentives under clause (i) may be in the form of one or more of the following:

''(I) Tiered copayments.

''(II) Reference pricing.

''(III) Prior authorization.

''(IV) Step therapy.

''(V) Medication therapy management.

''(VI) Generic drug substitution.

''(iii) FLEXIBILITY.—In applying such formulary incentives the Secretary may decide not to impose any cost-sharing for a covered part D drug for which—

''(I) the elimination of cost sharing would be expected to increase compliance with a drug regimen; and

''(II) compliance would be expected to produce savings under part A or B or both.

''(3) LIMITATIONS ON FORMULARY.—In any formulary established under this subsection, the formulary may not be changed during a year, except—

''(A) to add a generic version of a covered part D drug that entered the market;

''(B) to remove such a drug for which a safety problem is found; and

''(C) to add a drug that the Secretary identifies as a drug which treats a condition for which there has not previously been a treatment option or for which a clear and significant benefit has been demonstrated over other covered part D drugs.

''(4) ADDING DRUGS TO THE INITIAL FORMULARY.—

''(A) USE OF ADVISORY COMMITTEE.—The Secretary shall establish and appoint an advisory committee (in this paragraph referred to as the 'advisory committee')—

''(i) to review petitions from drug manufacturers, health care provider organizations, patient groups, and other entities for inclusion of a drug in, or other changes to, such formulary; and

''(ii) to recommend any changes to the formulary established under this subsection.

''(B) COMPOSITION.—The advisory committee shall be composed of 9 members and shall include representatives of physicians, pharmacists, and consumers and others with expertise in evaluating prescription drugs. The Secretary shall select members based on their knowledge of pharmaceuticals and the Medicare population. Members shall be deemed to be special Government employees for purposes of applying the conflict of interest provisions under section 208 of title 18, United States Code, and no waiver of such provisions for such a member shall be permitted.

''(C) CONSULTATION.—The advisory committee shall consult, as necessary, with physicians who are specialists in treating the disease for which a drug is being considered.

''(D) REQUEST FOR STUDIES.—The advisory committee may request the Agency for Healthcare Research and Quality or an academic or research institution to study and make a report on a petition described in subparagraph (A)(ii) in order to assess—

''(i) clinical effectiveness;

''(ii) comparative effectiveness;

''(iii) safety; and

''(iv) enhanced compliance with a drug regimen.

''(E) RECOMMENDATIONS.—The advisory committee shall make recommendations to the Secretary regarding—

''(i) whether a covered part D drug is found to provide a greater clinical benefit, including fewer safety concerns or less risk of side-effects, than another drug in the same class that is currently included in the formulary and should be included in the formulary;

''(ii) whether a covered part D drug is found to provide less clinical benefit, including greater safety concerns or a greater risk of side-effects, than another drug in the same class that is currently included in the formulary and should not be included in the formulary; and

''(iii) whether a covered part D drug has the same or similar clinical benefit to a drug in the same class that is currently included in the formulary and whether the drug should be included in the formulary.

''(F) LIMITATIONS ON REVIEW OF MANUFACTURER PETITIONS.—The advisory committee shall not review a petition of a drug manufacturer under subparagraph (A)(ii) with respect to a covered part D drug unless the petition is accompanied by the following:

''(i) Raw data from clinical trials on the safety and effectiveness of the drug.

''(ii) Any data from clinical trials conducted using active controls on the drug or drugs that are the current standard of care.

''(iii) Any available data on comparative effectiveness of the drug.

''(iv) Any other information the Secretary requires for the advisory committee to complete its review.

''(G) RESPONSE TO RECOMMENDATIONS.—The Secretary shall review the recommendations of the advisory committee and if the Secretary accepts such recommendations the Secretary shall modify the formulary established under this subsection accordingly. Nothing in this section shall preclude the Secretary from adding to the formulary a drug for which the Director of the Agency for Healthcare Research and Quality or the advisory committee has not made a recommendation.

''(H) NOTICE OF CHANGES.—The Secretary shall provide timely notice to beneficiaries and health professionals about changes to the formulary or formulary incentives.

''(f) INFORMING BENEFICIARIES.—The Secretary shall take steps to inform beneficiaries about the availability of a Medicare operated drug plan or plans including providing information in the annual handbook distributed to all beneficiaries and adding information to the official public Medicare website related to prescription drug coverage available through this part.

''(g) APPLICATION OF ALL OTHER REQUIREMENTS FOR PRESCRIPTION DRUG PLANS.—Except as specifically provided in this section, any Medicare operated drug plan shall meet the same requirements as apply to any other prescription drug plan, including the requirements of section 1860D–4(b)(1) relating to assuring pharmacy access).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended by adding at the end the following new paragraph:

''(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—A medicare operated prescription drug plan (as defined in section 1860D–11A(c)) shall be offered nationally in accordance with section 1860D–11A.''.

(2)(A) Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended by adding at the end the following new subsection:

''(c) PROVISIONS ONLY APPLICABLE IN 2006, 2007, 2008, AND 2009.—The provisions of this section shall only apply with respect to 2006, 2007, 2008, and 2009.''.

(B) Section 1860D–11(g) of such Act (42 U.S.C. 1395w–111(g)) is amended by adding at the end the following new paragraph:

''(8) NO AUTHORITY FOR FALLBACK PLANS AFTER 2009.—A fallback prescription drug plan shall not be available after December 31, 2009.''.

(3) Section 1860D–13(c)(3) of such Act (42 U.S.C. 1395w–113(c)(3)) is amended—

(A) in the heading, by inserting ''AND MEDICARE OPERATED PRESCRIPTION DRUG PLANS'' after ''FALLBACK PLANS''; and

(B) by inserting ''or a medicare operated prescription drug plan'' after ''a fallback prescription drug plan''.

(4) Section 1860D–16(b)(1) of such Act (42 U.S.C.1395w–116(b)(1)) is amended—

(A) in subparagraph (C), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(E) payments for expenses incurred with respect to the operation of medicare operated prescription drug plans under section 1860D–11A.''.

(5) Section 1860D–41(a) of such Act (42 U.S.C. 1395w–151(a)) is amended by adding at the end the following new paragraph:

''(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'medicare operated prescription drug plan' has the meaning given such term in section 1860D–11A(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 3. IMPROVED APPEALS PROCESS UNDER THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.

Section 1860D–4(h) of the Social Security Act (42 U.S.C. 1305w–104(h)) is amended by adding at the end the following new paragraph:

''(4) APPEALS PROCESS FOR MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—

''(A) IN GENERAL.—The Secretary shall develop a well-defined process for appeals for denials of benefits under this part under the medicare operated prescription drug plan. Such process shall be efficient, impose minimal administrative burdens, and ensure the timely procurement of non-formulary drugs or exemption from formulary incentives when medically necessary. Medical necessity shall be based on professional medical judgment, the medical condition of the beneficiary, and other medical evidence. Such appeals process shall include—

''(i) an initial review and determination made by the Secretary; and

''(ii) for appeals denied during the initial review and determination, the option of an external review and determination by an independent entity selected by the Secretary.

''(B) CONSULTATION IN DEVELOPMENT OF PROCESS.—In developing the appeals process under subparagraph (A), the Secretary shall consult with consumer and patient groups, as well as other key stakeholders to ensure the goals described in subparagraph (A) are achieved.''.

By Mrs. FEINSTEIN (for herself and Mr. BROWNBACK):

S. 332. A bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Lung Cancer Mortality Reduction Act, calling for a new effort to combat this often deadly form of cancer. I am pleased to be joined by Senator BROWNBACK, the Co-Chair of the Senate Cancer Coalition, and a strong voice on a variety of cancer issues.

This bill will renew and improve the Federal Government's efforts to combat lung cancer. It will affirm the goal of a 50 percent reduction in lung cancer mortality by 2015.

It will authorize a Lung Cancer Mortality Reduction Program, with interagency coordination, to develop and implement a plan to meet this goal.

It will authorize $75 million for lung cancer research programs in the National Heart Lung Blood Institute, National Institute of Biomedical Imaging and Bioengineering, National Institute of Environmental Health Sciences, and Centers for Disease Control.

It will create a new incentive program in the Food and Drug Administration to be modeled on the Orphan Drug Act for the development of chemoprevention drugs for lung cancer and precancerous lung disease. These are drugs that could prevent precancer from progressing into full-blown disease.

It will improve coordination disparity programs to ensure that the burdens of lung cancer on minority populations are addressed.

We have made great strides against many types of cancer in the last several decades. However, these gains are uneven.

When the National Cancer Act was passed in 1971, lung cancer had a 5-year survival rate of only 12 percent. After decades of research efforts and scientific advances, this survival rate remains only 15 percent. In contrast, the 5-year survival rates of breast, prostate, and colon cancer have risen to 89 percent, 99 percent and 65 percent respectively.

A lung cancer diagnosis can be devastating. The average life expectancy following a lung cancer diagnosis is only 9 months.

This is because far too many patients are not diagnosed with lung cancer

until it has progressed to the later stages. Lung cancer can be hard to diagnose, and symptoms may at first appear to be other illnesses. As a result, only 16 percent of lung cancer patients are diagnosed when their cancer is still localized, and is the most treatable.

Lung cancer still lacks early detection technology, to find cancer when it is most treatable. Mammograms can find breast cancer, and colonoscopies can find dangerous colon polyps. But there is no equivalent test for lung cancer at this time.

Under this legislation, the National Cancer Institute has clear authority to work with other institutes on this early detection research. Coordination between all branches of the National Institutes of Health, including those with expertise on lungs, imaging, and cancer will be necessary to make this long overdue progress.

Lung cancer lags behind other cancers, in part, due to stigma from smoking. Make no mistake, tobacco use causes the majority of lung cancer cases. Tobacco cessation is a critical component of reducing lung cancer mortality. Less smoking means less lung cancer. Period.

But tobacco use does not fully explain lung cancer. Approximately 15 percent of the people who die from lung cancer never smoked. A study published in the Journal of Clinical Oncology in 2007 tracked the incidence of lung cancer in 1 million people ages 40 to 79. It found that about 20 percent of female lung cancer patients were nonsmokers and 8 percent of male patients were nonsmokers.

These patients may have been exposed to second hand smoke, or they may have been exposed to radon, asbestos, chromium, or other chemicals. There could be other causes and associations that have not yet been discovered, genetic predispositions or other environmental exposures.

Dana Reeve put a face on these statistics, with her brave fight against lung cancer. Dana Reeve was a nonsmoker, and still was diagnosed with lung cancer at the age of 44. She died a mere 7 months later, leaving a young son.

Dana Reeve's story shows that smoking cannot fully explain lung cancer. Everyone in this country could stop smoking today, and yet we would still face a lung cancer epidemic. According to the Lung Cancer Alliance, over 60 percent of new lung cancer cases occur in those who never smoked, or who quit smoking.

I believe that we have the expertise and technology to make serious progress against this deadly cancer, and to reach the goal of halving lung cancer mortality by 2015.

We need this legislation to ensure that our Government's resources are focused on this mission in the most efficient way possible.

Agency efforts must be coordinated, and every part of the National Institutes of Health that may have some ideas to lend should be participating. That is what the Lung Cancer Mortality Reduction Program will accomplish.

We can do better for Americans diagnosed with lung cancer. I ask my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lung Cancer Mortality Reduction Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Lung cancer is the leading cause of cancer death for both men and women, accounting for 28 percent of all cancer deaths.

(2) Lung cancer kills more people annually than breast cancer, prostate cancer, colon cancer, liver cancer, melanoma, and kidney cancer combined.

(3) Since the enactment of the National Cancer Act of 1971 (Public Law 92–218; 85 Stat. 778), coordinated and comprehensive research has raised the 5-year survival rates for breast cancer to 88 percent, for prostate cancer to 99 percent, and for colon cancer to 64 percent.

(4) However, the 5-year survival rate for lung cancer is still only 15 percent and a similar coordinated and comprehensive research effort is required to achieve increases in lung cancer survivability rates.

(5) Sixty percent of lung cancer cases are now diagnosed as nonsmokers or former smokers.

(6) Two-thirds of nonsmokers diagnosed with lung cancer are women.

(7) Certain minority populations, such as African-American males, have disproportionately high rates of lung cancer incidence and mortality, notwithstanding their similar smoking rate.

(8) Members of the baby boomer generation are entering their sixties, the most common age at which people develop lung cancer.

(9) Tobacco addiction and exposure to other lung cancer carcinogens such as Agent Orange and other herbicides and battlefield emissions are serious problems among military personnel and war veterans.

(10) Significant and rapid improvements in lung cancer mortality can be expected through greater use and access to lung cancer screening tests for at-risk individuals.

(11) Additional strategies are necessary to further enhance the existing tests and therapies available to diagnose and treat lung cancer in the future.

(12) The August 2001 Report of the Lung Cancer Progress Review Group of the National Cancer Institute stated that funding for lung cancer research was ''far below the levels characterized for other common malignancies and far out of proportion to its massive health impact''.

(13) The Report of the Lung Cancer Progress Review Group identified as its ''highest priority'' the creation of integrated, multidisciplinary, multi-institutional research consortia organized around the problem of lung cancer.

(14) The United States must enhance its response to the issues raised in the Report of the Lung Cancer Progress Review Group, and this can be accomplished through the establishment of a coordinated effort designed to reduce the lung cancer mortality rate by 50 percent by 2016 and through targeted funding to support this coordinated effort.

SEC. 3. SENSE OF THE SENATE CONCERNING INVESTMENT IN LUNG CANCER RESEARCH.

It is the sense of the Senate that—

(1) lung cancer mortality reduction should be made a national public health priority; and

(2) a comprehensive mortality reduction program coordinated by the Secretary of Health and Human Services is justified and necessary to adequately address and reduce lung cancer mortality.

SEC. 4. LUNG CANCER MORTALITY REDUCTION PROGRAM.

(a) IN GENERAL.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

''SEC. 417G. LUNG CANCER MORTALITY REDUCTION PROGRAM.

''(a) IN GENERAL.—Not later than 6 months after the date of enactment of the Lung Cancer Mortality Reduction Act of 2009, the Secretary, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, the Commissioner of the Food and Drug Administration, the Administrator of the Centers for Medicare & Medicaid Services, the Director of the National Center on Minority Health and Health Disparities, and other members of the Lung Cancer Advisory Board established under section 6 of the Lung Cancer Mortality Reduction Act of 2009, shall implement a comprehensive program to achieve a 50 percent reduction in the mortality rate of lung cancer by 2016.

''(b) REQUIREMENTS.—The program implemented under subsection (a) shall include at least the following:

''(1) With respect to the National Institutes of Health—

''(A) a strategic review and prioritization by the National Cancer Institute of research grants to achieve the goal of the program in reducing lung cancer mortality;

''(B) the provision of funds to enable the Airway Biology and Disease Branch of the National Heart, Lung, and Blood Institute to expand its research programs to include predispositions to lung cancer, the interrelationship between lung cancer and other pulmonary and cardiac disease, and the diagnosis and treatment of these interrelationships;

''(C) the provision of funds to enable the National Institute of Biomedical Imaging and Bioengineering to expand its Quantum Grant Program and Image-Guided Interventions programs to expedite the development of computer assisted diagnostic, surgical, treatment, and drug testing innovations to reduce lung cancer mortality; and

''(D) the provision of funds to enable the National Institute of Environmental Health Sciences to implement research programs relative to lung cancer incidence.

''(2) With respect to the Food and Drug Administration—

''(A) the establishment of a lung cancer mortality reduction drug program under subchapter G of chapter V of the Federal Food, Drug, and Cosmetic Act; and

''(B) compassionate access activities under section 561 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb).

''(3) With respect to the Centers for Disease Control and Prevention, the establishment of a lung cancer mortality reduction program under section 1511.

''(4) With respect to the Agency for Healthcare Research and Quality, the conduct of a biannual review of lung cancer screening, diagnostic and treatment protocols, and the issuance of updated guidelines.

''(5) The cooperation and coordination of all minority and health disparity programs within the Department of Health and Human Services to ensure that all aspects of the Lung Cancer Mortality Reduction Program adequately address the burden of lung cancer on minority and rural populations.

''(6) The cooperation and coordination of all tobacco control and cessation programs within agencies of the Department of Health and Human Services to achieve the goals of the Lung Cancer Mortality Reduction Program with particular emphasis on the coordination of drug and other cessation treatments with early detection protocols.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

''(1) $25,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(B), and such sums as may be necessary for each of fiscal years 2011 through 2014;

''(2) $25,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(C), and such sums as may be necessary for each of fiscal years 2011 through 2014;

''(3) $10,000,000 for fiscal year 2010 for the activities described in subsection (b)(1)(D), and such sums as may be necessary for each of fiscal years 2011 through 2014; and

''(4) $15,000,000 for fiscal year 2010 for the activities described in subsection (b)(3), and such sums as may be necessary for each of fiscal years 2011 through 2014.''.

(b) FOOD, DRUG, AND COSMETIC ACT.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''Subchapter G—Lung Cancer Mortality Reduction Programs

''SEC. 581. LUNG CANCER MORTALITY REDUCTION PROGRAM.

''(a) IN GENERAL.—The Secretary shall implement a program to provide incentives of the type provided for in subchapter B of this chapter for the development of chemoprevention drugs for precancerous conditions of the lung, drugs for targeted therapeutic treatments and vaccines for lung cancer, and new agents to curtail or prevent nicotine addiction. The Secretary shall model the program implemented under this section on the program provided for under subchapter B of this chapter with respect to certain drugs.

''(b) APPLICATION OF PROVISIONS.—The Secretary shall apply the provisions of subchapter B of this chapter to drugs, biological products, and devices for the prevention or treatment of lung cancer, including drugs, biological products, and devices for chemoprevention of precancerous conditions of the lungs, vaccination against the development of lung cancer, and therapeutic treatment for lung cancer.

''(c) BOARD.—The Board established under section 6 of the Lung Cancer Mortality Reduction Act of 2009 shall monitor the program implemented under this section.''.

(c) ACCESS TO UNAPPROVED THERAPIES.—Section 561(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb(e)) is amended by inserting before the period the following: ''and shall include providing compassionate access to drugs, biological products, and devices under the program under section 581, with substantial consideration being given to whether the totality of information available to the Secretary regarding the safety and effectiveness of an investigational drug, as compared to the risk of morbidity and death from the disease, indicates that a patient may obtain more benefit than risk if treated with the drug, biological product, or device.''.

(d) CDC.—Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended by adding at the end the following:

''SEC. 1511. LUNG CANCER MORTALITY REDUCTION PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish and implement an early disease research and management program targeted at the high incidence and mortality rates among minority and low-income populations.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.''.

SEC. 5. DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Defense and the Secretary of Veterans Affairs shall coordinate with the Secretary of Health and Human Services—

(1) in the development of the Lung Cancer Mortality Reduction Program under section 417E of part C of title IV of the Public Health Service Act, as amended by section 4;

(2) in the implementation within the Department of Defense and the Department of Veterans Affairs of an early detection and disease management research program for military personnel and veterans whose smoking history and exposure to carcinogens during active duty service has increased their risk for lung cancer; and

(3) in the implementation of coordinated care programs for military personnel and veterans diagnosed with lung cancer.

SEC. 6. LUNG CANCER ADVISORY BOARD.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a Lung Cancer Advisory Board (referred to in this section as the ''Board'') to monitor the programs established under this Act (and the amendments made by this Act), and provide annual reports to Congress concerning benchmarks, expenditures, lung cancer statistics, and the public health impact of such programs.

(b) COMPOSITION.—The Board shall be composed of—

(1) the Secretary of Health and Human Services;

(2) the Secretary of Defense;

(3) the Secretary of Veterans Affairs; and

(4) two representatives each from the fields of—

(A) clinical medicine focused on lung cancer;

(B) lung cancer research;

(C) imaging;

(D) drug development; and

(E) lung cancer advocacy,

to be appointed by the Secretary of Health and Human Services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the programs under this Act (and the amendments made by this Act), there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014.

By Mr. LUGAR:

S. 334. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to introduce legislation designed to extend permanent normal trade relations to Moldova. Moldova is still subject to the provisions of the Jackson-Vanik amendment to the Trade Act of 1974, which sanctions nations for failure to comply with freedom of emigration requirements. This bill would repeal permanently the application of Jackson-Vanik to Moldova.

Moldova is a small country located in Europe between Ukraine and Romania. Throughout the Cold War it was a part of the Soviet Union. It gained its independence from the Soviet Union on August 27, 1991. The United States has supported Moldova in its journey toward democracy and sovereignty.

The United States enjoys good relations with Moldova and has encouraged Moldovan efforts to integrate with Euro-Atlantic institutions. Moldova has been selected to participate in the Eastern Partnership, an initiative proposed by the European Union in 2008, which will facilitate the creation of free trade agreements, energy security plans, and closer economic ties between the EU and Moldova.

Since declaring independence from the Soviet Union in 1992, Moldova has enacted a series of democratic and free market reforms. In 2001, Moldova became a member of the World Trade Organization. Furthermore, Moldovan President Vladimir Voronin has recently expressed his desire to sign an accord to strengthen relations between Moldova and the European Union this year. Until the United States terminates application of Jackson-Vanik on Moldova, the U.S. will not benefit from Moldova's market access commitments nor can it resort to WTO dispute resolution mechanisms. While all other WTO members currently enjoy these benefits, the U.S. does not.

The Republic of Moldova has been evaluated every year and granted normal trade relations with the United States through annual presidential waivers from the effects of Jackson-Vanik. The Moldovan constitution guarantees its citizens the right to emigrate and this right is respected in practice. Most emigration restrictions were eliminated in 1991 and virtually no problems with emigration have been reported in the 16 years since independence. More specifically, Moldova does not impose emigration restrictions on members of the Jewish community. Synagogues function openly and without harassment. As a result, the administration finds that Moldova is in full compliance with Jackson-Vanik's provisions.

Since declaring independence from the Soviet Union in 1992, Moldova has

enacted a series of democratic and free market reforms. Parliamentary elections in 2005 and local elections in 2007 generally complied with international standards for democratic elections.

Moldova has also contributed constructively towards a resolution of the long-standing separatist conflict in the country's Transniestria region, most recently by proposing a series of confidence-building measures and working groups. In addition, trade increased between the two parties by 30 percent in 2007.

The United States and Moldova have established a strong record of achievement in security cooperation. In 1997 the Nunn-Lugar Cooperative Threat Reduction Program responded to a Moldovan request for assistance. The U.S. purchased and secured 14 nuclear-capable MiG–29Cs from Moldova. These fighter aircraft were built by the former Soviet Union to launch nuclear weapons. Moldova expressed concern that these aircraft were unsecure due to the lack of funds and equipment necessary to ensure they were not stolen or smuggled out of the country. Specifically, emissaries from Iran had shown great interest and had attempted to acquire the aircraft. These planes were not destroyed. They were disassembled and shipped to Wright Patterson Air Force Base because they can be used by American experts for research purposes.

Moldova has made small, but important, troop contributions in Iraq. These contributions include significant demining capabilities and contingents of combat troops. I am pleased that the United States remains prepared to assist in weapons and ammunition disposal and force relocation assistance to help deal with the costs of military realignments in Moldova and to assist with military downsizing and reforms.

One of the areas where we can deepen U.S.-Moldovan relations is bilateral trade. In light of its adherence to freedom of emigration requirements, compliance with threat reduction and cooperation in the global war on terrorism, the products of Moldova should not be subject to the sanctions of Jackson-Vanik. The U.S. must remain committed and engaged in assisting Moldova in pursuing economic and development reforms. The government in Chisinau still has important work to do in these critical areas. The support and encouragement of the U.S. and the international community will be key to encouraging the Government of Moldova to take the necessary steps to initiate reform. The permanent waiver of Jackson-Vanik and establishment of permanent normal trade relations will be the foundation on which further progress in a burgeoning economic and energy partnership can be made.

I am hopeful that my colleagues will join me in supporting this important legislation. It is essential that we act promptly to bolster this important relationship and promote stability in this region.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 22—RECOGNIZING THE GOALS OF CATHOLIC SCHOOLS WEEK AND HONORING THE VALUABLE CONTRIBUTIONS OF CATHOLIC SCHOOLS IN THE UNITED STATES

Mr. VITTER (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 22

Whereas Catholic schools in the United States have received international acclaim for academic excellence while providing students with lessons that extend far beyond the classroom;

Whereas Catholic schools present a broad curriculum that emphasizes the lifelong development of moral, intellectual, physical, and social values in the young people of the United States;

Whereas Catholic schools in the United States today educate 2,270,913 students and maintain a student-to-teacher ratio of 14 to 1;

Whereas the faculty members of Catholic schools teach a highly diverse body of students;

Whereas the graduation rate for all Catholic school students is 95 percent;

Whereas 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual character and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, ''Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives.'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of Catholic Schools Week, an event cosponsored by the National Catholic Educational Association and the United States Conference of Catholic Bishops that recognizes the vital contributions of thousands of Catholic elementary and secondary schools in the United States; and

(2) commends Catholic schools, students, parents, and teachers across the United States for their ongoing contributions to education, and for the vital role they play in promoting and ensuring a brighter, stronger future for the United States.

SENATE RESOLUTION 23—HONORING THE LIFE OF ANDREW WYETH

Mr. CASEY (for himself, Mr. SPECTER, Ms. SNOWE, and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 23

Whereas Andrew Wyeth was one of the most popular American artists of the twentieth century, whose paintings presented to the world his impressions of rural American landscapes and lives;

Whereas Andrew Wyeth was born in Chadds Ford, Pennsylvania on July 12, 1917, where he spent much of his life and where today stands the Brandywine River Museum, a museum dedicated to the works of the Wyeth family;

Whereas Andrew Wyeth died the morning of January 16, 2009, at the age of 91, in his home in Chadds Ford, Pennsylvania;

Whereas it is the intent of the Senate to recognize and pay tribute to the life of Andrew Wyeth, his passion for painting, his contribution to the world of art, and his deep understanding of the human condition;

Whereas Andrew Wyeth was born the son of famed illustrator N.C. Wyeth and grew up surrounded by artists in an environment that encouraged imagination and free-thinking;

Whereas Andrew Wyeth became an icon who focused his work on family and friends in Chadds Ford and in coastal Maine, where he spent his summers and where he met Christina Olson, the subject of his famed painting 'Christina's World';

Whereas Andrew Wyeth's paintings were immensely popular among the public but sometimes disparaged by critics for their lack of color and bleak landscapes portraying isolation and alienation;

Whereas Andrew Wyeth's works could be controversial, as they sparked dialogue and disagreement in the art world concerning the natures of realism and modernism;

Whereas Andrew Wyeth was immensely patriotic and an independent thinker who broke with many of his peers on the issues of the day;

Whereas Andrew Wyeth was a beloved figure in Chadds Ford and had his own seat at the corner table of the Chadds Ford Inn, where reproductions of his art line the walls;

Whereas Andrew Wyeth received the Presidential Medal of Freedom in 1963 and the Congressional Gold Medal of Honor in 1988;

Whereas Andrew Wyeth let it be known that he lived to paint and never lost his simplicity and caring for people despite his immense fame and successful career; and

Whereas the passing of Andrew Wyeth is a great loss to the world of art, and his life should be honored with highest praise and appreciation for his paintings which remain with us although he is gone: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Andrew Wyeth as a treasure of the United States and one of the most popular artists of the twentieth century; and

(2) recognizes the outstanding contributions of Andrew Wyeth to the art world and to the community of Chadds Ford, Pennsylvania.

AMENDMENTS SUBMITTED AND PROPOSED

SA 39. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend

title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

SA 40. Mr. MCCONNELL (for himself, Mr. KYL, Mr. VITTER, Mr. CHAMBLISS, Mr. BUNNING, Mr. GREGG, Mr. COBURN, Mr. BURR, Mr. ISAKSON, Mr. GRAHAM, Mr. INHOFE, Mr. CORNYN, Mr. BROWNBACK, Mr. COCHRAN, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BENNETT, Mr. BARRASSO, Mr. ENZI, and Mr. WICKER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 41. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. VITTER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 42. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 43. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 44. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 45. Mr. HATCH (for himself, Mr. GRASSLEY, and Mr. WICKER) proposed an amendment to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 46. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 47. Mr. COBURN (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 48. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 49. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 50. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 51. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 52. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 53. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 54. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 55. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 56. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 57. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 58. Mr. WEBB (for himself, Mrs. HAGAN, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 59. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 60. Mr. WICKER (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 61. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 62. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 63. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 64. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 65. Mr. MARTINEZ (for himself, Mr. VITTER, Mr. WICKER, Mr. BUNNING, Mr. ENZI, Mr. COBURN, Mr. JOHANNS, Mr. BROWNBACK, Mr. INHOFE, Mr. CHAMBLISS, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 66. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 67. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 68. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 69. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 70. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 71. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 72. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 73. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 39. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2009''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSE.

It is the purpose of this Act to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION; CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.

(a) GENERAL EFFECTIVE DATE.—Unless otherwise provided in this Act, subject to subsections (b) through (d), this Act (and the amendments made by this Act) shall take effect on April 1, 2009, and shall apply to child health assistance and medical assistance provided on or after that date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11), 2104(k), or 2104(l) of the Social Security Act, as amended by section 201 of Public Law 110–173, to provide allotments to States under CHIP for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before April 1, 2009 are rescinded; and

(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

(d) RELIANCE ON LAW.—With respect to amendments made by this Act (other than title VII) that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

TITLE I—FINANCING

Subtitle A—Funding

SEC. 101. EXTENSION OF CHIP.

Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by amending paragraph (11), by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(3) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $10,562,000,000;

''(13) for fiscal year 2010, $12,520,000,000;

''(14) for fiscal year 2011, $13,459,000,000;

''(15) for fiscal year 2012, $14,982,000,000; and

''(16) for fiscal year 2013, for purposes of making 2 semi-annual allotments—

''(A) $2,850,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

''(B) $2,850,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.''.

SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES FOR FISCAL YEARS 2009 THROUGH 2013.

Section 2104 (42 U.S.C. 1397dd) is amended—

(1) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)'';

(2) in subsection (c)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)(4)''; and

(3) by adding at the end the following new subsection:

''(m) ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) FOR FISCAL YEAR 2009.—

''(A) FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

''(i) The total Federal payments to the State under this title for fiscal year 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(ii) The amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iii) The projected total Federal payments to the State under this title for fiscal year 2009, as determined on the basis of the

February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

''(B) FOR THE COMMONWEALTHS AND TERRITORIES.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting 'the United States' for 'the State'.

''(C) ADJUSTMENT FOR QUALIFYING STATES.—In the case of a qualifying State described in paragraph (2) of section 2105(g), the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

''(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

''(i) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2010.—For fiscal year 2010, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

''(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

''(ii) REBASING IN FISCAL YEAR 2011.—For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

''(iii) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2012.—For fiscal year 2012, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

''(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

''(3) FOR FISCAL YEAR 2013.—

''(A) FIRST HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

''(B) SECOND HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

''(i) the amount of the allotment to such State under subparagraph (A); to

''(ii) the total of the amount of all of the allotments made available under such subparagraph.

''(C) FULL YEAR AMOUNT BASED ON REBASED AMOUNT.—The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

''(D) FIRST HALF RATIO.—The first half ratio described in this subparagraph is the ratio of—

''(i) the sum of—

''(I) the amount made available under subsection (a)(16)(A); and

''(II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to

''(ii) the sum of the—

''(I) amount described in clause (i); and

''(II) the amount made available under subsection (a)(16)(B).

''(4) PRORATION RULE.—If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2013, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

''(5) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

''(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

''(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

''(6) INCREASE IN ALLOTMENT TO ACCOUNT FOR APPROVED PROGRAM EXPANSIONS.—In the case of one of the 50 States or the District of Columbia that—

''(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this title that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2013); and

''(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

''(i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year; and

''(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year,

subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010 or fiscal year 2012.

''(7) AVAILABILITY OF AMOUNTS FOR SEMI-ANNUAL PERIODS IN FISCAL YEAR 2013.—Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2013 shall remain available for expenditure under this title for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.''.

SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.

Section 2104 (42 U.S.C. 1397dd), as amended by section 102, is amended by adding at the end the following new subsection:

''(n) CHILD ENROLLMENT CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Child Enrollment Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

''(B) AGGREGATE CAP.—The total amount available for payment from the Fund for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), taking into account deposits made under subparagraph (C), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from

the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) AVAILABILITY OF EXCESS FUNDS FOR PERFORMANCE BONUSES.—Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 2105(a)(3) for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

''(3) CHILD ENROLLMENT CONTINGENCY FUND PAYMENTS.—

''(A) IN GENERAL.—If a State's expenditures under this title in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, or a semi-annual allotment period for fiscal year 2013, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

''(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

''(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved (or in which the period occurs).

''(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this paragraph, the target average number of child enrollees for a State—

''(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

''(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

''(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

''(D) PRORATION RULE.—If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

''(E) TIMELY PAYMENT; RECONCILIATION.—Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 2105 shall apply to payments under this subsection in the same manner as they apply to payments under such section.

''(F) CONTINUED REPORTING.—For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.''.

SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

Section 2105(a) (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

''(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

''(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

''(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under the State plan under title XIX, respectively; exceeds

''(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under title XIX, respectively;

but not to exceed 10 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under title XIX as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) BASELINE NUMBER OF CHILD ENROLLEES.—Subject to subparagraph (H), the baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points;

''(II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points;

''(III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and

''(IV) for a subsequent fiscal year is equal to the baseline number of child enrollees for

the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the fiscal year involved begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 2 percentage points.

''(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

''(i) INITIAL APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there are appropriated $3,225,000,000 for fiscal year 2009 for making payments under this paragraph, to be available until expended.

''(ii) TRANSFERS.—Notwithstanding any other provision of this title, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

''(I) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2009 THROUGH 2012.—As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2013.—As of December 31 of fiscal year 2013, the portion, if any, of the sum of the amounts appropriated under subsection (a)(16)(A) and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2013.—As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B) for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(II) UNEXPENDED ALLOTMENTS NOT USED FOR REDISTRIBUTION.—As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 2104 for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 2104(f) during the period in which such allotments are available for obligation.

''(III) EXCESS CHILD ENROLLMENT CONTINGENCY FUNDS.—As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 2104(n).

''(IV) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—As of October 1, 2011, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2011.

''(iii) PROPORTIONAL REDUCTION.—If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

''(F) QUALIFYING CHILDREN DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clauses (ii) and (iii), the term 'qualifying children' means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.

''(ii) LIMITATION.—A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a 'qualifying child' only if the child is determined to be eligible for medical assistance under title XIX.

''(iii) EXCLUSION.—Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v).

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—The provisions of subparagraph (G) of section 2104(n)(3) shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

''(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—In the case of a State that provides coverage under section 115 of the Children's Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

''(i) any child enrolled in the State plan under title XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and

''(ii) in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under title XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX for such third fiscal year.

''(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

''(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

''(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

''(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

''(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

''(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

''(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

''(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

''(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

''(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

''(i) IN GENERAL.—The State provides, in the case of renewal of a child's eligibility for medical assistance under title XIX or child health assistance under this title, a preprinted form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

''(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State's possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant's parent or caretaker relative.

''(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is implementing the option of providing premium assistance subsidies under section 2105(c)(10) or section 1906A.''.

SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.

(a) BEGINNING WITH FISCAL YEAR 2007.—

(1) IN GENERAL.—Section 2104(f) (42 U.S.C. 1397dd(f)) is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''States that have fully expended the amount of their allotments under this section.'' and inserting ''States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).''; and

(C) by adding at the end the following new paragraph:

''(2) SHORTFALL STATES DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

''(i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

''(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

''(iii) the amount of the State's allotment for the fiscal year.

''(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

''(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.

(b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C. 1397dd(k)) is amended—

(1) in the subsection heading, by striking ''THE FIRST 2 QUARTERS OF'';

(2) in paragraph (1), by striking ''the first 2 quarters of''; and

(3) in paragraph (6)—

(A) by striking ''the first 2 quarters of''; and

(B) by striking ''March 31'' and inserting ''September 30''.

SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN.

(a) IN GENERAL.—Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

(1) in paragraph (1)(A), as amended by section 201(b)(1) of Public Law 110–173—

(A) by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

(B) by striking ''2008, or 2009'' and inserting ''or 2008''; and

(2) by adding at the end the following new paragraph:

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2009 through 2013 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is repealed.

SEC. 108. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $11,706,000,000 to accompany the allotment made for the period beginning on October 1, 2012, and ending on March 31, 2013, under section 2104(a)(16)(A) of the Social Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under paragraph (3) of section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(i)), as added by section 102, for the first 6 months of fiscal year 2013 in the same manner as allotments are provided under subsection (a)(16)(A) of such section 2104 and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(16)(A).

SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID.

Section 1108(g) (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2009, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

Subtitle B—Focus on Low-Income Children and Pregnant Women

SEC. 111. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 112(a), is amended by adding at the end the following new section:

''SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

''(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR PREGNANT WOMEN AND CHILDREN.—The State has established an income eligibility level—

''(A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and

''(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with

higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

''(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

''(d) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

''(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

''(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting ''**OR PREGNANCY-RELATED ASSISTANCE**'' after ''**PREVENTIVE SERVICES**''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

(1) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF 2009.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2010, notwithstanding the requirements of subsections (e) and (f) of section 1115, a State may submit, not later than September 30, 2009, a request to the Secretary for an extension of the waiver. The Secretary shall approve a request for an extension of an applicable existing waiver submitted pursuant to this subparagraph, but only through December 31, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on the date of the enactment of this subsection and ending on December 31, 2009.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under

subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the year involved over the preceding calendar year, as most recently published by the Secretary.

''(b) RULES AND CONDITIONS FOR COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN.—

''(1) TWO-YEAR PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2011.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during the third and fourth quarters of fiscal year 2009 and during fiscal years 2010 and 2011.

''(2) RULES FOR FISCAL YEARS 2012 THROUGH 2013.—

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 2104(a)(16) and any reduction in the allotment for either such period under section 2104(m)(4) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2012 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraph (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2013.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply.

For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

''(v) NO FEDERAL PAYMENTS OTHER THAN FROM BLOCK GRANT SET ASIDE.—No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2011;

''(ii) implemented 1 or more of the enrollment and retention provisions described in section 2105(a)(4) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest ⅓ of States in terms of the State's percentage of low-income children without health insurance.

''(C) STATE INCREASING ENROLLMENT OF LOW-INCOME CHILDREN.—The State qualified for a performance bonus payment under section 2105(a)(3)(B) for the most recent fiscal year applicable under such section.

''(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect during fiscal year 2009.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(i) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

(ii) in the first sentence, by inserting ''or a parent (as defined in section 2111(c)(2)(A)), who is not pregnant, of a targeted low-income child'' before the period;

(iii) by striking the second sentence; and

(iv) by adding at the end the following new paragraph:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009 that would waive or modify the requirements of section 2111.''.

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 112 of the Children's Health Insurance Program Reauthorization Act of 2009, nothing''.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of whether—

(A) the coverage of a parent, a caretaker relative (as such term is used in carrying out section 1931), or a legal guardian of a targeted low-income child under a State health plan under title XXI of the Social Security Act increases the enrollment of, or the quality of care for, children, and

(B) such parents, relatives, and legal guardians who enroll in such a plan are more likely to enroll their children in such a plan or in a State plan under title XIX of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall report the results of the study to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations (if any) for changes in legislation.

SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

(a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) [reserved]''.

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking ''so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance''.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) (42 U.S.C. 1396r–1(b)) is amended by adding after paragraph (2) the following flush sentence:

''The term 'qualified provider' also includes a qualified entity, as defined in section 1920A(b)(3).''.

SEC. 114. LIMITATION ON MATCHING RATE FOR STATES THAT PROPOSE TO COVER CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) FMAP APPLIED TO EXPENDITURES.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON MATCHING RATE FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE PROVIDED TO CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) FMAP APPLIED TO EXPENDITURES.—Except as provided in subparagraph (B), for fiscal years beginning with fiscal year 2009, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as—

(1) changing any income eligibility level for children under title XXI of the Social Security Act; or

(2) changing the flexibility provided States under such title to establish the income eligibility level for targeted low-income children under a State child health plan and the methodologies used by the State to determine income or assets under such plan.

SEC. 115. STATE AUTHORITY UNDER MEDICAID.

Notwithstanding any other provision of law, including the fourth sentence of subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) or subsection (u) of such section, at State option, the Secretary shall provide the State with the Federal medical assistance percentage determined for the State for Medicaid with respect to expenditures described in section 1905(u)(2)(A) of such Act or otherwise made to provide medical assistance under Medicaid to a child who could be covered by the State under CHIP.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 111, is amended by adding at the end the following:

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2013 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

''(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO STATE MATCH REQUIRED.—In the case of a State that is awarded a grant under this section—

''(1) the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded; and

''(2) no State matching funds shall be required for the State to receive a grant under this section.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to nongovernmental entities.

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $100,000,000 for the period of fiscal years 2009 through 2013, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR INTERPRETATION SERVICES UNDER CHIP AND MEDICAID.—

(1) CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as amended by section 113, is amended—

(A) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ''and'' at the end;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(2) MEDICAID.—

(A) USE OF MEDICAID FUNDS.—Section 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, children of families for whom English is not the primary language; plus''.

(B) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(i) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397bb(c)(1)) is amended by inserting ''(through community health workers and others)'' after ''Outreach''.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting ''(such as through community health workers and others)'' after ''including practices''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended to read as follows:

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE xix.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13) EXPRESS LANE OPTION.—

''(A) IN GENERAL.—

''(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (G)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (F)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B) and 1137(d) or any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

''(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

''(II) NOTICE REQUIREMENT.—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency's finding of such child's income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its regular policies and of the procedures for requesting such an evaluation.

''(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

''(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9), as applicable for verifications of citizenship or nationality status.

''(V) CODING.—The State meets the requirements of subparagraph (E).

''(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

''(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

''(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

''(i) IN GENERAL.—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

''(ii) ESTABLISHING A SCREENING THRESHOLD.—

''(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

''(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

''(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

''(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State's regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for medical assistance under this title using such regular procedures.

''(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

''(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

''(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

''(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child's eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

''(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

''(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child's parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

''(V) AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

''(D) OPTION FOR AUTOMATIC ENROLLMENT.—

''(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation and signature on an Express Lane agency application, if the requirement of clause (ii) is met.

''(ii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

''(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iv), the requirement of this subparagraph for a State is that the State agrees to—

''(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's election under this paragraph;

''(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate (as described in clause (iv)) with respect to the enrollment of such children (and shall not include such children in any data or samples used for purposes of complying with a Medicaid Eligibility Quality Control (MEQC) review or a payment error rate measurement (PERM) requirement);

''(III) submit the error rate determined under subclause (II) to the Secretary;

''(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State elects to apply this paragraph, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

''(V) if such error rate exceeds 3 percent for any fiscal year in which the State elects to apply this paragraph, a reduction in the amount otherwise payable to the State under section 1903(a) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year

that are in excess of a 3 percent error rate with respect to such children.

''(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

''(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as relieving a State that elects to apply this paragraph from being subject to a penalty under section 1903(u), for payments made under the State Medicaid plan with respect to ineligible individuals and families that are determined to exceed the error rate permitted under that section (as determined without regard to the error rate determined under clause (i)(II)).

''(iv) ERROR RATE DEFINED.—In this subparagraph, the term 'error rate' means the rate of erroneous excess payments for medical assistance (as defined in section 1903(u)(1)(D)) for the period involved, except that such payments shall be limited to individuals for which eligibility determinations are made under this paragraph and except that in applying this paragraph under title XXI, there shall be substituted for references to provisions of this title corresponding provisions within title XXI.

''(F) EXPRESS LANE AGENCY.—

''(i) IN GENERAL.—In this paragraph, the term 'Express Lane agency' means a public agency that—

''(I) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of one or more eligibility requirements described in subparagraph (A)(i);

''(II) is identified in the State Medicaid plan or the State CHIP plan; and

''(III) notifies the child's family—

''(aa) of the information which shall be disclosed in accordance with this paragraph;

''(bb) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

''(cc) that the family may elect to not have the information disclosed for such purposes; and

''(IV) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

''(ii) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such term includes the following:

''(I) A public agency that determines eligibility for assistance under any of the following:

''(aa) The temporary assistance for needy families program funded under part A of title IV.

''(bb) A State program funded under part D of title IV.

''(cc) The State Medicaid plan.

''(dd) The State CHIP plan.

''(ee) The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

''(ff) The Head Start Act (42 U.S.C. 9801 et seq.).

''(gg) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(hh) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(ii) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(jj) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

''(kk) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

''(ll) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(II) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

''(III) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

''(iii) EXCLUSIONS.—Such term does not include an agency that determines eligibility for a program established under the Social Services Block Grant established under title XX or a private, for-profit organization.

''(iv) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(I) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

''(II) authorizing a State Medicaid agency that elects to use Express Lane agencies under this subparagraph to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

''(v) ADDITIONAL DEFINITIONS.—In this paragraph:

''(I) STATE.—The term 'State' means 1 of the 50 States or the District of Columbia.

''(II) STATE CHIP AGENCY.—The term 'State CHIP agency' means the State agency responsible for administering the State CHIP plan.

''(III) STATE CHIP PLAN.—The term 'State CHIP plan' means the State child health plan established under title XXI and includes any waiver of such plan.

''(IV) STATE MEDICAID AGENCY.—The term 'State Medicaid agency' means the State agency responsible for administering the State Medicaid plan.

''(V) STATE MEDICAID PLAN.—The term 'State Medicaid plan' means the State plan established under title XIX and includes any waiver of such plan.

''(G) CHILD DEFINED.—For purposes of this paragraph, the term 'child' means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.

''(H) APPLICATION.—This paragraph shall not apply with respect to eligibility determinations made after September 30, 2013.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the option provided under the amendments made by subsection (a). Such evaluation shall include an analysis of the effectiveness of the option, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such plans through reliance on a finding made by an Express Lane agency improves the ability of a State to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans;

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

(D) any recommendations for legislative or administrative changes that would improve the effectiveness of enrolling children in such plans through reliance on such findings.

(2) REPORT TO CONGRESS.—Not later than September 30, 2012, the Secretary shall submit a report to Congress on the results of the evaluation under paragraph (1).

(3) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out the evaluation under this subsection $5,000,000 for the period of fiscal years 2009 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of such amount to conduct the evaluation under this subsection.

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant's signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.''.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX is amended by adding at the end the following new section:

''SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in section 1902(e)(13)(F), information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections

453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

''(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

''(1) The individual whose circumstances are described in the data or information (or such individual's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

''(B) verifying the eligibility of individuals for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

''(c) PENALTIES FOR IMPROPER DISCLOSURE.—

''(1) CIVIL MONEY PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to $10,000 for each such unauthorized publication or disclosure. The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(2) CRIMINAL PENALTY.—A private entity described in the subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than $10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

''(F) Section 1942 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ''(and, at State option, individuals who apply or whose eligibility for medical assistance is being evaluated in accordance with section 1902(e)(13)(D))'' after ''with respect to individuals who are eligible''; and

(B) by inserting ''under this title (and, at State option, child health assistance under title XXI)'' after ''the State plan''.

(e) AUTHORIZATION FOR STATES ELECTING EXPRESS LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall enter into such agreements as are necessary to permit a State that elects the Express Lane option under section 1902(e)(13) of the Social Security Act to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under a State child health plan under CHIP or a State plan under Medicaid from the following:

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.

(f) EFFECTIVE DATE.—The amendments made by this section are effective on the date of the enactment of this Act.

Subtitle B—Reducing Barriers to Enrollment

SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

(a) ALTERNATIVE STATE PROCESS FOR VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID.—

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a), as amended by section 203(c), is amended—

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

(III) by adding at the end the following new subparagraph:

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (ee);''; and

(ii) by adding at the end the following new subsection:

''(ee)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the Commissioner of Social Security as part of the program established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number, or the declaration of citizenship or nationality, of the individual is inconsistent with information in the records maintained by the Commissioner—

''(i) the State makes a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality and by taking such additional actions as the Secretary, through regulation or other guidance, or the State may identify, and continues to provide the individual with medical assistance while making such effort; and

''(ii) in the case such inconsistency is not resolved under clause (i), the State—

''(I) notifies the individual of such fact;

''(II) provides the individual with a period of 90 days from the date on which the notice required under subclause (I) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or resolve the inconsistency with the Commissioner of Social Security (and continues to provide the individual with medical assistance during such 90-day period); and

''(III) disenrolls the individual from the State plan under this title within 30 days after the end of such 90-day period if no such documentary evidence is presented or if such inconsistency is not resolved.

''(2)(A) Each State electing to satisfy the requirements of this subsection for purposes of section 1902(a)(46)(B) shall establish a program under which the State submits at least monthly to the Commissioner of Social Security for comparison of the name and social security number, of each individual newly enrolled in the State plan under this title that month who is not described in section 1903(x)(2) and who declares to be a United States citizen or national, with information in records maintained by the Commissioner.

''(B) In establishing the State program under this paragraph, the State may enter into an agreement with the Commissioner of Social Security—

''(i) to provide, through an on-line system or otherwise, for the electronic submission of, and response to, the information submitted under subparagraph (A) for an individual enrolled in the State plan under this title who declares to be citizen or national on at least a monthly basis; or

''(ii) to provide for a determination of the consistency of the information submitted with the information maintained in the records of the Commissioner through such other method as agreed to by the State and the Commissioner and approved by the Secretary, provided that such method is no more burdensome for individuals to comply with than any burdens that may apply under a method described in clause (i).

''(C) The program established under this paragraph shall provide that, in the case of any individual who is required to submit a social security number to the State under subparagraph (A) and who is unable to provide the State with such number, shall be provided with at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the inconsistent submissions bears to the total submissions made for comparison for such month. For purposes of this subparagraph, a name, social security

number, or declaration of citizenship or nationality of an individual shall be treated as inconsistent and included in the determination of such percentage only if—

''(i) the information submitted by the individual is not consistent with information in records maintained by the Commissioner of Social Security;

''(ii) the inconsistency is not resolved by the State;

''(iii) the individual was provided with a reasonable period of time to resolve the inconsistency with the Commissioner of Social Security or provide satisfactory documentation of citizenship status and did not successfully resolve such inconsistency; and

''(iv) payment has been made for an item or service furnished to the individual under this title.

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 3 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided inconsistent information as the number of individuals with inconsistent information in excess of 3 percent of such total submitted bears to the total number of individuals with inconsistent information.

''(C) The Secretary may waive, in certain limited cases, all or part of the payment under subparagraph (B)(ii) if the State is unable to reach the allowable error rate despite a good faith effort by such State.

''(D) Subparagraphs (A) and (B) shall not apply to a State for a fiscal year if there is an agreement described in paragraph (2)(B) in effect as of the close of the fiscal year that provides for the submission on a real-time basis of the information described in such paragraph.

''(4) Nothing in this subsection shall affect the rights of any individual under this title to appeal any disenrollment from a State plan.''.

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

(ii) by adding at the end the following new subparagraph:

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(ee) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

(3) CONFORMING AMENDMENTS.—Section 1903 (42 U.S.C. 1396b) is amended—

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(4) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Commissioner of Social Security $5,000,000 to remain available until expended to carry out the Commissioner's responsibilities under section 1902(ee) of the Social Security Act, as added by subsection (a).

(b) CLARIFICATION OF REQUIREMENTS RELATING TO PRESENTATION OF SATISFACTORY DOCUMENTARY EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

(1) ACCEPTANCE OF DOCUMENTARY EVIDENCE ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.—Section 1903(x)(3)(B) (42 U.S.C. 1396b(x)(3)(B)) is amended—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

(3) CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—

(A) CLARIFICATION OF RULES.—Section 1903(x) (42 U.S.C. 1396b(x)), as amended by paragraph (2), is amended—

(i) in paragraph (2)—

(I) in subparagraph (C), by striking ''or'' at the end;

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

(ii) by adding at the end the following new paragraph:

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

(4) TECHNICAL AMENDMENTS.—Section 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

(A) in subparagraph (B)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left; and

(B) in subparagraph (C)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left.

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(ii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by

this section shall take effect on January 1, 2010.

(B) TECHNICAL AMENDMENTS.—The amendments made by—

(i) paragraphs (1), (2), and (3) of subsection (b) shall take effect as if included in the enactment of section 6036 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 80); and

(ii) paragraph (4) of subsection (b) shall take effect as if included in the enactment of section 405 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 2996).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2009, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

(3) SPECIAL TRANSITION RULE FOR INDIANS.—During the period that begins on July 1, 2006, and ends on the effective date of final regulations issued under subclause (II) of section 1903(x)(3)(B)(v) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by subsection (b)(1)(B)), an individual who is a member of a federally-recognized Indian tribe described in subclause (II) of that section who presents a document described in subclause (I) of such section that is issued by such Indian tribe, shall be deemed to have presented satisfactory evidence of citizenship or nationality for purposes of satisfying the requirement of subsection (x) of section 1903 of such Act.

SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Secretary of Health and Human Services shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

SEC. 214. PERMITTING STATES TO ENSURE COVERAGE WITHOUT A 5-YEAR DELAY OF CERTAIN CHILDREN AND PREGNANT WOMEN UNDER THE MEDICAID PROGRAM AND CHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to children and pregnant women who are lawfully residing in the United States (including battered individuals described in section 431(c) of such Act) and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

''(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

''(ii) CHILDREN.—Individuals under 21 years of age, including optional targeted low-income children described in section 1905(u)(2)(B).

''(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

''(C) A State shall demonstrate that the State requires an individual provided medical assistance as a result of an election by the State under subparagraph (A), to provide the State, as part of the State's ongoing eligibility redetermination requirements and procedures, with documentation or other evidence that the individual is lawfully residing in the United States.''.

(b) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by sections 203(a)(2) and 203(d)(2), is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively and by inserting after subparagraph (D) the following new subparagraph:

''(E) Paragraph (4) of section 1903(v) (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under title XIX.''.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.

(a) CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by sections 114(a) and 211(c), is amended by adding at the end the following:

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph. No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

''(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment

of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(D) APPLICATION OF SECONDARY PAYOR RULES.—The State shall be a secondary payor for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

''(G) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

''(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(iii) CLARIFICATION OF PAYMENT FOR ADMINISTRATIVE EXPENDITURES.—Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this title.

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906 or 1906A, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

''(M) SATISFACTION OF COST-EFFECTIVENESS TEST.—Premium assistance subsidies for qualified employer-sponsored coverage offered under this paragraph shall be deemed to meet the requirement of subparagraph (A) of paragraph (3).

''(N) COORDINATION WITH MEDICAID.—In the case of a targeted low-income child who receives child health assistance through a State plan under title XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1906A shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.''.

(2) DETERMINATION OF COST-EFFECTIVENESS FOR PREMIUM ASSISTANCE OR PURCHASE OF FAMILY COVERAGE.—

(A) IN GENERAL.—Section 2105(c)(3)(A) (42 U.S.C. 1397ee(c)(3)(A)) is amended by striking ''relative to'' and all that follows through the comma and inserting ''relative to

''(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

''(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families.''.

(B) NONAPPLICATION TO PREVIOUSLY APPROVED COVERAGE.—The amendment made by subparagraph (A) shall not apply to coverage the purchase of which has been approved by the Secretary under section 2105(c)(3) of the Social Security Act prior to the date of enactment of this Act.

(b) MEDICAID.—Title XIX is amended by inserting after section 1906 the following new section:

''PREMIUM ASSISTANCE OPTION FOR CHILDREN

''SEC. 1906A. (a) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subsection (c)) for qualified employer-sponsored coverage (as defined in subsection (b)) to all individuals under age 19 who are entitled to medical assistance under this title (and to the parent of such an individual) who have access to such coverage if the State meets the requirements of this section.

''(b) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(1) IN GENERAL.—Subject to paragraph (2)), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(A) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(B) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(C) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(2) EXCEPTION.—Such term does not include coverage consisting of—

''(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(3) TREATMENT AS THIRD PARTY LIABILITY.—The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1902(a)(25).

''(c) PREMIUM ASSISTANCE SUBSIDY.—In this section, the term 'premium assistance subsidy' means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family. Premium assistance subsidies under this section shall be considered, for purposes of section 1903(a), to be a payment for medical assistance.

''(d) VOLUNTARY PARTICIPATION.—

''(1) EMPLOYERS.—Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

''(2) BENEFICIARIES.—No subsidy shall be provided to an individual under age 19 under this section unless the individual (or the individual's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. State may not require, as a condition of an individual under age 19 (or the individual's parent) being or remaining eligible for medical assistance under this title, apply for enrollment in qualified employer-sponsored coverage under this section.

''(3) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of an individual under age 19 receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

''(e) REQUIREMENT TO PAY PREMIUMS AND COST-SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In the case of the participation of an individual under age 19 (or the individual's parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916 or, if applicable, section 1916A). The fact that an individual under age 19 (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual's (or parent's) eligibility for medical assistance under the State plan, except insofar as section 1902(a)(25) provides that payments for such assistance shall first be made under such coverage.''.

(c) GAO STUDY AND REPORT.—Not later than January 1, 2010, the Comptroller General of the United States shall study cost and coverage issues relating to any State premium assistance programs for which Federal matching payments are made under title XIX or XXI of the Social Security Act, including under waiver authority, and shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the results of such study.

SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

(a) REQUIREMENT TO INCLUDE DESCRIPTION OF OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following new paragraph:

''(3) PREMIUM ASSISTANCE SUBSIDIES.—In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 211(c)(2), is amended by adding at the end the following new clause:

''(iii) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE XIX THROUGH PREMIUM ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).''.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE; COORDINATION OF COVERAGE.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning

the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

(ii) by inserting before the period the following: '', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside''.

(C) WORKING GROUP TO DEVELOP MODEL COVERAGE COORDINATION DISCLOSURE FORM.—

(i) MEDICAID, CHIP, AND EMPLOYER-SPONSORED COVERAGE COORDINATION WORKING GROUP.—

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

(aa) A determination of whether the employee is eligible for coverage under the group health plan.

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

(dd) The premiums and cost-sharing required under the plan.

(ee) Any other information relevant to coverage under the plan.

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(iii) COMPENSATION.—The members of the Working Group shall serve without compensation.

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

(E) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking ''or (8)'' and inserting ''(8), or (9)''; and

(ii) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following:

''(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

''(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

''SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

''(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

''(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

''(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

''(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability and effectiveness of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth, prevent and treat premature birth, and detect the presence or risk of physical or mental conditions that could adversely affect growth and development; and

''(ii) treatments to correct or ameliorate the effects of physical and mental conditions, including chronic conditions, in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children, including children with special needs, and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the

quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2011, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2011, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing children, including children with disabilities and children with chronic conditions;

''(F) national organizations representing consumers and purchasers of children's health care;

''(G) national organizations and individuals with expertise in pediatric health quality measurement; and

''(H) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2013, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(7) CONSTRUCTION.—Nothing in this section shall be construed as supporting the restriction of coverage, under title XIX or XXI or otherwise, to only those services that are evidence-based.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2010, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2009 through 2013, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including

the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

''(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problemsolving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section

4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2009 through 2013.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2010, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI.

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2009 through 2013, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following new clause:

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMATION REGARDING ENROLLMENT OF CHILDREN IN CHIP AND MEDICAID.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

(2) by adding at the end the following new subsection:

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) STANDARDIZED REPORTING FORMAT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act, as added by subsection (a)(2).

(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act that includes the information required under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).

(c) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary

for fiscal year 2009 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of providing more timely data on enrollment and eligibility of children under Medicaid and CHIP and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be designed and implemented (including with respect to any necessary guidance for States to report such information in a complete and expeditious manner) so that, beginning no later than October 1, 2009, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

(d) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

(a) IN GENERAL.—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

''(3) COMPLIANCE WITH MANAGED CARE REQUIREMENTS.—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2009.

TITLE V—IMPROVING ACCESS TO BENEFITS

SEC. 501. DENTAL BENEFITS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(ii) in paragraph (1), by inserting ''at least'' after ''that is''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) DENTAL BENEFITS.—

''(A) IN GENERAL.—The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

''(B) PERMITTING USE OF DENTAL BENCHMARK PLANS BY CERTAIN STATES.—A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

''(C) BENCHMARK DENTAL BENEFIT PACKAGES.—The benchmark dental benefit packages are as follows:

''(i) FEHBP CHILDREN'S DENTAL COVERAGE.—A dental benefits plan under chapter 89A of title 5, United States Code, that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(ii) STATE EMPLOYEE DEPENDENT DENTAL COVERAGE.—A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(iii) COVERAGE OFFERED THROUGH COMMERCIAL DENTAL PLAN.—A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.''.

(2) ASSURING ACCESS TO CARE.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to coverage of items and services furnished on or after October 1, 2009.

(b) STATE OPTION TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

(1) IN GENERAL.——Section 2110(b) (42 U.S.C. 1397jj(b)) is amended—

(A) in paragraph (1)(C), by inserting '', subject to paragraph (5),'' after ''under title XIX or''; and

(B) by adding at the end the following new paragraph:

''(5) STATE OPTION TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under the State child health plan, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan (whether implemented under title XIX or this title)—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

(3) APPLICATION OF ENHANCED MATCH UNDER MEDICAID.—Section 1905 (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the fourth sentence, by striking ''or subsection (u)(3)'' and inserting '', (u)(3), or (u)(4)''; and

(B) in subsection (u)—

(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following new paragraph:

''(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for dental-only supplemental coverage for children described in section 2110(b)(5).''.

(c) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(d) PROVISION OF DENTAL SERVICES THROUGH FQHCS.—

(1) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (70);

(B) by striking the period at the end of paragraph (71) and inserting ''; and''; and

(C) by inserting after paragraph (71) the following new paragraph:

''(72) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397g(e)(1)), as amended by subsections (a)(2) and (d)(2) of section 203, is amended by inserting after subparagraph (B) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(C) Section 1902(a)(72) (relating to limiting FQHC contracting for provision of dental services).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2009.

(e) REPORTING INFORMATION ON DENTAL HEALTH.—

(1) MEDICAID.—Section 1902(a)(43)(D)(iii) (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting ''and other information relating to the provision of dental services to such children described in section 2108(e)'' after ''receiving dental services,''.

(2) CHIP.—Section 2108 (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

''(e) INFORMATION ON DENTAL CARE FOR CHILDREN.—

''(1) IN GENERAL.—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

''(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

''(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

''(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

''(2) INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(f) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act, on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually.

(g) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a), as added by section 401(a), is amended—

(1) in paragraph (3)(B)(ii), by inserting ''and, with respect to dental care, conditions requiring the restoration of teeth, relief of pain and infection, and maintenance of dental health'' after ''chronic conditions''; and

(2) in paragraph (6)(A)(ii), by inserting ''dental care,'' after ''preventive health services,''.

(h) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas;

(B) children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(i) the extent to which dental providers are willing to treat children eligible for such programs;

(ii) information on such children's access to networks of care, including such networks that serve special needs children; and

(iii) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(C) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) REPORT.—Not later than 18 months year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by inserting after paragraph (5), the following:

''(6) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance use disorder benefits comply with the requirements of section 2705(a) of the Public Health Service Act in the same manner as such requirements apply to a group health plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), as amended by section 501(a)(1)(A)(i), in the matter preceding paragraph (1), by inserting '', (6),'' after ''(5)''; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 501(c)(2) is amended by inserting after subparagraph (C) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2009.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2009, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(D) of the Social Security Act (as added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2011, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 504. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) PREMIUM GRACE PERIOD.—The State child health plan—

''(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

''(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

''(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

''(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term 'new coverage period' means the month immediately following the last month for which the premium has been paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after the date of the enactment of this Act.

SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES PROVIDED THROUGH SCHOOL-BASED HEALTH CENTERS.

(a) IN GENERAL.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by adding at the end the following new paragraph:

''(8) AVAILABILITY OF COVERAGE FOR ITEMS AND SERVICES FURNISHED THROUGH SCHOOL-BASED HEALTH CENTERS.—Nothing in this title shall be construed as limiting a State's ability to provide child health assistance for covered items and services that are furnished through school-based health centers (as defined in section 2110(c)(9)).''.

(b) DEFINITION.—Section 2110(c) (42 U.S.C. 1397jj) is amended by adding at the end the following:

''(9) SCHOOL-BASED HEALTH CENTER.—

''(A) IN GENERAL.—The term 'school-based health center' means a health clinic that—

''(i) is located in or near a school facility of a school district or board or of an Indian tribe or tribal organization;

''(ii) is organized through school, community, and health provider relationships;

''(iii) is administered by a sponsoring facility;

''(iv) provides through health professionals primary health services to children in accordance with State and local law, including laws relating to licensure and certification; and

''(v) satisfies such other requirements as a State may establish for the operation of such a clinic.

''(B) SPONSORING FACILITY.—For purposes of subparagraph (A)(iii), the term 'sponsoring facility' includes any of the following:

''(i) A hospital.

''(ii) A public health department.

''(iii) A community health center.

''(iv) A nonprofit health care agency.

''(v) A school or school system.

''(vi) A program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization.''.

SEC. 506. MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by inserting before section 1901 the following new section:

''MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION

''SEC. 1900. (a) ESTABLISHMENT.—There is hereby established the Medicaid and CHIP Payment and Access Commission (in this section referred to as 'MACPAC').

''(b) DUTIES.—

''(1) REVIEW OF ACCESS POLICIES AND ANNUAL REPORTS.—MACPAC shall—

''(A) review policies of the Medicaid program established under this title (in this section referred to as 'Medicaid') and the State Children's Health Insurance Program established under title XXI (in this section referred to as 'CHIP') affecting children's access to covered items and services, including topics described in paragraph (2);

''(B) make recommendations to Congress concerning such access policies;

''(C) by not later than March 1 of each year (beginning with 2010), submit a report to Congress containing the results of such reviews and MACPAC's recommendations concerning such policies; and

''(D) by not later than June 1 of each year (beginning with 2010), submit a report to Congress containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

''(2) SPECIFIC TOPICS TO BE REVIEWED.—Specifically, MACPAC shall review and assess the following:

''(A) MEDICAID AND CHIP PAYMENT POLICIES.—Payment policies under Medicaid and CHIP, including—

''(i) the factors affecting expenditures for items and services in different sectors, including the process for updating hospital, skilled nursing facility, physician, Federally-qualified health center, rural health center, and other fees;

''(ii) payment methodologies; and

''(iii) the relationship of such factors and methodologies to access and quality of care for Medicaid and CHIP beneficiaries.

''(B) INTERACTION OF MEDICAID AND CHIP PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—The effect of Medicaid and CHIP payment policies on access to items and services for children and other Medicaid and CHIP populations other than under this title or title XXI and the implications of changes in health care delivery in the United States and in the general market for health care items and services on Medicaid and CHIP.

''(C) OTHER ACCESS POLICIES.—The effect of other Medicaid and CHIP policies on access to covered items and services, including policies relating to transportation and language barriers.

''(3) CREATION OF EARLY-WARNING SYSTEM.—MACPAC shall create an early-warning system to identify provider shortage areas or any other problems that threaten access to care or the health care status of Medicaid and CHIP beneficiaries.

''(4) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to access policies, including with respect to payment policies, under Medicaid or CHIP, the Secretary shall transmit a copy of the report to MACPAC. MACPAC shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as MACPAC deems appropriate.

''(5) AGENDA AND ADDITIONAL REVIEWS.—MACPAC shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding MACPAC's agenda and progress towards achieving the agenda. MACPAC may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title or title XXI as may be requested by such chairmen and members and as MACPAC deems appropriate.

''(6) AVAILABILITY OF REPORTS.—MACPAC shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

''(7) APPROPRIATE COMMITTEE OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

''(8) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of MACPAC shall vote on the recommendation, and MACPAC shall include, by member, the results of that vote in the report containing the recommendation.

''(9) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, MACPAC shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—MACPAC shall be composed of 17 members appointed by the Comptroller General of the United States.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—The membership of MACPAC shall include individuals who have had direct experience as enrollees or parents of enrollees in Medicaid or CHIP and individuals with national recognition for their expertise in Federal safety net health programs, health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, health information technology, pediatric physicians, dentists, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(B) INCLUSION.—The membership of MACPAC shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, and individuals with expertise in the delivery of health services. Such membership shall also include consumers representing children, pregnant women, the elderly, and individuals with disabilities, current or former representatives of State agencies responsible for administering Medicaid, and current or former representatives of State agencies responsible for administering CHIP.

''(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under Medicaid or CHIP shall not constitute a majority of the membership of MACPAC.

''(D) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of MACPAC of financial and other potential conflicts of interest relating to such members. Members of MACPAC shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(3) TERMS.—

''(A) IN GENERAL.—The terms of members of MACPAC shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that

member's term until a successor has taken office. A vacancy in MACPAC shall be filled in the manner in which the original appointment was made.

''(4) COMPENSATION.—While serving on the business of MACPAC (including travel time), a member of MACPAC shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of MACPAC. Physicians serving as personnel of MACPAC may be provided a physician comparability allowance by MACPAC in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to MACPAC in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of MACPAC) and employment benefits, rights, and privileges, all personnel of MACPAC shall be treated as if they were employees of the United States Senate.

''(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate a member of MACPAC, at the time of appointment of the member as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General of the United States may designate another member for the remainder of that member's term.

''(6) MEETINGS.—MACPAC shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of MACPAC, MACPAC may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General of the United States) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of MACPAC (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of MACPAC;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of MACPAC.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—MACPAC may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to MACPAC on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, MACPAC shall—

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

''(C) adopt procedures allowing any interested party to submit information for MACPAC's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of MACPAC, immediately upon request.

''(4) PERIODIC AUDIT.—MACPAC shall be subject to periodic audit by the Comptroller General of the United States.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—MACPAC shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for MACPAC shall be separate from amounts appropriated for the Comptroller General of the United States.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.''.

(b) DEADLINE FOR INITIAL APPOINTMENTS.—Not later than January 1, 2010, the Comptroller General of the United States shall appoint the initial members of the Medicaid and CHIP Payment and Access Commission established under section 1900 of the Social Security Act (as added by subsection (a)).

(c) ANNUAL REPORT ON MEDICAID.—Not later than January 1, 2010, and annually thereafter, the Secretary, in consultation with the Secretary of the Treasury, the Secretary of Labor, and the States (as defined for purposes of Medicaid), shall submit an annual report to Congress on the financial status of, enrollment in, and spending trends for, Medicaid for the fiscal year ending on September 30 of the preceding year.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

SEC. 601. PAYMENT ERROR RATE MEASUREMENT (''PERM'').

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(a), is amended by adding at the end the following new paragraph:

''(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.''.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2C)), as amended by section 302(b)), is amended by adding at the end the following:

''(iv) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).''.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ''PERM'') requirements to CHIP until after the date that is 6 months after the date on which a new final rule (in this section referred to as the ''new final rule'') promulgated after the date of the enactment of this Act and implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such new final rule in effect for all States may only be inclusive of errors, as defined in such new final rule or in guidance issued within a reasonable time frame after the effective date for such new final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR NEW FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the new final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State's verification of an applicant's self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant's self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(d) OPTION FOR APPLICATION OF DATA FOR STATES IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL RULE.—After the new final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 or under a final rule for fiscal year 2008 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 or fiscal year 2011 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ''MEQC'') requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the new final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) STATE OPTION TO APPLY MEQC DATA.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with the first fiscal year that begins on or after the date on which the new final rule is in effect for all States, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

SEC. 602. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2009''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine the child population growth factor under section 2104(m)(5)(B) and any other data necessary for carrying out this title.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.

Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

''(5) SUBSEQUENT EVALUATION USING UPDATED INFORMATION.—

''(A) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

''(B) SELECTION OF STATES AND MATTERS INCLUDED.—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

''(C) SUBMISSION TO CONGRESS.—Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

''(D) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.''.

SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.

Section 2108(d) (42 U.S.C. 1397hh(d)) is amended to read as follows:

''(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.—For the purpose of evaluating and auditing the program established under this title, or title XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.''.

SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DISALLOWANCE FOR UNAUTHORIZED EXPENDITURES.

Nothing in this Act allows Federal payment for individuals who are not legal residents. Titles XI, XIX, and XXI of the Social Security Act provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively.

Subtitle B—Miscellaneous Health Provisions

SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i)—

(i) by striking ''Notwithstanding any other provision of this title'' and inserting ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability) and any other provision of this title which would be directly contrary to the authority under this section and subject to subsection (E)''; and

(ii) by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(B) in clause (i), by inserting ''provides'' after ''(i)''; and

(C) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(2) in subparagraph (C)—

(A) in the heading, by striking ''**WRAP-AROUND**'' and inserting ''**ADDITIONAL**''; and

(B) by striking ''wrap-around or''; and

(3) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2);

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(iii) affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage,

benchmark equivalent coverage, or otherwise.''.

(b) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are made available under part B of title IV on the basis of being a child in foster care or''.

(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—With respect to a State plan amendment to provide benchmark benefits in accordance with subsections (a) and (b) that is approved by the Secretary, the Secretary shall publish on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out the plan amendment and the reason for each such determination on the date such approval is made, and shall publish such list in the Federal Register and not later than 30 days after such date of approval.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 612. REFERENCES TO TITLE XXI.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the FMAP (as defined in subsection (e)) for a State for a fiscal year (beginning with fiscal year 2006) and applying the FMAP under title XIX of the Social Security Act, any significantly disproportionate employer pension or insurance fund contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION AND INSURANCE FUND CONTRIBUTION.—

(1) IN GENERAL.—For purposes of this section, a significantly disproportionate employer pension and insurance fund contribution described in this subsection with respect to a State is any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such State for a calendar year (beginning with calendar year 2003) if the increase in the amount so estimated exceeds 25 percent of the total increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjustment a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than May 15, 2009, the Secretary shall submit to the Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of Economic Affairs calculations for the FMAP and for Medicaid and on possible alternative methodologies to mitigate such problems.

(e) FMAP DEFINED.—For purposes of this section, the term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396(d)).

SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) (42 U.S.C. 1396r–4(f)(6)), as amended by section 202 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended—

(1) in the paragraph heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012'';

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''and 2009'' and inserting '', 2009, 2010, and 2011''; and

(II) by striking ''such portion of''; and

(ii) in the third sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for period in fiscal year 2012''; and

(C) in clause (iv)—

(i) in the clause heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012''; and

(ii) in each of subclauses (I) and (II), by striking '' or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for a period in fiscal year 2012''; and

(3) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence, by striking ''2009'' and inserting ''2011''; and

(ii) in the second sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011''.

SEC. 617. GAO REPORT ON MEDICAID MANAGED CARE PAYMENT RATES.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives analyzing the extent to which State payment rates for medicaid managed care organizations under Medicaid are actuarially sound.

Subtitle C—Other Provisions

SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance

options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''52.75 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''40.26 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$105.69 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.15 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.30 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.51'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50.33 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8311 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$24.78''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, INVENTORIES, REPORTS, AND RECORDS REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMIT.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES, REPORTS, AND PACKAGES.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(C) PACKAGES, MARKS, LABELS, AND NOTICES.—Section 5723 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products'' each place it appears.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 5702(h) of such Code is amended by striking ''tobacco products and cigarette papers and tubes'' and inserting ''tobacco products or cigarette papers or tubes or any processed tobacco''.

(B) Sections 5702(j) and 5702(k) of such Code are each amended by inserting '', or any processed tobacco,'' after ''tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) IN GENERAL.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles imported after the date of the enactment of this Act.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—

(1) IN GENERAL.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) DISCLOSURE.—

(1) IN GENERAL.—Paragraph (1) of section 6103(o) of such Code is amended by designating the text as subparagraph (A), moving such text 2 ems to the right, striking ''Returns'' and inserting ''(A) IN GENERAL.—Returns'', and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.''.

(2) CONFORMING AMENDMENT.—Section 6103(p)(4) of such Code is amended by striking ''(o)(1)'' both places it appears and inserting ''(o)(1)(A)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on or after the date of the enactment of this Act.

(g) TRANSITIONAL RULE.—Any person who—

(1) on April 1 is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF TOBACCO SMUGGLING IN THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study concerning the magnitude of tobacco smuggling in the United States and submit to Congress recommendations for the most effective steps to reduce tobacco smuggling. Such study shall also include a review of the loss of Federal tax receipts due to illicit tobacco trade in the United States and the role of imported tobacco products in the illicit tobacco trade in the United States.

SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.5 percentage point.

SA 40. Mr. MCCONNELL (for himself, Mr. KYL, Mr. VITTER, Mr. CHAMBLISS, Mr. BUNNING, Mr. GREGG, Mr. COBURN, Mr. BURR, Mr. ISAKSON, Mr. GRAHAM, Mr. INHOFE, Mr. CORNYN, Mr. BROWNBACK, Mr. COCHRAN, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BENNETT, Mr. BARRASSO, Mr. ENZI, and Mr. WICKER) proposed an amendment to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

In lieu of the matter proposed to be inserted insert

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Kids First Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REAUTHORIZATION THROUGH FISCAL YEAR 2013.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $7,780,000,000;

''(13) for fiscal year 2010, $8,044,000,000;

''(14) for fiscal year 2011, $8,568,000,000;

''(15) for fiscal year 2012, $9,032,000,000; and

''(16) for fiscal year 2013, $9,505,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2008, $62,000,000 for fiscal year 2009, $64,000,000 for fiscal year 2010, $68,000,000 for fiscal year 2011, $72,000,000 for fiscal year 2012, and $75,000,000 for fiscal year 2013''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDING FOR FISCAL YEARS 2008 AND 2009.—Section 201 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) in subsection (a), by striking paragraph (2) and redesignating paragraphs (3) and (4), as paragraphs (2) and (3) respectively; and

(2) in subsection (b), by striking paragraph (2).

SEC. 3. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(m) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2009 through 2013, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2009 through 2013, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in the succeeding paragraphs of this subsection, amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2009 through 2013, shall remain available for expenditure by the State only through the end of the fiscal year succeeding the fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2009 that remain unexpended as of the end of the fiscal year succeeding the fiscal year for which the amounts are allotted shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after April 1, 2009, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 4. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2010:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 5. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 6. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME FOR TARGETED LOW-INCOME CHILDREN UNDER TITLE XXI AND OPTIONAL TARGETED LOW-INCOME CHILDREN UNDER TITLE XIX.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended—

(A) in subsection (b)(1)(A), by inserting ''in accordance with subsection (d)'' after ''State plan''; and

(B) by adding at the end the following new subsection:

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 5(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan

under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 4(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2008, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 7. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

"(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

"(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

"(b) AWARD OF GRANTS.—

"(1) PRIORITY FOR AWARDING.—

"(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

"(i) propose to target geographic areas with high rates of—

"(I) eligible but unenrolled children, including such children who reside in rural areas; or

"(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

"(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

"(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

"(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

"(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

"(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

"(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

"(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

"(4) an assurance that the eligible entity shall—

"(A) conduct an assessment of the effectiveness of such activities against the performance measures;

"(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments.

"(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

"(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A State with an approved child health plan under this title.

"(B) A local government.

"(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

"(D) A Federal health safety net organization.

"(E) A State, national, local, or community-based public or nonprofit private organization.

"(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

"(G) An elementary or secondary school.

"(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

"(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

"(A) a federally-qualified health center (as defined in section 1905(l)(2)(B));

"(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

"(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

"(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

"(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

"(A) by serving as a liaison between communities and health care agencies;

"(B) by providing guidance and social assistance to community residents;

"(C) by enhancing community residents' ability to effectively communicate with health care providers;

"(D) by providing culturally and linguistically appropriate health or nutrition education;

"(E) by advocating for individual and community health or nutrition needs; and

"(F) by providing referral and followup services.

"(f) APPROPRIATION.—

"(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

"(A) $100,000,000 for each of fiscal years 2009 and 2010;

"(B) $75,000,000 for each of fiscal years 2011 and 2012; and

"(C) $50,000,000 for fiscal year 2013.

"(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

"(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

"(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

"(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

"(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

"(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 8. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE OF CHILDREN THROUGH PRIVATE PLANS UNDER SCHIP AND MEDICAID.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 4(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED COVERAGE.—In this paragraph, the term 'qualified coverage' means the following:

''(i) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(I) IN GENERAL.—A group health plan or health insurance coverage offered through an employer that is—

''(aa) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(bb) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(cc) cost-effective, as determined under subclause (II).

''(II) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(aa) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(bb) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(ii) QUALIFIED NON-GROUP COVERAGE.—Health insurance coverage offered to individuals in the non-group health insurance market that is substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2).

''(iii) HIGH DEDUCTIBLE HEALTH PLAN.—A high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on February 1, 2009.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure

that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 9. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 10. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 11. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 12. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 13. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SEC. 14. EFFECTIVE DATE; COORDINATION OF FUNDING FOR FISCAL YEAR 2009.

(a) IN GENERAL.—Unless otherwise specified, subject to subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this Act, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

SA 41. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. VITTER, and Mr. CHAMBLISS) proposed an amendment to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike section 214 and insert the following:

SEC. 214. INCREASED FUNDING FOR ENROLLMENT OF UNINSURED LOW INCOME AMERICAN CHILDREN.

Section 2105(a)(3)(E) (42 U.S.C. 1397ee(a)(3)(E)), as added by section 104, is amended by adding at the end the following:

''(iv) INCREASE IN BONUS PAYMENTS FOR FISCAL YEARS 2012 THROUGH 2019.—With respect to each of fiscal years 2012 through 2019:

''(I) Clause (i) of subparagraph (B) shall be applied by substituting '38 percent' for '15 percent'.

''(II) Clause (ii) of subparagraph (B) shall be applied by substituting '70 percent' for '62.5 percent'.

SA 42. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

TITLE __—HEALTH CARE CHOICE

SEC. __01. SHORT TITLE OF TITLE.

This title may be cited as ''Health Care Choice Act of 2009''.

SEC. __02. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This title is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. __03. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. __04. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

''PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

''SEC. 2795. DEFINITIONS.

''In this part:

''(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered

laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

''(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

''(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

''(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

''(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

''(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

''(B) to pay other obligations in the normal course of business.

''(7) COVERED LAWS.—

''(A) IN GENERAL.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

''(i) individual health insurance coverage issued by a health insurance issuer;

''(ii) the offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage to an individual;

''(iii) the provision to an individual in relation to individual health insurance coverage of health care and insurance related services;

''(iv) the provision to an individual in relation to individual health insurance coverage of management, operations, and investment activities of a health insurance issuer; and

''(v) the provision to an individual in relation to individual health insurance coverage of loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

''(B) EXCEPTION.—Such term does not include any law, rule, regulation, agreement, or order governing the use of care or cost management techniques, including any requirement related to provider contracting, network access or adequacy, health care data collection, or quality assurance.

''(8) STATE.—The term 'State' means the 50 States and includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(G) A pattern or practice of compelling insured individuals or their beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

''(H) A pattern or practice of attempting to settle or settling claims for less than the amount that a reasonable person would believe the insured individual or his or her beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application.

''(I) Attempting to settle or settling claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured.

''(J) Failing to provide forms necessary to present claims within 15 calendar days of a requests with reasonable explanations regarding their use.

''(K) Attempting to cancel a policy in less time than that prescribed in the policy or by the law of the primary State.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''SEC. 2796. APPLICATION OF LAW.

''(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

''(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

''(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

''(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

''(ii) in a voluntary dissolution proceeding;

''(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction;

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9)); or

''(I) to comply with the applicable requirements for independent review under section 2798 with respect to coverage offered in the State;

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

This policy is issued by _________ and is governed by the laws and regulations of the State of _________, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _________, including coverage of some services or benefits mandated by the law of the State of _________. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _________. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.''.

''(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

''(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

''(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

''(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

''(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

''(i) are disclosed to the consumer in the insurance contract;

''(ii) are based on specific wellness activities that are not applicable to all individuals; and

''(iii) are not obtainable by all individuals to whom coverage is offered;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

''(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

''(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, with commissions or other compensation subject to the provisions of the laws of that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

''(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

''(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

''(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

''(B) written notice of any change in its designation of its primary State; and

''(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

''(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

''(A) a member of the American Academy of Actuaries; or

''(B) a qualified loss reserve specialist.

''(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

''(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

''(2) the solicitation or sale of individual health insurance coverage that violates the requirements of the law of a secondary State which are described in subparagraphs (A) through (H) of section 2796(b)(1).

''(i) POWER OF SECONDARY STATES TO TAKE ADMINISTRATIVE ACTION.—Nothing in this section shall be construed to affect the authority of any State to enjoin conduct in violation of that State's laws described in section 2796(b)(1).

''(j) STATE POWERS TO ENFORCE STATE LAWS.—

''(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

''(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(k) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

''(l) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

''(m) GUARANTEED AVAILABILITY OF COVERAGE TO HIPAA ELIGIBLE INDIVIDUALS.—To the extent that a health insurance issuer is offering coverage in a primary State that does not accommodate residents of secondary States or does not provide a working mechanism for residents of a secondary State, and the issuer is offering coverage under this part in such secondary State which has not adopted a qualified high risk pool as its acceptable alternative mechanism (as defined in section 2744(c)(2)), the issuer shall, with respect to any individual health insurance coverage offered in a secondary State under this part, comply with the guaranteed availability requirements for eligible individuals in section 2741.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the State insurance commissioner does not use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

''SEC. 2798. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

''(a) RIGHT TO EXTERNAL APPEAL.—A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State under the provisions of this title unless——

''(1) both the secondary State and the primary State have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage, or

''(2) in any case in which the requirements of subparagraph (A) are not met with respect to the either of such States, the issuer provides an independent review mechanism substantially identical (as determined by the applicable State authority of such State) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part, except that, under such mechanism, the review is conducted by an independent medical reviewer, or a panel of such reviewers, with respect to whom the requirements of subsection (b) are met.

''(b) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—In the case of any independent review mechanism referred to in subsection (a)(2)—

''(1) IN GENERAL.—In referring a denial of a claim to an independent medical reviewer, or to any panel of such reviewers, to conduct independent medical review, the issuer shall ensure that—

''(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

''(B) with respect to each review, each reviewer meets the requirements of paragraph (4) and the reviewer, or at least 1 reviewer on the panel, meets the requirements described in paragraph (5); and

''(C) compensation provided by the issuer to each reviewer is consistent with paragraph (6).

''(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

''(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

''(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

''(i) not be a related party (as defined in paragraph (7));

''(ii) not have a material familial, financial, or professional relationship with such a party; and

''(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of affiliation with the issuer, from serving as an independent medical reviewer if—

''(I) a non-affiliated individual is not reasonably available;

''(II) the affiliated individual is not involved in the provision of items or services in the case under review;

''(III) the fact of such an affiliation is disclosed to the issuer and the enrollee (or authorized representative) and neither party objects; and

''(IV) the affiliated individual is not an employee of the issuer and does not provide services exclusively or primarily to or on behalf of the issuer;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the issuer and the enrollee (or authorized representative), and neither party objects; or

''(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

''(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

''(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

''(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

''(ii) by a non-physician health care professional, the reviewer, or at least 1 member of the review panel, shall be a practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

''(B) PRACTICING DEFINED.—For purposes of this paragraph, the term 'practicing' means, with respect to an individual who is a physician or other health care professional, that the individual provides health care services to individual patients on average at least 2 days per week.

''(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

''(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by the issuer to an independent medical reviewer in connection with a review under this section shall—

''(A) not exceed a reasonable level; and

''(B) not be contingent on the decision rendered by the reviewer.

''(7) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a denial of a claim under a coverage relating to an enrollee, any of the following:

''(A) The issuer involved, or any fiduciary, officer, director, or employee of the issuer.

''(B) The enrollee (or authorized representative).

''(C) The health care professional that provides the items or services involved in the denial.

''(D) The institution at which the items or services (or treatment) involved in the denial are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

''(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

''(8) DEFINITIONS.—For purposes of this subsection:

''(A) ENROLLEE.—The term 'enrollee' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

''(B) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''SEC. 2799. ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

''(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

''(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

''(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date that is one year after the date of the enactment of this Act.

(c) GAO ONGOING STUDY AND REPORTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct an ongoing study concerning the effect of the amendment made by subsection (a) on—

(A) the number of uninsured and under-insured;

(B) the availability and cost of health insurance policies for individuals with pre-existing medical conditions;

(C) the availability and cost of health insurance policies generally;

(D) the elimination or reduction of different types of benefits under health insurance policies offered in different States; and

(E) cases of fraud or abuse relating to health insurance coverage offered under such amendment and the resolution of such cases.

(2) ANNUAL REPORTS.—The Comptroller General shall submit to Congress an annual report, after the end of each of the 5 years following the effective date of the amendment made by subsection (a), on the ongoing study conducted under paragraph (1).

SEC. __05. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any other person or circumstance shall not be affected.

SA 43. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. ___. REQUIRED COST-SHARING FOR HIGHER INCOME INDIVIDUALS.

Section 2103(e) (42 U.S.C. 1397cc(e)) is amended—

(1) in paragraph (3)(B), by striking ''and (2)'' and inserting '', (2), and (5)'';

(2) in paragraph (4), by striking ''Nothing'' and inserting ''Except as provided in paragraph (5), nothing''; and

(3) by adding at the end the following new paragraph:

''(5) REQUIRED COST-SHARING FOR HIGHER INCOME INDIVIDUALS.—Subject to paragraphs (1)(B) and (2), a State child health plan shall impose premiums, deductibles, coinsurance, and other cost-sharing (regardless of whether such plan is implemented under this title, title XIX, or both) for any targeted low-income child or other individual enrolled in the plan whose family income exceeds 200 percent of the poverty line in a manner that is consistent with the authority and limitations for imposing cost-sharing under section 1916A.''.

SA 44. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the

bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. —. PROHIBITION ON CONSIDERATION OF REVENUE PROVISIONS WITHOUT CERTIFICATION OF TAX BURDEN EFFECTS.

(a) IN GENERAL.—It shall not be in order to consider a bill, resolution, amendment, or conference report that proposes any provision amending the Internal Revenue Code of 1986 or affecting the application of such Code unless the Joint Committee on Taxation provides a written certification that such provision does not increase the net yearly tax burden for any family whose taxable income for any taxable year to which such provision applies is less than $250,000.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—A point of order raised under subsection (a) may be waived or suspended in the Senate only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''family'' means a married couple filing jointly or an individual filing as a head of household.

SA 45. Mr. HATCH (for himself, Mr. GRASSLEY, and Mr. WICKER) proposed an amendment to amendment SA 39 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

On page 136, between lines 15 and 16, insert the following:

(c) CONDITION FOR FEDERAL MATCHING PAYMENTS.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (23), by striking ''or'' after the semicolon;

(B) in paragraph (24)(C), by striking the period and inserting ''; or''; and

(C) by inserting after paragraph (24)(C), the following:

''(25) with respect to amounts expended for medical assistance for an immigrant child or pregnant woman under an election made pursuant to paragraph (4) of subsection (v) for any fiscal year quarter occurring before the first fiscal year quarter for which the State demonstrates to the Secretary (on the basis of the best data reasonably available to the Secretary and in accordance with such techniques for sampling and estimating as the Secretary determines appropriate) that the State has enrolled in the State plan under this title, the State child health plan under title XXI, or under a waiver of either such plan, at least 95 percent of the children who reside in the State, whose family income (as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) does not exceed 200 percent of the poverty line (as defined in section 2110(c)(5)), and who are eligible for medical assistance under the State plan under this title or child health assistance or health benefits coverage under the State child health plan under title XXI.''.

(2) APPLICATION TO CHIP.—Section 2107(e)(1)(E) (42 U.S.C. 1397gg(e)(1)(E)) (as amended by section 503(a)(1)) is amended by striking ''and (17)'' and inserting ''(17), and (25)''.

SA 46. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, after line 23, add the following:

SEC. 116. PREVENTING SUBSTITUTION OF CHIP COVERAGE FOR PRIVATE COVERAGE.

(a) FINDINGS.—

(1) Congress agrees with the President that low-income children should be the first priority of all States in providing child health assistance under CHIP.

(2) Congress agrees with the President and the Congressional Budget Office that the substitution of CHIP coverage for private coverage occurs more frequently for children in families at higher income levels.

(3) Congress agrees with the President that it is appropriate that States that expand CHIP eligibility to children at higher income levels should have achieved a high level of health benefits coverage for low-income children and should implement strategies to address such substitution.

(4) Congress concludes that the policies specified in this section (and the amendments made by this section) are the appropriate policies to address these issues.

(b) ANALYSES OF BEST PRACTICES AND METHODOLOGY IN ADDRESSING CROWD-OUT.—

(1) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives and the Secretary a report describing the best practices by States in addressing the issue of CHIP crowd-out. Such report shall include analyses of—

(A) the impact of different geographic areas, including urban and rural areas, on CHIP crowd-out;

(B) the impact of different State labor markets on CHIP crowd-out;

(C) the impact of different strategies for addressing CHIP crowd-out;

(D) the incidence of crowd-out for children with different levels of family income; and

(E) the relationship (if any) between changes in the availability and affordability of dependent coverage under employer-sponsored health insurance and CHIP crowd-out.

(2) IOM REPORT ON METHODOLOGY.—The Secretary shall enter into an arrangement with the Institute of Medicine under which the Institute submits to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives and the Secretary, not later than 18 months after the date of the enactment of this Act, a report on—

(A) the most accurate, reliable, and timely way to measure—

(i) on a State-by-State basis, the rate of public and private health benefits coverage among low-income children with family income that does not exceed 200 percent of the poverty line; and

(ii) CHIP crowd-out, including in the case of children with family income that exceeds 200 percent of the poverty line; and

(B) the least burdensome way to gather the necessary data to conduct the measurements described in subparagraph (A).

Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated $2,000,000 to carry out this paragraph for the period ending September 30, 2010.

(3) INCORPORATION OF DEFINITIONS.—In this section, the terms ''CHIP crowd-out'', ''children'', ''poverty line'', and ''State'' have the meanings given such terms for purposes of CHIP.

(4) DEFINITION OF CHIP CROWD-OUT.—Section 2110(c) (42 U.S.C. 1397jj(c)) is amended by adding at the end the following:

''(9) CHIP CROWD-OUT.—The term 'CHIP crowd-out' means the substitution of—

''(A) health benefits coverage for a child under this title, for

''(B) health benefits coverage for the child other than under this title or title XIX.''.

(c) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Within 6 months after the date of receipt of the reports under subsections (a) and (b) of section 116 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(d) REQUIREMENT TO ADDRESS CHIP CROWD-OUT; SECRETARIAL REVIEW.—Section 2106 (42 U.S.C. 1397ff) is amended by adding at the end the following:

''(f) REQUIREMENT TO ADDRESS CHIP CROWD-OUT; SECRETARIAL REVIEW.—

''(1) IN GENERAL.—Not later than 6 months after the best practice application date described in paragraph (2), each State that has a State child health plan shall submit to the Secretary a State plan amendment describing how the State—

''(A) will address CHIP crowd-out; and

''(B) will incorporate recommended best practices referred to in such paragraph.

''(2) BEST PRACTICE APPLICATION DATE.—The best practice application date described in this paragraph is the date that is 6 months after the date of publication of recommendations regarding best practices under section 2107(g)(1).

''(3) SECRETARIAL REVIEW.—The Secretary shall—

''(A) review each State plan amendment submitted under paragraph (1);

''(B) determine whether the amendment incorporates recommended best practices referred to in paragraph (2);

''(C) in the case of a higher income eligibility State (as defined in section 2105(c)(9)(B)), determine whether the State meets the enrollment targets required under reference section 2105(c)(9)(C); and

''(D) notify the State of such determinations.''.

(e) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of April 1 of 2011 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, subject to subparagraph (E), no payment shall be made as of October 1 of such year on or after October 1, 2011, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the State establishes it is in compliance with such requirement.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—

''(i) IN GENERAL.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a p=0.05 level) less than the target rate of coverage specified in clause (ii).

''(ii) TARGET RATE.—The target rate of coverage specified in this clause is the average rate (determined by the Secretary) of health benefits coverage (both private and public) as of January 1, 2011, among the 10 of the 50 States and the District of Columbia with the highest percentage of health benefits coverage (both private and public) for low-income children.

''(iii) STANDARDS FOR DATA.—In applying this subparagraph, rates of health benefits coverage for States shall be determined using the uniform standards identified by the Secretary under section 2107(g)(2).

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).

''(E) NOTICE AND OPPORTUNITY TO COMPLY WITH TARGET RATE.—If the Secretary makes a determination described in subparagraph (A)(ii) in April of a year, the Secretary—

''(i) shall provide the State with the opportunity to submit and implement a corrective action plan for the State to come into compliance with the requirement of subparagraph (C) before October 1 of such year;

''(ii) shall not effect a denial of payment under subparagraph (A) on the basis of such determination before October 1 of such year; and

''(iii) shall not effect such a denial if the Secretary determines that there is a reasonable likelihood that the implementation of such a correction action plan will bring the State into compliance with the requirement of subparagraph (C).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(9)(B) of such Act, as added by paragraph (1)).

(f) TREATMENT OF MEDICAL SUPPORT ORDERS.—Section 2102(b) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following:

''(5) TREATMENT OF MEDICAL SUPPORT ORDERS.—

''(A) IN GENERAL.—Nothing in this title shall be construed to allow the Secretary to require that a State deny eligibility for child health assistance to a child who is otherwise eligible on the basis of the existence of a valid medical support order being in effect.

''(B) STATE ELECTION.—A State may elect to limit eligibility for child health assistance to a targeted low-income child on the basis of the existence of a valid medical support order on the child's behalf, but only if the State does not deny such eligibility for a child on such basis if the child asserts that the order is not being complied with for any of the reasons described in subparagraph (C) unless the State demonstrates that none of such reasons applies in the case involved.

''(C) REASONS FOR NONCOMPLIANCE.—The reasons described in this subparagraph for noncompliance with a medical support order with respect to a child are that the child is not being provided health benefits coverage pursuant to such order because—

''(i) of failure of the noncustodial parent to comply with the order;

''(ii) of the failure of an employer, group health plan or health insurance issuer to comply with such order; or

''(iii) the child resides in a geographic area in which benefits under the health benefits coverage are generally unavailable.''.

(g) EFFECTIVE DATE OF AMENDMENTS; CONSISTENCY OF POLICIES.—The amendments made by this section shall take effect as if enacted on August 16, 2007. The Secretary may not impose (or continue in effect) any requirement, prevent the implementation of any provision, or condition the approval of any provision under any State child health plan, State plan amendment, or waiver request on the basis of any policy or interpretation relating to CHIP crowd-out, coordination with other sources of coverage, target rate of coverage, or medical support order other than under the amendments made by this section. In the case of a State plan amendment which was denied on or after August 16, 2007, on the basis of any such policy or interpretation in effect before the date of the enactment of this Act, if the State submits a modification of such State plan amendment that complies with title XXI of the Social Security Act as amended by this Act, such submitted State plan amendment, as so modified, shall be considered as if it had been submitted (as so modified) as of the date of its original submission, but such State plan amendment shall not be effective before the date of the enactment of this Act.

SA 47. Mr. COBURN (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 3 and 4, insert the following:

(c) REQUIRED OFFERING OF PREMIUM ASSISTANCE FOR COVERAGE OF CHILDREN THROUGH PRIVATE PLANS UNDER SCHIP AND MEDICAID IF THE STATE EXPANDS THEIR PROGRAM BEYOND CURRENT ELIGIBILITY LEVELS.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601, is amended by adding at the end the following:

''(12) REQUIRED OFFERING OF PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the child health assistance provided to any child whose family income exceeds the income eligibility level in effect under the State children's plan as of January 1, 2009, shall consist of a State premium assistance subsidy (as defined in subparagraph (C)) for qualified coverage (as defined in subparagraph (B)) in accordance with the requirements of this paragraph.

''(B) QUALIFIED COVERAGE.—In this paragraph, the term 'qualified coverage' means the following:

''(i) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(I) IN GENERAL.—A group health plan or health insurance coverage offered through an employer that is—

''(aa) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(bb) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(cc) cost-effective, as determined under subclause (II).

''(II) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(aa) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(bb) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State

to provide child health assistance through the State child health plan for a targeted low-income child.

''(ii) QUALIFIED NON-GROUP COVERAGE.—Health insurance coverage offered to individuals in the non-group health insurance market that is substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2).

''(iii) HIGH DEDUCTIBLE HEALTH PLAN.—A high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on February 1, 2009.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(2) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(12) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 48. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPLIANCE WITH STATE PARENTAL NOTIFICATION AND CONSENT LAWS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider to reimburse such provider for services provided to a minor unless such provider complies with all applicable parental notification and consent laws of the State of residence of the minor.

SA 49. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 602 and insert the following:

SEC. 602. LIMITATION ON EXPANSION.

Section 2105(c)(8) (42 U.S.C. 1397ee(c)(8)), as added by section 114(a), is amended by adding at the end the following:

''(C) REQUIREMENT.—Notwithstanding subparagraphs (A) and (B), on or after the date of enactment of this subparagraph, the Secretary may not approve a State plan amendment or waiver for child health assistance or health benefits to children whose family income exceeds 300 percent of the poverty line unless the improper payment rate for Medicaid and CHIP (as measured by the payment error rate measurement (PERM)) is equal to or is less than 3.5 percent.''.

SA 50. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 601, add the following:

(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the

PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act.

SA 51. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, between lines 16 and 17, insert the following:

''(VI) ATTESTATION.—The State requires that an application for medical assistance under this title or for child health assistance under title XXI shall not be complete until the parent or guardian of the child for whose eligibility the State is relying on a finding from an Express Lane agency attests under penalty of perjury that the information provided to verify the citizenship or nationality of the child is accurate, to the best of the parent's or guardian's knowledge.

SA 52. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

(d) GAO STUDY AND REPORT.—The Comptroller General or the United States shall study and report to Congress on the extent to which States use the option to provide presumptive eligibility for medical assistance under Medicaid or child health assistance under CHIP to avoid complying with the verification of citizenship or nationality documentation requirements of section 1903(x) of the Social Security Act or any other eligibility requirements for receipt of medical assistance or child health assistance.

SA 53. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, between lines 16 and 17, insert the following:

''(VI) NOTICE AND AFFIRMATIVE CONSENT.—The State requires an Express Lane Agency to provide affirmative notice and obtain consent in the form of a signature from all potential enrollees in the State plan under this title or title XXI (or the parent or guardian of a potential enrollee, in the case of a child under age 18) that the information gathered for purposes of applying for a specific program administered by the Express Lane Agency may also be used for purposes of determining one or more components of eligibility for medical assistance under this title or for child health assistance under title XXI.

SA 54. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, lines 12 and 13, strike ''1902(a)(46)(B) or 2105(c)(9), as applicable'' and insert ''1903(x)''.

SA 55. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 121, strike line 20, and all that follows through page 122, line 20, and insert the following:

''(B) Payments under the State plan for providing medical assistance to individuals who provided inconsistent information and were provided with a reasonable period of time to resolve the inconsistency under this subsection or under section 1903(x)(4) shall be included in the determination of the State's erroneous excess payments for medical assistance ratio under section 1903(u).

SA 56. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 135, strike lines 14 through 20, and insert the following:

''(B) In the case of a State that has elected to provide medical assistance to a category of individuals under subparagraph (A), the Secretary may impose a debt under an affidavit of support against any sponsor of such an individual on the basis of the provision of medical assistance to such individual, consisting of all or a portion of the cost of providing such assistance, which may include a reasonable fee, and which shall be considered as an unreimbursed cost, subject to such limit on the total amount of debt as the Secretary may establish.

SA 57. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 601.

SA 58. Mr. WEBB (for himself, Mrs. HAGAN, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 271, line 9, strike all through page 273, line 8, and insert the following:

SEC. 700. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income for the performance of services, and

''(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

''(2) TREATMENT OF LOSSES.—

''(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

''(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

''(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

''(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

''(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

''(D) EXCEPTION FOR BASIS ATTRIBUTABLE TO PURCHASE OF A PARTNERSHIP INTEREST.—In the case of an investment services partnership interest acquired by purchase, paragraph (1)(B) shall not apply to so much of any net loss with respect to such interest for any taxable year as does not exceed the excess of—

''(i) the basis of such interest immediately after such purchase, over

''(ii) the aggregate net loss with respect to such interest to which paragraph (1)(B) did not apply by reason of this subparagraph for all prior taxable years.

Any net loss to which paragraph (1)(B) does not apply by reason of this subparagraph shall not be taken into account under subparagraph (A).

''(E) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

''(3) NET INCOME AND LOSS.—For purposes of this section—

''(A) NET INCOME.—The term 'net income' means, with respect to any investment services partnership interest, for any partnership taxable year, the excess (if any) of—

''(i) all items of income and gain taken into account by the holder of such interest

under section 702 with respect to such interest for such year, over

''(ii) all items of deduction and loss so taken into account.

''(B) NET LOSS.—The term 'net loss' means with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be treated as ordinary income for the performance of services.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate net income with respect to such interest for all partnership taxable years, over

''(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years.

''(3) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

''(4) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

''(A) the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner's distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

''(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

''(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence.

''(5) APPLICATION OF SECTION 751.—In applying section 751(a), an investment services partnership interest shall be treated as an inventory item.

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in a partnership which is held by any person if such person provides (directly or indirectly) a substantial quantity of any of the following services with respect to the assets of the partnership in the conduct of the trade or business of providing such services:

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

For purposes of this paragraph, the term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate, commodities (as defined in section 475(e)(2))), or options or derivative contracts with respect to securities (as so defined), real estate, or commodities (as so defined).

''(2) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(A) IN GENERAL.—If—

''(i) a portion of an investment services partnership interest is acquired on account of a contribution of invested capital, and

''(ii) the partnership makes a reasonable allocation of partnership items between the portion of the distributive share that is with respect to invested capital and the portion of such distributive share that is not with respect to invested capital,

then subsection (a) shall not apply to the portion of the distributive share that is with respect to invested capital. An allocation will not be treated as reasonable for purposes of this subparagraph if such allocation would result in the partnership allocating a greater portion of income to invested capital than any other partner not providing services would have been allocated with respect to the same amount of invested capital.

''(B) SPECIAL RULE FOR DISPOSITIONS.—In any case to which subparagraph (A) applies, subsection (b) shall not apply to any gain or loss allocable to invested capital. The portion of any gain or loss attributable to invested capital is the proportion of such gain or loss which is based on the distributive share of gain or loss that would have been allocable to invested capital under subparagraph (A) if the partnership sold all of its assets immediately before the disposition.

''(C) INVESTED CAPITAL.—For purposes of this paragraph, the term 'invested capital' means, the fair market value at the time of contribution of any money or other property contributed to the partnership.

''(D) TREATMENT OF CERTAIN LOANS.—

''(i) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS INVESTED CAPITAL OF SERVICE PROVIDING PARTNERS.—For purposes of this paragraph, an investment services partnership interest shall not be treated as acquired on account of a contribution of invested capital to the extent that such capital is attributable to the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any partner or the partnership.

''(ii) LOANS FROM NONSERVICE PROVIDING PARTNERS TO THE PARTNERSHIP TREATED AS INVESTED CAPITAL.—For purposes of this paragraph, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services to the partnership shall be treated as invested capital of such partner and amounts of income and loss treated as allocable to invested capital shall be adjusted accordingly.

''(d) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any entity,

''(B) such person holds a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income for the performance of services. Rules similar to the rules of subsection (c)(2) shall apply where such interest was acquired on account of invested capital in such entity.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—The term 'disqualified interest' means, with respect to any entity—

''(i) any interest in such entity other than indebtedness,

''(ii) convertible or contingent debt of such entity,

''(iii) any option or other right to acquire property described in clause (i) or (ii), and

''(iv) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

Such term shall not include a partnership interest and shall not include stock in a taxable corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation subject to a comprehensive foreign income tax.

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(1) which are provided in the conduct of the trade or business of providing such services.

''(D) COMPREHENSIVE FOREIGN INCOME TAX.—The term 'comprehensive foreign income tax' means, with respect to any foreign corporation, the income tax of a foreign country if—

''(i) such corporation is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

''(ii) such corporation demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this section, including regulations to—

''(1) prevent the avoidance of the purposes of this section, and

''(2) coordinate this section with the other provisions of this subchapter.

''(f) CROSS REFERENCE.—For 40 percent no fault penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) APPLICATION TO REAL ESTATE INVESTMENT TRUSTS.—

(1) IN GENERAL.—Subsection (c) of section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) EXCEPTION FROM RECHARACTERIZATION OF INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS.—

''(A) IN GENERAL.—Paragraphs (2), (3), and (4) shall be applied without regard to section 710 (relating to special rules for partners providing investment management services to partnership).

''(B) SPECIAL RULE FOR PARTNERSHIPS OWNED BY REITS.—Section 7704 shall be applied without regard to section 710 in the case of a partnership which meets each of the following requirements:

''(i) Such partnership is treated as publicly traded under section 7704 solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(ii) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(iii) Such partnership meets the requirements of paragraphs (2), (3), and (4) (applied without regard to section 710).''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 7704(d) of such Code is amended by inserting ''(determined without regard to section 856(c)(8))'' after ''856(c)(2)''.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (5) the following new paragraph:

''(6) The application of subsection (d) of section 710 or the regulations prescribed under section 710(e) to prevent the avoidance of the purposes of section 710.''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 of such Code is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(6), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 6662A(e)(2) of such Code is amended—

(i) by striking ''section 6662(h)'' and inserting ''subsection (h) or (i) of section 6662'', and

(ii) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(3) REASONABLE CAUSE EXCEPTION NOT APPLICABLE.—Subsection (c) of section 6664 of such Code is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(B) by striking ''paragraph (2)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)'', and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(6).''.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 of the Internal Revenue Code of 1986 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' before ''section 736''.

(2) Section 741 of such Code is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnership)'' before the period at the end.

(3) Paragraph (13) of section 1402(a) of such Code is amended—

(A) by striking ''other than guaranteed'' and inserting ''other than—

''(A) guaranteed'',

(B) by striking the semicolon at the end and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(B) any income treated as ordinary income under section 710 received by an individual who provides investment management services (as defined in section 710(d)(2));''.

(4) Paragraph (12) of section 211(a) of the Social Security Act is amended—

(A) by striking ''other than guaranteed'' and inserting ''other than—

''(A) guaranteed'',

(B) by striking the semicolon at the end and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(B) any income treated as ordinary income under section 710 of the Internal Revenue Code of 1986 received by an individual who provides investment management services (as defined in section 710(d)(2) of such Code);''.

(5) The table of sections for part I of subchapter K of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnership.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after January 27, 2009.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes January 27, 2009, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after January 27, 2009.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(d) of such Code (as added by this section) shall take effect on January 27, 2009.

(5) PUBLICLY TRADED PARTNERSHIPS.—For purposes of applying section 7704, the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$38.05 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''39.9 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''30.44 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$38.05 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$79.91 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''2.38 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''4.76 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.142 cents'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''38.05 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.1404 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$18.73''.

SA 59. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 114 and insert the following:

SEC. 114. CHIP GROSS INCOME ELIGIBILITY CEILING.

(a) APPLICATION OF CHIP ELIGIBILITY CEILING.—

(1) IN GENERAL.—Section 2110 (42 U.S.C. 1397jj) is amended—

(A) in subsection (b)(1)—

(i) by striking ''and'' at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(iii) by adding at the end the following new subparagraph:

''(D) whose gross family income (as defined in subsection (c)(9)) does not exceed 250 percent of the poverty line.''; and

(B) in subsection (c), by adding at the end the following new paragraph:

''(9) GROSS FAMILY INCOME.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'gross family income' means, with respect to an individual, gross income (as defined by the Secretary in regulations) for the members of the individual's family. For purposes of the previous sentence, in defining 'gross income' the Secretary shall, to the maximum extent practicable, include income from whatever source, other than amounts deducted under section 62(a)(1) of the Internal Revenue Code of 1986.

''(B) INCOME DISREGARDS AUTHORIZED.—A State may provide, through a State plan amendment and with the approval of the Secretary, for the disregard from gross family income of one or more amounts so long as the total amount of such disregards for a family does not exceed $250 per month, or $3,000 per year.''.

(2) DENIAL OF FEDERAL MATCHING PAYMENTS FOR STATE SCHIP EXPENDITURES FOR INDIVIDUALS WITH GROSS FAMILY INCOME ABOVE 250 PERCENT OF THE POVERTY LINE.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 250 PERCENT OF THE POVERTY LINE.—No payment may be made under this section, for any expenditures for providing child health assistance or health benefits coverage under a State child health plan under this title, including under a waiver under section 1115, with respect to an individual whose gross family income (as defined in section 2110(c)(9)) exceeds 250 percent of the poverty line.''.

(b) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall apply to payments made for items and services furnished on or after the first day of the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

(2) TRANSITION.—The amendments made by—

(A) subsection (a)(1) shall not apply to an individual who was receiving, or was determined eligible to receive, child health assistance or health benefits coverage under a State child health plan under title XXI of the Social Security Act, including under a waiver under section 1115 of such Act, as of the day before the date of the enactment of this Act, until such date as the individual is determined ineligible using income standards or methodologies in place as of the day before the date of the enactment of this Act; and

(B) subsection (a)(2) shall not apply to payment for items and services furnished to an individual described in subparagraph (B).

SA 60. Mr. WICKER (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, after line 23, add the following:

SEC. 116. ASSURING COVERAGE OF LOW-INCOME CHILDREN.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601(a)(1), is amended by adding at the end the following new paragraph:

''(12) NO PAYMENTS TO ANY STATE FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE UNTIL AT LEAST 90 PERCENT OF ALL UNITED STATES ELIGIBLE CHILDREN WHOSE GROSS FAMILY INCOME DOES NOT EXCEED 200 PERCENT OF THE POVERTY LINE ARE ENROLLED IN MEDICAID OR CHIP .—Notwithstanding any other provision of this title or title XIX, for fiscal year quarters beginning on or after January 1, 2009, no payments shall be made to any State under subsection (a)(1) or section 1903(a) on the basis of the enhanced FMAP for providing child health assistance or health benefits coverage for any individual whose gross family income (as defined by the Secretary) exceeds 200 percent of the poverty line for any fiscal year quarter that begins before the date on which the Secretary certifies to Congress that at least 90 percent of all children in the United States whose gross family income (as so defined) does not exceed 200 percent of the poverty line, and who are eligible for child health assistance under a State child health plan under this title or for medical assistance under a State plan under title XIX (or under a waiver of such plans), are enrolled in such plans.''.

SA 61. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike lines 8 through 13, and insert the following:

(d) APPLICABILITY; GENERAL EFFECTIVE DATE.—

(1) CONDITION FOR APPLICATION.—

(A) IN GENERAL.—

(i) GENERAL EFFECTIVE DATE.—Subject to clause (ii), except as provided in subparagraph (B), the amendments made by this section shall take effect on January 1, 2010.

(ii) CERTIFICATION REQUIREMENT.—Notwithstanding any other provision of law, no State with a State plan under Medicaid or a State child health plan under CHIP shall be required to comply with section 1902(a)(46)(B) or 2105(c)(9) of the Social Security Act before the date on which the Secretary and the Commissioner of Social Security jointly certify that a significant number of United States citizens, including citizen children, who are eligible for coverage under such plans will not lose that coverage as a result of the application of such requirements. For purposes of the preceding sentence, the Secretary and the Commissioner of Social Security shall determine what is a significant number of such citizens on the basis of the best estimates available of the number of non-citizens that the application of such requirements may prevent from fraudulently obtaining assistance under such plans, compared to the best estimates available of the number of United States citizens that may be inappropriately disenrolled from, or prevented from enrolling in, such plans as a result of the application of such requirements.

(iii) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(I) IN GENERAL.—

(aa) in clause (xi), by striking ''and'' at the end;

(bb) in clause (xii), by striking the period at the end and inserting ''; and''; and

(cc) by adding at the end the following:

''(xiii) such contract provides that (I) payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate required by the agreement entered into under section 1927 as the State is subject to and that the State shall allow the entity to collect such rebates from manufacturers, and (II) capitation rates paid to the entity shall be based on actual cost experience related to rebates and subject to the Federal regulations requiring actuarially sound rates.''.

(II) CONFORMING AMENDMENTS.—Section 1927 (42 U.S.C. 1396r–8) is amended—

(aa) in subsection (d)—

(AA) in paragraph (1), by adding at the end the following:

''(C) Notwithstanding the subparagraphs (A) and (B)—

''(i) a medicaid managed care organization with a contract under section 1903(m) may exclude or otherwise restrict coverage of a covered outpatient drug on the basis of policies or practices of the organization, such as those affecting utilization management, formulary adherence, and cost sharing or dispute resolution, in lieu of any State policies or practices relating to the exclusion or restriction of coverage of such drugs; and

''(ii) nothing in this section or paragraph (2)(A)(xiii) of section 1903(m) shall be construed as requiring a medicaid managed care organization with a contract under such section to maintain the same such polices and practices as those established by the State for purposes of individuals who receive medical assistance for covered outpatient drugs on a fee-for service basis.''; and

(bb) in paragraph (4), by inserting after subparagraph (E) the following:

''(F) Notwithstanding the preceding subparagraphs of this paragraph, any formulary established by medicaid managed care organization with a contract under section 1903(m) may be based on positive inclusion of drugs selected by a formulary committee consisting of physicians, pharmacists, and other individuals with appropriate clinical experience as long as drugs excluded from the formulary are available through prior authorization, as described in paragraph (5).''; and

(cc) in subsection (j), by striking paragraph (1) and inserting the following:

''(1) Covered outpatients drugs are not subject to the requirements of this section if such drugs are—

''(A) dispensed by a health maintenance organization other than a medicaid managed care organization with a contract under section 1903(m); and

''(B) subject to discounts under section 340B of the Public Health Service Act.''.

(III) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r–8) on or after such date.

(iv) INCREASED FUNDING FOR THE MEDICAID IMPROVEMENT FUND.—[*Review with CBO to specify numbers and whether savings all go to 2014 or also to 2015 through 2018*]Section 1941(b)(1)(A) (42 U.S.C. 1936w–1(b)(1)(A)) is amended by striking ''$100,000,000'' and inserting ''$________''.

SA 62. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 3 and 4, insert the following:

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.''.

SA 63. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, beginning on line 8 strike ''through'' and all that follows through ''application,'' on line 10, and insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary and''.

On page 108, between lines 3 and 4, insert the following:

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.''.

SA 64. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title

XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, beginning on line 8 strike ''through'' and all that follows through ''application,'' on line 10, and insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary and''.

SA 65. Mr. MARTINEZ (for himself, Mr. VITTER, Mr. WICKER, Mr. BUNNING, Mr. ENZI, Mr. COBURN, Mr. JOHANNS, Mr. BROWNBACK, Mr. INHOFE, Mr. CHAMBLISS, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESTORATION OF PROHIBITION ON FUNDING OF NONGOVERNMENTAL ORGANIZATIONS THAT PROMOTE ABORTION AS A METHOD OF BIRTH CONTROL ("MEXICO CITY POLICY").

Notwithstanding any other provision of law, regulation, or policy, including the memorandum issued by the President on January 23, 2009, to the Administrator of the United States Agency for International Development, titled ''Mexico City Policy and Assistance for Voluntary Family Planning,'' no funds authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for population planning activities or other population or family planning assistance may be made available for any private, nongovernmental, or multilateral organization that performs or actively promotes abortion as a method of birth control.

SA 66. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 114 and insert the following:

SEC. 114. DENIAL OF PAYMENTS FOR COVERAGE OF CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 200 PERCENT OF THE POVERTY LINE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE.—For child health assistance furnished after the date of the enactment of this paragraph, no payment shall be made under this section for any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose family income (as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) would exceed 200 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.''.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—From amounts appropriated under paragraph (2), the Secretary shall make grants to States as follows:

(A) 75 percent of such amounts shall be directed toward increasing coverage for low-income children under CHIP.

(B) 25 percent of such amounts shall be directed toward activities assisting States, especially States with a high percentage of eligible, but not enrolled children, in outreach and enrollment activities under CHIP, such as—

(i) improving and simplifying enrollment systems, including—

(I) increasing staffing and computer systems to meet Federal and State standards;

(II) decreasing turn-around time while maintaining program integrity; and

(ii) improving outreach and application assistance, including—

(I) connecting children with a medical home and keeping them healthy;

(II) developing systems to identify, inform, and fix enrollment system problems;

(III) supporting awareness of, and access to, other critical health programs;

(IV) pursuing new performance goals to cut ''procedural denials'' to the lowest possible level; and

(V) coordinating community- and school-based outreach programs.

(2) FUNDING.—There is appropriated to provide grants under paragraph (1) an amount equal to the amount of Federal funds that the Director of the Congressional Budget Office certifies would have been expended for the period beginning April 1, 2009, and ending September 30, 2013, if section 114 (relating to limitation on matching rate for States that propose to cover children with effective family income that exceeds 300 percent of the poverty line) of S. 275 (111th Congress) as reported by the Committee on Finance of the Senate and placed on the Senate calendar on January 16, 2009, had been enacted.

SA 67. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 17 and 18, insert the following:

''(3) LIMITATION.—

''(A) IN GENERAL.—A State shall not be a shortfall State described in paragraph (2) if the State provides coverage under this title to children whose family income (as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) exceeds 200 percent of the poverty line.

''(B) GRANTS TO STATES WITH UNSPENT FUNDS.—Of any funds that are not redistributed under this subsection because of the application of subparagraph (A), the Secretary shall make grants to States as follows:

''(i) 75 percent of such funds shall be directed toward increasing coverage under this title for low-income children.

''(ii) 25 percent of such funds shall be directed toward activities assisting States, especially States with a high percentage of eligible, but not enrolled children, in outreach and enrollment activities under this title, such as—

''(I) improving and simplifying enrollment systems, including—

''(aa) increasing staffing and computer systems to meet Federal and State standards;

''(bb) decreasing turn-around time while maintaining program integrity; and

''(II) improving outreach and application assistance, including—

''(aa) connecting children with a medical home and keeping them healthy;

''(bb) developing systems to identify, inform, and fix enrollment system problems;

''(cc) supporting awareness of, and access to, other critical health programs;

''(dd) pursuing new performance goals to cut 'procedural denials' to the lowest possible level; and

''(ee) coordinating community- and school-based outreach programs.''.

SA 68. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, beginning on line 13, strike ''whose'' and all that follows through line 17, and insert the following: ''whose family income would exceed 300 percent of the poverty line (determined without regard to any block or other income disregard and without excluding any type of expense (regardless, in the case of child health assistance or health benefits coverage provided in the form of coverage under a Medicaid program under paragraph (2) of section 2101(a) (or a combination of the coverage options under paragraphs (1) and (2) of such section) of whether such a disregard or exclusion is permitted under section 1902(r)).''.

SA 69. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 75, strike line 18 and all that follows through page 76, line 2.

SA 70. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 114 and insert the following:

SEC. 114. DENIAL OF PAYMENTS FOR COVERAGE OF CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—For child health assistance furnished after the date of the enactment of this paragraph, no payment shall be made under this section for any expenditures for providing child

health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.''.

SA 71. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SCHIP Funding Extension Act of 2009''.

SEC. 2. FUNDING THROUGH FISCAL YEAR 2010.

(a) THROUGH FISCAL YEAR 2010.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)), as amended by section 201(a)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) in subsection (a)(11), by striking ''and 2009'' and inserting ''through 2010''; and

(B) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(2) AVAILABILITY OF EXTENDED FUNDING.—Funds made available from any allotment made from funds appropriated under subsection (a)(11) or (c)(4)(B) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal year 2009 or 2010 shall not be available for child health assistance for items and services furnished after September 30, 2010.

(b) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by striking subsection (l) and inserting the following new subsections:

''(l) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2009.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $3,000,000,000 for fiscal year 2009.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2009 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2009.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2009, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) ONE-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2009, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2009. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

''(m) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2010.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $4,000,000,000 for fiscal year 2010.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2010 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2008 and 2009 that will not be expended by the end of fiscal year 2009;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2010 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2010.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2010, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2010, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2010, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2010. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).''.

(c) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall be in effect through September 30, 2010.

(3) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is repealed.

SA 72. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 12 and 13, insert the following:

(d) REQUIREMENT FOR STATES COVERING CHILDREN WHOSE INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE TO OFFER PREMIUM ASSISTANCE FOR ALL FAMILIES OF TARGETED LOW-INCOME CHILDREN.—

(1) IN GENERAL.—Section 2102(a) (42 U.S.C. 1397b(a)) is amended—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(8) effective for plan years beginning on or after October 1, 2009, in the case of a State that provides child health assistance for any targeted low-income child with a family gross income (determined without regard to any block or other income disregard and without excluding any type of expense (regardless, in the case of child health assistance or health benefits coverage provided in the form of coverage under a Medicaid program under paragraph (2) of section 2101(a) (or a combination of the coverage options under paragraphs (1) and (2) of such section) of whether such a disregard or exclusion is permitted under section 1902(r))) that exceeds 200 percent of the poverty line, how the plan shall offer child health assistance in the form of premium assistance to all targeted

low-income children who have access to private health insurance coverage or coverage under a group health plan.''.

SA 73. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 58, strike line 14 and all that follows through page 62, line 17, and insert the following:

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on the first day of the first month that begins after the 6-month termination period, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS 6 MONTHS AFTER THE DATE OF THE ENACTMENT OF THIS ACT.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after the last day of the 6-month termination period.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before the date described in paragraph (1)(A), notwithstanding the requirements of subsections (e) and (f) of section 1115, a State may submit, not later than 30 days after the date of enactment of this Act, a request to the Secretary for an extension of the waiver. The Secretary shall approve a request for an extension of an applicable existing waiver submitted pursuant to this subparagraph, but only through the last day of the 6-month termination period.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the 6-month termination period.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than 90 days after the date of enactment of this Act, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a ''Medicaid nonpregnant childless adults waiver'').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of the last day of the 6-month termination period, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by the date described in subparagraph (A), the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of any period of fiscal year 2009 in which such waiver is in effect, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for any previous corresponding period in fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2009 over 2008, as most recently published by the Secretary;

''(ii) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the sum of the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009 and under title XIX for any period of fiscal year 2009 in which such waiver is in effect, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(iii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the year involved over the preceding calendar year, as most recently published by the Secretary.

''(4) 6-MONTH TERMINATION PERIOD.—In this subsection, the term ''6-month termination period'' means the period that begins with the first day of the first month that begins on or after the date of enactment of this Act and ends on the last day of the 5th succeeding month.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CASEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, January 27, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CASEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on January 27, 2009 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, January 27, 2009, at 10:30 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CASEY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, conduct a hearing entitled ''Access to Prevention and Public Health for High Risk Populations'' on Tuesday, January 27, 2009. The hearing will commence at 10 a.m. in room 385 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Health IT: Protecting Americans' Privacy in the Digital Age'' on Tuesday, January 27, 2009, at 9:30 a.m., in room SD–226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HATCH. I ask unanimous consent that Dr. Janet Phoenix, my health policy fellow, be granted the privilege of the floor during Senate consideration of H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent that Stephanie Carlton and Evan Feinberg of my staff be granted the privilege of the floor during debate on H.R. 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

CATHOLIC SCHOOLS WEEK

Mr. DURBIN. I ask unanimous consent the Senate now proceed to consideration of S. Res. 22, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 22) recognizing the goals of Catholic Schools Week and honoring the valuable contributions of Catholic schools in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 22) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 22

Whereas Catholic schools in the United States have received international acclaim for academic excellence while providing students with lessons that extend far beyond the classroom;

Whereas Catholic schools present a broad curriculum that emphasizes the lifelong development of moral, intellectual, physical, and social values in the young people of the United States;

Whereas Catholic schools in the United States today educate 2,270,913 students and maintain a student-to-teacher ratio of 14 to 1;

Whereas the faculty members of Catholic schools teach a highly diverse body of students;

Whereas the graduation rate for all Catholic school students is 95 percent;

Whereas 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual character and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, ‘‘Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives.’’: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of Catholic Schools Week, an event cosponsored by the National Catholic Educational Association and the United States Conference of Catholic Bishops that recognizes the vital contributions of thousands of Catholic elementary and secondary schools in the United States; and

(2) commends Catholic schools, students, parents, and teachers across the United States for their ongoing contributions to education, and for the vital role they play in promoting and ensuring a brighter, stronger future for the United States.

HONORING THE LIFE OF ANDREW WYETH

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 23, submitted earlier today by Senator CASEY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 23) honoring the life of Andrew Wyeth.

There being no objection, the Senate proceeded to consider the resolution.

Ms. SNOWE. Mr. President, I rise as a cosponsor of Senator SPECTER's resolution honoring Andrew Wyeth and to pay tribute to the landmark life and legacy of this towering giant of American Art. My State of Maine joins Pennsylvania, the Nation, and the world in mourning the inexpressible loss of Andrew Wyeth, a painter of enormous genius, brave vision, and unmatched realism who long ago secured a rightful and prominent place in the pantheon of artists.

One of the most ‘American’ of painters, Andrew Wyeth possessed a courage and sensitivity to capture the stark beauty of the landscapes and individuals he depicted. And those of us from Maine will forever hold a special place in our hearts for the undeniable love he had for our State, as portrayed in his moving landscapes of Maine's coasts and especially in his exceptional ‘‘Christina's World.’’ Like millions around the world, we will miss Andrew Wyeth's historic and enduring contributions to the American story as told on canvas as well as his powerful capacity for capturing the human condition unvarnished.

On a personal note, it was such a privilege to know Andy and his wonderful wife, Betsy, over the years. I will always treasure the fond memories of visiting Andy and Betsy and their family at their home on Allen Island. Indisputably, Andy lived his life the way he painted—with integrity, grace, and an abiding sense of humanity. And I always remember the pride and honor I felt attending the presentation of a National Medal of the Arts in 2007 to Andy at the White House in an unforgettable ceremony rightly recognizing his iconic body of work over an extraordinary lifetime.

I would like to include for the RECORD a recent outstanding article entitled Wyeth's White Wonder by John Wilmerding, published in The Wall Street Journal, Saturday, January 24, 2009. Formerly a professor at Dartmouth College, Mr. Wilmerding curated the exhibition Andrew Wyeth: The Helga Pictures at the National Gallery of Art in 1987 and recently retired as Sarofim Professor of American Art at Princeton University. Describing Andrew Wyeth's Snow Hill as one of his most memorable works, Mr. Wilmerding captures the essence of the painting and the painter, calling Snow Hill ‘‘one of the most haunting, beautiful and resonant of Wyeth's seven-decade career.’’

Poet Robert Frost once wrote of a star that ‘‘it asks a little of us here/It asks of us a certain height,’’ and certainly the same can be said of Andrew Wyeth who inspired and entreated us to experience his courageous rendering of the world as he saw it, and like generations to come, we are eternally indebted to him. Andrew Wyeth's artistic achievements resonate not only in our time—but for all time. He will be profoundly missed, and we extend our deepest condolences to Betsy and to our great friends—their son, Jamie and his wife, Phyllis—their son, Nicholas; and the entire Wyeth family for their tremendous loss.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 24–25, 2009]

WYETH'S WHITE WONDER

(By John Wilmerding)

Andrew Wyeth died last week on a winter's day familiar to us from many of his paintings: snowy, cold and moody. Perhaps the best form of appreciation we can express for his artistic achievement is to undertake a close look at one of his iconic works in this case ‘‘Snow Hill,’’ a painting from the height of his powers that is relatively little known, seen or reproduced. While it has been on loan to the Brandywine Museum (www.brandywine-museum.org) for several years, its fragility of surface has kept it from going out on loan to a wider audience, and its singularity of subject matter has not readily found it a place in recent Wyeth monographs or exhibition catalogs. Only posterity is likely to sort out which of his paintings will stand up as his most memorable works, but ‘‘Snow Hill’’ is likely to hold its own as one of the most haunting, beautiful and resonant of Wyeth's seven-decade career.

Indeed, the picture is about marking seven decades. Wyeth, who lived to the age of 91, painted this large tempera to mark his 70th birthday (in 1987). He finished the painstaking effort two years later. There are few others that are larger and as ambitious. The artist was conscious of mortality for much of his career, from the deaths of his father and nephew in a train accident in 1945, to his own miscellaneous ailments, operations and illnesses throughout his later years.

We know that many of his images were in varying degrees autobiographical, and this painting was a conscious summary of his artistic life that was both somber memoir and playful recalibraion. Like many of Wyeth's winter landscapes in watercolor, dry-brush, or egg tempera, this makes the most of a near-monochromatic palette, where darks and lights play against each other, and nature's full range of grays and tans takes on a heightened texture. One of his great talents was an intense technical virtuosity in all of his chosen media. Yet even as his admirers and critics are drawn to the magic realism of objects and surfaces, it is the

charged emotion, suggestive meaning, and complex moods beneath facades and faces that distinguish his finest visions.

The setting was intimately familiar to Wyeth almost his entire life, a view looking down over the Kuerner farm and the nearby hills of the Brandywine Valley in Pennsylvania. The artist knew almost every inch of the roads, buildings and fields we see in the distance below. Historians and others may argue for some time whether his future reputation will rest on the landscapes or portraits (respectively descended from two of his artistic idols, Winslow Homer and Thomas Eakins). ''Snow Hill'' is unusual in the merging of the two—one open, silent and vast; the other intimate, animate and active. The foreground hilltop, receding valley, and broad sky constitute a painted tour de force of whites, off-whites and cream colors. Its poetic emptiness recalls the stark eloquence seen in but a few of Wyeth's other strongest compositions—such as ''Christina's World'' (1949), ''River Cove'' (1958) and ''Airborne'' (1996).

Atop the hillside we view the improbable scene of a Maypole dance at Christmas time. The seven ribbons descending from beneath the tree above mark the artist's seven decades. In a surreal vision, Wyeth assembles prominent figures from his life and art who appeared in major paintings over the years. Holding hands from left to right across the foreground are Karl and Anna Kuerner, followed by William Loper and Helga Testorf. In the back right is the family friend and neighbor Allan Lynch, wearing his telltale hat with earflaps flying, and finally, partially obscured, a figure with billowing brown coat who recalls the artist's wife, Betsy, posing years earlier in the snowy courtyard of their Chadd's Ford farmhouse. In this enumeration we realize the group only comes to six, suggesting a missing seventh figure. Possibly Christina Olson, the most enduring of Wyeth's Maine subjects, made famous by his first masterpiece, ''Christina's World,'' is not present, since her paralysis would keep her from dancing. Or perhaps the implied seventh individual might be the artist himself, participant in their lives and unseen orchestrator of this imaginary get-together. In any case, this is a witty and exuberant conjuring of artistic imagination.

Not surprisingly for Wyeth, however, there are notes of darkness beneath the celebratory gathering: Wyeth had lived through Karl Kuerner succumbing to cancer, Allan Lynch to suicide, and William Loper to madness. Even so, what we ultimately experience here is the enjoyment of art, life and creativity, an idea subtly but vividly conveyed by the air-touched ribbons. They contain the most intense colors and free-flowing brushstrokes in this picture. Wyeth once described how he approached their execution. In part remembering his childhood games with friends, dressing up as soldiers or medieval knights with play swords or sabers, he envisioned here addressing the painting like a fencer with an epee. With arm and brush extended, he swiftly moved to the surface and slashed each stroke of color from the apex down to the figures.

There is one more level of meaning embodied in this half-real, half-dream image, which resides in its title. ''Snow Hill'' is at once a literal description and a literary allusion. Yes, our vantage point is on the crown of this snowy hill, gently curving across the foreground. But its contour also brings to mind the great rounded back of a white whale, which Wyeth connected to ''Moby-Dick.'' His painting's title comes from a line toward the end of Melville's book. In chapter 133, ''The Chase—First Day,'' a sailor aloft cries, ''there she blows!—there she blows! A hump like a snow-hill! It is Moby Dick!'' This of course reinforces Wyeth's own juxtapositions of black and white, darkness and light, death and life. His ''Snow Hill'' is a more personal drama than Melville's, but no less a celebration of whiteness, in symbolism and pigment.

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res 23) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 23

Whereas Andrew Wyeth was one of the most popular American artists of the twentieth century, whose paintings presented to the world his impressions of rural American landscapes and lives;

Whereas Andrew Wyeth was born in Chadds Ford, Pennsylvania on July 12, 1917, where he spent much of his life and where today stands the Brandywine River Museum, a museum dedicated to the works of the Wyeth family;

Whereas Andrew Wyeth died the morning of January 16, 2009, at the age of 91, in his home in Chadds Ford, Pennsylvania;

Whereas it is the intent of the Senate to recognize and pay tribute to the life of Andrew Wyeth, his passion for painting, his contribution to the world of art, and his deep understanding of the human condition;

Whereas Andrew Wyeth was born the son of famed illustrator N.C. Wyeth and grew up surrounded by artists in an environment that encouraged imagination and free-thinking;

Whereas Andrew Wyeth became an icon who focused his work on family and friends in Chadds Ford and in coastal Maine, where he spent his summers and where he met Christina Olson, the subject of his famed painting 'Christina's World';

Whereas Andrew Wyeth's paintings were immensely popular among the public but sometimes disparaged by critics for their lack of color and bleak landscapes portraying isolation and alienation;

Whereas Andrew Wyeth's works could be controversial, as they sparked dialogue and disagreement in the art world concerning the natures of realism and modernism;

Whereas Andrew Wyeth was immensely patriotic and an independent thinker who broke with many of his peers on the issues of the day;

Whereas Andrew Wyeth was a beloved figure in Chadds Ford and had his own seat at the corner table of the Chadds Ford Inn, where reproductions of his art line the walls;

Whereas Andrew Wyeth received the Presidential Medal of Freedom in 1963 and the Congressional Gold Medal of Honor in 1988;

Whereas Andrew Wyeth let it be known that he lived to paint and never lost his simplicity and caring for people despite his immense fame and successful career; and

Whereas the passing of Andrew Wyeth is a great loss to the world of art, and his life should be honored with highest praise and appreciation for his paintings which remain with us although he is gone: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Andrew Wyeth as a treasure of the United States and one of the most popular artists of the twentieth century; and

(2) recognizes the outstanding contributions of Andrew Wyeth to the art world and to the community of Chadds Ford, Pennsylvania.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the following Senator as Chairman to the Mexico-U.S. Interparliamentary Group conference for the 111th Congress: The Honorable CHRISTOPHER J. DODD of Connecticut.

ORDERS FOR WEDNESDAY, JANUARY 28, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate stand in adjournment until 10 a.m. tomorrow, Wednesday, January 28; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2, the Children's Health Insurance Program Reauthorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, tomorrow the Senate will resume consideration of the children's health insurance bill. We will continue to work through the amendments to the bill.

I want to say, by way of observation, that today's proceedings in the Senate were refreshing and positive. Amendments were brought to the floor, debated, voted on, and we are moving on to more tomorrow. It is almost like the Senate of old.

We will continue to work through amendments to the bill, and I hope in the spirit of bipartisan cooperation we can complete this bill. Senators should be prepared to work on these amendments and vote throughout the day tomorrow.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent

that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:22 p.m., adjourned until Wednesday, January 28, 2009, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate:

INTERNATIONAL BANKS

TIMOTHY F. GEITHNER, OF NEW YORK, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE HENRY M. PAULSON JR., RESIGNED.

DISCHARGED NOMINATION

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

DANIEL K. TARULLO, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2008.

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, January 27, 2009:

FEDERAL RESERVE SYSTEM

DANIEL K. TARULLO, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2008.

HOUSE OF REPRESENTATIVES—*Tuesday, January 27, 2009*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Ms. JACKSON-LEE of Texas).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 27, 2009.

I hereby appoint the Honorable SHEILA JACKSON-LEE to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

TRIBUTE TO RAYMOND M. FITZGERALD

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS) for 5 minutes.

Mr. SHIMKUS. Madam Speaker, today I come to the well and before my colleagues to remember one of my employees who was with me for 5 years and a true Chicago South Sider, an individual who worked diligently here in the Washington, D.C. community for many, many years, Ray Fitzgerald.

Ray was my legislative director for 5 years. Before that, he worked for the State of Illinois in Gov. Jim Edgar's administration. He then moved to the Science Committee for 1 year, and then came to my office.

Ray, during his time here, met the love of his life, Kristin Wolgemuth, who also was a Congressional staffer and also from Chicago, and who had worked for Harris Fawell, a Congressman and Congresswoman JUDY BIGGERT from the Chicagoland area. They fell in love, got married, and then were able to enjoy D.C. and the community and work hard for this country. They have three children; Nora, 7, Maggie, 4, and Lucy, 2. Ray was a devout Roman Catholic, and Ray was able to live his faith, along with his wife, Kristin, and affect many lives positively.

Ray just last week lost his life in a terrible battle with cancer. Many of us from around the country attended his funeral yesterday in Chicago and the wake the night before. The wake was as large as you would expect when you have a loved one who has left you. Of course, the funeral was just as large, and I appreciated the funeral service focusing on the hope of salvation to those who believe, and remembering Ray's life.

But the thing that highlighted Ray's service here in Washington and the respect he garnered was his honesty, his transparency, the friendships that he developed and his work effort. Many people from the Washington, D.C. area went out for the wake and for the funeral yesterday, and we will pass the word out to the Washington, D.C. community about a memorial service that will be conducted here in Washington in the weeks to come. Kristin and the girls are coming out, along with Ray's mother and other family members and friends.

What was as important in this fight with cancer was the ministry that Kristin and Ray did as they struggled with what is God's will. Many times we pray for God's will to be done, hoping that it is the answer to our desires and aspirations and prayers. God's will in this case was not for Ray to stay here on Earth, but to take him up in His loving arms with Him in Heaven and thus be truly healed.

This battle that was raged joined numerous people from across the country as Kristin was faithful in providing us the highs and the lows of the battles; the times when they were able to take the girls out to parks and to zoos and the times the family was very hopeful, but also times when Ray was really physically just struggling. She continued to ask for prayer and support and focus on her husband, her family and that loving environment.

One of the last e-mails I sent to them was talking about how they were able to comply with God's will. I really hated when Ray left Washington, D.C. He was a trusted confidant and a good friend. But, in hindsight, I see how God was preparing for his departure to get him in and around his family. He has five sisters. His mother is still there. Kristin has an extended family in that area. They were there to lift Ray, Kristin and the girls up and provide the love and care that they needed in this battle, and they will be there for the duration of strengthening the family and helping Kristin raise these three young girls.

I would like to share one of the last e-mails that Kristin sent to us as a whole on the announcement of her husband's death.

She writes, ''Loved ones, oh to never have to write this e-mail. After meeting with all of Ray's doctors yesterday and today it is clear that they have done all they can do to fight his cancer.

''Despite the many rounds of chemo, the cancer is growing and getting stronger and Ray is much too weak to endure another round of chemo. Even if he weren't so sick, Ray's liver status renders chemo dangerous and ineffective.''

In this, she is talking about putting him into hospice, and Ray died shortly after that.

Now, think of a young wife and mother of three children, ages 7, 4 and 2, to be so strong in faith. She always would end her e-mails with the phrase ''not afraid and not alone,'' and this is in the 10 month battle with cancer. ''Not afraid and not alone.'' In the funeral yesterday, I thought I heard Kristin say many people attributed that to her. She attributed it to her husband.

TRIBUTE TO KATIE STAM, MISS AMERICA 2009, AND RYAN GUTHRIE, CHIEF OF STAFF

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. HILL) for 5 minutes.

TRIBUTE TO KATIE STAM, MISS AMERICA 2009

Mr. HILL. Madam Speaker, I rise for two reasons this morning, on this snowy day in Washington, DC.

Number one is to congratulate Katie Stam, who is the new Miss America, who won her crown last Saturday in Las Vegas. Katie is from my hometown of Seymour, Indiana, and we could not be more proud of Katie and her accomplishments, more than ever before. This is a real tribute to her. She is a talented young lady. I know her personally. I had the opportunity to speak with her on Sunday to congratulate her on her accomplishments. She is a great singer and a beautiful woman.

She is also a friend of the family. She and my youngest daughter, Libby, know each other very well, and we all speak very highly of Katie. I know for certain that she is going to represent not only Seymour, not only Indiana,

but the entire United States of America as America's not only beautiful person outside, but beautiful person inside as well.

We are immensely proud of Katie. I know her family very well. They are great people. It is just a proud moment for all of us to stand here in the well of the House today to congratulate Katie on all of her accomplishments that she has done.

TRIBUTE TO RYAN GUTHRIE, CHIEF OF STAFF

Mr. HILL. Madam Speaker, the second reason that I rise here this morning is to honor my Chief of Staff, Ryan Guthrie, who is moving on to bigger and better things.

Ryan Guthrie has been with me since day one, when I began the campaign for Congress back in 1998. He is a graduate of Indiana University. He is also from Seymour, Indiana, my hometown. He has been with me from the get-go.

Madam Speaker, in this business of politics you get to a point where you have to depend reliably on people that you trust, and I can't think of anybody that I trust more than Ryan Guthrie. He has been a stalwart companion of mine. He has been there with me from day one. He has been through the battles. He has been through the victories and through the defeats. We have laughed and cried together, and I am going to miss him very much, but I wish him well.

NEW LEGISLATIVE PROCESS A BREATH OF FRESH AIR

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, we are hearing a lot here on Capitol Hill about Otto von Bismarck's old sausage metaphor, that one doesn't want to watch either sausage or legislation being made. Well, for too long, Madam Speaker, the legislative process in this House was a scene right out of Upton Sinclair's graphic novel, ''The Jungle.''

But currently with a new Congress and new Administration I would say that it has been a breath of fresh air watching this legislative process. It has been open. The ingredients have been great. The legislative leadership, the new President and his administrative team, have been involved, talking with people in both parties, in both chambers, and we are moving towards a package that I think people ought to embrace enthusiastically.

The economic stimulus is moving into stage II, almost the home stretch. We are putting down positions, principles and guidelines. Any timetable at this juncture is perhaps artificial in nature. The target figure of $825 billion or $800 billion or $850 billion is a little arbitrary and subject to amendment, to adjustment. Such parameters are useful, maybe necessary. They are not set in stone, and it is necessary that we do this right. What we can agree upon is to make the economic impact as soon as possible while we help rebuild and renew America to make it better.

I am concerned as the process moves forward, particularly as it relates to the infrastructure portion, that we make sure that the money gets to where it needs to go.

□ 1045

Primarily, I want to make sure that our metropolitan areas around the country are not shortchanged.

The last Surface Transportation Act was held up for 2 years because people were arguing about whether States got an allocation that was fair enough. But the greatest disparity for transportation funding in this country was between metropolitan areas, which seldom got their fair share: 78 cents on the dollar in Dallas, southern California shortchanged by over $1 billion.

One of the things we ought to do now, in this package while it's still in the formative stage, is to make sure that we use the existing STP allocation for all funds, not just part of the transportation funding. This formula would guarantee that metropolitan areas get their fair share and not concentrate money unduly in State departments of transportation.

The second suggestion I would make is that we not use a lot of onerous paperwork to make sure that people are complying with the use-it-or-lose-it provisions.

We have very powerful compliance tools. We could simply make modest reductions in future revenue streams for people that don't make their target—hold them accountable, get the spending, and be able to protect the Treasury.

Third, we ought to consider having local incentives for people that are actually going to reach in and put more of their own money into projects, being able to provide some modest incentive so that we reward and not penalize those who will get more money into the economy faster.

Last, we ought to assure that States put the money where it can be spent. For example, if the State of New York has areas that can't take advantage of their allocation in time, but there are areas that can, we encourage the shift. The City of New York has almost $2 billion worth of projects that could meet that 2010 guideline. We ought to put language into this bill that encourages States to reallocate to areas that can use it, not risk losing it.

We ought to make sure that we don't shortchange transit investments. I think we ought to go back to the marker laid down by Chairman OBERSTAR last December, of $12 billion; that ought to be a recommendation as a floor for transit. This would assure that we are able to make investments in these transportation activities that actually create more jobs than other types of transportation investments. Transit is very job intensive.

A perfect example is a project we have in Portland, Oregon, where we have had stuck in the Department of Transportation a ''small-start'' streetcar expansion project for months. It meets all the statutory criteria, but the Bush Department of Transportation and their FTA and OMB could not figure out how to allocate the money. They couldn't even issue ''small start'' administrative rules that complied with the statute.

This is an opportunity to be able to jump start something that would not only be millions of local dollars for the transit project, but it would incent millions more for related development along the alignment. And it's not just Portland, Oregon; it's Tucson, it's Seattle. We have a chance to jump start a new American industry for streetcars for the 80 communities around America who want to move in this direction, even manufacturing streetcars in America for the first time in two-thirds of a century.

I urge we move in a positive way. Support transit, support our metropolitan areas, get our economy moving while we revitalize our communities.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 48 minutes a.m.), the House stood in recess until noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order at noon.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Almighty God and Lord of life, we seek Your guidance that we may live Your life in fullest measure.

Since the time of Sarah and Abraham, Your covenant with Your people has been the model of married life and social order. Renew us in faith and faithfulness.

May husbands and wives live in deeper understanding, honoring each other both in their words and their goodness. May the bonds of intimacy grow in American family life, that hearts will be converted to lasting values and explore the joy discovered in the love and faithfulness they uncover in themselves and in each other.

Enable government of this Nation to create an atmosphere where family life

may flourish for generations to come. Lord, from You comes guidance now and forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. SIRES) come forward and lead the House in the Pledge of Allegiance.

Mr. SIRES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 328. An act to postpone the DTV transition date.

THE ECONOMY IS UNRAVELING

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, 55,000 Americans lost their jobs yesterday. Nine thousand five hundred jobs were lost at the drug company Pfizer. They didn't have $4 billion to keep 9,500 employees, but they had $68 billion to buy another drug company, Wyeth, with the help of four banks, Goldman Sachs, JPMorgan Chase, Citigroup and Bank of America, which have collectively received $238 billion in bailout monies and loan guarantees.

Using bailout funds for mergers and acquisitions which result in the loss of jobs is nothing new. The Treasury Department gave PNC $5.2 billion in bailout funds, which PNC promptly used to take over National City Bank in Cleveland, my hometown, putting at least 7,800 jobs at risk.

Today, as Congress takes up an economic stimulus package, we are in a race to try to create jobs to stimulate the economy while corporations are getting bailout funds and cutting jobs. The economy is unraveling. We clearly cannot rely on the private sector to create jobs. When the private sector cuts jobs, and we are approaching unemployment levels of 10 percent in some States, then it's the duty of government to create jobs.

The stimulus package is a first step, but only a first step.

WE MUST INVEST IN PROJECTS TO BENEFIT OUR ECONOMY

(Mr. SIRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIRES. Mr. Speaker, if we want the recovery package to be successful, we must invest in projects to benefit our economy in the short term and in the long term. The American Recovery and Reinvestment Act does just that.

Investing in our infrastructure creates 40,000 new jobs in New Jersey and has long-term benefits that will modernize our crumbling infrastructure. The recovery plan also provides additional long-term investment in energy, health care and education. Specifically, this bill provides New Jersey with $3.4 billion over 2 years to modernize our schools, enhance our educational technology and increase aid to students.

Finally, this legislation provides immediate and direct tax relief for 95 percent of working families, and for job-creating small businesses. By helping the average American employer and employee with their taxes, we ensure they have income to grow their businesses and make investment in the future.

I urge support for the bill.

TET, THE LUNAR NEW YEAR

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, today marks the second day of Tet, or more commonly known as the Lunar New Year. This year is the Year of the Water Buffalo.

Tet is a reaffirmation of the Vietnamese cultural heritage and tradition and is the largest and the most celebrated holiday for the Vietnamese people. It is when friends and families come together to celebrate the past year and, of course, we look to the future year.

On January 30, the Union of the Vietnamese Student Associations of Southern California will hold its annual Tet Festival in the City of Garden Grove. I would like to recognize the UVSA and the Vietnamese community for their endless efforts in bringing students, young professionals and community organizations together for the annual Tet Festival.

The Vietnamese American community plays a vital economic and cultural role in the 47th District of California, and I am very proud of its efforts in fighting to achieve freedom and human rights for all Vietnamese people.

As the Representative of the 47th District, it is a great honor to represent one of the largest Vietnamese communities in the world, and I would like to congratulate the Vietnamese community for all their successes this past year and to wish them a very happy new year, Chuc Mung Nam Moi.

TURN AROUND THE MALDISTRIBUTION OF THIS NATION'S WEALTH AND INCOME

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, as we consider the stimulus bill today, it's important to reflect on how we got into this financial morass.

After all, over the last 8 years of the Bush administration, we saw the highest corporate profit and the deepest tax cuts in American history. So what's the problem? Well, 96 percent of the income growth over those 8 years went to the top 10 percent, only the wealthiest Americans.

They were the ones that benefited from the tax cuts. They benefited from the corporate deregulation. Forty-six percent of the profit went to financial services firms. So the problem is that only 4 percent of the income growth during the Bush years went to the 90 percent of middle-class Americans and those struggling to get into the middle class.

But what did they do to cope with this static income? Well, they did what the President told them to do. After 9/11 he said go shop in the mall, and that's what they did by borrowing. The increase in consumer spending was exactly equal to the amount of money borrowed from inflated home equity values.

That's what they did, and now we have the bust in real estate values and almost 40 percent of Americans are technically insolvent. That's why this bill starts to turn around that maldistribution of this Nation's wealth and income. That's why it should be supported today.

CONGRESS SHOULD ACT IN BIPARTISAN FASHION TO ADDRESS OUR NATION'S ECONOMIC RECESSION

(Ms. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. RICHARDSON. Mr. Speaker, over the last couple weeks House committees, including Transportation and Infrastructure, on which I serve, have worked hard to craft an economic recovery package that would address the deep recession problems that we have. Likewise, over the last couple of months, we've worked with President

Obama, and we have listened to economists, over 10 of them, all who say action needs to happen now.

Today, President Obama will meet with my colleagues, congressional Republicans, in a bipartisan fashion to really explain why this package is the best way to move forward and to turn this economy around. Conservative economic policies have not worked. In fact, we haven't produced jobs, and there has not been a production of economic prosperity.

The American people demanded change in November. The Economic Recovery and Reinvestment Package strives to do just that, helping to bring American jobs and providing 90 percent of middle Americans an immediate tax cut.

Mr. Speaker, if congressional Republicans really listen to President Obama today, they will support the legislation, and they will join us for change.

ECONOMIC RECOVERY PACKAGE INVESTS IN THOSE HARDEST HIT BY ECONOMY

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, as the economic recession worsens, millions of Americans are in financial trouble and looking for some immediate assistance, but help is on the way. Tomorrow this House will vote on the Economic Recovery and Reinvestment Act that will provide 3 to 4 million jobs here in America.

Those hit hardest by the economic crisis are the ones we need to help first, and we are doing that by extending unemployment benefits to people in America, millions who are still looking for jobs. It is difficult to find a job when thousands are being cut. Yesterday a record number of jobs were cut.

Economists say one of the best ways to stimulate the economy is to put the money in the hands of people who will spend it immediately, spend it on necessities, and that's people who are out of work. That's something we are going to do.

It's also critical to give those people health insurance, and we will provide the States with money so that they can continue to provide Medicaid to those people who need that assistance. There are nearly 7 million unemployed Americans who need health insurance through COBRA. That will also be extended.

Mr. Speaker, this economic recession has hurt millions. This Congress will respond and provide assistance.

PUERTO RICO AND TERRITORIES DESERVE TO BENEFIT FULLY FROM ONGOING EFFORTS TO REVITALIZE ECONOMY

(Mr. PIERLUISI asked and was given permission to address the House for 1 minute.)

Mr. PIERLUISI. Mr. Speaker, I rise in strong support of H.R. 1. As the Congressional Budget Office has just confirmed, the bill will have a very positive impact on our Nation's economy.

I am particularly grateful for the inclusion of Puerto Rico and the other U.S. territories in most of the bill's provisions. The territories are an integral part of the United States and thus deserve to benefit fully from our ongoing efforts to revitalize the economy.

As the final version of this bill is worked out, I will continue to seek more equitable treatment for the U.S. citizens of Puerto Rico in those few areas where I believe improvements should still be made.

For example, I will continue to make the case that Puerto Rico should receive an increase in Medicaid funding that better reflects the island's legitimate needs and does more to address the negative impact that the current spending cap is having on the Commonwealth's finances.

SUPPORT THE STIMULUS PACKAGE

(Mr. TEAGUE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TEAGUE. Mr. Speaker, I rise today with America's economy in deep trouble. Families from Hobbs to Silver City and across the country are struggling. They are wondering if they will be able to make ends meet.

We must act now to help those families. I know that we won't all agree with every little part of the economic recovery bill that we are considering. I have some concerns myself, but I intend to support the package, not because it's perfect, but because it will create jobs and get our economy going. After all, that's what the people sent us here to do. If this bill passes, 684,000 New Mexicans will get a tax break and over $400 million will go into infrastructure and investments to create jobs and support economic development.

I am also pleased that the bill includes language from two bills that I introduced as a stimulus package for southern New Mexico to create green jobs and give families with kids a tax break. I urge my colleagues to pass this stimulus legislation so we can put America back on track and back to work.

PROVIDING FOR CONSIDERATION OF S. 181, LILLY LEDBETTER FAIR PAY ACT OF 2009

Ms. PINGREE of Maine. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 87 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 87

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 181) to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 10 of rule XXI. The bill shall be considered as read. All points of order against the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor; and (2) one motion to commit.

□ 1215

The SPEAKER pro tempore (Mr. HOLDEN). The gentlewoman from Maine is recognized for 1 hour.

Ms. PINGREE of Maine. For the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 87.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Ms. PINGREE of Maine. Mr. Speaker, House Resolution 87 provides for consideration of S. 181, the Lilly Ledbetter Fair Pay Act of 2009. This measure is identical to the version of the bill that was passed by this House on January 9 of this year by a significant vote of 247–171. The bill is also virtually identical to the version adopted in the 110th Congress.

It is well past time to get this legislation to the President for his signature. Today, we plan to do just that. After this bill is passed by the House later today, it will go directly to the White House and on President Obama's desk.

First, I want to commend Chairman MILLER for his leadership and his tireless efforts that have brought us so far. As my colleague, Chairwoman DELAURO, said during her eloquent remarks when this body first took up the bill 2 weeks ago, ''We are here today because Lilly Ledbetter got short-changed—short-changed by her employer, the perpetrator of consistent pay discrimination lasting years, and short-changed again by the Supreme Court.'' And so now we are here today to fight for the final passage of this essential legislation.

As a mother of two daughters, a woman who has owned her own business myself much of my adult life, and as a newly elected Member of this body, I was proud to cast one of my first votes in favor of the Lilly Ledbetter Act, and I am proud that both Chambers have already made a strong commitment to protect workers against pay discrimination in the workplace.

This important legislation is long overdue, and I urge my colleagues to join me in supporting the underlying bill, S. 181, the Lilly Ledbetter Fair Pay Act of 2009.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume. I'd like to thank my friend the distinguished gentlewoman from Maine (Ms. PINGREE) for the time.

I wish to welcome my distinguished colleague to the Rules Committee. She is a very important addition to the Rules Committee, and all of us have had the privilege of welcoming her in the last days. She stated in her statement that she is a new Member. She's also a new member of our committee, and obviously we are very pleased that she is.

Mr. Speaker, I rise in opposition to this closed rule that, once again, clearly contradicts the majority's pledge to the American people to work with colleagues on both sides of the aisle.

Today, the majority proceeds to consider this legislation here on the floor of the House under a closed rule. That means, Mr. Speaker, that if this rule is passed and this legislation is brought to the floor under it, every Member of this House will be forbidden from offering any amendments to it. And what makes this act even more unfortunate is that this bill did not make its way through the committee process during this Congress, thereby abandoning the critical committee vetting and amendment process. In effect, what the majority is doing is sidelining the legislative process.

My colleagues on the other side of the aisle, Mr. Speaker, may say that they would refute that claim because this legislation was considered in the previous Congress and should be passed quickly. But I bring to my colleagues' attention that we have dozens of new Members who were not here in the last Congress and are now not given the opportunity to participate in the usual and proper legislative process. So, something that truly concerns me is that this closed rule may, in effect, foreshadow how the majority will continue to run this House.

Considering the fact that we are only in the fourth week of the 111th Congress, and that when we take into account this rule, we count this rule, the majority has already considered four pieces of legislation under closed rules, I am quite concerned that the future will bring closed rule after closed rule to this floor.

So, Mr. Speaker, the question is obvious. Will the majority continue its current path of blocking a bipartisan legislative process? Will they break their record of offering 64 bills, as they did under closed rules in the 110th Congress? Or will they change their behavior and open up this legislative process?

The majority promised that it would when it achieved the majority 2 years ago, but it has not done so. In fact, as I stated, in the last Congress, 64 bills—breaking all records of all prior Congresses—64 bills were brought to this floor under closed rules that do not permit any Members in this House to have their ideas considered in the form of amendments. So the facts do not lead to optimism.

I reserve the balance of my time.

Ms. PINGREE of Maine. I thank my colleague on the Rules Committee for his kind welcome to a new Member.

Mr. Speaker, I yield 2 minutes to a new Member, and my colleague on the Rules Committee, the gentleman from Colorado (Mr. POLIS).

Mr. POLIS of Colorado. I'd like to thank the gentlewoman from Maine for the time. First, on the rule, before I get into the merits of the issue, which is a very important issue we all care about, with regard to the rule on this item, we did discuss it and debate it as part of the initial rules for the House of Representatives which we put in place. So this was discussed both within caucus and debated before the House as a whole.

I heard many objections from my colleagues on the other side, perhaps including the gentleman from Florida, with regard to the rules package, around the recommit issue, around the terms limit issue. I did not hear at that point extensive disagreement about the rules for this particular item, which were included in that initial package.

I would like to thank Chairman MILLER for his leadership on this issue of equality and fairness in the workplace and Representative DELAURO for her continued work on this issue. This bill restores and clarifies important protections that are a long time coming. This bill corrects a wrong that has cost our working women more than just the dollars they have earned. Today's bill ensures that every worker, whether male or female, is given equal opportunity to fight against discrimination in the workplace.

When someone's pay is based not only their ability, not on their creativity, not on their personal drive, not on the value they create in the economy, but rather on their chromosomes, we cheat ourselves and we cheat our entire economy and all American families. Pay discrimination, whether based on gender or any nonperformance factor, means the best and the brightest within our society are being held back.

Discrimination is a cancer of economic inefficiency that eats away at American prosperity. When we fail to promote those who show leadership, we stifle the innovation and progress that make our country great. And while our country has made great strides, tremendous strides towards equality, we have a long way to go, and particularly women still continue to suffer for less pay for the same work than men across our Nation.

Pay discrimination furthers inequalities. And that is why I strongly support the Lilly Ledbetter Act. It gives women the legal hammer they need to continue to break the glass ceiling.

Mr. LINCOLN DIAZ-BALART of Florida. I yield myself such time as I may consume.

I would remind my distinguished friend that we did make known our protest with regard to the fact that this legislation was in the list of bills that the majority on the first day of this Congress made clear would be brought to the floor without the possibility of amendments.

But it's interesting. When the Senate considered this legislation, the Senate did authorize and have debate on amendments. And so the question really, I think, is begged. What is the harm in allowing Members of this House to bring forth their ideas and letting this House work its way via the majority, the majority decide, and that way vet the ideas, discuss, debate, and decide which ideas brought forth by colleagues are appropriate and should be adopted. There's no harm in that, Mr. Speaker. There's no harm.

But, unfortunately, the pattern is continuing. The record was broken in the last Congress with regard to the number of closed rules, with regard to the number of pieces of legislation that were brought to this floor under a structure that did not allow any amendments to be proposed and debated by Members of either party. And that trend continues.

So we saw it not only on the first day of this Congress, but we see it today. Already, four bills, in the few days that this Congress has met, the 111th Congress has met already, we have seen four bills brought forth under these structures known as closed rules that do not allow Members of either party from proposing ideas to improve any of the pieces of legislation that have been brought to the floor. I think that's the most unfortunate.

I reserve the balance of my time.

Ms. PINGREE of Maine. Mr. Speaker, I yield 3 minutes to my colleague on the Rules Committee, the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. I thank my colleague for yielding to me, and I welcome her to the Rules Committee. This is going to be an exciting year.

Mr. Speaker, I rise in support of the Lilly Ledbetter Fair Pay Act. This is a great day, this is an important day, because at long last we have a Congress and a President of the United States who not only believes in equal pay for equal work, but are willing to stand up and fight for equal pay for equal work.

Mr. Speaker, last year, we passed the Lilly Ledbetter Fair Pay Act. We sent it to the United States Senate, and the Republicans in the United States Senate led a filibuster to block progress on this bill. And if we could overcome that filibuster, we have got a President of the United States named George Bush who said he would veto the Lilly Ledbetter Fair Pay Act.

□ 1230

Well, times have changed. We passed the bill again here in the House by a large margin, the Senate has passed it, and we are now accepting the Senate version.

My colleague from Florida says, well, what harm is it to open all this up again? The harm is, if you add or change this bill that we are voting on today, it will go back to the United States Senate; it will delay this important piece of legislation.

Mr. Speaker, discrimination is wrong in any form, discrimination in the workplace. Paying a woman less than a man for equal work is wrong. It is something that is intolerable. And the important thing about this bill is it will move us closer to equality in the workforce. We still have a long way to go.

Mr. Speaker, on average, women earn just 78 cents for every dollar earned by a man. The Institute of Women's Policy Research has found that this wage disparity costs women anywhere from $400,000 to $2 million in lost wages over a lifetime. And equal pay, Mr. Speaker, is not simply a women's issue; it is a family issue.

People should be paid for the quality of their work. They should not be discriminated against because of their gender. This vote is about ending discrimination. It is not about process, it is not about anything else. It is about whether at long last the United States Congress and the President of the United States are going to stand up for equal pay for equal work, and I think that this is an important step in the right direction.

I want to congratulate GEORGE MILLER, the chairman of the Education and Labor Committee, as well as ROB ANDREWS, my colleague, for his incredible work on this. But we have waited long enough. George Bush and the Republicans have thrown enough roadblocks in our way. We have removed them. We are moving forward. We are moving toward equality. We are moving to end discrimination. And I am proud to stand on the floor and support the Lilly Ledbetter Fair Pay Act.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would point out that every piece of legislation brought to this floor is preceded by a debate on the terms of debate. In other words, the rule that we are now considering as a resolution sets the framework for how the underlying piece of legislation can be debated; and, if you will, it does set the process, the parameters for the process of the debate. It establishes the resolution, the rule that is debated and voted on before the underlying legislation can be considered, sets forth, determines if amendments are authorized; and, if so, what amendments are authorized. And so it is process that is debated by the rule, resolution commonly known as the rule, that is brought to the floor before legislation is considered. And that is what we are on right now. That is what we are discussing right now, the resolution, the rule to set the terms of debate.

What I am pointing out and will reiterate now is that it is most unfortunate and unnecessary, totally unnecessary, for the majority to bring forth legislation that will have the support of the majority on the floor when it is considered, the underlying legislation, to bring it forth with a rule that prohibits debate, that shuts out debate, that does not allow any amendments from any Member, whether they are Democrats or Republicans, on the underlying piece of legislation. That is what I am trying to point out, and I thought it was pretty clear.

Mr. Speaker, we reserve the balance of our time.

Ms. PINGREE of Maine. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Let me thank the distinguished gentlelady from Maine (Ms. PINGREE) and welcome her. Thank you for your leadership as well. It is my pleasure to be able to thank Chairman MILLER and also my friend from New Jersey, Congressman ANDREWS, for his work. And let me thank Congresswoman ROSA DELAURO for her collective effort, and the Senate for moving forward.

Yesterday, Mr. Speaker, 70,000 Americans lost their jobs. I would suspect, as we work on the Economic Stimulus Package and TARP, that, unfortunately, we are going to see a constant march of those losing their jobs.

So why is it absolutely urgent and imperative that we move forward on the Lilly Ledbetter Fair Pay Act? Because this is a deterrent. When people are losing their jobs, 70,000 to 100,000 jobs a day, then there are normally one bread winner per family, man or woman. How shameful it would be if that bread winner happens to be a woman and she is subjected to the unfair, disparate treatment of not being able to be paid equally in the workplace for her work.

It is well known that women are still earning 78 percent for every dollar earned by a man, and the Institute of Women's Policy Research has found that this wage disparity costs women anywhere from $400,000 to $2 million in lost wages of a lifetime. Families of America cannot tolerate that now. The children of America cannot tolerate that now. When a woman rises to the occasion or she is already in the workplace, we must pay her fair wages, and the Lilly Ledbetter Fair Pay Act allows any discrimination to be petitioned in the court, unlike Lilly Ledbetter, who was stymied by statutory process because she did not know.

And so, Mr. Speaker, I rise to support the underlying rule and this bill, for as we move towards stimulating the economy and bringing jobs back to America, there is no way that this body, this Constitutional body, this country that believes in equality and justice for all can allow the constant discrimination in pay against women, for our children will suffer and our children's children will suffer. This bill is a necessity, because it is time now to eradicate the vestiges of discrimination on the basis of gender.

I ask my colleagues to support this rule, support this legislation, and to thank those who have been part of sponsoring this, and recognizing that in the 18th of congressional district where women go out to work every day, where they are providing the economic engine not only for our communities but for their families, must be treated fairly. 70,000 jobs lost yesterday. How many today? We must eradicate the unfair treatment of women in the workplace as relates to wages.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, we reserve the balance of our time.

Ms. PINGREE of Maine. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey, a member of the Education and Labor Committee that did such great work on this bill, Mr. ANDREWS.

Mr. ANDREWS. I thank the gentlelady for yielding and, Mr. Speaker, I congratulate her for stewarding through in her first effort as a member of the Rules Committee this very historic piece of legislation. I think it is fitting that the gentlelady from Maine, who has excelled as a businessperson, as a State legislator, and now as a legislator here, has left her very considerable imprint on this process and I congratulate her.

The process has afforded under the rules of the House, both in committee and here on this floor, the opportunity for competing views to be heard about this idea. I know, Mr. Speaker, we will hear frequently this afternoon that no one in the House supports discrimination on the basis of gender, and I believe that is true. The issue is not what we say, though, it is what we do. And we have a chance to take a step against discrimination on the basis of gender,

but I am sure, Mr. Speaker, there will be those who say this is the wrong time and the wrong step. I respectfully disagree.

There are those who say this is the wrong time to take this step because there will not be any statute of limitations; that is to say, people can sue forever if they have been the victim of employment discrimination. That is not accurate. You have 180 days in most States and a few more days in other States to file a claim once an act of discrimination has occurred. If a plaintiff does not file his or her claim by that time, the claim expires. This has been the law in a majority of circuits for a very long time. The U.S. Supreme Court disrupted that law. We are restoring it.

We expect to hear that there will be a flood of litigation, that the courthouses will be filled with people filing discrimination claims once this bill becomes law. That is not the case. Again, this bill restores the law as was understood by a majority of the circuits until the Supreme Court gave its ill-founded decision in the Ledbetter case. There was no flood of litigation under the prior understanding of the statute, and I do not believe there will be a flood of litigation now.

We will hear that this should apply only to intentional discrimination against women or others on the basis of gender. You know, if you are hit by a truck, Mr. Speaker, it doesn't matter if the truck driver intended to hit you or simply did so carelessly; if you are injured, you are injured. And if a person can show discrimination on the basis of any of the suspect categories under title VII under the law, they should be compensated, whether or not they can prove the discrimination was intentional. If there is a pattern and practice of discrimination because an employee is a woman, it should be remedied, and limiting this to intentional discrimination makes no sense.

We expect to hear that employees will sit on their rights; that they will have an opportunity to sue and wait for a very long time to do so. There is simply no evidence that people did that under the prior law as understood by the circuits. And, frankly, it would be a very ill-founded plaintiff who would do such a thing since it would cost them money to do so, reminding you that the burden of proof would fall upon the plaintiff to come up with the evidence of discrimination that took place a long time ago. So she or he has no incentive to sit on their rights and have to bear that burden of proof.

Finally, we will hear that employees will sit on their rights because somehow it makes economic sense to do so. Mr. Speaker, it simply doesn't. The statute limits someone to go back 2 years backwards, for back pay, from the point at which discrimination took place. It would be a very irrational plaintiff who would wait a very long time to wait and go back those 2 years. The longer you wait, the more it costs you as a plaintiff.

So these arguments have been fully aired. I respectfully would argue they are all wrong. The time is right for us to stand up and not simply say we are against discrimination, but vote against discrimination, and pass this bill this afternoon.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, what we are saying is that there is no need to close off debate; that this legislation could very easily have been debated openly; that Members on both sides of the aisle could have been given the opportunity to bring forth amendments as they were able to in the Senate, and that this legislation would move forward. It is not only unfortunate but unnecessary for the majority to close off debate. And, as I stated previously, there is a pattern.

In the last Congress, despite having promised the most open and the most transparent, the most fair Congress in history, the reality was exactly the opposite: More pieces of legislation were brought to this floor under closed rules that did not allow any amendments during the last Congress, the first Congress where our friends on the other side of the aisle had the majority in many years. More pieces of legislation were brought to the floor with closed rules prohibiting all amendments than in history, in all of history before in the history of Republic. So that is unfortunate.

But we are seeing the pattern continue. It has continued in these weeks in the beginning of the 111th Congress, and already this is the fourth bill, the fourth piece of legislation brought to the floor under a structure that does not permit any amendments under closed rules. That is what we are saying, it is uncalled for, it is unfortunate. And we hope, I guess because hope springs eternal, that our friends on the other side of the aisle will open the process up and will allow Members from both sides of the aisle to introduce amendments and have them debated and have the majority work its will.

Mr. Speaker, I yield back the balance of my time.

□ 1245

Ms. PINGREE of Maine. Mr. Speaker, I appreciate the opportunity to lead this bill today as a newly elected Member and a new member of the Rules Committee, and I appreciate working alongside my new colleague on the Rules Committee. And I'm sure we will have a busy afternoon together.

We have heard several arguments and supportive thoughts from many of my distinguished colleagues from this side of the aisle. And I appreciate their thoughts and their very hard work that it has taken to bring this bill to the floor and the momentous occasion we will have today when we are able to take this vote. I have also heard several arguments from my esteemed colleague from Florida. And I just want to remind him that when this bill was debated during the last session of Congress in the Education and Labor Committee where there were ample opportunities to bring amendments, those people in opposition only brought two amendments. So this is not a bill where there is tremendous disagreement. And in fact, the fact that there were no speakers virtually in opposition to this bill shows us what an important piece of legislation we are dealing with today, and in fact only were the discussion around the process taken up today. And I feel that since we have already debated this bill in the House and the Senate when it was last here, we passed it by an overwhelming margin of 247–171. It was passed by a bipartisan vote in the Senate of 61–36.

I am confident that this bill will receive very strong support today and want to say that I'm proud to be a Member of this body when this is happening. I do want to remind my colleagues that this legislation simply restores prior law. It is so important. And by passing it, we are making great strides in protecting workers by reversing the Supreme Court's Ledbetter decision as we have been eloquently described to today. We owe it to all American workers to strengthen, not weaken, nondiscrimination charges based on gender, race and religion.

It has passed the House, and it has passed the Senate previously. Today we are here to send it on to President Obama for what will be his first signature of any bill.

I urge my colleagues to support workers everywhere and vote ''yes'' on the underlying bill. I urge a ''yes'' vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Mr. MCGOVERN. Madam Speaker, by direction of the Committee on Rules, I

call up House Resolution 88 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 88

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed three and one half hours equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations, who may yield control of blocks of that time. After general debate, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman from Massachusetts is recognized for 1 hour.

Mr. MCGOVERN. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 88.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Madam Speaker, House Resolution 88 provides for general debate on H.R. 1, the American Recovery and Reinvestment Act. I would like to think this rule is not controversial because it is only about general debate, but it will lead the way to an important debate on the underlying legislation, H.R. 1, the American Recovery and Reinvestment Act.

Madam Speaker, George W. Bush left this country with an economy much worse off than the one he inherited from the Clinton administration. Eight years after being handed record budget surpluses, President Bush passed on to President Obama an economy that has record budget deficits and is in worse shape since the Great Depression.

Unemployment is rising. Fifty-five thousand more jobs were lost yesterday alone. Wages are stagnating. And work hours are being cut back. People are having trouble making ends meet, including putting food on the table.

And that is where this recovery package steps in. The provisions that make up the American Recovery and Reinvestment Package range from investments in infrastructure and green technology to extending unemployment for workers who have exhausted their benefits. We provide aid to struggling State governments and tax cuts for low and middle-income families and small businesses. These are all good investments that we hope will help reinvigorate our economy. And I look forward to voting for them tomorrow.

Madam Speaker, some of the most important parts of this package, in my opinion, are the antihunger provisions that will not only stimulate the economy, but will also help combat hunger in this country. This recovery package includes $20 billion for the Food Stamp program, $200 million for elderly nutrition services, including Meals on Wheels and Congregate Meals, $726 million to increase the number of States that provide free healthy dinners to children in need, $150 million to purchase commodities for food banks to refill emptying shelves, and $100 million to improve State management information systems for the WIC program.

Madam Speaker, food stamp increases will reach about 14 million low-income households as soon as 25 days after enactment. About 90 percent of all food stamp households have income below the poverty line. In other words, these are benefits that are timely and they are targeted.

It is important to note that every dollar in food stamps that a low-income family receives enables that family to spend an additional dollar on food or other items. And don't just take my word for it. Leading conservative economists support inclusion of these benefits in the recovery package. Former Reagan economic adviser Martin Feldstein has said that a temporary food stamp increase would place resources in the pockets of people with a high propensity to spend quickly, rather than save, the limited income that they have.

Mark Zandi, a former economic adviser to the McCain campaign, says that a temporary increase in food stamp benefits gives the best ''bang for buck.'' Specifically, he estimates that such an increase would generate $1.73 in increased economic activity for each $1 in cost.

Madam Speaker, increasing food stamps is not charity. It is stimulus. It is not a handout or a give-away. But investments in antihunger programs do fulfill our moral commitment to make sure our fellow citizens have enough to eat. More than 36 million Americans went hungry in 2007, before the economy took this drastic spike downward. Yet the last stimulus plan signed into law didn't include increases for food stamps or any kind of antihunger programs.

The fact that hunger remains a problem in America should make every single Member in this Chamber feel ashamed. H.R. 1 gives us a chance to begin to solve this problem and to prevent many more American families from slipping into hunger.

Madam Speaker, as I said at the outset, the American Recovery and Reinvestment Act includes large investments in our infrastructure to help rebuild our roads and our bridges, to help with our water and sewer plants, to help State and local governments deal with the financial burdens and crises they are currently faced with. This is a bill that will help put people back to work and that will create millions of jobs that will hopefully stimulate this economy. The one thing I do know, Madam Speaker, is that doing nothing is not an option. That is what has been happening in the previous administration. They ignored this problem for far too long. And their response when the probably became a huge problem was grossly inadequate.

So, Madam Speaker, I urge my colleagues to support this rule and to support this package.

I reserve the balance of my time.

Mr. DREIER. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, I want to begin by expressing my appreciation to my friend from Worcester for yielding me the traditional 30 minutes and I yield myself, as I said, such time as I may consume.

Madam Speaker, we all know that the United States of America is facing one of the greatest challenges we have ever had. This is a very tough and painful time for Americans all across the economic spectrum. People have been losing their homes. We have seen the jobless rate surge. And we have challenging and difficult days ahead of us. Every one has acknowledged that. Conservative, liberal, moderate, wherever you stand on the political spectrum, we all know that we are dealing with extraordinarily difficult times.

I have to say at the outset as my friend went through the litany of challenges that President Barack Obama has now inherited, it is true, we are facing very tough times. But I think it is very important to note that I was privileged to come to this institution in 1981. And when Ronald Reagan became President of the United States, if you look at the numbers that existed in 1980 and 1981, the time of the transition from the Carter administration to the Reagan administration, the inflation rate was 13.5 percent, the unemployment rate was 7.1 percent and interest rates were well into double digits.

Now, no one knows what tomorrow is going to bring. And most people have said that tomorrow is going to be challenging and difficult. And I personally believe that it is. But I think that it is important to note that the challenge which President Obama has inherited

and which we, as elected leaders in this country, have inherited is a tough one. But it may or may not be unprecedented.

We do know this. And I'm very pleased that President Obama is at this moment right here in the Capitol meeting with members of the Republican Conference. And I have just come from that meeting to begin the debate on the issue of the so-called economic stimulus package. President Obama, in his presentation to us, provided a very nice, encouraging message with which I agree. He said that as we deal with this economic stimulus package, let's work as hard as we possibly can to put politics aside.

This is a message that President Obama has carried repeatedly throughout his campaign. And 1 week ago today, as he stood on the west front of the Capitol, he made it very clear that that was that exactly what he wanted to do, was to put politics aside.

□ 1300

Now I will say to my friend that pointing the finger of blame is an unfortunate thing, and I think it is really being political, and that is why I hope very much that we can follow the words of encouragement that President Obama has just given Republican Members, and that is to put politics aside and as we debate this stimulus package, focus on the merits. ''Focus on the merits'' are the exact words that the President of the United States just used within the last few minutes downstairs.

I believe it is absolutely imperative that we look at the merits. Everyone knows that we need to take action to stimulate our economy, to get people back to work, to help people buy and keep homes, to keep businesses investing, job creating, and to ensure that the very important societal needs that are out there are adequately addressed.

The problem that we have, Madam Speaker, is that as we look at this package that is before us, unfortunately there has not been the kind of bipartisan cooperation that President Obama has encouraged and has personally sought.

As we look at the legislation, the measure that we are going to be working on further today upstairs in the Rules Committee, it is an $825 billion package. It is an $825 billion package which, based on the report that was released yesterday from the professional, nonpartisan Congressional Budget Office, has levels of expending that go not just a year beyond where we are, not just 2 years beyond where we are, but to 10 years. And, Madam Speaker, I know very few Members have recognized this, one of our crack staff members found this out last night in looking at budget authority versus outlays, there is actually $2.3 billion, according to the professional, nonpartisan Congressional Budget Office, that in this stimulus packaged is expended beyond 10 years, beyond 2019.

Now again, following the words of encouragement that we as Republican Members have just received from President Obama downstairs focusing on the merits of the stimulus package versus politics is going to be a high priority for us. And that is why, again, this study which just came out from the professional, nonpartisan Congressional Budget Office, remember this is not a Republican publication. Yes, I am a Republican, proud to be a Republican, I am simply reporting to the House, Madam Speaker, what it is that was included in this Congressional Budget Office study which I commend to every single one of our colleagues. I encourage people to look at the professional, nonpartisan Congressional Budget Office study, and the reason I am focusing on it is I want to share, along with the information that I just provided, that $2.3 billion of this is actually expended beyond 2019, 10 years from now.

I would like to share a couple of paragraphs from this study. It is on page 4 and this is entitled H.R. 1, American Recovery and Reinvestment Act 2009 as introduced in the House of Representatives yesterday on January 26. It provides a summary. This is, again, from the CBO. It reads: ''CBO expects that Federal agencies, along with States and other recipients of the funding, would find it difficult to properly manage and oversee a rapid expansion of existing programs so as to expend the added funds as quickly as they expend the resources provided for their ongoing programs.''

This study goes on to say: ''Lags in spending stem in part from the need to draft plans, solicit bids, enter into contracts, and conduct regulatory or environmental reviews. Spending can be further delayed because some activities are by their nature seasonal. For example, major school repairs are generally scheduled during the summer to avoid disrupting classes, and construction and highway work are difficult to carry out during the winter months in many parts of the country.'' It is snowing outside right now. We know that to be the case.

And then, Madam Speaker, this report, not a partisan report from the professional, nonpartisan Congressional Budget Office goes on to say: ''Brand new programs pose additional challenges. Developing procedures and criteria, issuing the necessary regulations and reviewing plans and proposals would make distributing money quickly even more difficult—as can be seen, for example, in the lack of any disbursements to date under the loan programs established for automakers last summer to invest in producing energy-efficient vehicles. Throughout the Federal Government, spending for new programs has frequently been slower than expected and rarely been faster.''

Madam Speaker, again, these are not my words. There is nothing partisan about this. These words came from the study released yesterday from the nonpartisan Congressional Budget Office. I focus on this because I believe that President Obama was absolutely right 15 minutes ago when he said to Republican Members of this institution that we should focus on the merits and not on politics. We don't want to focus on politics because we know it is absolutely essential that we come together with a package that will truly stimulate our economy, get Americans working, create jobs and deal with this very serious economic challenge.

Now as we move ahead, Madam Speaker, what needs to be done is we need to have a package that will not do as the Congressional Budget Office, the professional, nonpartisan Congressional Budget Office has stated, create slow, wasteful, duplicative spending, and that is basically what they are saying here. They are talking about in their independent analysis how difficult it is going to be to get these dollars out there, and to not spend $2.3 billion of this 11 years from today, we should instead focus on fast acting, immediate action.

Now what is it that we can do to deal with the issue of immediacy that faces us? Well, on the opening day I was pleased to introduce legislation which is included in the alternative package that we are going to bring forward. That legislation is focused on addressing a particular problem that is out there in our economy, and that is the housing industry. Traditionally, the housing industry has played a very important role in reigniting our economy.

Yesterday the chairman of the Appropriations Committee, in his testimony before the Rules Committee, said there is no way the housing or the auto industry will be able to play a role in bringing us out of economic recession. And I challenged him on that because I don't believe that is in any way accurate in concluding it because we can take action.

On opening day I introduced legislation which calls for incentivizing Americans to purchase and have an interest in keeping their homes. What it consists of, and we will have this in our package, is a $7,500 exclusion to help people offset the downpayment they make on their home. Everyone has recognized that a big part of this problem in the housing industry has been the fact that people put absolutely nothing down and had subprime rates of interest. And those subprime rates of interest allowed people, unfortunately, to treat their homes like rental units. So they had no vested interest in it, and so they were actually encouraged to walk away.

If we can say to an American, and we all know that the savings rate has gone

up because of these challenging economic times, that they put some dollars aside that actually utilizes that to increase the percentage of their downpayment on that home purchase will play a role in dealing with that inventory of housing that is out there.

We saw the reports of the layoffs at Home Depot and a wide range of other companies yesterday. We know if we are able to encourage people to have a vested interest in their home and purchase their home, that will go a long way towards encouraging responsibility and seeing that they have a vested interest in that home. That is just one example.

We also believe when it comes to tax relief that we should provide tax relief to Americans who pay taxes. That is why in our package we are going to call for an across-the-board cut for every single American, reducing from 10 percent to 5 percent on the first level of income that is taxed.

Action like this, I believe, Madam Speaker, will provide an immediacy which is what the American people want. They want an immediate response. And yes, some spending is necessary. We recognize that infrastructure spending is necessary. But as we look at the litany of items that have been included in this package that in no way stimulate our economy, I believe that we should in fact focus on responsibility, private sector job creation, and economic growth. That, I believe, will mitigate the pain which so many of our fellow Americans are suffering at this moment.

Madam Speaker, because of the direction in which we are headed, I am going to encourage my colleagues to oppose this rule. I recognize it is only a general debate rule, but I am very troubled with the legislation that we have seen, some of the actions that have been taken in the committees of jurisdiction. With that, I am going to urge opposition to this rule.

I reserve the balance of my time.

Mr. McGOVERN. Madam Speaker, I yield myself such time as I may consume.

I am all for bipartisanship, but I find it curious that the gentleman is preaching bipartisanship when this morning, and I read from Politico, there is a story that says this morning House minority leader JOHN BOEHNER went for the jugular, urging his members to oppose the economic centerpiece of Obama's first term just hours before the President paid the Republicans the compliment of coming to the Capitol for a private meeting, even before he did the same for House Democrats.

I will yield to the gentleman in just a second.

It seems to me if we want to be bipartisan, then everybody should reserve judgment until all the facts are on the table. I would like to think that the House minority leader would have reserved his judgment on the overall package until he and the Republican Members of this House had an opportunity to hear the new President out. That did not happen.

Mr. DREIER. Will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding, and let me say that I stand here, having just left the meeting with the President to come up to voice my strong opposition to the $825 billion package that was unveiled without consultation with the Republican leadership. The partisanship has, unfortunately, been demonstrated through actions of my friend on the other side of the aisle. So we are seeking opposition to it.

Mr. McGOVERN. Reclaiming my time, the fact of the matter is the economic downturn is no longer subject to debate. In the last 4 months, the country has lost 2 million jobs and is expected to lose another 3 to 5 million in the next year. This recovery package represents a crucial first step forward in a concerted effort to not only save but create millions of more jobs in this country. This is a defining moment for every single person in this Chamber. We need to act. We need to move forward with something big and bold, and not the same old, same old.

And bipartisanship, Madam Speaker, doesn't mean that Democrats should capitulate to every request that the Republicans make. Bipartisanship doesn't mean that we should embrace policies that have failed in the past, embracing the same old, same old.

Chairman OBEY was before the House Rules Committee last night and talked about the Republican amendments that he accepted during debate on this package in the Appropriations Committee. This is not everything I would like, Madam Speaker. Quite frankly, I think the package needs to be bigger. But this represents, I think, the best judgment of our new President, working with his advisers, and I think this package is a crucial first step forward in trying to bring this economy back from where it is today. This is a crucial step in trying to create millions of more jobs to put people back to work to try to stimulate this economy to get things moving again.

Mr. DREIER. Will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman.

Mr. DREIER. I thank my friend for yielding, and I assume my friend has seen this Congressional Budget Office study, and I want to add, as we talk about this Congressional Budget Office study, that it is important to note that while our friend, the chairman of the Appropriations Committee talked about his acceptance of amendments, it is fascinating that the Energy and Commerce Committee had a rigorous debate on a number of amendments. They accepted four Republican amendments by voice vote that dealt with things like COBRA qualification, health information technology, the rights of pharmacists, and they dropped those four amendments from the bill. So what kind of bipartisanship is that, I ask my friend.

Mr. McGOVERN. Reclaiming my time, I would say to my friend that the Congressional Budget Office study report is disputed by many, many on the House Appropriations Committee and many on the Senate Appropriations Committee. In fact, Mark Zandi who is a conservative economist and former adviser to JOHN McCAIN, your Presidential candidate in the last go-around, projected that this stimulus package would create 4 million jobs by the end of 2010 and it will provide a vital boost to this lagging economy.

The bottom line is, I think it is obvious that the kind of investments that are in this package, infrastructure, green jobs, investments in education, investments in Food Stamps and investments in medical technology, investments in making sure that we have more nurses and more primary care doctors, all of those things create more jobs and will stimulate the economy.

We can debate reports all we want, but those of us who have been here for awhile know that when you invest in things like infrastructure, you create jobs back home. That is what we are doing here. There are expedited provisions here to make sure that the money gets out quickly.

Madam Speaker, I would like to yield at this point 3 minutes to the gentleman from Georgia (Mr. SCOTT).

□ 1315

Mr. SCOTT of Georgia. Thank you very much, Mr. McGOVERN.

I think it is very important for us to get our hands around exactly what the situation is now. Our house is on fire. There are two things we need to do. We got to get the water, and we got to get the water quickly and put this fire out. Our economy is crumbling right before our eyes. We are losing 6,300 homes to foreclosure every day. We are losing almost that many jobs every day. Each day there is a new headline, 5,000 jobs here, 6,000 jobs here. Ladies and gentlemen, we can't wait.

Now, let us talk about this economic recovery and investment package, because that is what it is, and let's be fair and accurate with the American people as we talk. We have a new administration that is saddled with the responsibility of leading and applying the executive decisions. This administration, the Obama administration, has come to Congress, and with them, together, we have put together this package, a package that has a great many

things in it because our economy has a great many things in it.

Now, if you want to stimulate the economy, there are only three basic ways to do it: You can cut taxes, which is in here; you can do huge government spending, which is in here; and you can also use the Fed to cut the interest rates, which we have already done and they are frozen at zero. So we are left with these two things. And this package is equally balanced in terms of the impact that is needed. We need to get stimulus in as quickly as we can.

Madam Speaker, if I may just share with you a little letter I received from one of my constituents in a high school in Clayton County in Forest Park. Let me just read this.

It says, ''Dear Congressman Scott. I am a high school student that attends Forest Park High School here in Clayton County, Georgia. This school is in bad shape and I hope you can help us get money for the school. The school needs new tile for restrooms and new windows. The hallways need new lockers so that the lockers that don't open can be replaced. Classrooms need new desks so that some of the desks that have graffiti and old gum stuck to them can be replaced. We need more space in the lunchroom. Congressman Scott, the lines are so long in the lunchroom that when some students just get their food, it is time for them to go back to the classroom.''

Well, in this package we have $43 million into this Clayton County school system. In another county in my district, $50 million. And I am sure every Member of this House can get a letter saying the same thing.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McGOVERN. I yield 1 additional minute to the gentleman.

Mr. SCOTT of Georgia. Madam Speaker, our country is riveted with those moments that try men's souls. We are at such a moment in our history. And when the history books are written on this moment, let it be said that both Republicans and Democrats came together and responded at this moment with the confidence that the American people are looking to us with a way out of this dilemma that we are in. That is why they elected us, to lead, to lead with confidence and with boldness, and to rise to the occasion of this moment that tries men's souls as those moments in our past history from the foundation of this country to now have.

Let us move with quick dispatch and get this measure off, passed and over to President Obama, so he can execute this plan immediately.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume just to say to my good friend from Clayton County, Georgia, who does a spectacular job, that we all want to ensure that schools and the other very pressing needs out there are addressed. Getting our economy growing is critical for that and I know my friend concurs with the importance for us to do that, and that is why I point to this independent, professional, nonpartisan Congressional Budget Office study which has indicated that there is going to be a tremendous lag time in getting those resources to those schools to which my friend has referred.

Madam Speaker, I would like to yield 2 minutes to my good friend from Moore, Oklahoma (Mr. COLE).

Mr. COLE. Madam Speaker, I thank my good friend and distinguished ranking member of the Rules Committee from California for yielding.

I rise in opposition to this rule and to the underlying legislation. Let me say at the outset, I respect the Rules Committee and the very important function that it carries out as a former member, but it is preeminently, as it should be, the Speaker's committee. In this case I believe the Speaker has presented us with legislation in a format that is unlikely to receive significant minority support and participation, and, frankly, that is unfortunate, Madam Speaker, because I think it is avoidable.

There is much in the current situation that, frankly, the two parties in this body agree on. We agree that we are in a serious recession. We agree that dramatic Federal response is required to deal with job loss and the mounting economic challenges we face. We agree that tax cuts are an important part of that solution. We have some disagreement over which ones and how much, but clearly it is an area we can find common ground on.

We agree that infrastructure is important to moving us forward, although I regret there is very little of this bill, frankly, that deals with infrastructure. Less than 10 percent in total actually goes to infrastructure spending. I think that is something we could find common ground on and enlarge. We disagree, quite obviously, over a whole range of other spending issues which constitute over half the bill.

In our opinion, the spending is simply too much. There are too many new programs that have not been authorized and gone through the appropriate committee process. There is unsustainable spending in this program, things like Pell Grants and IDEA money that is good, but frankly will ramp up and then immediately crash down. Or we will set ourselves up for a future tax increase, which I don't think anybody, certainly on my side of the aisle, is anxious to do. So there are areas of agreement and disagreement.

Madam Speaker, it is not too late to find common ground. We could defeat this rule and ask the Rules Committee to send us back three items that we could consider sequentially and separately. We could root out the bad programs. We could find common ground. We could find common ground on tax cuts. We can find common ground on infrastructure.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. I am happy to yield to my good friend, the former Rules Committee member and a great appropriator, an additional minute.

Mr. COLE. Madam Speaker, I thank the gentleman.

We could then have our disagreements over the spending portion of the bill. We could vote on each of these items separately. They could later be merged and sent on as a separate bill. In that process we would find significant bipartisan participation and agreement. But, unfortunately, the rule under which we are likely to bring the legislation to the floor is going to make that impossible and give us the old partisan debates that the country would like to see us move past.

So I would ask my colleagues to reject this rule and ask my capable friends on the Rules Committee in both parties to go back and to give us the type of process and the type of bill that will yield a bipartisan outcome, a bipartisan victory. That is what the country wants, that is what America needs, that is what the President has asked us to do. That is what we are capable of doing if we will address this matter in the appropriate manner.

So I urge the rejection of this rule and the beginning of a bipartisan process where we can find so much common ground.

Mr. McGOVERN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I have great respect for the previous speaker, who I had the pleasure of serving with on the Rules Committee for many years, but what we seem to be hearing over and over from the other side is they care about job loss, but. They care about the survival of small businesses, but. They care about the fact that hunger is a growing problem in America, but. They care about the infrastructure, but.

Well, ''but'' nothing. The time has come, because things are so bad, and we don't have to argue about how we got here, but the reality is I think there is a consensus that we are in a serious economic meltdown right now and that in fact we need to do something. We need to do something big and bold. We need to try to jump-start this economy.

This may not be all that needs to be done, quite frankly, but the fact is, if you care about infrastructure, you need to support a bill that spends and invests in infrastructure. If you care about job losses in this country, then you have got to do something other than just talk about it, and invest in programs that will help create more jobs. If you care about the fact that

hunger is a growing problem in the United States of America, which is shameful, then you need to do something that will not only help feed hungry people, but stimulate the economy. And this bill does that, and more.

So there are lots of things in this bill that I think will stimulate this economy. We could all find something that we don't like. But the fact of the matter is, if everybody had the opportunity to write this bill, there would be 435 different bills. This bill I think represents the best judgment of the new President of the United States, working with the Democratic leadership and working with Members in this House, and I think it deserves support.

Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Well, how we got in this situation is that ideology triumphed over reason. For the last eight years, and a little longer, we have been told that there are few problems in America that can't be solved other than by more tax breaks and a permissive attitude toward corporate law enforcement. Now we have the results, the Bush recession, and if we don't pass this legislation it will soon become the Bush depression.

Now, the real question we need to be asking is, ''how do we get the biggest bang for the buck?'' We want to be concerned about every single one of these taxpayer dollars, that they do the most possible to ensure an economic recovery. And one of the people that we have turned to is a principal economic adviser to Senator JOHN MCCAIN and his presidential campaign.

He, like other economists, has analyzed the provisions of this bill, and he has told us that we will add to our gross domestic product $1.72 for every 1 dollar that we spend in this bill on food stamps to help hungry people in this country. He also told us that on some of the corporate loss carryback provisions, we will get only 19 cents added per dollar spent, and that with a permanent corporate tax cut, as some have advocated, we will get only 30 cents for every dollar we invest.

I think we need to focus our attention where it does the most good in order to ensure an economic recovery for families across our country.

Mr. DREIER. Will the gentleman yield?

Mr. DOGGETT. On your time, later.

Mr. DREIER. I will yield time to you if you will agree to yield for a question here.

Mr. DOGGETT. Let me give an example of what this bill does with regard to one provision in this bill that I was involved in writing that deals with the illegal action of the Secretary of the Treasury under President Bush, Mr. Paulson, to just suspend the law that President Ronald Reagan signed so that corporations wouldn't go out and dodge their taxes by taking over some other corporation's tax losses. Secretary Paulson suspended that law without any legal basis for banks in this country, and some have estimated that could result in a drain on the Treasury of $140 billion. This bill closes that loophole.

Mr. DREIER. Will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCGOVERN. I yield the gentleman 1 additional minute.

Mr. DREIER. Will the gentleman yield?

Mr. DOGGETT. On your time.

Mr. DREIER. I will be happy to yield the gentleman 1 additional minute, if he will yield.

Mr. DOGGETT. May I have regular order and may I be assured that I have my full minute to discuss what I want to discuss?

The SPEAKER pro tempore. The gentleman from Texas will suspend.

The gentleman from California, the gentleman from Texas has been recognized.

Mr. DREIER. I just yielded him an additional minute.

Mr. DOGGETT. That is great. I have got an additional minute yielded here and a minute there. Which, Madam Speaker, may I take first?

The SPEAKER pro tempore. The gentleman has 2 minutes.

Mr. DOGGETT. All right, I yield for 30 seconds to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

I simply wanted to engage in a little debate here, if I might, and that is the reason I yielded time to my friend, so that we could ask the question as to whether or not the gentleman has looked at the Congressional Budget Office study, the professional, nonpartisan Congressional Budget Office Study.

Mr. DOGGETT. Not only looked at it, but I heard testimony all this morning in the Budget Committee.

Mr. DREIER. If I could complete my thought, my question is, have you in fact looked at the professional, nonpartisan CBO study that came out last night talking about the slowness with which we will have to contend at getting these resources? And I agree with my friend on the need to try and get it in, and I thank my friend for yielding.

Mr. DOGGETT. I have not only looked at the report, but I have spent most of the morning listening to the testimony of Dr. Elmendorf, who wrote that report, and indeed it is from that very report that the kind of language that I was referring to earlier, some of the proposals that you are advocating, are the ones that are the least effective for getting our recovery going, and that is why I think we have a blended proposal here. But some of the changes you want are not efficient. They are a weak way of getting recovery, and we should be focused on the biggest bang for the buck.

Now, let me focus on the minute that the gentleman from Massachusetts was kind enough to yield to me, because there is one provision in this bill that I think is very important. It is $13.5 billion in additional assistance to many working families, many middle-class families, concerning higher education.

□ 1330

This was not in the bill as originally proposed by President Obama and his advisers, but he said, as he is saying to Republicans, I'm sure, right now, ''If you've got a better idea, I'm open to it.'' And in this case, the better idea was an idea he advanced in the campaign that we need to do more, particularly at a time of economic downturn, to get more of our young people and perhaps not so young people back into community colleges, into higher education institutions across this country.

What this tax credit will do, in addition to the important increase in Pell grants in this bill, is to provide a refundable credit to many working families of up to $1,000, up to $2,500 to other families that will for the first time cover textbooks.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCGOVERN. Madam Speaker, I yield the gentleman another 30 seconds.

Mr. DOGGETT. This credit will for the first time cover textbooks, will supplement Pell grants, will provide a real opportunity not only for individuals to retool their skills but in the process retool our whole economy with a better trained workforce.

I think this is a very effective way to address economic recovery. I'm pleased it has been incorporated in this bill. There is not a family that has a stake in higher education, trying to get someone into a higher education institution, or who has someone there now that is not likely to gain, middle-class families, working families, from this bill.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

I will say that I truly do believe that we are making an attempt to follow the directive that was provided to us within the last hour by President Obama in his address to the Republican Conference when he talked about the need to focus on merits rather than politics here.

We are, in fact, offering an alternative. We are, in fact, saying that we believe that encouraging private sector growth and, yes, putting into place spending that will help to develop our infrastructure is important. So we acknowledge that.

The fact is if you look at what Ronald Reagan inherited in 1981, as I was

saying in my opening remarks, an inflation rate of 13½ percent, interest rates that were beyond 15 percent, an unemployment rate that was in excess of 7 percent, what was it that was done the last time that we faced a challenge that, quite frankly, according to the numbers as of right now was even greater than it is today? What was the response, in a bipartisan way, of Democrats and Republicans alike? And I remember very vividly as we did this in May of 1981 and August of 1981. What happened, Madam Speaker, we put into place a package that restrained the rate of growth of Federal Government, cutting by 17 percent the rate of growth of Federal spending. That was done in May of 1981, known as the Gramm-Latta budget package. Then in August of 1981, the bipartisan Conable-Hance economic growth package brought about a broad across-the-board marginal rate reduction which tripled the flow of revenues to the Federal Government as it unleashed tremendous economic growth.

So, Madam Speaker, this notion that we are saying we are for small business but, we are for all these other things but, as my friend from Worcester has said just a few minutes ago, is preposterous. We have a very, very strong and positive track record on what needs to be done to get this economy growing. We have the ability to do that. And I believe that President Obama is sincere when he says we need to talk about the merits and not the politics.

Again, looking at 1981, when a number of my colleagues on the other side of the aisle joined in a bipartisan way to do this, that is the prescription for the challenges that we face today. It worked then, and I believe very strongly that it can work now. Encouraging individual initiative and responsibility, stepping forward with ways in which we can help these industries that have been suffering greatly is something that can be done. And when this study that was done by the Congressional Budget Office made it very clear that in this package that has been brought before us, without consultation with the Republican leadership, without consultation with the Republican leadership, we are, in fact, expending dollars which will be slow and wasteful; and, Madam Speaker, we're expending dollars more than 10 years from now in this package.

So I will agree with my friends on the other side of the aisle we are never going to come to a perfect agreement, but I believe we should use what has, in fact, worked in the past in generating real economic growth.

With that, Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, I appreciate the gentleman's history lesson about Ronald Reagan and about what happened in 1981. I wasn't here in 1981. I was a senior in college, but I appreciate the gentleman's giving me that history lesson.

But when he talks about the strong track record of the Republicans, I beg to differ. I think the American people differ. That's what the outcome of this election was about. People do not want more of the same. They're tired of the Republican track record. They want to go in a very different direction.

Madam Speaker, at this time I would like to yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank my friend from Massachusetts for yielding to me.

Madam Speaker, I stand in strong support of the economic recovery legislation before us today.

My own State, New York, has been hard hit by the recession. The collapse of the markets on Wall Street have left gaping revenue holes that have contributed to our $15.4 billion State budget deficit.

In this economic crisis, high unemployment and rising costs have put a huge strain on many American families. This legislation contains a series of programs to provide relief, including helping workers train and find jobs, extending unemployment benefits, and increasing food stamp benefits.

I'm so proud that we will protect health care coverage for millions of Americans during this recession by providing an estimated $87 billion in additional Federal matching funds. This will help States like New York maintain our Medicaid programs in the face of massive State budget shortfalls over the next 2 years. I have long fought hard for increased F-MAP funds and am grateful that the stimulus will provide some much-needed relief to our States as they struggle to maintain access to needed services. And as we marked up the bill last week in the Energy and Commerce Committee, I was very, very proud that we had the monies in this bill.

We will also reduce our dependence on foreign oil by making investments aimed at dramatically increasing renewable energy production and renovating public buildings to make them more energy efficient. In this bill we will invest wisely in U.S. development of advanced vehicle batteries and battery systems through loans and grants so that America can lead the world in transforming the way automobiles are powered. We will also have tax credits for private homeowners for new furnaces, energy-efficient windows and doors, and insulation.

So this is a great bill, and, Madam Speaker, I urge all my colleagues to support this bill.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

I am going to try again, Madam Speaker. I know that my friend who was a senior in college when I began my service here in the institution, I appreciate his reminding me of how much older I am than he, although I have to tell him I was not too much older than he when he was a senior in college and I was proud to begin my service here.

The fact is, okay, I've talked about Ronald Reagan. And I know my friend is from Worcester, and he's very proud of that, and what I would like to do is talk about John F. Kennedy, the President of the United States from his State.

In 1961 we all know John F. Kennedy became President. He did a lot of great things. He's been a model for Democrats and Republicans alike in so many areas. There were challenging economic times in the early 1960s, and John F. Kennedy did exactly what Ronald Reagan did in 1981, and my friend describes this as the ''same old, same old.''

Well, I believe that it's imperative for us to recognize the best way to get our economy growing. Not only Ronald Reagan but John F. Kennedy recognized it and put into place policies that unleashed the kind of economic growth to which we all aspire today. We know that it's been done many times throughout world history and it can happen.

So if my friend wants to criticize the gentleman from his State, President Kennedy, just as he criticizes Ronald Reagan for the same old, same old, Madam Speaker, I welcome his doing that.

Madam Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Madam Speaker, at this time I would like to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, they never said our task and our job would be easy. I imagine when the Founding Fathers were trying to create this great Union, it was not easy then as well. But we have a responsibility and a duty. We have taken an oath of office. We have a responsibility to the American people.

Our President has offered a solution. That is why we are here. And I rise to support the rule and the underlying bill because I am looking for an economic engine that will actually roll across America's railways, that will go into the hamlets and villages and communities where people are depressed and oppressed. And, frankly, there are items that I think answer the question whether or not we are concerned about creating jobs.

The increase of the earned income tax credit is one that we have seen work and can work. I have worked with John Hope Bryant, who chairs an organization dealing with financial literacy. We saw the impact of the earned income tax credit for Hurricane Katrina families, for working families, and that has been increased. For those who are seeking homes, we don't want

to kill off the homeowners market, and we see now that the $7,500 tax credit that had to be repaid in 15 years will now be waived and forgiven. We can get homeowners or home purchasers into homes, which Americans would like to do.

We will be seeing $20 billion for school modernization, $14 billion for K–12, and $6 billion for higher education institutions. We will also be seeing moneys going for educational technology grants. But my school districts are already lining up to be able to create that economic engine to keep teachers at work and to train the next generation of workers.

There are green jobs.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. McGOVERN. I yield the gentlewoman an additional 1 minute.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

There is more infusion of Medicaid dollars so that those who are uninsured will have the resources necessary to be able to, in essence, provide for their family but keep looking for work.

This is a calling of crisis. And so with the green jobs, the infrastructure, I do support this rule, but I would certainly like to see the mark of the transportation and infrastructure go from $9 billion to $12 billion. I would like to see the language of ''use it or lose it'' be restored. I want to make sure that the metro system of Houston can fall under the transit funding. And we're going to be working with the chairman of the Transportation Committee and our congressional delegation because these will create jobs across America. I want to see rail travel restored. I want to make sure the infrastructure of America is rebuilt. I want the bridges in the 18th Congressional District enrolled rebuilt by the hands and labor of the American people. That's what this stimulus is about.

There is no doubt that if we stand on this floor of the House or the other body and ignore the cry of Americans, we too can hold our heads in shame.

Support this rule and support this legislation.

Mr. DREIER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I think that it's become very clear in this debate that we all recognize the fact that there is a great deal of suffering going on here in the United States of America. Our constituents are hurting. We are dealing with a very, very challenging economic downturn, and we all want to come together to try to find a way to jump-start our economy.

President Obama has, just a few minutes ago, completed an address to the Republican Conference, Republican Members of this institution, and he went over to meet with our colleagues on the other side of the Capitol. And the words that really struck me that he offered to us were that as we deal with this economic stimulus package, Madam Speaker, it's important for us to focus on merits and not politics. Merits and not politics. And I completely concur with that. I completely concur with that. And, again, it was 1 week ago today that we were all privileged to be on the west front of the Capitol as we were able to witness history and we heard a similar message put forward by President Obama.

□ 1345

That's why, as we move ahead on this issue, we are going to expend our time and our effort focusing on the merits and what needs to be done to get our economy growing.

We know that there is going to be some very important government spending stimulus, and we support things like infrastructure spending, because we know that goods movement, as the economy starts to grow, is imperative, and it needs to be addressed. And so, yes, we support the kind of infrastructure spending that we have talked about.

But, Madam Speaker, as we look at the analysis that has been done on this $825 billion package, it doesn't do what is essential. I believe that we need to make sure that every dollar expended gets into, on track, just as quickly as we possibly can. We all want to try and move that. President Obama has already talked about shovel-ready projects. We understand the imperativeness of this.

Unfortunately, the study that has been provided by the professional, nonpartisan Congressional Budget Office has made it very clear that it is virtually impossible for us to achieve that goal with this package that has been put before us. In fact, Madam Speaker, in looking at the spending, it's not just beyond a year or 2 years, and the President in his remarks downstairs talked about the fact that he wanted us to get—maybe not within this year, but within the next 2 years—this spending out.

Yet, Madam Speaker, based on this professional, nonpartisan Congressional Budget Office study again, not a Republican statement, $2.3 billion of this package won't be expended until 2019. That's more than 10 years today, and that's what the CBO study has said, and I would commend that to all of our colleagues.

What is it that needs to be done? We need to recognize that bold, strong, decisive, across-the-board marginal rate cuts, doing everything we can to encourage individual initiative and responsibility, is the kind of legislative action that we here can take to get our economy growing and, as we discussed, as the President has said, the merits of this, unfortunately, we don't do that in this package.

That is the reason, Madam Speaker, that we will be coming forward with an alternative, an alternative, a very positive alternative that brings about marginal rate reduction for 100 percent, 100 percent of American taxpayers, so that they can save and invest. And we, of course, want to encourage consumption. We, of course, want to encourage the steps that are necessary to get our economy growing.

I would say again, the idea of incentivizing people to get off the couch and into showrooms of automobile dealerships, the idea of having people take responsibility and being incentivized to make a greater down payment on a home so that they will have a vested interest in it and not this very, very, very failed zero down payment and subprime rates of interest, these are the kinds of creative, bold, policies that we can put into place. That's what we want to do as we deal with the suffering that is out there.

I am convinced, Madam Speaker, based on the last half century and looking at the policies of John F. Kennedy and Ronald Reagan, that if we were to do that, we would do exactly what happened following the implementation of those policies by both John F. Kennedy and Ronald Reagan in the 1960s and the 1980s. We will boost the economy, increase the flow of Federal revenues to the Treasury and be able to address the challenges that are before us.

So, Madam Speaker, I urge my colleagues to vote against this rule, because the underlying legislation itself is very, very badly flawed, and it's not what the American people need.

With that, I yield back the balance of my time.

Mr. McGOVERN. Madam Speaker, let me begin by thanking Chairmen OBEY, RANGEL, WAXMAN, OBERSTAR, MILLER, SPRATT and GORDON for their incredible work on this package, and I want to thank their staffs.

I also want to thank ROSA DELAURO for championing the antihunger provisions in this package, which I think are so important, not only in terms of our moral obligation to help people in this country who don't have enough to eat, but it also helps stimulate the economy.

I also am grateful to Majority Leader STENY HOYER and to Speaker NANCY PELOSI for their leadership in trying to put a good and solid reinvestment recovery package together.

Madam Speaker, we are facing extremely tough times. This economy is in the worst shape since the Great Depression. Millions and millions of people have lost their jobs and millions more will lose their jobs unless this Congress, working with this President, takes decisive action.

We are not talking about statistics, we are talking about people. We are talking about families, and they are hurting. There is not a single one of us in this chamber who, when we go home,

do not encounter people who have lost their jobs or who are on the verge of losing their jobs.

People are struggling, people are fearful. Small businesses are struggling. They are asking for our help. Cities and towns and States are facing the worst financial crisis in decades, and they are looking for help.

The underlying bill before us provides a first step in helping remedy this terrible situation. John F. Kennedy liked to say that a rising tide lifts all boats. Well, that is what we are trying to do with this package.

We are trying to stimulate the economy. We are trying to make sure that everybody, not just the few who are rich, but everybody, those who are in the middle class and those who are poor, gets the help that they deserve.

My colleague talked about a substitute that the Republicans will offer. Well, that's great, and they will have an opportunity to debate and make their substitute and let the votes fall where they may. But the fact of the matter is that I personally believe that their approach, which I referred to as the same old same old, will not prevail. I hope it doesn't prevail. That's what this election was about. People do not want more of the same. They want a different direction.

Quite frankly, this stimulus package that we debated today should have been what President Bush asked for a year ago. We are late in coming to rescue so many families across this country.

I know it's fashionable on the other side to talk about tax cuts, tax cuts, tax cuts. The bill that President Obama and the Democratic leadership are putting together, 95 percent of American taxpayers get a break.

But I should tell my colleagues that for every dollar of direct spending, the economy gets $1.50 in stimulus. Every dollar of tax cut produces 75 cents in economic stimulus. So I do think, while we can make the argument that tax cuts are important, investment in our infrastructure, investment in our schools, investment in our economy, is incredibly important.

People have said, well, there is no way we can get all this money out. I should point out in this bill there are strict accountability measures to ensure that highways and transit funds get out of the door quickly to create jobs. It requires States to obligate 50 percent of the highway and transit funding within 180 days, or the Transportation Department can reclaim some of the States' highway and transportation funding in the bill. So there are incentives to get this money out quickly to help stimulate this economy.

Finally, Madam Speaker, let me say that this really is a defining moment. People are looking to their government for help. They are looking for us to take big, bold steps. They are looking at us the same way that people looked at Franklin Roosevelt during the Great Depression to come and try to put together a package to help get people back to work.

Well, that's what we're trying to do here. Madam Speaker, I will say this, I am proud to be on the floor today debating this rule which will pave the way for a debate on this Economic Recovery and Reinvestment Act, because it shows that this government, once again, has a conscience.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE

Mr. MCGOVERN. Madam Speaker, I send to the desk a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. CON. RES. 26

That when the House adjourns on the legislative day of Wednesday, January 28, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, February 2, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Wednesday, February 4, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, February 9, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker or her designee, after consultation with the Minority Leader, shall notify the Members of the House to reassemble at such place and time as she may designate if, in her opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: ordering the previous question on House Resolution 87; adopting House Resolution 87; ordering the previous question on House Resolution 88; and adopting House Resolution 88.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF S. 181, LILLY LEDBETTER FAIR PAY ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 87, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 252, nays 175, not voting 5, as follows:

[Roll No. 32]

YEAS—252

Abercrombie	DeLauro	Kilpatrick (MI)
Ackerman	Dicks	Kilroy
Adler (NJ)	Dingell	Kind
Altmire	Doggett	Kirkpatrick (AZ)
Andrews	Donnelly (IN)	Kissell
Arcuri	Doyle	Klein (FL)
Baca	Driehaus	Kosmas
Baird	Edwards (MD)	Kratovil
Baldwin	Edwards (TX)	Kucinich
Barrow	Ellison	Langevin
Bean	Ellsworth	Larsen (WA)
Becerra	Engel	Larson (CT)
Berkley	Eshoo	Lee (CA)
Berman	Etheridge	Levin
Berry	Farr	Lewis (GA)
Bishop (GA)	Fattah	Lipinski
Bishop (NY)	Filner	Loebsack
Blumenauer	Foster	Lofgren, Zoe
Boccieri	Frank (MA)	Lowey
Boren	Fudge	Luján
Boswell	Giffords	Lynch
Boucher	Gonzalez	Maffei
Boyd	Gordon (TN)	Maloney
Brady (PA)	Grayson	Markey (CO)
Braley (IA)	Green, Al	Markey (MA)
Bright	Green, Gene	Marshall
Brown, Corrine	Griffith	Massa
Butterfield	Grijalva	Matheson
Capps	Gutierrez	Matsui
Capuano	Hall (NY)	McCarthy (NY)
Cardoza	Halvorson	McDermott
Carnahan	Hare	McGovern
Carney	Harman	McIntyre
Carson (IN)	Hastings (FL)	McMahon
Castor (FL)	Heinrich	McNerney
Chandler	Herseth Sandlin	Meek (FL)
Childers	Higgins	Meeks (NY)
Clarke	Hill	Melancon
Clay	Himes	Michaud
Cleaver	Hinchey	Miller (NC)
Clyburn	Hinojosa	Miller, George
Cohen	Hirono	Minnick
Connolly (VA)	Hodes	Mitchell
Conyers	Holden	Mollohan
Cooper	Holt	Moore (KS)
Costa	Honda	Moore (WI)
Costello	Hoyer	Moran (VA)
Courtney	Inslee	Murphy (CT)
Crowley	Israel	Murphy, Patrick
Cuellar	Jackson (IL)	Murtha
Cummings	Jackson-Lee (TX)	Nadler (NY)
Dahlkemper	Johnson (GA)	Napolitano
Davis (AL)	Johnson, E. B.	Neal (MA)
Davis (CA)	Kagen	Nye
Davis (IL)	Kanjorski	Oberstar
Davis (TN)	Kaptur	Obey
DeFazio	Kennedy	Olver
DeGette	Kildee	Ortiz
Delahunt		Pallone

Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—175

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—5

Brown-Waite, Ginny
McCollum
Solis (CA)
Tiberi
Young (AK)

□ 1421

Ms. JENKINS, Mrs. MILLER of Michigan and Messrs. REHBERG and GOODLATTE changed their vote from ''yea'' to ''nay.''

Mr. NYE changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 252, nays 174, not voting 6, as follows:

[Roll No. 33]

YEAS—252

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—174

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—6

Brown-Waite, Ginny
Marchant
Ruppersberger
Solis (CA)
Tiberi
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Less than 2 minutes remain on this vote.

□ 1430

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING JACK KELLIHER ON 30 YEARS OF SERVICE TO THE HOUSE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. I want to recognize and pay tribute to a person, Madam Speaker, who has dedicated 30 years of service to his government, John Francis Kelliher, Jr., or Jack, as he is known, Deputy Sergeant at Arms for police services and congressional relations in House offices. How many of you know the true extent of his contribution to our work and the activity that takes place in and around this Chamber?

Please allow me to introduce a person who, to most of us, needs no introduction. Newer Members may not be as aware of this very special person that we honor today, a true gentleman the rest of us have come to respect and admire.

Jack began his career on the Hill as a member of the Capitol Police force soon after arriving from his native Boston. During his 8½ years on the force, Jack took part in thwarting two incidents which easily could have escalated into very serious breaches of House security.

After leaving the police force, Jack spent the next 12½ years in Chamber security, a unit under the direction of the House Sergeant at Arms charged with securing access to the House Chamber and the area immediately surrounding it. Most of us have come to know him in that capacity. More recently, Jack has held the titles of Assistant Sergeant at Arms and ''Keeper of the Mace,'' a position of trust he has maintained with honor and with his customary dignity and dependability.

His decision to leave us is received with mixed emotions. He is leaving on his own terms. Wouldn't we all want that to happen as well? Jack and his lovely wife, Nancy, have decided to make St. Augustine, Florida, their new home. It is a decision I'm certain their two children, John and Tara, support wholeheartedly. Free vacations in Florida for life.

It's always tough to say goodbye, Jack. We know we will miss you, but he has decided to leave, and we all wish him well. His parents, John and Elizabeth, would be so proud of him today, as we are for his embodiment of all that is good in the service of his country. Thank you, personally, Jack. And may God bless you and your family as you embark on this new adventure.

Now get out of this cold and run to the sun.

Madam Speaker, I yield to my good friend, the Honorable ZACH WAMP from Tennessee.

Mr. WAMP. I thank the gentleman.

Madam Speaker, it is indeed a privilege to rise on behalf of all Republicans in the House to honor Jack Kelliher. Jack, if you would please, while I'm speaking, I would ask for you to stand so that everyone in the House can see you.

I just want to say, Madam Speaker, briefly, when we honor you today, Jack, we honor all of the extraordinary support staff and professionals that serve the United States House of Representatives because you represent the finest of them through your 30 years of service. Most of us don't know, he is not just Jack Kelliher, he could be our Jack Bauer. He pulled, at one point as a Capitol police officer, a bomber from the gallery. He has a distinguished history of valor and patriotic service at the highest level. And he is the Keeper of the Mace and Assistant Sergeant at Arms.

Sitting next to him is Joyce Hamlett, who will take his place full time. She is my best friend here in the House. We love Joyce.

We are grateful for Jack. As was said, I have had more laughs in the last 15 years with Jack out on the balcony than just about anybody in the House. He is a good-natured man and a man of extraordinary commitment to our country. We will sorely miss him. In St. Augustine a number of years ago they bought a little place not on the beach but just off the beach. And it is where he goes to get away from us. And we won't follow you there, Jack. We want you and Nancy to enjoy those days and come back to see us. But know every minute how grateful every man and woman in the U.S. House of Representatives is for your service to our country, Jack. Thank you and we honor you.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 88, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 183, not voting 5, as follows:

[Roll No. 34]

YEAS—244

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boucher
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—183

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boswell

Boustany
Boyd
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—5

Brown-Waite, Ginny
Melancon
Solis (CA)
Tiberi
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1446

Mr. SHULER changed his vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 191, not voting 6, as follows:

[Roll No. 35]

YEAS—235

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—191

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boswell
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Moran (VA)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—6

Brown-Waite, Ginny
Massa
Solis (CA)
Tiberi
Waxman
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes are remaining on this vote.

□ 1458

Mr. ROSS changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MEMBERS OF THE HOUSE TO BE AVAILABLE TO SERVE ON INVESTIGATIVE SUBCOMMITTEES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore. Pursuant to clause 5(a)(4)(a) of rule X, and the order of the House of January 6, 2009, the Chair announces the Speaker named the following Members of the House to be available to serve on investigative subcommittees of the Committee on Standards of Official Conduct for the 111th Congress:

Mr. GENE GREEN, Texas

Mr. SCOTT, Virginia

□ 1500

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 27, 2009.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol,
Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to clause 5(a)(4)(A) of rule X of the Rules of the House of Representatives, I designate the following Member to be available for service on the investigative subcommittee of the Committee on Standards of Official Conduct during the 111th Congress: The Honorable Doc Hastings of Washington.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

LILLY LEDBETTER FAIR PAY ACT OF 2009

Mr. GEORGE MILLER of California. Mr. Speaker, pursuant to H. Res. 87, I call up the Senate bill (S. 181) to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Lilly Ledbetter Fair Pay Act of 2009’’.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), significantly impairs statutory protections against discrimination in compensation that Congress established and that have been bedrock principles of American law for decades. The Ledbetter decision undermines those statutory protections by unduly restricting the time period in which victims of discrimination can challenge and recover for discriminatory compensation decisions or other practices, contrary to the intent of Congress.

(2) The limitation imposed by the Court on the filing of discriminatory compensation claims ignores the reality of wage discrimination and is at odds with the robust application of the civil rights laws that Congress intended.

(3) With regard to any charge of discrimination under any law, nothing in this Act is intended to preclude or limit an aggrieved person's right to introduce evidence of an unlawful employment practice that has occurred outside the time for filing a charge of discrimination.

(4) Nothing in this Act is intended to change current law treatment of when pension distributions are considered paid.

SEC. 3. DISCRIMINATION IN COMPENSATION BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)) is amended by adding at the end the following:

‘‘(3)(A) For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this title, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

‘‘(B) In addition to any relief authorized by section 1977A of the Revised Statutes (42 U.S.C. 1981a), liability may accrue and an aggrieved person may obtain relief as provided in subsection (g)(1), including recovery of back pay for up to two years preceding the filing of the charge, where the unlawful employment practices that have occurred during the charge filing period are similar or related to unlawful employment practices with regard to discrimination in compensation that occurred outside the time for filing a charge.’’.

SEC. 4. DISCRIMINATION IN COMPENSATION BECAUSE OF AGE.

Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in the first sentence—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking ‘‘(d)’’ and inserting ‘‘(d)(1)’’;

(2) in the third sentence, by striking ‘‘Upon’’ and inserting the following:

‘‘(2) Upon’’; and

(3) by adding at the end the following:

‘‘(3) For purposes of this section, an unlawful practice occurs, with respect to discrimination in compensation in violation of this Act, when a discriminatory compensation decision or other practice is adopted, when a person becomes subject to a discriminatory compensation decision or other practice, or when a person is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.’’.

SEC. 5. APPLICATION TO OTHER LAWS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—The amendments made by section 3 shall apply to claims of discrimination in compensation brought under title I and section 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq., 12203), pursuant to section 107(a) of such Act (42 U.S.C. 12117(a)), which adopts the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

(b) REHABILITATION ACT OF 1973.—The amendments made by section 3 shall apply to claims of discrimination in compensation brought under sections 501 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794), pursuant to—

(1) sections 501(g) and 504(d) of such Act (29 U.S.C. 791(g), 794(d)), respectively, which adopt the standards applied under title I of the Americans with Disabilities Act of 1990 for determining whether a violation has occurred in a complaint alleging employment discrimination; and

(2) paragraphs (1) and (2) of section 505(a) of such Act (29 U.S.C. 794a(a)) (as amended by subsection (c)).

(c) CONFORMING AMENDMENTS.—

(1) REHABILITATION ACT OF 1973.—Section 505(a) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)) is amended—

(A) in paragraph (1), by inserting after ‘‘(42 U.S.C. 2000e–5 (f) through (k))’’ the following: ‘‘(and the application of section 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of discrimination in compensation)’’; and

(B) in paragraph (2), by inserting after ‘‘1964’’ the following: ‘‘(42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation)’’.

(2) CIVIL RIGHTS ACT OF 1964.—Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by adding at the end the following:

‘‘(f) Section 706(e)(3) shall apply to complaints of discrimination in compensation under this section.’’.

(3) AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(f)) is amended by striking ‘‘of section’’ and inserting ‘‘of sections 7(d)(3) and’’.

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, take effect as if enacted on May 28, 2007 and apply to all claims of discrimination in compensation under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), title I and section 503 of the Americans with Disabilities Act of 1990, and sections 501 and 504 of the Rehabilitation Act of 1973, that are pending on or after that date.

The SPEAKER pro tempore (Mr. HOLDEN). Pursuant to House Resolution 87, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on S. 181.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, today the House of Representatives meets to give final approval to the Lilly Ledbetter Fair Pay Act and send it to President Obama for his signature. What a difference a new Congress and a President make.

Nondiscrimination in the workplace must be a sacred American principle. Workers should be paid based upon their merits, not an employer's prejudices. Yet, more than 40 years after the

passage of the Civil Rights Act of 1964, the Supreme Court dramatically turned back the clock on this bedrock principle. Instead of abiding by decades of long-standing law, a narrow majority of the Supreme Court decided to commit legal jujitsu to satisfy a narrow ideological agenda. The Supreme Court simply told bad employers that to escape responsibility for pay discrimination all they need to do is keep it hidden for the first 180 days.

The Ledbetter ruling has already dramatically impacted how Americans can remedy discrimination. It has been cited in hundreds of cases over the past 19 months since the ruling. Not only have pay discrimination cases been adversely impacted, but even fair housing protections and title IX complaints. The Supreme Court sent these lower courts backwards down the wrong path, and today the Congress will correct that course by passing this bill.

The Lilly Ledbetter Fair Pay Act would simply reset the law as businesses, most courts, employers and employees and the EEOC had understood it before the Court's 2007 ruling. Under S. 181, every paycheck or other compensation resulting, in whole or part, from an earlier discriminatory pay decision or other practice would constitute a violation of title VII. In other words, if an employer keeps issuing discriminatory paychecks, that employer will keep restarting the clock for filing charges. That's only fair. As long as workers file their charges, as Lilly Ledbetter herself did, within 180 days of a discriminatory paycheck, the charges will be considered timely. The legislation also clarifies that an employee is entitled to up to 2 years backpay as provided in title VII already.

Finally, S. 181 ensures that these simple reforms extend to the Age Discrimination in Employment Act, the Americans with Disabilities Act and the Rehabilitation Act to provide these same protections for victims of age and disability discrimination.

Correcting pay discrimination poses significant challenges to workers, made all the harder with the Supreme Court's Ledbetter decision. This is best illustrated by Lilly Ledbetter's own words from an Education and Labor Committee hearing in 2007: ''What happened to me is not only an insult to my dignity, but it had real consequences for my ability to care for my family. Every paycheck I received, I got less than what I was entitled to under the law.

''The Supreme Court said that this didn't count as illegal discrimination, but it sure feels like discrimination when you are on the receiving end of that smaller paycheck and trying to support your family with less money than the men are getting for doing the same job. And according to the Court, if you don't figure things out right away, the company can treat you like a second-class citizen for the rest of your career. This isn't right.''

I agree with Lilly Ledbetter: what happened to her wasn't right.

Unfortunately, it's too late for Lilly Ledbetter to receive justice. But today, thanks to Lilly's incredible courage and perseverance, and thanks to millions of Americans making their voices heard, Congress will reject this ruling for the millions of Americans suddenly now subject to legal discrimination.

The Ledbetter v. Goodyear Supreme Court ruling was a painful step backwards for civil rights in this country. Today, the House will correct this injustice and send President Obama his first bill to sign into law. All victims of discrimination are entitled to justice, and I urge my colleagues to support the Lilly Ledbetter Fair Pay Act.

Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us was the first substantive piece of legislation considered by the 111th Congress. In a matter of days, it could be one of the first substantive measures signed into law by the 44th President of the United States. And despite all the promises of openness and bipartisanship, at the end of the day it will have been considered not once, not twice, but three separate times in the House without the opportunity to debate a single Republican amendment. It didn't have to be this way.

This legislation is supposed to be about protecting workers—and especially women—from discrimination in the workplace. Like my colleagues on both sides of the aisle, I am strongly opposed to discrimination of any type, be it gender discrimination, racial discrimination, or any other type of discrimination inside or outside the workplace. Rooting out such discrimination is a bipartisan goal, and I cannot think of a single reason why it is not being given a bipartisan debate.

The arguments on both sides of this bill are clear, and they have been debated on this floor before. For my part, I believe that enriching trial lawyers is simply the wrong way to ensure a fairer, more just workplace; and clearly that's what this bill will do. By eliminating the statute of limitations, the bill invites more and costlier lawsuits. We're talking about economic stimulus this week, so it's only fitting that we begin with an economic stimulus package for trial lawyers.

But for me, Mr. Speaker, the controversy we face today is not just the underlying legislation, although it certainly is controversial. No, the controversy today is the stunning lack of openness being shown by a majority that seems intent on wielding the heavy hand of power.

Less than 24 hours ago, the Rules Committee held an emergency meeting in order to bring this bill to the floor today. As I understand it, the job of the Rules Committee is to consider potential amendments and decide which of those will receive a vote by the full House. After 2 years of watching Republican amendments routinely discarded without a vote, I wasn't surprised that the majority brought this bill to the floor under a closed rule. What surprised me was that they didn't even bother to keep up the illusion that they might make one of our proposals in order. In fact, the Rules Committee did not even set a deadline for amendments on this bill, so certain were they that not a single proposal would be worthy of consideration.

For the record, I offered two amendments that were refused by the majority, two amendments that I believe were consistent with the majority's stated goals of preventing wage discrimination and overturning the Ledbetter decision. At the same time, I believe those amendments would have helped to avert at least some of the unintended consequences this legislation is sure to spawn. I did not ask the majority to guarantee that my amendments would pass; I simply asked for a debate among the Members of good will who can argue the merits and vote as they see fit. I was denied.

Mr. Speaker, workplace discrimination is a serious issue and it deserves a serious debate. What a disappointment this is.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I would like to thank my friend for yielding.

Lilly Ledbetter went to work in a factory in Alabama. She was one of the best at her job as a supervisor. She routinely won awards for being best at what she did. Late in her career, when she retired, she found out that she was systemically paid about 30 percent less than the men next to whom she worked. She filed suit in Federal court. The company said she wasn't underpaid because she was a woman, she was underpaid for other reasons. A jury of her peers heard her case and the employer's case, and she won unanimously.

The case went up through the United States Supreme Court. The United States Supreme Court, in the case that now bears her name, unfortunately, said that because she didn't file suit when she didn't know that she had been discriminated against, she couldn't recover. So because the employer was successful at hiding the discrimination for a period of time, she couldn't recover.

Lilly Ledbetter could be any one of our mothers, daughters, sisters, wives, or neighbors. What was done to her is an affront not only to her, but to the

law. Women should not confront this law as a trap to deny them their rights. The law should not be a vessel of injustice. And we should not wait to pass this bill, put it on President Obama's desk, and make it the law of the land today.

Mr. MCKEON. Mr. Speaker, I'm happy to yield at this time to the gentleman from Minnesota, the ranking member of the subcommittee that has jurisdiction, such time as he may consume, Mr. KLINE.

Mr. KLINE of Minnesota. I thank the gentleman for yielding.

Mr. Speaker, I rise today to oppose, yet again, seriously flawed legislation. As you know, we passed this bill just 2 weeks ago, and it is before us once again.

Unfortunately, the flaws and the potential damage to our civil rights and our economy remain. The enthusiastic supporters of the Ledbetter Act continue to beat the drum, claiming we are simply voting on a straightforward bill to reverse a Supreme Court decision involving discrimination in the workplace. Despite the passage of time and continued requests by my colleagues and I in the minority party, however, they are no closer to telling the whole story.

Mr. Speaker, the bill before us would reverse a court decision for the benefit of Lilly Ledbetter, but perhaps more significantly, it would dismantle the long-standing statute of limitations established by the 1964 Civil Rights Act. And this is the reason that the Supreme Court ruled the way they did. They held that the statute of limitations is an important part of our society, of our government, of our way of doing business in this country, and we need to preserve that statute of limitations.

While I can understand the pain that Ms. Ledbetter felt, can you imagine as an employer trying to keep track of decisions going back 20 years and more and trying to defend those in a court? It is not practical, it's not fair.

This bill would set into motion unintended consequences that its supporters simply are not willing to acknowledge, including radically increasing the opportunity for frivolous and abusive litigation. This is, indeed, another boon for trial lawyers.

Further, this bill would also permit individuals to seek damages against employers for whom they never worked by allowing family members and others who were never directly subjected to discrimination to become plaintiffs even after the worker in question is deceased.

Just this weekend our new President said our economic troubles are worsening. We should heed his caution and recognize that in such a climate we cannot afford to enable endless litigation and potentially staggering recordkeeping requirements on employers. We are trying to get employers to create more jobs to hire more people.

We must also be wary of the devastating effect this bill could have on pensions by exposing employers to decades-old discrimination claims that they have little—or I would argue no—ability to defend. This legislation could risk the retirement security of many hardworking Americans.

Mr. Speaker, it's very clear that this legislation amounts to a significant change in our civil rights laws. And despite a delay, we have had no more debate or deliberation, leaving unanswered many relevant questions that deserve to be addressed through the normal legislative process.

My concerns and unanswered questions can only lead me to say that the Ledbetter bill makes for bad policy created through a poor legislative process.

I urge my colleagues again to vote "no."

Mr. GEORGE MILLER of California. I yield myself 15 seconds just to say, according to the analysis done by the Congressional Budget Office, there is no new cost associated with this legislation because it creates no new cause of action, and no anticipated increase in litigation in spite of the remarks of the gentleman from the other side of the aisle. And that's what the independent analysis shows of this legislation.

I would like now to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), the subcommittee Chair of the committee of jurisdiction.

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Ms. WOOLSEY. Mr. Speaker, I don't know about the rest of you, but I've come to think of Lilly Ledbetter as my girlfriend. I mean she has been so important to all of us and to women and to the issue on this landmark day that we have today for women and American workers and their families because this bill does tell the whole story. And at the end of this debate, we will be one step closer to overturning an unjust Supreme Court decision, a decision that offered a restricted and decidedly unrealistic reading of when a discriminatory action regarding compensation actually occurs.

Good for the Senate for joining us in passing the Lilly Ledbetter Fair Pay Act and with an overwhelming bipartisan vote at that, giving us the go-ahead to do exactly the right thing.

Sadly, Lilly Ledbetter will not be affected by our actions, but we know that she has paved the way for others who will benefit from her bravery and will have recourse when they are paid less than their male counterparts.

The President understands that equality and fairness are crucial in a free society. He understands that more than 40 years after the passage of the Equal Pay Act, women are still paid an average of just 78 cents for every dollar a man earns.

I urge my colleagues to pass this bill, and I look forward to President Obama's signing it into action, into law, the Lilly Ledbetter Fair Pay Act.

Mr. MCKEON. Mr. Speaker, I am happy to yield at this time to the gentleman from California, a new member of the committee, Mr. MCCLINTOCK, such time as he may consume.

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Mr. Speaker, much has been said about the chilling effect this legislation will have on our economy because of the endless lawsuits it makes possible, including for grievances that may stretch back 30 years or more, and I certainly share those concerns.

But I want to express a deeper concern with this legislation. I believe it hurts the cause of equality and opportunity in the workplace by making it more difficult for the people who need jobs and who most want those jobs to actually get them.

Any person's labor is worth exactly what that person's willing to receive and what another is willing to pay. The decisions that are made by both the employee and the employer are unique to those people and to those circumstances. Someone passionately wanting to break into a field, for example, or to stay in a region or to shorten a commute or an infinite variety of other considerations may be willing to accept less in order to gain those noneconomic advantages than someone who is equally qualified but indifferent to those advantages. Imposing rigid one-size-fits-all requirements into the relationship between an employee and an employer reduces the employee's freedom to negotiate for the best set of overall conditions for his or her own unique circumstances. And lest we forget, when all else fails, there is a fail-safe and absolute protection: It's the word "no." No, the pay is not acceptable; no, the conditions are not satisfactory; no, I can get a better job elsewhere.

Mr. Speaker, freedom works, and it's time that we put it back to work.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HARE), a member of the committee.

Mr. HARE. Mr. Speaker, I am happy to rise once again in strong support of the Lilly Ledbetter Fair Pay Act, and I commend the Senate for passing the legislation so quickly and commend the leadership of this House, Chairman MILLER, for bringing it to the floor for its final vote.

It's remarkable that the potential first piece of legislation signed into law by President Obama this year is one that will help victims of pay discrimination.

Last year I had the privilege of hearing Mrs. Ledbetter testify before the

Education and Labor Committee. After 19 years, 19 years as a Goodyear employee, Mrs. Ledbetter discovered she was paid significantly less than every single one of her male counterparts. She took her case all the way to the Supreme Court where it was thrown out on a technicality. She filed her paperwork too late. Unfortunately, Mrs. Ledbetter had no idea this was even happening to her. I suppose the Supreme Court decided that Mrs. Ledbetter was a mind reader.

This Fair Pay Act would correct this wrong by clarifying that every paycheck resulting from a discriminatory pay decision constitutes a violation of the Civil Rights Act and employees have 180 days after each discriminatory paycheck to file a suit.

Again, I am pleased Congress is acting swiftly to correct a disastrous Supreme Court ruling that allows bad employers to discriminate against their employees as long as they hide it for 180 days. I urge all of my colleagues to vote for S. 181 so we can promptly send it to the President's desk.

Thank you, Lilly Ledbetter.

Mr. MCKEON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Ms. DELAURO), a champion of fair pay and equal pay for women.

Ms. DELAURO. Mr. Speaker, I rise in support of the Lilly Ledbetter Fair Pay Act. I congratulate Chairman MILLER, the driving force behind this effort, who, with great tenacity and great leadership, has given this issue the priority that it deserves.

Together, with his colleagues on the Education and Labor Committee and our dedicated partners in the Senate, Chairman MILLER has brought gender-based pay discrimination front and center in this Congress, and as a result, we finally have the opportunity to send powerful legislation to the President's desk today.

We are here because Lilly Ledbetter got shortchanged, shortchanged by her employer, the perpetrator of consistent pay discrimination lasting years; and shortchanged again by the Supreme Court.

A jury found that, yes, Lilly Ledbetter had been discriminated against by her employer. They awarded her $3.8 million in back pay and damages. But then under Title VII, this award was reduced to $360,000, and ultimately zero when the Supreme Court ruled 5–4 against her in 2007, drastically limiting women's access to seek justice for pay discrimination based on gender, requiring workers to file a pay discrimination claim within a 6-month period only, regardless of how long the pay inequity goes on. When women still earn only about 78 percent of what men earn, this ruling has essentially rolled back efforts to ensure equal pay and left women with little remedy.

As Justice Ginsburg suggested in her dissent, Congress has an obligation to correct the court's decision. That is why we must pass the Lilly Ledbetter Fair Pay Act, clearly stating that Title VII statute of limitations runs from the date a discriminatory wage is actually paid, not simply some earliest possible date which has come and gone long ago. Instead, you would be able to challenge discriminatory paychecks as long as you continue to receive them.

But we cannot stop there. I strongly urge the Senate to build on this vital foundation. Take up the Paycheck Fairness Act, which this House passed in tandem with the Lilly Ledbetter Fair Pay Act, to face gender discrimination head on and eliminate the systemic discrimination faced by women.

Mr. Speaker, that process starts in earnest. With the Lilly Ledbetter Fair Pay Act, we can begin to ensure pay equity. We can help families gain the resources they need to give their children a better future, the great promise of our American Dream. Let us make good on that promise, pass this bill. Let us make sure that women who face the discrimination that Lilly Ledbetter faced have the right and the tools to fight against it.

Mr. MCKEON. Mr. Speaker, I continue to reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, first of all, I congratulate the Democratic leadership on moving this bill forward, George, Rosa, Lynn, so many who worked so hard on it.

The Lilly Ledbetter Fair Pay Act stands for equal pay for equal work. This bill overrules the outrageous Supreme Court decision which rejected Ms. Ledbetter's pay discrimination case because she had not sued quickly enough to end an injustice. An injustice is an injustice, and it should not have a time limit on correcting it.

Forty years after the passage of the Equal Pay Act and title VI, statistics show that women continue to be paid less than their male colleagues. When I entered the workforce, women were paid 59 cents to every dollar a man earned. Today it's up to 78 cents. A disparity which costs women anywhere from $400,000 to $2 million in lost wages over a lifetime. This is terribly unfair.

In the midst of the dire economic reports of these last weeks and months, today this Congress can take a step towards helping women and families who are struggling by passing the Lilly Ledbetter Fair Pay Act. There are too many Lilly Ledbetters in our country, and when you discriminate against a woman, you discriminate against her family, her husband, her children. Passing the Fair Pay Act sends a strong message of fairness and equity to women and families everywhere.

This may be the first bill that gets to President Obama's desk. It shows a change and a shift of priorities between a Democratic Congress and the one we replaced. I congratulate all my colleagues and the Democratic leadership for moving it forward.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON.

Ms. NORTON. Kudos to Mr. MILLER, who would not give up on this bill, for his early hearings and this early consideration now, and to the Speaker and to our leadership for this early floor time just when women need us most when the economy is indeed punishing them enough.

I hold here a settlement agreement that is perhaps the best evidence of why we need this bill. The first case brought under the so-called Congressional Accountability Act, that was the act of about 10 or 15 years ago that said that the Congress had to abide by the same rules and rights as workers have in the private sector. This suit was brought by 300 current and former female custodians. All of them were African American women. They accused the House of Representatives and the Senate of paying them $1 less than men who had comparable jobs. After a long period of depositions and discovery, where a class was approved, the Congress paid $2.5 million to these women.

Like Lilly Ledbetter, most of them had worked for many years as female custodians in the House and the Senate. Like Lilly Ledbetter, they had no idea they were being paid less than the men who did the same jobs, collecting our trash, if you will, in our offices. The way they found out and the only way they found out is that they were represented by a great union, the AFSCME Council 26, affiliated with the American Federation of State, County and Municipal Employees (AFSCME), AFL–CIO, who represented them in court and got the settlement. I remember going over to the Ford building and helping to hand out the checks. Many of the women, like Lilly Ledbetter, were near retirement. And this settlement agreement shows that those women, unlike Lilly Ledbetter, indeed received funds from the United States Congress under the Equal Pay Act. That is how the act was enforced when I chaired the Equal Employment Opportunity Commission. That is how it was enforced before I chaired the Equal Employment Opportunity Commission. And that is how we return it today.

I would like to include this settlement agreement in the RECORD.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

PATRICIA HARRIS, et al., Plaintiffs, v. OFFICE OF THE ARCHITECT OF THE CAPITOL, Defendant.

C.A. No. 97–1658 (EGS), Filed July 25, 2001, Nancy Mayer Whittington, Clerk, U.S. District Court.

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 20th day of July 2001, between plaintiffs Patricia Harris, *et al.* as class representatives, (hereinafter collectively referred to as ''plaintiffs''), on the one hand, and defendant the Office of the Architect of the Capitol (hereinafter referred to as the ''Architect''), on the other hand, for the purpose of finally resolving all aspects of this class action. In the interest of avoiding the expense, delay, and inconvenience of further litigation of the issues raised in this action, and in consideration of the mutual promises, covenants, and obligations in this Agreement, and for good and valuable consideration, the receipt and adequacy of which are acknowledged, plaintiffs and defendant, through their undersigned counsel, hereby stipulate and agree as follows, subject to the approval of the Court.

I. DEFINITIONS AND GENERAL PROVISIONS

A. ''Agreement'' and ''Settlement Agreement''—These terms refer to this Settlement Agreement and all attachments thereto.

B. ''Effective date of this Agreement''—This term refers to the date of Final Court Approval of this Agreement.

C. ''Final Court Approval''—This term refers to the latest of the following dates, after the conduct of a Fairness Hearing and approval of this Agreement by the Court: the date on which any and all appeals from any objections to the Agreement have been dismissed, a final appellate decision upholding approval has been rendered, or the time for taking an appeal has expired without an appeal having been taken. If there are no objections to the Agreement, this term refers to that date, following the conduct of the Fairness Hearing, on which the Court grants final approval of the Agreement.

D. ''Preliminary Court approval''—This term refers to that date, following submission of this Agreement to the Court by the parties but prior to the conduct of a Fairness Hearing, on which the Court grants initial approval of the Agreement.

E. The ''parties' execution of this Settlement Agreement''—This term refers to the date on which all parties have signed the Agreement.

F. ''Plaintiffs'', ''plaintiff class'' or ''class members''—These terms refer to the class of plaintiffs certified by the District Court on February 29, 2000:

''All women custodial workers employed by the Architect of the Capitol on or after January 23, 1996, the effective date of the Congressional Accountability Act, including those who terminated their employment or retired after that date and who were hired after that date, with respect to the causes of action alleged herein as violative of Section 201(a) and (b) of the Congressional Accountability Act, 2 U.S.C. §1311(a) & (b), which incorporate the rights and remedies of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e–2 and other sections cited therein, and make them applicable to the defendant and the legislative branch generally.''

G. ''Plaintiffs' counsel'' and ''counsel for plaintiffs''—These terms refer to plaintiffs' class counsel, Beins, Axelrod & Kraft, P.C. ''Counsel for the parties'' refers to counsel for the plaintiff class and counsel for the defendant.

H. ''Active Class Members'' are the class members who are currently employed with the Architect as of the date of the parties' execution of this Settlement Agreement who elect not to retire.

I. ''Inactive Class Members'' are those class members who, as of the date of the parties' execution of this Agreement, have been terminated or retired, died, resigned or been promoted out of the class. The retired class members who are part of the Inactive Class Members are those class members who retired before April 9, 2001.

J. ''Retirement Eligible Class Members'' are those class members who had not retired as of April 9, 2001, but who 1) are retirement eligible (by qualifying age and years of service), and 2) elect to retire pursuant to the terms of Section II (B) of this Agreement.

K. The term ''night custodial workers'' refers to female employees who work during the night shift.

L. The term ''day custodial workers'' refers to female employees who work during the day shift.

M. The Office of Personnel Management will be hereinafter referred to as ''OPM.''

N. The Congressional Accountability Act will be hereinafter referred to as the ''CAA.''

II. MONETARY RELIEF

A. Active Class Members and Inactive Class Members

1. Pursuant to Section 415 of the CAA, a lump sum payment from the Department of Treasury will be made to plaintiffs' counsel (to be calculated as set forth in paragraph two below) to distribute to the Active Class Members and the Inactive Class Members at plaintiffs' counsel's discretion, except that those Inactive Class members who were terminated for cause will not receive a payment for any time period beyond the date they were terminated.

2. The lump sum payment for distribution by plaintiffs' counsel to the Active Class Members and Inactive Class Members will be based on the sum of two calculations: 1) the number of Active Class Members multiplied by $7,000 and 2) the number of Inactive Class Members multiplied by $4,000. The lump sum payment for distribution to the Active Class Members will be reduced by $7,000 for each Active Class Member who is retirement eligible and elects to retire. Any money paid under this subparagraph that has not been distributed to class members two years after Final Court Approval of the settlement will be remitted back to the Office of Compliance to be returned to the Department of Treasury.

B. Retirement Eligible Class Members

1. Pursuant to Section 415 of the CAA, an individual lump payment from the Department of Treasury will be made in the amount of $20,000 to each of the Retirement Eligible Class Members.

2. Only those class members who: a) are eligible to retire as of April 9, 2001 or become eligible to retire during the period of April 9, 2001 through September 30, 2001, and b) who actually retire during the period of April 9, 2001, through September 30, 2001, may retire during this period and receive the individual lump sum payment described in paragraph B.1 above. All class members who are eligible to retire during this period will have 60 days after receiving the class notice (as described more fully below) to designate whether they will retire. A class member's decision under this paragraph is irrevocable unless the Court disapproves this Agreement.

3. In order to be eligible for the individual lump sum payment described in paragraph B.1 above, each class member who chooses to retire before Final Court Approval of the Settlement and actually begins her retirement before Final Court Approval must agree in writing, and will acknowledge in writing, as follows:

''If the Court does not finally approve the Settlement Agreement, I will not receive the $20,000 individual lump sum payment or have any further recourse against the Architect, except to continue as a plaintiff in *Harris v. Office of the Architect of the Capitol*, Civil Action No. 97–16587.

C. Payment Terms

1. Pursuant to Section 415 of the CAA, payments under Sections II and III of this Settlement Agreement shall be made from the Department of Treasury. Payments shall be made to class members whom the parties have identified and who have exhausted the counseling and mediation procedures of the CAA. Class members identified after the execution of this Agreement will be required to exhaust the counseling and mediation procedures of the CAA in order to be eligible for the relief described in Sections II and III of this Settlement Agreement.

2. Plaintiffs' counsel and the Retirement Eligible Class Members shall receive the payments as set forth in sections A and B above within sixty (60) days after Final Court Approval of the Settlement.

3. Nothing in this Agreement shall increase or decrease the amount of taxes owed by the plaintiffs under the tax code and other applicable provisions of law.

D. Attorneys' Fees and Costs

1. Pursuant to Section 415 of the CAA, a payment of $290,000 from the Department of Treasury shall be made to plaintiffs' counsel, which represent plaintiffs' counsels' costs and fees at the applicable *Laffey* rates as of August 31, 2000. This payment will be made within a reasonable time period. Defendant agrees to assist in expediting this payment by taking whatever steps are reasonably possible in accordance with established procedures of the United States Attorney's Office. In addition, pursuant to Section 415 of the CAA a one-time lump sum payment from the Department of Treasury shall be made to plaintiffs' counsel for reasonable fees and costs after August 31, 2000 at the applicable *Laffey* rates, based on monthly invoices to be submitted to and approved by Defendant's counsel. Plaintiffs' counsel will submit an invoice for each month in which services are performed after August 31, 2000 following the parties' execution of this Agreement

2. Pursuant to Section 415 of the CAA, a payment from the Department of Treasury in the amount of $5,235.00 to plaintiffs' counsel for plaintiffs' expert fees.

3. Defendant shall pay the mediator in this matter, Linda Singer, the sum of $9,484.22, which is the amount owed for her services as of November 15, 2000. Defendant agrees to pay Ms. Singer's additional fees if the parties require her services after November 15, 2000, not to exceed $16,000. To the extent plaintiffs have paid any mediation fees to Ms. Singer, defendant will reimburse plaintiffs for those fees in lieu of Ms. Singer.

III. NON-MONETARY RELIEF

A. Prospectve Promotions With Pay for Active Class Members

Within sixty days after Final Court Approval of this Agreement, all Active Class Members will receive a promotion. The promotion will be retroactive to the date of Final Court Approval of the Settlement. All Active Class Members who are night custodial workers will be upgraded from a WG–2 to

a WG–3 and will be paid at the WG–3 level at their current step. All Active Class Members who are day custodial workers will be upgraded from a WG–2 or WG–3 to a WG–4 and will be paid at the WG–4 level at their current step. No Retirement Eligible Class Member will receive the promotion referred to in this paragraph A. All Active Class Members who are night custodial workers will retain their night differential.

B. Retroactive Promotions

Within six months of the date of Final Court Approval, the Architect will retroactively promote all class members as of January 23, 1996, the effective date of the CAA. All night custodial workers will be retroactively promoted to a WG–3 at the step they would have held if they had been a WG–3 on January 23, 1996. All day custodial workers will be retroactively promoted to a WG–4 at the step they would have held if they had been a WG–4 on January 23, 1996. No class member will receive back pay as a result of this retroactive promotion. To effectuate this provision of the Agreement, pursuant to Section 415 of the CAA, a payment from the Department of Treasury shall be made in an amount sufficient to make all appropriate payments to the Office of Personnel Management for the retirement fund under Chapter 83 or 84 of Title 5 U.S. Code, which includes payments for each class member and the AOC and appropriate deductions for any additional coverage for the Federal Employee Group Life Insurance Program (''FEGLI'').

The National Finance Center (''NFC'') will calculate the additional amount of employee retirement withholding and employer contribution due for each pay period of the retroactive promotion for each class member. This additional amount will be based on the difference in the base pay of the class members' old and new grade levels, multiplied by the applicable statutory percentages for the employee deduction and the agency contribution to the retirement fund. The NFC will also calculate for each class member, if applicable, the amount of any additional deductions for the MU. Additionally, pursuant to Section 415 of the CAA, a payment shall be made from the Department of Treasury in an amount sufficient to pay an invoice submitted to the AOC by the NFC for the cost of performing the referenced calculations under this section, including overtime charges and indirect costs.

C. Notice of Vacant Positions

Beginning sixty days after Final Court Approval of this Agreement, the Architect will send all vacancy announcements for Wage Grade and GS positions for which plaintiffs may be eligible (including but not limited to Wage Grade and GS 3, 4, 5 and 6 positions) to the plaintiffs' counsel on a monthly basis for one year.

IV. PROCEDURES FOR CLASS NOTICE

A. Notice to Potential class Members

Within 60 days after Preliminary Court Approval of this Agreement, the Architect shall send a Notice to potential class members at their last known address. Attachment A hereto is a proposed ''Notice of Proposed Settlement and of Hearing on Proposed Settlement'' (''Fairness Notice''), which the parties hereby request that the Court approve in connection with scheduling the Fairness Hearing, as set forth in paragraph VI below. This notice to class members shall also include this Agreement. The Architect shall pay for the cost of this mailing.

B. Published Notice

In order to advise all potential class members of their rights under this Agreement, including class members who have retired, who have relocated, or whose current location is unknown, the Architect shall arrange for the publication, at the Architect's expense, of a one-time Notice in the general news sections of the District of Columbia Metro and Prince George's County editions of *The Washington Post*, and in *Roll Call*. The text of the published notice will be submitted to plaintiffs' counsel for their review and approval in advance of publications.

V. PROCEDURES FOR FAIRNESS HEARING

A. Hearing No Later Than 60 Days After Preliminary Approval

The parties request that the Court schedule a Fairness Hearing to be held no later than 60 days after the Court preliminarily approves the settlement.

B. Objections to Settlement Agreement

Any person who wishes to object to the terms of this Agreement, must submit, not less than 15 days prior to the Fairness Hearing, a written statement to the Court, with copies to counsel for the parties. The statement shall contain the individual's name, address and telephone number, along with a statement of her objection(s) to the Agreement and the reason(s) for the objection(s).

C. Parties to Use Best Efforts to Obtain Prompt Judicial Approval

The parties and their counsel shall jointly use their best efforts to obtain prompt judicial approval of this Agreement. The parties have bargained in good faith for the terms of this Agreement. No section or subsection of this Settlement may be modified or stricken without consent of the parties, and in no event after Final Court Approval. If the Court does not approve of this Settlement as written, the Agreement shall be voidable in its entirety at the option of either party.

VI. OTHER MATTERS

A. The plaintiffs relinquish all rights to reopen this action or to seek further or relief than is provided in this Agreement.

B. The parties to this action have entered into this Agreement to resolve all issues in controversy in this action. In recognition of this fact, neither the terms of this Agreement nor their substance may be offered, taken, construed, or introduced as evidence of liability or as an admission or statement of wrongdoing by the defendant, or used for any other reason either in this action or in any subsequent proceeding of any nature.

C. This Agreement shall not constitute an admission of liability or fault on the part of the Office of the Architect, its agents, servants, or employees, and is entered into by all parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

D. This Agreement comprises the full and exclusive agreement of the parties with respect to the matters discussed herein. No representations or inducements to compromise this action or the administrative proceedings that gave rise to it have been made, other than those recited in this Agreement. No statements other than those recited in this Agreement are binding upon the parties with respect to the disposition of this action or the administrative proceedings that gave rise to it.

E. The terms of this Agreement shall constitute full and complete satisfaction of all claims of class members against the defendant that arise out of events occurring up to Final Court Approval of this Agreement which fall within the scope of the allegations in the fourth amended complaint in this action, and of all rights of the class members to relief within the scope of this action. Upon Final Court Approval of this Agreement, the class as a whole and each class member individually shall be bound by the doctrines of *res judicata* and collateral estoppel with respect to all such claims.

F. This Agreement shall be enforceable in the U.S. District Court for the District of Columbia.

G. This action will be dismissed with prejudice upon Final Court Approval.

Counsel for Plaintiffs: Barbara Kraft and Sarah J. Starrett.

Counsel for Defendant: Kenneth L. Wainstein, U.S. Attorney; Mark E. Nagle, Assistant U.S. Attorney; Stacy M. Ludwig, Assistant U.S. Attorney.

This Agreement has been approved by the Office of Compliance pursuant to 2 U.S.C. §1414.

WILLIAM W. THOMPSON, II,
Executive Director, Office of Compliance.

Approved and So Ordered on this 20th day of July, 2001,

HONORABLE EMMET G. SULLIVAN,
United States District Judge.

IT IS FURTHER ORDERED THAT A FAIRNESS HEARING IS SCHEDULED FOR September 28, 2001, at 11 a.m. in Courtroom #1.

Mr. MCKEON. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Speaker, I rise in support of this act. I join with so many of my colleagues who find it extraordinarily important that we right the wrong of the Supreme Court decision and allow access to the courts for those who have been discriminated against in terms of pay equity.

And Lilly Ledbetter and the act that is before us today, I want to thank Chairman GEORGE MILLER for his leadership and his hard work on this and his committee for their relentless pursuit of correcting this. It's one of the very first acts of this new Congress, and I just want to rise in support of it and hope that it gains an extraordinary vote in the House today because it will send a message to not only my mother, my wife, my daughters, but to women throughout our country and to others that the United States Congress stands squarely on the right side of history on this critically important question.

Mr. MCKEON. I continue to reserve my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Maryland, the majority leader.

□ 1530

Mr. HOYER. I thank the chairman, I thank the ranking member, I thank the United States Senate for passing this bill.

I am proud that this is the very first bill that we passed in this House in the 111th Congress. Lilly Ledbetter is a woman of courage, leadership, and my daughters owe her a debt of gratitude.

In passing that bill, we recognized that sexism and discrimination can

still cheat women out of equal pay and equal worth, a theft of livelihood and dignity that is especially damaging as families across our country struggle to pay their bills, as if somehow a single mom raising children could do it more cheaply than a single dad raising those same children.

That didn't make any sense then or now. Within my lifetime, sexism in the workplace could be blatant and unashamed, but today it does some of its worst work in secret.

We can take a stand against it by voting for final passage today. It was secret sexism that cheated Lilly Ledbetter out of the thousands of dollars for years. And we repeat her story, not because it is unique and shocking, but because it's typical, typical of the experience of so many American women, indeed, women all over the world.

Ms. Ledbetter was a supervisor at a tire plant. For years she was paid less than her male coworkers, but she was paid a differential in secret. Her employer didn't tell her I am going to pay you less than I pay your male counterparts who do exactly the same work. For years, she was left in the dark, and by the time she finally saw the proof, the Supreme Court said it was too late. Ironic.

I will tell you on assault there may be in some States no statute of limitations and others there may be a statute of limitations. Essentially, what happens here, if they keep hitting you, and they keep hitting you month after month after month, it's not the last hit that counted, it's the first hit that counted. And you couldn't sue for that, what we would call, we lawyers, tortious conduct, others would call criminal conduct.

But there was no responsibility that Lilly Ledbetter could get from the employer for wrongdoing, for breaking the law. There was no dispute that the law was broken. It was simply that it was broken in secret. And so Lilly Ledbetter had to suffer in public.

The Supreme Court ruled that even though Ms. Ledbetter had suffered clear discrimination, the law had been broken. She had missed the time in which to raise the issue. How perverse, in a nation of laws, of justice, of equity, that we would say they broke the law in secret, and you didn't know it, and you couldn't find it out and, therefore, we will not redress your recognized grievance.

Ladies and gentlemen of the House, this is the right thing to do. It's the right thing to do, not just for Lilly Ledbetter, not just for women, it's the right thing to do because our country believes in fairness, in equity, that we are a nation of laws and treat people equally under those laws. That is why it's so appropriate for us to pass this bill today and send it to the President, who will sign it proudly. All of us who vote for it and see its enactment will be proud as well.

I thank the gentleman for his leadership.

Mr. MCKEON. Mr. Speaker, I yield myself the balance of my time.

Our Nation is facing serious challenges. The economic picture remains bleak, with seemingly more jobs lost every day. American families are struggling to pay bills and send their families to college. I don't object to the fact that we are considering this bill again, despite widespread concern about its consequences. What bothers me about it is that we are not truly debating it. Had this bill truly been "a narrow fix," as the supporters would have the American people believe, this rush to approval may not have been such a problem.

However, this is a major, fundamental change to civil rights law affecting no less than four separate statutes. The last change to civil rights law of this magnitude, the 1991 civil rights law, took 2 years of negotiation, debate and partisan accord to accomplish.

Instead, what we have before us is a partisan product that is fundamentally flawed. It guts the statute of limitations contained in current law and, in doing so, would allow an employee to bring a claim against an employer decades after the alleged initial act of discrimination occurred. Trial lawyers, you can be sure, are salivating at this very prospect.

You know, I think about a person that maybe did one of these acts 30 years ago, has since sold the company, the company has since sold again, the original employer that made the discrimination case in the first place has since passed away and now a trial lawyer can bring all of these people to court. The person who passed away maybe would still have that liability. It boggles my mind to think of the unintended consequences that will come from this bill.

Mr. Speaker, this is a bad bill, and it's the result of an equally bad process. It breaks the vows of bipartisanship that the majority has made time and time again. In the last election and in the previous election they talked about bipartisanship. They talked about regular order, they talked about transparency, about working together. You know, we could work out our honest differences but do it in the light of the day before the American people and, once again, we are denied that opportunity. I think the American people deserve better.

I urge my colleagues to join me in opposing this bill, and I yield back the balance of my time.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Mr. Speaker, Members of the House, the Lilly Ledbetter Fair Pay Act goes to basic and fundamental American values, both in our daily lives and in our workplace, and that is that people ought to be rewarded with equal pay for equal work. It's fundamental, it's basic to our economy, it's basic to our society. It's basic to our sense of fairness, to our sense of justice, and to our sense of equality.

But in far too many workplaces that's not what is done. Women, in many instances, time and time again, for doing the same job that men are doing in the same manner that men are doing it, are paid less, not because they are not doing the job equally as well as the men, but because somebody decided that they were going to pay them less simply because they were women.

That runs counter to the values of this Nation. It runs counter to the values of our society. It runs counter to the best interests of women. It's rather fascinating that they are suggesting that because of tough economic times some businesses may only be able to survive if they can engage in discrimination. If they can carry out a business plan based upon discrimination, they may be able to survive, so women should underwrite that discriminatory policy and accept less.

Well, let me tell you what it's like when you are trying to support a family, either as a dual wage earner or by yourself, and you are accepting less every week, every day, every hour for the work that you are doing the same as the people alongside of you, but you are getting less because you are a woman. Try that in these tough economic times. Try running your household in these tough economic times where the Republicans would have you believe we should enforce the policy of discrimination, that somehow women should underwrite these difficult times by accepting, being a victim of discrimination.

I don't think so. I don't think the people in this Congress believe that. I don't believe the people in this country believe that, and that's why we're going to pass this legislation.

It's fundamental to the values of this country. Now, they are trying to run up the scare tactics that this gets rid of the statute of limitation, same statute of limitations, 180 days, that somehow if you had waited a long time you would collect more recovery than otherwise. No, you get 2 years of backpay, that's the maximum, and that's it. But they want to suggest otherwise, no, that's what the law says.

And because of that, because we reset the law to what it was, as it was interpreted by courts all over this country and by employers and employees, the CBO in its independent analysis said this does not increase costs because it does not create a new cause of action and they don't expect a lot of litigation as a result of this because we go back to the law as it was.

So let's move along here and get rid of this outrageous discriminatory practice that was sanctified by the Supreme Court in some kind of ideological rampage against women and the treatment and the fairness of them in the workplace.

We have an opportunity to do that now. We will pass this bill today, we will send it to the White House where our new President, Barack Obama, has said he will sign this legislation. And with that signature on this bill, we can change the law in this country to once again make sure that women are provided equal pay for equal work that they do in the American workplace, and I urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to voice my strong support for this very important bill. I thank Speaker PELOSI for championing this effort to improve the lives of American women and their families.

The Lilly Ledbetter Fair Pay Act is a bill of enormous importance for women's rights and civil rights in general. For decades, companies big and small have paid women less for the same work as their male counterparts. Today, we correct a major fault in both law and market, and we move toward true equality for all men and women in America.

This bill is important in so many ways. Perhaps most obviously, the bill confirms America's commitment to women's rights. Kofi Annan, the former Secretary-General of the United Nations, was right on the mark when he said, "when women thrive, all of society benefits, and succeeding generations are given a better start in life." Today we help underpaid women thrive, we help restore a sense of dignity and pride, we help women—mothers and mentors, daughters and sisters—improve the lives of others as we lawfully improve theirs.

With the passage of this bill, we tell working American women that their work is valued, that it is just as good as a man's, and that they deserve fair and equal pay. The extra 20 or 30 cents per dollar that so many women do not receive means less food on the table or less money to save for her family's future. Over a lifetime, unequal pay cheats dedicated, hard working women of $400,000 to $2 million. Imagine what these women could have done with this money. And to reflect back on the words of Mr. Annan, passing the Lilly Ledbetter Fair Pay Act into law will benefit both current and future generations.

This bill is valuable not only because of its significant place in the women's rights movement, but also because it demonstrates the Congress' and President Obama's commitment to positive change, change that betters the lives of all Americans regardless of gender or race. Our passage of this bill confirms that equality is a priority for this new Congress. The first bill signed into law during the 111th Congress will be the Lilly Ledbetter Fair Pay Act, ensuring all Americans that—even in these difficult times—their Government is committed to the ultimate American promise of equality for all.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would also like to thank Congressman GEORGE MILLER for his leadership in bringing this legislation forth and for working together to see that gender equity is not just something we talk about, but something that is achieved.

Sadly, women in the United States still earn only 78 cents on the dollar compared to men more than 45 years after the passage of the Equal Pay Act in 1963.

Lilly Ledbetter helped shine new light on this issue when the Supreme Court denied her the $223,776 in additional wages she would have earned had she been a man in its 2007 decision, Ledbetter v. Goodyear Tire & Rubber Co. The Supreme Court was restricted by laws that saw women as less than equal. The Lilly Ledbetter Fair Pay Act would correct this decision and ensure that future victims of pay discrimination can bring a lawsuit after any act of discriminatory pay.

Women have made enormous advances toward economic equality, but gaps in income between men and women persist and only multiply over time, as the following numbers from Jessica Arons' Center for American Progress Action Fund report, "Lifetime Losses: The Career Wage Gap" show. Passing this bill along with H.R. 12, the Paycheck Fairness Act, would be an important first step in addressing this problem.

Although we encourage our daughters to stay in school and obtain their degrees, women with higher education are losing more income due to the career wage gap. In fact, $434,000 is the median amount that a full-time female worker loses in wages over a 40-year period as a direct result of the gender pay gap, also known as the "career wage gap."

The wage gap widens as women get older and carries into retirement because women workers earn less than men at every stage of life, and this continues into retirement. Just some of the statistics that demonstrate that inequity exists are:

78 cents: The amount that the average, full-time working woman makes for every $1 a man makes over a year.

$713,000: The career wage gap for women with a bachelor's degree or higher.

$452,000: The career wage gap for women with some college education.

$392,000: The career wage gap for women with a high school education.

$270,000: The career wage gap for women with less than a high school education.

17 percent: The additional amount that single mothers would take home in income if they were paid fairly. This would lead to a 50 percent reduction in poverty for these women, from 25.3 percent to 12.6 percent.

13.4 percent: The additional amount that single women would receive in income if they were paid fairly. This would lead to an 84 percent reduction in poverty for these women, from 6.3 percent to 1 percent.

6 percent: The additional amount that married women would earn if they were paid fairly. This would lead to a 62 percent reduction in poverty for these women, from 2.1 percent to 0.8 percent.

$8,000: The gap between the average retirement income that men and women receive annually. Two-thirds of this disparity can be attributed to the pay gap and occupational segregation.

Higher wages for women would bring greater prosperity to families. A report from the AFL–CIO and the Institute for Women's Policy Research found that if women were paid fairly, family incomes would rise and poverty levels would fall.

This legislation is intended to combat the wage gap that still exists today between men and women in the workplace. It is an important step in addressing the persistent wage gap between women and men.

Early last year the House passed H.R. 2831, legislation reversing last year's Supreme Court decision in Ledbetter v. Goodyear Tire and Rubber Co., in which the court ruled, 5–4, that workers filing suit for pay discrimination must do so within 180 days of the actual decision to discriminate against them.

Which is why we need to pass not only the Lilly Ledbetter Fair Pay Act but the Paycheck Protection Act as well to stop discriminatory pay practices by employers against our mothers, wives, daughters, and granddaughters that do the same job as their male counterparts.

As a Member of the Women's Caucus I have been fighting to close the wage gap for American women since before I arrived here as a Representative in 1995, and I believe that equal pay for equal work is a simple matter of justice. Wage disparities are not simply a result of women's education levels or life choices.

In fact, the pay gap between college educated men and women appears the first job after college—even when women are working full-time in the same fields with the same major as men—and continues to widen during the first 10 years in the workforce. Further, this persistent wage gap not only impacts the economic security of women and their families today, it also directly affects women's retirement security tomorrow.

I urge my colleagues, both men and women to support equality in rights and pay for all Americans by supporting H.R. 181, The Lilly Ledbetter Fair Pay Act.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today as an original cosponsor of the Ledbetter Fair Pay Act, to express my strong support for the bill. I am pleased we are taking up this bill as passed by the senate so we can finally send it to the President's desk after previously passing it twice in this chamber.

The Ledbetter Fair Pay Act corrects and clarifies a serious misinterpretation by the Supreme Court in its 2007 ruling in the case of Ledbetter v. Goodyear. In that 5–4 decision, the majority ruled that Lilly Ledbetter, the lone female supervisor at a tire plant in Gadsden, AL, did not file her lawsuit against Goodyear Tire and Rubber Co. in the timely manner specified by Title VII of the Civil Rights Act of 1964.

The court determined a victim of pay discrimination must file a charge within 180 days of the employer's decision to pay someone less for an unlawfully discriminatory reason such as race, age, sex, or religion.

The Ledbetter Fair Pay Act clarifies that each paycheck resulting from a discriminatory pay decision constitutes a new violation of the employment nondiscrimination law, as long as the charge is filed within 180 days of the employee receiving the paycheck.

The Ledbetter Fair Pay Act restores workers' ability to pursue claims of pay discrimination on not only sex, but race, religion, age, or

for any other reason. Congress must pass this legislation to help ensure all workers are treated fairly in the workplace and the standard of equal pay for equal work is upheld. I urge my colleagues to join me in supporting this bill to end pay discrimination.

Mr. NADLER of New York. Mr. Speaker, I rise in support of the Lilly Ledbetter Fair Pay Act of 2009.

The Ledbetter Fair Pay Act of 2009 is necessary to overturn the Supreme Court's 2007 decision in Ledbetter v. Goodyear. In that decision, this Supreme Court once again went out of its way to read our anti-discrimination laws as narrowly as possible, and refused to interpret the law as intended by Congress. In doing so, the Court said something astonishing: the only discriminatory act was the initial decision to pay Lilly Ledbetter less than her male coworkers. Once the employer had successfully concealed that fact from her for 180 days, she was out of luck, and Goodyear could go on paying her less—just because she is a woman—forever. The 180-day deadline to sue had passed. The decision to discriminate was illegal, but paying her less than her male colleagues from that moment forward was not.

This is astonishing because it rewards employers who successfully conceal pay discrimination and makes it virtually impossible for employees to challenge such discrimination. It is also astonishing because—17 years ago when it passed the Civil Rights Act of 1991—Congress rejected the reasoning that the Supreme Court relied upon in its Ledbetter decision. Through the Civil Rights Act of 1991, Congress rejected the Supreme Court's conclusion that a statute of limitations begins to run when an employer adopts a discriminatory seniority system and does not restart when the discriminatory effects of that system are felt. Congress made clear that it was rejecting this reasoning in the context of discriminatory seniority systems, which was the question presented by the Lorance case, and in all other contexts as well.

Until its Ledbetter decision, the Supreme Court seemed to have gotten Congress's message. In Ledbetter, however, the Supreme Court relied upon the faulty reasoning in Lorance and ruled, once again, that a statute of limitations runs only from the time that a discriminatory decision is made. Now we're called upon to do it over again. Hopefully, the Supreme Court will hear us once and for all and interpret statute of limitation periods as we intend. Thus, while Ledbetter addresses discrimination in employment, our passage of this bill expresses broad disapproval of the Court's reasoning in any context where it might be applied. Within the specific context of pay discrimination, our use of the phrase "discriminatory compensation decision or other practice" should be read broadly, and to include any practice—including, for example, seniority or pension practices—that impact overall compensation.

I urge adoption of The Ledbetter Fair Pay Act of 2009.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong support of S. 181, the Lilly Ledbetter Fair Pay Act of 2009. As an original cosponsor of H.R. 11, the House passed version of this bill, I would like to express my appreciation for the efforts of Chairman GEORGE MILLER for his instrumental efforts in ensuring passage of this vital legislation. The Lilly Ledbetter Fair Pay Act will strengthen protections against discrimination and safeguard the civil liberties of our Nation's employees.

Through the passage of this legislation, we correct the injustice that occurred following the unlawful discrimination against Ms. Lilly Ledbetter. After nearly 2 decades of service to the Goodyear Tire and Rubber facility in Alabama, Ms. Ledbetter discovered that she was the lowest-paid supervisor at the plant, despite having more experience than several of her male colleagues.

When Ms. Ledbetter sued her employer, a jury found that she had been the victim of unlawful discrimination. The Supreme Court agreed, but nonetheless upheld Goodyear's appeal on the ground that Ms. Ledbetter was barred from challenging the discriminatory payments. The Supreme Court's reason was that the time limit for bringing her claim had passed as the initial discriminatory decision had occurred 20 years earlier. In dismissing Ms. Ledbetter's claim, the Supreme Court overruled a previous law under which every discriminatory paycheck was a new violation that restarted the clock for filing a claim.

The Supreme Court's decision put workers who were subject to discrimination at an extreme disadvantage. As Ms. Ledbetter's case shows, it is very difficult for employees to discover pay discrimination, and workers may not discover pay discrimination for many years after they are discriminated against. Under the Supreme Court's decision, many victims of this deplorable practice would be left without recourse.

Furthermore, the Supreme Court's decision encourages employers to keep a discriminatory pay decision secret for 180 days, allowing them to pay the discriminatory the rest of a worker's career.

Mr. Speaker, for all of these reasons the Supreme Court's decision rendered much of our civil rights law virtually unenforceable. This was a decision that affected not only gender discrimination, but also discrimination on the grounds of race, ethnicity and sexuality. I am therefore proud to support this legislation and encourage my colleagues to do so as well.

Mr. RANGEL. Mr. Speaker, I rise today in support of S. 181, the Lilly Ledbetter Fair Pay Act.

The Lilly Ledbetter Fair Pay Act is critical in the struggle for financial equality. Even in 2009 women still on average earn 78 cents for every dollar earned by their male counterparts in a nation where 41 percent of women are the sole income providers for their families. Economic equality is not an issue that should be based on gender but on fairness and the quality of ones hard work. The Supreme Court Case of Ledbetter v. Goodyear Tire & Rubber Co., by the narrow 5–4 vote, greatly impaired the ability of women and others to challenge pay discrimination. The passage and enactment of this act will restore prior longstanding law which will enable women and others to challenge instances of pay discrimination within 180 days of a discriminatory pay check. For too long women have performed the same tasks and have been unequally compensated. Unequal pay is not merely a women's issue but a disparity that affects all of us.

Though there is still more work to be done in the fight for equality this legislation is an important step.

Ms. NORTON. Mr. Speaker, in my earlier remarks on the Lilly Ledbetter Fair Pay Act of 2009, I highlighted the first-rate work of AFSCME Council 26, affiliated with the American Federation of State, County & Municipal Employees (AFSCME), AFL–CIO, in a sex discrimination lawsuit brought by female custodians against the Architect of the Capitol, which is another way of saying the Congress of the United States of America. The women custodians were being paid one dollar less than their male co-workers. I referred to the female custodians' lawsuit in my remarks because without AFSCME's representation, this discrimination right here in Congress might never have been uncovered, just as Lilly Ledbetter did not discover the equal pay violations until after she retired.

The women's Equal Pay Act lawsuit was historic as well because it was the first class-action under the Congressional Accountability Act that holds Congress to the same employment laws as our constituents. The class was expertly represented by lawyers Barbara Kraft and Sarah Starrett. By getting the women class certified, AFSCME and its lawyers were able to exert maximum leverage and, therefore, negotiate a just settlement with the Architect of the Capitol. The case underscores the importance of undoing the Supreme Court's Ledbetter decision and restoring the long-standing interpretation of the Equal Pay Act. The Congress, the body representing the people, had been systematically and shamefully discriminating against its own workers.

I had been a strong supporter of these women since they first filed their lawsuit. As a former chair of the Equal Employment Opportunity Commission, who had responsibility for enforcing the Equal Pay Act, I felt at the time that it was my obligation to bring the female custodians' case to the attention of other Members, and I spoke on the floor about the case in March 2000. I joined AFSCME and the women at a press conference on Equal Pay Day on May 10, 2000, to push for equal pay for these women as well as all other women in the workforce. After the women settled with the government, I was delighted when I was invited to help hand-deliver their settlement checks.

The Ledbetter decision undermined the ability of unions like AFSCME to uncover and protect workers from discrimination, and I was proud to cite the work of AFSCME, Barbara Kraft, Sarah Starrett and the women custodians of the U.S. Congress as the best evidence of the need for the Lilly Ledbetter Fair Pay Act of 2009.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 87, the Senate bill is considered read and the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO COMMIT

Mr. McKEON. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. McKEON. I am.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. McKeon moves to commit the bill S. 181, Lilly Ledbetter Fair Pay Act, to the Committee on Education and Labor.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California is recognized for 5 minutes in support of his motion.

Mr. McKEON. Mr. Speaker, I move to commit this bill to the committee so that this bill, which is so sweeping in its scope, be given an opportunity to be debated in a comprehensive fashion. To this day, this committee has never had a hearing on this bill.

There has not been a full and fair debate, regular order has not been followed, and it needs to be. As I noted in my remarks, we have not entertained, in the three times that this bill has been brought to the floor, a single Republican amendment.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. I rise to speak against the motion to commit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, this motion to commit is clearly an effort to not only send this bill back to committee, but to kill this legislation. My colleagues on the other side of the aisle recognize the situation that we find ourselves in. The House has passed this legislation earlier, in this session, and the Senate has passed similar legislation which we are now taking up. And when we vote in a little while, this afternoon, we will pass this legislation, and it will go to the President of the United States.

So this is a desperate attempt to somehow keep that from happening. And what we will be sweeping is we will be sweeping away a policy of discrimination in the workplace against women who are paid less than their male counterparts for the same work.

The fact of the matter is that there were hearings held both in the Judiciary Committee, in the last session of Congress, and in the Education and Labor Committee, and all sides were allowed to present their views in those hearings.

□ 1545

In the last Congress, it was subject to a full committee markup, which all Members could have offered as many amendments as they like. They offered two amendments. Those amendments were rejected. They could have offered more. They chose not to.

The bill went to the House floor, debated, and was passed on a bipartisan vote of 225–199 in June of 2007. The minority had an opportunity to offer a motion to recommit. They chose not to. The bill went to the Senate, where it was filibustered. Filibustered. And then the bill was reintroduced identical to what the House had already passed earlier this month.

On January 9 of this year, we passed the bill on the House floor again, 247–171, on another bipartisan vote. The minority had another opportunity to offer a motion to recommit. They chose not to.

The bill went to the Senate, where it was subjected to amendment after amendment. The bill was passed on a bipartisan vote of 61–36. And now we are on the cusp of sending this bill to President Obama for his signature. That is what we should do.

We should reject this motion to commit, an attempt to kill this legislation, and make sure that this bill goes to the President's desk and ends this discriminatory policy against women in the workplace. I urge my colleagues to vote ''no'' on the motion to commit and vote ''aye'' on the passage of the legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McKEON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 176, nays 250, not voting 6, as follows:

[Roll No. 36]

YEAS—176

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NAYS—250

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)

Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—6

Brown-Waite, Ginny
Etheridge
Lynch
Rush
Tiberi
Young (AK)

□ 1615

Messrs. CONNOLLY of Virginia, ADLER of New Jersey, LUJÁN, JACKSON of Illinois, HOYER, BOREN, KLEIN of Florida, GUTIERREZ, Ms. KOSMAS, Ms. BEAN, Ms. MOORE of Wisconsin, Messrs. HILL, TANNER, GORDON of Tennessee, Ms. MCCOLLUM, Messrs. CARNEY, SESTAK, MINNICK, BERMAN, CARDOZA, CUELLAR, OLVER, Mrs. MALONEY and Mr. SPRATT changed their vote from ‘‘yea’’ to ‘‘nay.’’

Mrs. LUMMIS and Messrs. BILBRAY, COLE, LATHAM and HERGER changed their vote from ‘‘nay’’ to yea.’’

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. CASSIDY. Mr. Speaker, on rollcall vote 36, I inadvertently voted “nay.” I meant to vote “yea.”

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 250, nays 177, not voting 6, as follows:

[Roll No. 37]

YEAS—250

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Whitfield
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—177

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—6

Brown-Waite, Ginny
Etheridge
Lynch
Pallone
Tiberi
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. DELAURO) (during the vote). There is 1 minute remaining in this vote.

□ 1625

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The SPEAKER pro tempore (Mr. HOLDEN). Pending any declaration of the House into the Committee of the Whole pursuant to House Resolution 88 for the consideration of the bill, H.R. 1—which contains an emergency designation for purposes of pay-as-you-go principles—the Chair must put the question of consideration under clause 10(c)(3) of rule XXI.

The question is, ‘‘Will the House now consider the bill?’’

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MICHAUD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 199, not voting 10, as follows:

[Roll No. 38]

AYES—224

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costa
Costello
Courtney
Crowley
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Maffei
Maloney
Markey (CO)
Markey (MA)
Massa
Matheson
Matsui
McCollum
McDermott
McGovern
McMahon
McNerney
Meek (FL)
Meeks (NY)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis (CA)
Speier
Spratt
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOES—199

Aderholt
Akin
Alexander
Arcuri
Austria
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Cooper
Crenshaw
Cuellar
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Ellsworth
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
Kaptur
King (IA)
King (NY)
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Peterson
Petri
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sanchez, Loretta
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—10

Brown-Waite, Ginny
Etheridge
Kingston
Linder
Lynch
McCarthy (NY)
Pitts
Stark
Tiberi
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1642

Mr. BOSWELL changed his vote from ''no'' to ''aye.''

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. MCCARTHY of New York. Madam Speaker, today, I was unexpectedly detained and missed one vote.

On rollcall No. 38, on the question of consideration of the bill H.R. 1, the American Recovery and Reinvestment Act of 2009, I would have voted ''aye.''

The SPEAKER pro tempore. Pursuant to House Resolution 88 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1.

□ 1643

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes, with Mr. TIERNEY in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 3½ hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, who may yield control of blocks of that time.

The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 1 hour and 45 minutes.

The Chair recognizes the gentleman from Wisconsin.

□ 1645

Mr. OBEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this country is facing what most economists, I believe, consider to be the most serious and the most dangerous economic situation in our lifetimes, certainly going back to the early thirties.

If you take a look at what has happened in the country, late last year, former President George Bush recognized that the world's credit markets were near a state of total collapse, and he asked this Congress to take unprecedented action in order to try to prevent that. Since that time, we've seen a continued unraveling of financial markets, we've seen a continued unraveling of the housing markets, and we've seen the most spectacular loss of consumer confidence in the modern history of this country. New claims for unemployment insurance last week hit 590,000. In the last 2 months alone, we've seen this country lose more than a million jobs.

Consumer purchasing power has evaporated. New home starts fell 15 percent in December, to the lowest number on record going back more than 50 years. And we've seen other evidence of panic in the marketplace and on Main Street.

Normally, when consumer purchasing power collapses, our government uses the tool of monetary policy in order to try to resurrect and reinflate the economy. The problem is we've already shot

that bullet. The Federal Reserve has taken phenomenal actions to try to stabilize the situation to very moderate effect. And now we're being asked to consider the other tool in our arsenal. We're being asked to use fiscal policy to expand consumer purchasing power to try and stop the slide. And that is what this proposal before us here today will try to do.

In most recessions, we're eventually led out of those recessions through the leadership of the housing sector and the automobile sector. This time around, both of those sectors are in shambles, and they're not likely to lead anybody out of anything. So that leaves us with very limited tools.

This package today that we are considering is an $825 billion package that does a variety of things to try to reinflate the economy. It, first of all, provides tax cuts—which Mr. RANGEL will discuss—in order to try to put some money in people's pockets. We hope that that succeeds to a greater extent than the last round of tax rebates did.

Secondly, this package attempts to jump-start job creation through infrastructure investments in roads, bridges, sewers, water repair, modernizing our electric power grid and expanding broadband access so that all parts of the country have an opportunity to compete, with Internet access.

Third, this package attempts to help those who are most impacted by the recession, who are losing their jobs, their health insurance, and losing the ability to send their kids to college.

Fourth, this package attempts to modernize the economy—or at least to begin a long process of doing that—by accelerating the development of new technology through key investments in science and energy.

And last, it attempts, also, to save jobs by stabilizing State and local budgets. Because of the economic collapse and because of the collapse of revenue now forecast at the State and local level, States face the need to eliminate gargantuan deficits because they're required to balance their budgets. Without help from the Federal Government to stabilize their situation, they will be forced to impose major tax increases and devastating service cutbacks, which under these economic conditions would be hugely counterproductive. This package attempts to do all of those things.

Now, none of us can be certain about the degree of success that would flow from passage of this package.

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 2 additional minutes.

But the fact is we are as close as we will ever see to being in the same position that Franklin Roosevelt was in in the thirties. And at that time he tried some things; some of the things he tried worked, some of them didn't, and so he moved on and tried other things.

There is no person on this floor who can guarantee the success of this package. Certainly, standing alone, this package will not succeed, because it is going to have to be accompanied by further actions to build confidence in the economy. It is going to have to be accompanied by new actions to prevent massive house foreclosures all across the country. We are going to probably have to have even further intervention in the financial markets of the country. And this package that we have here today, the spending portion of this package, may very well undershoot rather than overshoot the target that many economists have set out for us.

When President Bush came to office, I was divided in my judgment about whether I should support his first major new initiative, which was the No Child Left Behind education package. I had grave misgivings about that package, but in the end I supported it, largely because I thought that, as the incoming President, the President deserves to have the benefit of the doubt. President Obama is in that same situation, only in far more dire straits. He has asked the Congress to pass an economic recovery package, and this bill today is attempting to do that.

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 1 additional minute.

He has asked us to provide a reasonable balance between tax cuts and spending increases to revive the ability of consumers to purchase the goods and services produced by this society. Unless someone has a clearly better idea, I think we have an obligation to support the President's proposal, at this point as the only game in town. The risks are enormous if we do not move ahead.

Everyone talks, for instance, about how disappointed they are with what the previous Bush administration did with respect to the package on Wall Street. I'm certainly extremely unhappy with some of the actions taken by Secretary Paulson.

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 1 additional minute.

I believe, nonetheless, that the President was right at the time in telling the Congress that if we did not take action, the results could have been catastrophic. I believe if we do not take action on this package today, the results can be similarly catastrophic. And with that, I urge Members to support the package.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I might consume.

As we begin today's debate, Mr. Chairman and my colleagues, I'd like to reiterate my willingness and desire to work with President Obama.

Mr. President, each of us wants to see you be successful, and we welcome the opportunity to work with you and your administration. The challenges we face as Americans—not Democrats or Republicans, but Americans—are great. We have much work to do.

Mr. President, it is our sincere hope that we will work together across party lines to restore confidence in our economy and create a climate conducive to job growth. We can no longer afford to point fingers and cast blame. If there was ever a time for our country to come together, it is now.

There is no greater challenge facing working families today than our Nation's struggling economy. Each of us can speak passionately and with great empathy of people we know in our own districts who have lost their jobs, are unable to pay their mortgage, don't have health insurance, or are struggling to make ends meet. They are asking for our help. As we demonstrate our compassion, let us also be mindful of our responsibility to assist those in need without creating an untenable situation for future generations. That is the balance we must strive to achieve.

The centerpiece of any stimulus bill ought to be job creation. Government has a role; but our constituents are not asking for an unlimited expansion of government. They are asking Congress to focus on specific sectors of our economy and to provide solutions that will offer tangible, near-term results.

Most of us would agree that the recent $700 billion Troubled Asset Relief Program, known as TARP, is an illustration of how good intentions don't always deliver desired results. Many Members, I'm sure, would like to have their vote back if they voted for that package.

When Congress spends too much too quickly, it doesn't think through the details and oversight becomes more difficult. The TARP bill is only the most recent example. The lesson learned was this; we cannot manage what we do not measure. We simply cannot afford to make the same mistake again.

Public dismay over the lack of transparency in TARP implies a public desire for more openness and thoughtful consideration of stimulus spending. A Web site is not oversight. Posting $606 billion worth of Federal spending on a Web site does not ensure that these funds will be well spent. Each and every agency should be required to submit a spending plan to Congress—on the front end, not after the fact—to ensure that every dollar is spent as intended. Our constituents, Mr. Chairman and Members, deserve no less.

These taxpayers, who will repay this debt over time, also deserve specific

answers before we spend another nickel of their money. They deserve to know how many jobs will be created in 6 months, 12 months, 18 months, or longer. They deserve to know where these jobs will be created, how many of these jobs will be skilled and unskilled positions, and whether these jobs will be sustained through higher taxes or even more government spending down the road. These are thoughtful, reasonable questions deserving a thoughtful and reasonable response.

Many have described this legislation as a transportation and infrastructure investment package. However, the fact remains that only $30 billion, or 3 percent of the funding, is directed towards ''shovel-ready'' road and highway spending. The backlog of these projects is some $64.3 billion. Similarly, $4.5 billion is allocated for the Corps of Engineers for improving flood protection and navigation, when a $61 billion backlog exists for Corps projects that are fully authorized. These are the types of targeted infrastructure investments that will create sustainable jobs and should be given even greater priority within this package.

Many Republicans support wellness programs, analog TV conversion coupons, and the NEA, for example, but these and many other items in this bill don't create jobs and ought to be funded through our regular appropriations process. They do not belong in a stimulus bill.

□ 1700

Nor should a stimulus package be used to establish 32 new government programs at a cost of some $136 billion, which this bill does. Thirty-seven percent of the appropriated dollars in this package, more than $1 out of every $3, is dedicated to creating new government programs.

Are we fostering job creation and economic stimulus, or are we simply growing the size of government? I know my taxpayers are asking. How about yours?

Our opposition to this package is not based on partisan politics but on economic reality. There is tremendous pressure on Congress to maintain funding of existing programs even before we create new ones. Again, let's take off our partisan hats and look at the sobering facts before us.

Congress recently provided $700 billion for TARP. It's now considering $816 billion in this stimulus bill. There is talk of the Senate's adding another $70 billion to address the AMT fix. Congress will next week, consider a $410 billion omnibus spending bill for the work we didn't finish last year. And before long we will be considering another emergency supplemental spending bill.

Let's be perfectly honest. All these spending bills are placing a tremendous burden of debt on present and future generations. Our projected deficit of 2009 is already approaching $1.2 trillion, the largest in history, even before we consider this stimulus proposal.

So what can be done to make this a better and perhaps even a bipartisan spending bill? Let me offer four suggestions, Mr. Chairman:

First, narrow the focus of this bill to those items that provide measurable economic stimulus or produce jobs. Spending should be targeted to key infrastructure investments that will create jobs over the next 2 years. We don't question the urgency of this package. We question its priorities and its price tag.

Secondly, address public concerns over adequate transparency and accountability by requiring agencies to submit a spending plan before they start spending the money in this package, as we did in the 9/11 package. Such an approach will ensure that every dollar is spent as intended.

Further, I would suggest that this bill should ensure that it captures the full costs associated with waiving cost-sharing requirements and hiring of additional Federal employees. Proper safeguards are needed to prevent the unintentional growth of government over time.

And, lastly, limit the use of the stimulus bill as a vehicle for increasing base funding of popular domestic programs. Large increases in these programs create unrealistic expectations for future spending.

I will conclude my remarks as I began them with a message for our new President:

Mr. President, the challenges we face transcend partisan politics. We have an historic opportunity to work together to craft a stimulus package that Republicans and Democrats can support. We appeal to you to include us in this process. We wish you and your family Godspeed and welcome the opportunity to work with you, Mr. President.

Mr. Chairman, I reserve the balance of my time.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Members are reminded to address their remarks to the Chair.

Mr. OBEY. Mr. Chairman, pursuant to the rule, I yield 15 minutes to the chairman of the Ways and Means Committee, Mr. RANGEL; 15 minutes to the chairman of the Energy and Commerce Committee, Mr. WAXMAN; 10 minutes to the chairman of the Education and Labor Committee, Mr. MILLER; 10 minutes to the chairman of the Transportation and Infrastructure Committee, Mr. OBERSTAR; 5 minutes to Ms. GIFFORDS of the Science and Technology Committee; 5 minutes to the chairwoman of the Small Business Committee, Ms. VELÁZQUEZ; 5 minutes to the chairman of the Budget Committee, Mr. SPRATT; and 2 minutes to the chairman of the Oversight and Government Reform Committee, Mr. TOWNS.

The CHAIR. Members so designated will control the time mentioned.

The Chair recognizes the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I yield myself 3 minutes.

My colleagues, someone once said that when the going gets tough, the tough get going. I think of our great country, knowing that through the Depression, that's just what happened. We came back stronger, more competitive, and became a nation that was respected. I remember so clearly in 1941 they thought America was a loser. We almost lost our entire fleet. But what happened after that? Again America came back stronger as a world power economically and militarily. And now we're in trouble again.

This $275 billion bill brings relief. The Ways and Means Committee is proud to bring this to you for your consideration. It doesn't help our banks. It doesn't help our fiscal institutions. They don't cry. But those of us who go back home know who's doing the crying: those people who work hard every day, and yet they're losing their jobs, they're losing their dignity, they're losing their homes, they can't put food on the table.

There is only one way to do it, and that is to be equitable and to make certain that we have a decent and fair response to their tax relief, and that's what we intend to do.

We provide $144 million to people who work every day to put food on the table, to be able to get clothes for their children. And the reason they don't have confidence is because they don't have money, and we provide that for them. For families that are low income that have children, we try to provide something not only for those people who don't have tax liability immediately but to relieve them of that payroll tax, because at the end of the day, it's what you take home and not what you call it.

For working families we have the earned income tax credit. And we tried desperately hard to make certain that for those people who have lost their jobs that they not lose their dignity, they not lose their health insurance, and that they be able to get education and retraining.

For small businesses, unless we have the people who are working that have resources to be able to buy, we try to help our small businesses by giving them an easy opportunity to depreciate and to buy equipment and not to have to lay off.

And one of the most important parts of our bill is something that they'll never be able to take away from our great country, and that is education and technology training. So we can come back stronger. We can come back notwithstanding what's happening here. And I can't see anybody in this House going back home saying we

didn't do enough because for those that are out there feeling the pain of what we're going through, they are just waiting for relief to be coming. And our President has promised this, our leadership has promised this, and this is the time for the Congress to be a part of that.

The health information technology is not only going to save lives, it's going to be able to say at the end of the day that we moved forward to make our country healthier, better educated, knowing more about technology. And once we do that, when people ask how are you going to pay back the money, you don't pay it as a sick Nation. You pay it back as an educated, healthy Nation that restored the dignity and prosperity that we know. And so we find Members will have ribbons on, and I refer you to the RECORD to know more about the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 4 minutes to the original chairman of the Homeland Security Subcommittee of Appropriations, the gentleman from Kentucky, HAL ROGERS.

Mr. ROGERS of Kentucky. Mr. Chairman, there is no question but that the Congress must act swiftly and boldly to counteract the downturn in the economy. But there's a difference between actions that are swift and bold and spending huge sums of borrowed money irresponsibly.

When the dust finally settles on this boondoggle, perhaps then we will face the facts regarding this colossal trillion dollar spending bill. And the fact is that the Pelosi-Obey bill isn't an economic stimulus plan at all, but a rampant spending spree, much of which has nothing to do with bailing out a sagging economy, but with a liberal litany of left-leaning, big government programs.

We need a true stimulus bill. That much we can all agree on. But it needs to be aimed directly at creating jobs. It needs to give real incentives to small businesses, which create three out of four new jobs in the country. It needs to have a strict oversight program, given the recent TARP fiasco. And it needs to solely focus on stimulating the economy, not a mandate to overspend on a broad range of government programs.

First, this bill is not aimed directly at job creation. According to the Congressional Budget Office, a nonpartisan office, only 40 percent of the discretionary funds in this bill will actually stimulate the economy and create jobs by 2010. Economists all across the Nation question the wisdom of the U.S. Government's competing for debt financing, when our small businesses are struggling to refinance their own debt. How does squeezing out our small business owners help create jobs in this troubled economy?

Editorial boards across the country are questioning the spending priorities that have needlessly crept into this bill: $50 million for the National Endowment for the Arts, $200 million for tree trimming and sod planting on the National Mall, $150 million for Smithsonian facility upgrades, $16 billion in Pell grants for college students.

To quote The Washington Post, which I rarely do: ''All of those ideas may have merit, but why do they belong in an emergency measure aimed to kick-start the economy?''

If the majority wants to debate funding for the arts, let's do it in the annual Interior Appropriations bill. If the majority wants to increase Pell grant funding, bring it up through the annual education spending bill that's coming up shortly. And if you want to go out and borrow another $825 billion from your children in the name of saving the economy, we should demand that it be spent producing jobs for Americans.

The true drivers of this economy, the small business owners, are literally left out in the cold. While we're planting sod and cleaning up trash on the National Mall to the tune of $200 million, we are only allocating a fraction of that amount to our small business owners across the Nation in the form of tax breaks. It's not hard to see where the true priorities lie with this majority.

Second, who knows where this money will go? The bill fails to demand a full accounting of the funds before they are allocated. Last week's disapproval vote of more TARP funds would make you think that we'd learned a thing or two about writing a blank check to the administration without seeing how they intend to spend it. But apparently we haven't.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. Mr. Chairman, I yield the gentleman an additional minute.

Mr. ROGERS of Kentucky. When the Appropriations Committee considered this legislation last week, the minority put forth several thoughtful, fiscally-responsible proposals to prioritize infrastructure investment and demand greater accountability, all denied on a party-line vote.

I proposed an amendment that withheld a portion of these funds until a simple spending plan was submitted to Congress, a plan requiring expenditure details, all rejected. It's a sad day when the majority won't even allow the formulation of a plan before spending bonanzas begin.

Mr. Chairman, this bill should be about encouraging our small businesses to create jobs and providing the proper oversight and accountability that working families deserve. Unfortunately, this bill fails miserably on both counts.

If money is no object, if success is not your goal, if accountability is not important to you, vote for this bill. But I urge Members to oppose this bill and support a bill that actually creates jobs and demands accountability for the taxpayers.

□ 1715

Mr. RANGEL. I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT), who will share with you our concern about people who have lost their jobs.

Mr. MCDERMOTT. Mr. Chairman, every day and every corner of this Nation, and every sector of this economy, the casualties keep mounting. Seventy-five thousand people lost their jobs yesterday, at Alcoa, Boeing, Caterpillar, Home Depot, Intel, Microsoft, Pfizer, Sprint, Texas Instruments and many small businesses. Over 11 million Americans have already lost their jobs, the highest level in 25 years, and every major economist says it's going to get worse before it gets better.

Behind every number is a personal story of an American family struggling to cope with and survive this economic crisis. Behind every story is an American who deserves our help, who has earned our help on the job and has every right to expect Congress to act with all deliberate speed. We must not let them down.

Helping these Americans while they look for work is not only the right thing to do for them, it is the only thing we can do in our economy. Unemployment insurance is one of the most effective forms of economic stimulus, because jobless Americans have little choice but to spend the money that's given them.

Every unemployment insurance dollar spent returns an economic impact of $1.64. That's the kind of significant return on investment that will help America restart its economic engine. This recovery engine responds to rising unemployment with a historic level of assistance. It provides $27 billion for a program of extended benefits. For the first time ever, this legislation provides financial incentives for States to modernize their unemployment insurance programs and increase access to benefits.

For the first time ever, this legislation provides a Federal supplement to increase unemployment benefits by an extra $100 a month for the next year, and, again for the first time, we will provide assistance to unemployed workers who are trying to afford health care coverage. The primary goal of this legislation is to create jobs, but we must also help the unemployed as those jobs are being created, and this measure does just that. By voting for this bill, we are standing up for the American people and standing alongside the American people right where we belong.

I urge support for this critically important legislation.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. WOLF), a member of the committee.

Mr. WOLF. Mr. Chairman, I think this bill really ignores the major issue that we are really facing. Our Nation is fundamentally broke, but we have $57 trillion of unfunded obligations. The Ways and Means Committee, with all due respect, is doing nothing about dealing with this issue.

I have a bill in with JIM COOPER and Senator CONRAD, Senators CONRAD and GREGG have it over on the Senate side, that creates a bipartisan commission similar to what we did on the Iraq Study Group with every spending program, including Medicare, Medicaid and Social Security and tax policy. Some on my side won't like that, a tax policy on the table, and we give the commission 1 year to go around the country holding public hearings, coming up with a proposal to require, to require this institution that has fundamentally failed to do its responsibility.

Now, China holds a large portion of our debt. People talk about it, but yet nobody does anything about it. If the Chair of the Ways and Means Committee gets on the train in Washington and takes it to New York City and looks to the right and to the left, the factories are in decay. There is graffiti all over the walls, the windows are broken. You come through my old neighborhood in Philadelphia, and it's in decay.

By doing this, by getting control of our spending in a way that would honestly do it in a bipartisan way, I would tell the Chair of the committee, we would bring about a renaissance in this Nation whereby we would have the ability to invest in Alzheimer's research and autism research and cancer research and manufacturing to create new jobs that really show that America is back. So I think the failure of this bill is that this provision is not in it.

The last issue is, I call it the father amendment or the mother amendment or the grandmother/grandmother amendment, all of us at some time are going to get an opportunity, and we are going to leave here. And our grandkids are going to say, you know, Dad, when you were there, or Mom, when you were there, or Grandpop, when you were there, or Grandmom, when you were there, did you know that China was buying our debt up? Did you know the Saudis were buying our debt up? Did you really know, Grandfather or Grandmother, that our factories were in decay? Did you know that they controlled our debt? Did you? Did you, Pop? Pop, did you do anything about it? Dad, did you do anything about it?

And the answer is, as of now, this Congress, and let me just say, both political parties, have fundamentally failed. So you are going to have to tell your kids and your grandkids, no.

When I was there, as of January of 2009, we did nothing, and we allowed our country to fall into decline. This amendment ought to be, it ought to be in the Republican substitute, and it's not, and I voted against the Republican substitute. It ought to be in this, and it's not, and I voted against this. And if this does not pass, Barack Obama will preside over the decline of this Nation when he is running for reelection as President of this Nation in 4 years.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER), who is going to share with us his dreams about a country that is not dependent on fossil fuel.

Mr. BLUMENAUER. Thank you. I appreciate the gentleman's recognition. I appreciate Mr. LEVIN's courtesy.

I have been listening to our friends on the other side of the aisle. These are the architects of the Bush economic meltdown, who have given him billions and billions and billions of borrowed dollars, blank checks, to the last administration. All of a sudden, they are fiscally interested.

Well, let me just say, we just left a Budget Committee meeting where we had five brilliant respected Ph.D.s from all across the spectrum who said we are on uncharted water, you should err on the side of a larger stimulus, not a smaller, and that one of the most important areas deals with energy.

I am proud that we have taken these provisions that we have been dancing around for the last 3 or 4 years and playing Russian roulette with where the private sector couldn't invest in them. It was on again, off again. Now we have made them certain and indefinite. We have encouraged these investments by increasing the level and giving them a longer period of time to cope with them.

I think all of us ought to embrace this. These are provisions that are investing in our energy future. They are going to create jobs, they are going to fight global warming, and they are going to help us in the international arena.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON), a member of the committee.

Mr. KINGSTON. I thank the gentleman for yielding.

I was in a meeting today with the Republican Party and President Obama, and we pledged to work with him to turn this economy around, and we feel very serious about working with the President on a bipartisan basis.

But as we look at the stimulus package, I don't think this is quite what he had in mind. Only 7 percent of the appropriation goes to shovel-ready projects, only 13 percent in general goes to public works-type projects. At that rate it spends $275,000 per job, and the household income for America is about $50,000. This is not bold enough in terms of job creation for the targeted 3 to 4 million jobs.

The second part is this bill creates 32 brand new Federal programs at a cost of $136 billion, new spending, and yet we didn't have hearings on all of these new programs.

Then it has extension of some spending that we already have, millions of dollars for contraceptives, $50 million for the National Endowment for the Arts, $200 million for grass resodding on The Mall. In fact, for every $1 in small business tax relief, this bill gives $4 to resod The National Mall, and $600 million to prepare the country for universal health care.

And then, as Mr. WOLF said, we are going to talk about the debt. Our Nation is $10.6 trillion in debt.

Now, the worst Republican deficit was $412 billion. The Democrats this quarter will exceed $1 trillion in deficit spending and, as Mr. WALZ said, we owe $3 trillion to other countries, led by China.

I sit on the Agriculture Committee. We have about $26 billion in the Agriculture portion of this bill, but only $1.7 billion is spent on public works, things that will create jobs. The rest of it is traditional left-wing spending, expansion of the Food Stamp Program, even though food stamps has an automatic enrollment, and it also has an automatic inflation guard. But we are increasing food stamps.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 30 additional seconds.

Mr. KINGSTON. This changes our $400 million loan program to extend broadband, changes it to a $2.8 billion grant program, thus creating one of the largest corporate welfare elements that's out there—and I don't know how that creates jobs—and $23 million for the Inspector General for audits, and how does that create jobs. There are better ways.

We should reduce unfunded mandates, we should increase the public works, we should have more tax cuts for small business, we should implement the SAFE Act, and we should reward responsible behavior.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. All Members are advised not to traffic in the well when a Member is under recognition, as a matter of courtesy.

Mr. OBEY. I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. KINGSTON. I want to say I apologize.

Mr. DICKS. Well, I accept the gentleman's apology, but he was inaccurate on what he said. That is something I cannot forgive him for.

Out of the $200 million for The Mall, $150 million is to save the Jefferson Monument from sinking, sinking, into the Tidal Basin. Only part of the

money is used to resod the grass, and, there is money also to protect and restore the Sylvan Theater as well.

There is a national group that has organized to restore The National Mall. We just saw $1.8 million Americans come and stand on that Mall. It is a national treasure. It is part of the Park Service. It deserves to be fixed.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the chairman of our committee, the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. I thank the gentleman for yielding.

Mr. Chairman, there is no greater challenge facing our families and businesses today with our Nation's struggling economy. The past few months have been absolutely traumatic for many. There is genuine anxiety and fear about job security, loss of savings, a serious drop in home values and the decline of the value of personal investments.

As a result, consumer confidence is at historic lows. Quite correctly, Americans are asking for help. We must respond by passing an economic package as quickly as possible. However, we must make sure that that response is effective, efficient and timely.

Unfortunately, the bill the majority has placed before us today does not meet those common-sense standards. Clearly, many Americans find themselves in real trouble and in need of relief. Provisions of this bill, such as the extended unemployment benefits, nutrition assistance and job training are critically important to help many Americans struggle through hard times. However, they have little to do with creating 3 to 4 million jobs.

However, there is a significant role for government to play in the targeted infrastructure, investment, roads, tunnels, bridges, sewers, flood control.

□ 1730

As Mr. LEWIS said earlier, many of the majority have described this legislation as a transportation and infrastructure investment package. However, only $30 billion of that, or 3 percent of the funding, is directed towards shovel-ready road and highway spending that would immediately create jobs. And there's a $61 billion backlog in Army Corps projects that could be addressed immediately.

According to the nonpartisan Congressional Budget Office, less than half the spending in this stimulus package will be paid out in the next 2 years. At that rate, an economic recovery will probably outrun most of that spending.

This should worry all Americans. This isn't just a stimulus package; it is legislation jam packed with a lot of domestic spending, even if there's no evidence that that spending will create jobs or prevent layoffs.

I note that the majority proposes a $79 billion State stabilization fund. Apparently, this program is designed to bail out some—I repeat—some States that did little to control their own spending and bonded indebtedness in recent years.

Take my own State of New Jersey as an example. In the last 6 years, New Jersey State spending has increased by $11 billion, and our State's debt has more than doubled to $36 billion. Clearly, this is not a picture of restraint. Add to that picture some of the highest taxes in income taxes in the Nation.

In other words, while the Federal budget deficit has exploded, Federal taxpayers are now supposed to pull some State governments out of a fiscal hole that was partially of their own making.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, if we are going to quote CBO, we ought to quote CBO accurately. In fact, the Congressional Budget Office has said that, in their estimate, 65 percent of the money in this bill will be spent in the next 2 years. The administration's estimate is 75 percent.

I would point out CBO also says that over the next 2 years this bill will inject $526 billion into the economy, and they state that the implementation of this bill ''would have a noticeable impact on economic growth and employment in the next few years.'' That is a whole lot better than doing nothing.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to a member of the committee, the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. I thank the gentleman from California.

Mr. Chairman, there is no argument that our economy is on a downhill slide. Chairman OBEY conveyed that very well in his opening remarks. But there is an argument on how we get out of this economic slide downwards.

The bill before us is based on the philosophy that government spending will stir the economy. It will not. Historically, we know that bailouts and government spending simply don't work.

During the Great Depression, high Federal spending did not save our economy. Instead, it remained stagnant. World War II built the industrial base. And it was in the 1950s, with the private sector, that drove us to a number one economy in the world.

In the 1990s, Japan tried to stimulate their economy with the bailout of banks and with federal government spending. They borrowed the equivalent of $250 billion and spent it. What happened? Their economy remained stagnant, and their average per capita income went from second in the world to tenth in the world.

This bill has the same idea that failed in the 1930s and failed in Japan: borrowed money, Federal spending. But there is a better plan. Let's get the money directly to working Americans.

Let's cancel the unauthorized and new programs and new spending in this bill and return it in the form of waived payroll taxes for working Americans. Give them a vacation from payroll taxes. It will be like a 10 percent pay raise.

We all know what they will do with it. They will do one of three things. They will either save it, which helps the banks recapitalize and creates mortgages and home sales; or they will spend it, which creates a demand for goods and a demand for more jobs; or they will invest it, which means companies can expand their businesses and hire more employees.

All we have to do is exchange the unauthorized new government spending and transfer that money back to hard-working Americans who earn the money. A very simple concept that will have a direct stimulation to our economy. And it will happen this year. We will not be waiting until 2010 or 2011 or 2012 or 2013. It will happen this year.

So let's cancel those new unauthorized programs and give back the taxes to working Americans and get the economy rolling.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Well, the opponents of this bill say there is a dramatic set of conditions that are new, but they have too narrow a focus, and they are singing the same old song, and we just heard it.

There are crises of confidence in this country, and this bill addresses it. There's a crisis of confidence in jobs. This bill addresses the need for jobs and for those who lose them. Families are worried about the education of their kids, and they wonder whether the government will respond. This bill provides, I think, $140 billion to make sure that the education of the kids in this country will continue.

Families are worried about whether health care will continue. This bill provides dramatic new provisions for health care for 8 million families, at least, in this country.

Vote for this bill.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to a member of this committee, the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the ranking member.

Mr. Chairman, we all know that we are in unprecedented economic times that call for unprecedented action. The bill we have under consideration is certainly unprecedented because of the size itself. $825 billion. That is just for now, without the add-ons we expect over in the Senate.

This measure will have an unprecedented impact on the deficit by increasing it by hundreds of billions of dollars over the next few years. In turn, this dramatic rise will trigger large-scale borrowing from the future incomes of our children and our grandchildren.

These add-on deficits will cause the Nation's debt to soar to a level at which we will owe interest payments of more than $750 billion per year by the year 2019, according to the Congressional Budget Office. Those numbers assume that the stimulus package actually works—and we don't know for certain that it will work.

I raise these points because with spending numbers this high, we need to get it right. While there are certainly some good qualities to this bill, there are also numerous elements thus far, including spendout rates noted by CBO, that raise questions about the stimulus impact of the bill. Currently, there are estimates on the job creation potential of the bill that show only about 10 percent of the funds creating jobs. If those estimates are accurate, the question arises as to where the other funds are going.

Some analyses show that the lion's share of the monies in this bill are destined for expansion of an assortment of government programs that have nothing to do with economic stimulus. Moreover, these programs are ones that are funded each year through the normal appropriations process, and will be funded again in 2010.

That tells me that we are using this bill to expand the funding scope of certain programs in order to make room for additional spending in the 2010 cycle. We are calling this extra spending ''emergency'' spending so we will not have to find a way to pay for it. Whether we call it emergency, or something else, the deficit effect is still the same, and our children will pay for it.

Many of these programs already have large, unexpended balances. For example, there's $5 billion for public housing. Yet, we have close to $7 billion in unexpended public housing balances.

Many of the proponents of this bill talk of the need to rebuild the Nation's highway and bridge infrastructure, and speak of the job creation potential of these activities. Yet, the highway portion of this bill contains less than 4 percent of the total funding.

I am very supportive of legitimate stimulus that results in net economic activity and job creation. For that reason, I offered an amendment in the full committee designed to ensure that all stimulus funds would produce net economic activity and not supplant existing funds. I also cosponsored an amendment with Mr. FRELINGHUYSEN that would have moved some $60 billion to transportation, flood control, and environmental restoration projects.

Ladies and gentlemen, our children and grandchildren are going to pay for this debt.

Mr. OBEY. I yield myself 15 seconds. My friend from Iowa says that this bill is too big. I will make a deal with him. I will be happy to give him a smaller bill if he will show me a smaller problem.

Mr. LEWIS of California. Speaking of smaller problems, I might mention I had hoped that the chairman put that Jefferson Memorial problem in the 2009 bill, which is yet to be passed, through the whole process.

I yield 2 minutes to the gentlewoman from Missouri (Mrs. EMERSON.)

Mrs. EMERSON. Let me say how pleased I am to be the ranking member of the Financial Services and General Government Subcommittee for the 111th Congress and look forward to working cooperatively with Chairman SERRANO.

Regarding the Financial Services section of the recovery bill we are debating today, I am disappointed that neither I nor the minority's committee staff were given an opportunity to consult with the majority members or staff before the bill was produced and unveiled on the Internet.

One percent. One percent sounds like a small amount but in this bill even one-tenth of 1 percent is not trivial. Here's an example. This bill includes $7.7 billion for the GSA to build and renovate new Federal buildings and ports of entry. It's nearly 1 percent of the bill. However, in fiscal year 2008, GSA received a total appropriation of only $1.4 billion for construction and renovations.

Now, most of us know from personal experience that GSA construction projects in our districts are hardly ever completed on time, and never under budget. At its highest levels, this is an agency that needs a wake-up call and a good scrubbing behind the ears. What it does not need is 5½ years' worth of annual budget appropriations to spend in 120 days, a task it most certainly cannot accomplish with any semblance of efficiency.

GSA lacks the contracting, program management and building engineering expertise to go from $1.4 billion in appropriations to $7.7 billion in just 1 year. Giving GSA the keys to nearly 1 percent of the stimulus package will result in gross mismanagement and future funding liabilities.

Additionally, according to lists provided by GSA of the projects they list that can be awarded within 120 days, 36 percent, or $2 billion, are in Washington, DC. In a bill for the economic health of our entire Nation, Washington is surely getting the lion's share.

I am also concerned with $600 million in the bill for the purchase of vehicles for Federal agencies. The bill states that these are to be primarily alternative fuel and plug-in hybrid vehicles, technologies I greatly support. However, there's currently no U.S. production for plug-in vehicles, and they won't be here until after the deadline of this bill has passed.

The CHAIR. The time of the gentlewoman has expired.

Mr. LEWIS of California. I yield the gentlelady 30 additional seconds.

Mrs. EMERSON. Additionally, the lack of fueling stations for these vehicles could produce a fleet of cars and trucks in this country that could create new obstacles for Federal agencies. Even David Brooks of the New York Times noted that concerns such as this one ''were cast aside with bland reassurances'' in our committee markup of this bill.

Mr. Chair, this is neither what we should be doing with the taxpayers' money, nor how we should be doing it.

Mr. RANGEL. I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. One way this bill promotes economic recovery is by promoting educational opportunity. $13½ billion of targeted tax relief to help young people and not so young people attend college. Today, one out of five graduating high school students does not qualify for this assistance. But, because we provided a refundable tax credit, we help them, just as the appropriations section of this bill helps with expanded Pell Grants and other direct aid.

For one of these, Brad Burnett at Austin Community College, he says, ''Getting a college education means breaking a generations' long cycle of poverty within my family that lets me fulfill the American dream.''

For the first time, we cover textbooks and instructional materials under this bill. As we provide this individual opportunity, we upgrade the skills of our workforce and help climb out of this economic recession. For students, this is a bill that provides hope we can believe in. And for every one of these students who uses the opportunities in this bill, it can provide a diploma that they can count on.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. I thank the ranking member for the time. Everyone on this floor agrees that something needs to be done in terms of stimulating this economy. We all know that we are in difficult times. I also agree with Speaker PELOSI that any stimulus plan needs to be timely, temporary, and targeted.

It is timely. We need to do something. We know we need to do it quickly. Targeted. This would be targeted if your weapon was a scatter gun, because everything but the kitchen sink has been thrown into this appropriation bill.

□ 1745

Temporary? It would take a stretch of the imagination to believe that this was temporary.

Today, President Obama came and spoke with us. He said that he didn't want programs started that had what he called ''a long tail,'' and that meant that it contributed to the long-term deficit of this country and that they were going to have to cut in later years.

I will tell you that there is nothing as eternal on this earth as a temporary government program. We all know that. I give you one example, school construction. We are going to start a school construction program. It has never been authorized before, but we are going to start one here. Does anybody really believe that we will then end it after 3 or 4 or 5 years whenever this slowdown in our economy turns around? It will be going on forever. We all know that.

We have a number of programs that have never been debated; I can't remember the exact number, something like 32 new authorizations, that have never been debated in committee. They may be appropriate, I don't know, but we have never debated them to see if they should be authorized and whether they can compete against other programs for the limited amount of money. Well, the unlimited amount of money we apparently have in this bill.

In other cases, the spend-out is 3 or 4 or 5 years down the road. And I would ask you, why are we appropriating money for a program that will spend out money in 4 or 5 years down the road when we all hope that this economy has turned around? But yet, we are appropriating money now for that spend-out. It just doesn't make sense.

Why don't we go through the regular appropriation process to do that? I will give you one example dealing with the National Mall that we have talked about here today.

The Tidal Basin work alone has had huge swings in cost estimates for the very complicated and extensive work. In late December, the Park Service told the subcommittee that the Mall work alone could cost $600 million, and now that number is $20 million. In late December, the Park Service Budget Office told the subcommittee staff that they could use only $15 million to $20 million for planning and design the next 2 years, which seemed honest and logical given the size of the plan. Now, they claim they can spend over $200 million over the next 2 years.

Our problem is that these things should be going through the regular appropriation process, and they are not. And there is a reason that they are not: It is because every idea that anyone has ever had for spending that they think is appropriate has been thrown into this bill to avoid the PAYGO rules. We all know that is the case, and we need to redo this bill and target it.

Mr. RANGEL. At this time I yield 1 minute to the gentleman from California (Mr. THOMPSON), who will share his idea of a new America.

Mr. THOMPSON of California. Mr. Chairman, the green stimulus provisions in this bill will generate tens of thousands of jobs and result in billions of dollars in economic investment.

Solar tax provisions that I authored will allow State and local governments, like Sonoma County in my district, to help homeowners and businesses more easily finance the purchase of solar. We are also making other critical investments in solar by creating a grant program to incentivize businesses to invest in renewable technology today, instead of waiting until the economy improves. An additional $4 billion in bonds for use in renewable energy projects will be available for State and local governments as well.

These are just a few of the green stimulus provisions. Not only will this bill create green jobs that our economy needs today, but it will also enhance the long-term security and sustainability of our economy by investing in a smart-energy future that helps free us from our dependency on foreign oil. I encourage everyone to vote ''aye'' on this bill.

Mr. LEWIS of California. Mr. Chairman, I am proud to yield 3 minutes to the gentleman from Florida (Mr. CRENSHAW).

Mr. CRENSHAW. I thank the gentleman for yielding the time.

Let me say that a lot of people I hear say they want to oppose this package because you really can't spend your way out of a recession; and, therefore, if spending is the only answer, then why not spend twice as much and get out of the problem twice as fast? But those same people think that maybe you shouldn't do anything, and I think they are just as wrong, to stand here and do nothing in the midst of this tremendous economic crisis.

But I do think we have to put a test to anything we try to do. It was pointed out earlier, and I have heard a lot of discussion: If you are going to have a stimulus package, it ought to meet certain criteria. It ought to be focused, targeted, if you will; it ought to be timely in the sense that it ought to begin to act immediately; and it ought not to last forever. And it seems to me, when I look at those three criteria, this package fails on all three counts. It is not focused. It is not targeted. It seems to be a hodgepodge, just kind of quickly thrown together, 152 different appropriations. No strategic vision involved, no underlying theme, just a little bit of spending on everything you wanted to spend money on but were afraid to ask, until now. And it, I think clearly, in so many cases doesn't pretend to be timely. When you do research, when you do student special education, how does that quickly kick-start the economy? It fails that test. And, finally, if we badly design a package like this, it will continue on, and the $1.2 trillion deficit becomes $2 trillion.

So I think there is a better way, and I think the Republicans have put forward that; because if we go through with a poorly, badly designed stimulus package, we are going to end up, in the words of Tennessee Ernie Ford, his old song, when he said we will just end up ''another day older and deeper in debt.'' So I think there is a better way.

Mr. RANGEL. Mr. Chairman, I would like to yield 1 minute to my friend from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Many of us in this body, including myself, have been speaking about the perfect storm developing in this economy before 9/11. The truth is, we should have taken this aggressive action years ago. Today, we have finally constructed legislation which directly invests in the good people of America.

Through middle-class tax cuts, direct aid to State and local governments, and reinvestment in renewable energy, Congress is taking an affirmative step to enable economic recovery.

Mr. Chairman, just think of how municipalities will be able to take advantage of tax exempt bonds and tax credit bonds, and I speak as a former mayor, in depressed areas throughout the United States to provide municipalities with the wherewithal to really, really move this economy and provide jobs to our American people.

To ensure our children can compete and succeed in the troubling economy, we will renovate and modernize 10,000 schools. Who said it didn't work back in the thirties? Who said it?

Through this bill we also make college affordable and provide a $2,500 college tax credit to 4 million students, and triple the number of fellowships in science to help spur the next generation of innovation.

This legislation invests American tax dollars in real infrastructure projects that are ready to go. Specifically, this plan allocates money for the repairing and modernizing of thousands of miles of America's roadways and providing new mass transit options for millions of Americans.

I want to commend my colleagues for their leadership and commitment to taking an explicit and aggressive lead in the creation of a comprehensive economic recovery and reinvestment package.

I urge all of my colleagues on both sides of the aisle to take swift and decisive action to pass this legislation.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Mr. Chairman, with this measure the new administration seems bound and determined to continue the failed policy of the past administration. It proves what I like to call McClintock's Second Law of Political Physics, which is, the more we spend on our mistakes, the less willing we are to admit them.

This policy has failed every time and every place it has been tried for a simple reason: Government cannot inject a single dollar into the economy that it has not first taken out of the same economy.

If I take a dollar from Peter and give it to Paul, it is true that Paul now has

an extra dollar to spend; and, when he spends it, that dollar is going to ripple through the economy. The gentleman is correct. But the gentleman forgets that Peter now has one less dollar to spend in that same economy. In short, it nets to zero. In fact, it nets to less than zero, because we are shifting enormous resources away from investments that would be based on economic calculations in favor of investments that are being made on political ones.

Mr. RANGEL. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. I thank the chairman, and rise in strong support of this legislation because of the boost it will provide to our ailing economy and the priority investments it makes in our Nation. To struggling families and communities around the country, with the passage of this bill we can say help is on the way.

We have heard from economists from all sides of the political spectrum, and they all agree inaction and doing nothing is not an option. We need to join together with our new President, President Obama, and act boldly and decisively, and that is what this legislation does, by directing $825 billion in stimulus where it is needed most, ready-to-go projects to put people back to work, investing in clean energy and the infrastructure we need for the 21st century, and middle-class tax relief for struggling American families so they have a little more breathing room in their budgets.

I am especially pleased with the provisions relating to energy efficiency and renewable energy that we have worked on, on a bipartisan basis, loan guarantees for renewable energy projects that are sidelined because of the credit crunch, and new authority for homeowners to retrofit their homes.

I urge passage of this legislation.

Mr. LEWIS of California. Mr. Chairman, I am proud to yield 1 minute to the gentleman from Georgia (Mr. BROUN).

Mr. BROUN of Georgia. I thank the gentleman for yielding.

I have a question for my Democratic colleagues: How would $50 million for the National Endowment of the Arts possibly stimulate our economy? It won't. And the thing is that this whole bill is actually a steamroller of socialism that is being forced down our throats, and the economy is going to choke to death on this steamroller of socialism that you all are bringing forward.

It is a nonstimulus bill. It is not going to stimulate the economy. It is going to create very few jobs, if any at all. For every dollar of tax relief, you all are going to spend $4 to put new grass on the Washington Mall. It is insane. It is absolutely insane the things that are in this bill.

I am going to vote "no," and I encourage my colleagues to vote "no," and I encourage the American people to stand up and say we are not going to tolerate this kind of stuff going on in this country.

We have got to slow down. We have got to look at alternatives that really will stimulate the economy, that is by reducing taxes and leaving dollars in the hands of the American public.

Mr. RANGEL. I yield 1 minute to the gentlelady from Nevada (Ms. BERKLEY), a hardworking member of the committee.

Ms. BERKLEY. I thank the chairman for yielding.

I grew up in my congressional district of Las Vegas. By any standard of measure, it has been a boomtown; record increases in population, almost no unemployment, record home ownership.

What a difference an economic meltdown can make. Nevada's economy, fueled by construction and tourism, has suffered beyond all imagination in this financial crisis. Las Vegas has the highest mortgage foreclosure rate in the Nation, drastic drops in home values, and thousands of construction workers are without work. Casino workers, the backbone of our economy, laid off. The number of visitors flying to Las Vegas dropped 8 percent this past year, the largest drop in 25 years. My State needs help, and we need it now.

This bill will create or save millions of jobs over the next 2 years. In my district, thousands of construction workers will be put back to work improving roads and highways, building renewable energy facilities, improving aging school buildings and other infrastructure. The bill will also provide for extended unemployment benefits for the over 9 percent of my workforce out of work.

The bill will also provide extended unemployment benefits for the 9 percent of the workforce out of work and provide needed money for medicaid to provide health care to the neediest among us.

Ninety-five percent of our fellow citizens will get a tax cut.

Nevada and our country need the jobs and other support provided by this bill. I urge my colleagues to vote for H.R. 1.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

Mr. Chairman, it is a sad day for the United States Congress. People are hurting throughout this entire economy. And instead of bringing a bill that would stimulate our economy, what we see before us is a bill that will simply stimulate big government.

You know, most Americans, Mr. Chairman, believe that the reason that we are in the problem economy that we have is because as a Nation we borrowed and spent too much. And, instead, we have a bill theoretically to solve our problem that borrows and spends too much. You cannot borrow and spend your way into prosperity.

Now, Mr. Chairman, if we were all Keynesians, and I assure you I am not, but if we were, all government spending is not created equal. The Keynesians would tell you. You look at this bill, 4 percent of this is spent on what most economists would call infrastructure, our roads and bridges.

We need tax relief for small businesses. We need tax relief for American families. And we need to do it in a way that doesn't send the bill to future generations. The tax relief for small businesses is as miniscule, less than 2 percent.

□ 1800

Instead, what we have is over half of this bill is to inflate big government. We have $50 million for the National Endowment for the Arts, $726 million for an after-school snack program, office furniture for the Public Health Service, $1 billion for the Census.

Mr. Chairman, the list goes on and on and on. And what we have is a bill that when you add the debt service is $1.2 trillion.

Mr. RANGEL. Mr. Chairman, I would like to yield 1 minute to the gentleman from Illinois (Mr. DAVIS), a new member of the committee, but a seasoned legislator.

Mr. DAVIS of Illinois. I want to thank the chairman for yielding.

I rise in strong support of this legislation, and I do so because it appears to me that it's actually tailor-made for my district and tailor-made for areas throughout the country. Most impressive about it for me is the fact that it provides the assistance to those at the very bottom of the socioeconomic scale, dislocated workers, individuals who have lost their jobs and individuals who are unemployed, money to assist States with their Medicaid deals, individuals who without it wouldn't know where to turn, wouldn't know what to do. It's interesting to hear about great giveaways. But do you know that what is a giveaway for some is a need for others?

There has never been more need for this legislation than right now. I commend Chairman RANGEL and all of the other chairpersons who have worked on it. It's a great piece of legislation. I will proudly vote for it.

The CHAIR. The gentleman from New York has 2 minutes remaining. The gentleman from California has 64½ minutes remaining.

Mr. LEWIS of California. I will be yielding time, Mr. Chairman, to others, so I will reserve my time for now.

Mr. RANGEL. I would like to yield 1 minute to the gentleman from Virginia (Mr. NYE), and commend him for his hard work to expand the work opportunity to encourage business to hire our beloved veterans.

Mr. NYE. I thank the chairman for his leadership and for giving me the opportunity to work with him to make sure that our veterans and our small businesses are included in this economic recovery package.

Mr. Chairman, helping businesses hire veterans makes good economic sense. That is why I strongly support the provision of this bill that would give substantial tax credits to businesses that hire unemployed veterans.

This proposal will reduce taxes for small businesses. It will bring more highly-trained workers into the workforce. And perhaps most importantly, it will help us keep faith with the men and women who have served our country in uniform.

In my home district, the Second District of Virginia, we're home to the largest population of military personnel and veterans in the country. And as the people of Hampton Roads can tell you, an investment in our veterans and small businesses is a responsible investment in our economy and a wise investment for our future.

I thank Chairman RANGEL for his leadership. I know he shares my commitment to standing up for all of our veterans, and I look forward to working with him on this issue as we continue to rebuild our economy.

Mr. LEWIS of California. Mr. Chairman, in order to ask a question, let me yield 30 seconds to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman. I listened to the gentleman from Virginia carefully, and I'm curious. I would be happy to yield time to him.

When he talks about provisions that make economic sense, could he explain how $50 million to the National Endowment for the Arts makes economic sense for his congressional district? I would be happy to yield to the gentleman.

Mr. OBEY. I would be happy to respond to that if the gentleman wants to yield to me.

Mr. HENSARLING. The gentleman from Virginia was the one who spoke. So I'm happy to yield time to him. I see the gentleman is not interested in answering the question.

Mr. OBEY. I will be happy to respond to the gentleman if he wants, since I am responsible for the money in the bill.

Mr. HENSARLING. Well, I appreciate the offer of the chairman. But I have plenty of opportunities to speak with him.

The CHAIR. The gentleman from New York has 1 minute remaining.

Mr. RANGEL. Well, this could be one of the roughest times our great Nation has faced economically, but I think that history is going to recall this as one of the proudest moments that our Congress would be involved in. No, we're not taking care of banks or fiscal institutions or those who buy the jets. But we are taking care of our middle class. That is the heart of America. That is what pumps our economy. And that is why we're trying to help them by expanding their disposable income, helping the working families with kids, helping our veterans who are unemployed, bringing some relief to those who feel the pain yet are looking toward the future for new economies to make this a greener America, getting involved in high tech and helping people out with health.

In the final analysis, besides the flag, what makes us so great is that this country is going to be healthy, educated and competitive. And at the end of the day, it will be recalled that, yes, we got hit hard economically, but the strong middle class and this United States House of Representatives came forward, and we saved our country and we saved our economy.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank the gentleman for yielding.

Mr. Chairman, we have all heard the proverb that if you give a man a fish, he can eat for a day. If you teach him to fish, he can eat for a lifetime. This bill is full of fish going to deserving people to eat for 1 day. There is nothing in here for fishing rods. There is nothing in here for training.

To get out of the slump, we need to get people who are unemployed employed in real jobs with real companies. We have the second highest tax on corporations in the world. Lowering that tax burden would help get people hired. To hire people, most of whom will be hired by small businesses, the owner of that business needs a predictable future. This gives him none of that.

The other side is very proud to say that 95 percent are going to get a tax cut. But that tax cut means a refundable tax credit for people who do not pay taxes. Today, 15 million people get their income tax rebated plus a payroll tax plus more from the taxpayer.

The CHAIR. The gentleman from California (Mr. WAXMAN) is now controlling 15 minutes.

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes.

Members of Congress and those who are watching our deliberations today, this is an important bill. We have 7 percent of the country unemployed, and that number is going up. So in this legislation, we are trying to put funds to help people get jobs and move our economy to a stronger position.

The Committee on Energy and Commerce has three important areas where we have made a contribution to this legislation. We have investments in building out a new broadband infrastructure. This will allow rural and other underserved areas to join the global economy. This legislation also provides $27 billion to accelerate deployment of smart grid technology, fund energy efficiency investments and establish a new loan guarantee program for renewable energy. These will provide new jobs. They will reduce our dependence on foreign oil. And they will protect our environment.

This bill contains important health provisions. The bill will help those people who lose their jobs by providing temporary health insurance. We do this in two ways. The COBRA program, which allows people to keep their insurance from their former employer, will be subsidized for those who want to hold on to that private insurance. It will also have a component to provide funds under the Medicaid program to cover the unemployed Americans who do not have COBRA coverage. Secondly, the bill would accelerate the nationwide adoption of health information technology. This investment will create high tech jobs, reduce medical errors and improve care. And thirdly, the bill will provide a temporary boost for State Medicaid programs facing surges in caseloads at the same time that the State has fewer resources in revenues. This is called the FMAP, the Federal Medicaid Assistance Program, and it would provide additional funds for States with particularly high unemployment.

In this bill, when it was reported out of committee, we had a sensible provision to allow low-income women better access to family planning services, one of the most important preventive health services we can provide. It also would allow women to stay in the workforce. Unfortunately, this provision has generated a firestorm of misinformation and unfounded criticism from the Republican members. I have spoken to President Obama about this provision. He strongly supports this cost-saving policy. He is committed, as I am, to seeing this provision become law. But we don't want this provision to become a distraction from the other legislation.

The CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. I yield myself an additional 20 seconds.

So in order to keep the spotlight focused on the important task at hand, this provision will be removed from the bill. We will get it into the law in some other legislation later in the year.

We in this bill have an important down payment on programs that lead us in the right direction.

I urge my colleagues to support H.R. 1.

Mr. LEWIS of California. Mr. Chairman, I proudly yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank my good buddy for yielding.

Margaret Thatcher, the former Prime Minister of England, said that the

problem with socialism is you eventually run out of somebody else's money. And what I'm concerned about here is not just the money we're spending today. We have spent $700 billion on the Wall Street bailout, and we don't know where most of that money has gone. Now we're going to put another $835 billion into this so-called economic stimulus bill.

President Obama said on January 16 that this plan is a significant down payment on our most urgent challenges. Vice President BIDEN said last Sunday that Timothy Geithner, the Treasury Secretary, will soon recommend to President Obama whether more money is needed beyond the $700 billion allocated to American banks. Lawrence Summers, the top economic adviser to the President, said that the government can't afford to spend more than $1 trillion to boost the economy and save financial institutions.

My question is, where does it end? We're printing so much money and we're going to spend so much money that we're going to put this whole country and our future generations into a deep hole which will lead us, in my opinion, to government control and socialism.

The thing that has made this country great is the free enterprise system and private enterprise and private individuals making a profit, creating jobs and making the economy flourish. What we're doing is we're turning this whole economy over to the government with more and more and more spending. And what we're doing today is just the beginning. We're talking about $2 trillion, $3 trillion, $4 trillion more down the road, and we can't afford it. We can't afford the inflation, and we certainly can't afford socialism and more government control.

Mr. WAXMAN. Mr. Chairman, I'm pleased at this time to yield 1 minute to the very distinguished gentleman from Ohio (Mr. SPACE), a new member of our committee who has played a very constructive and important role in the development of this bill.

Mr. SPACE. Mr. Chairman, I rise today to support the American Recovery and Reinvestment Act, and I would like to thank Chairman WAXMAN and the leadership for including funds in this bill for improved access to rural broadband. Put differently, it recognizes the importance of access to high-speed Internet technology for all communities, regardless of affluence or location.

This bill will help bridge the divide between rural America and urban and suburban America when it comes to access not only to technology, but what technology brings; better educational opportunities, better health-care related opportunities and certainly better economic development opportunities.

What we're saying in this bill is something that I have known for a long time. High speed Internet access is not a luxury. It is a necessity. And what we're saying with this bill today and with the allocation of these funds for rural broadband is that our rural communities will no longer be left behind and no longer be relegated to the sidelines of advancing technology.

Today is not a small step. It is a massive leap that will bring hundreds of thousands of Americans in Appalachian Ohio and in other underserved areas into the new century.

Mr. LEWIS of California. Mr. Chairman, I'm pleased to yield 1½ minutes to the gentleman from Nebraska (Mr. FORTENBERRY).

□ 1815

Mr. FORTENBERRY. Mr. Chair, I do not want to see any family face unemployment or foreclosure, or any business experience a downturn, but I fear we are suffering from a tyranny of worn-out ideas here.

This bill is called a stimulus bill, but I believe it is an unsustainable spending bill.

Mr. Chairman, when did we decide that more Federal spending in itself is economic stimulus? Since 2000, we have increased spending by about 60 percent in this country and the national debt has nearly doubled. Despite these growing expenditures, our economy has worsened, and we are left with an $11 trillion debt. And now we have a proposal that is before us that would be the largest spending bill in the United States history, and no plan to pay for it.

Will we continue to rely on foreign nations, such as China, already bankrolling our spending habits? Or just defer responsibility to our children and our grandchildren and future generations? We are delaying tough choices and we are pushing reality down the road here. Much of this assistance goes to subsidizing States. Some States, like Nebraska, have thus far managed their budgets responsibly, even in tough times. I won't ask Nebraskans to pay for poor governance elsewhere.

Mr. Chair, I don't want to give a speech simply to oppose. There are some important, new bold ideas here, such as alternative energy for a sustainable energy future, a modern electrical grid and health information technology. But the entirety of the package puts us on a path of aggressive spending, in the name of stimulus, that will be nearly impossible to reverse.

Mr. WAXMAN. Mr. Chairman, I ask that the balance of our time be managed by the gentleman from New Jersey (Mr. PALLONE).

The Acting CHAIR (Mr. ALTMIRE). Without objection, the gentleman from New Jersey will control the time.

There was no objection.

Mr. PALLONE. Mr. Chairman, I yield myself 2 minutes.

Last year, 2.6 million jobs were lost, and on Monday alone four American companies announced that they were laying off 37,000 employees. When workers lose their jobs, many also lose their health insurance. And for those lucky enough to keep their coverage, many end up delaying medical care because they choose to use their limited resources on groceries and other basic necessities. These families need help, and they will get it from this economic recovery package.

This bill makes important improvements to COBRA coverage so it is more affordable for workers who have been laid off. In addition, for those workers who have lost their job but are not eligible for COBRA coverage, the bill creates a new temporary Medicaid option that will be paid for entirely by the Federal Government. Combined, these provisions will help provide health coverage to over 8 million Americans over the next year.

In addition, this bill will provide States with urgent fiscal relief. Right now, almost every State is experiencing a budget crisis. Governors are struggling to find ways to close these budget gaps, and many governors are starting to look at scaling back on their Medicaid programs, just as more and more people are in need of Medicaid services.

This bill provides critical financial assistance so States are not forced to scale back their Medicaid programs and can continue to serve those in need.

We also make a significant investment in our economic future by investing $20 billion to help doctors and hospitals acquire and use health information technology. For years we have all been talking about the need to modernize our health care system, and this bill finally provides the means to do so. Not only does this legislation invest in our economy today, but it also makes our health care system safer and more efficient for years to come.

The recovery package answers the pleas from economists who said that we must act quickly and boldly, and it certainly deserves bipartisan support.

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Chairman, I thank the distinguished ranking member for yielding me this time, and I do rise, unfortunately, in opposition to H.R. 1, the American Recovery and Reinvestment Act of 2009, the so-called stimulus package.

Mr. Chairman, we spent 12 hours in the Energy and Commerce Committee marking our portion of this bill up last week, and a few, a very few Republican amendments were approved and summarily stripped out as we see this new bill before us today.

But it is not really process that is my objection, it is just that I have a great fear that instead of throwing water on a fire, as it has been described, this economic problem that we have, we are about to throw kerosene on the fire and make the matter a lot worse. We tried to explain that to President Obama when he visited our conference today, and we want him to show some changes in the bill that we Republicans can accept, like more tax breaks for small businesses and entrepreneurs who create jobs.

I regretfully oppose the bill.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, we are not launching just a stimulus package here, we are launching a new, clean energy rocket. We know how to launch revolutions in technology. We did it in the original Apollo project that started right in this Chamber when John F. Kennedy launched that project standing right behind me. In this bill today, we are launching a similarly ambitious and similarly important clean energy revolution.

The reason I say that is the next few years, when hundreds of people go to work building lithium-ion batteries for our advanced electric cars, like at the A123 Battery Company in Massachusetts, it is because of this bill. When hundreds of people go to work doing advanced photovoltaic panels, like at Nanosolar, a thin-film photovoltaic company in California, it is going to be because of this bill. When hundreds of people go to work making gasoline out of algae, like they are doing in the deserts of Nevada, it is because of this bill. We are launching a rocket, a revolution, today.

Mr. LEWIS of California. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. NUNES), a member of the Ways and Means Committee.

Mr. NUNES. Mr. Chairman, the significance of what we face can only be described as a generational challenge. Many of my colleagues seem to believe that the only solution is to spend enormous amounts of taxpayer money.

First we are told that we had to spend $700 billion to bail out Wall Street. Then we were told that, despite the bailout's failure, we needed another $350 billion. And now this Congress is told to approve nearly $1 trillion in a taxpayer-funded giveaway.

Mr. Chairman, perhaps it is time to remind my colleagues that this Nation is already facing unsustainable levels of government spending. Responsible action today is not to spend more, but to reform the way we do business and spend less. The current economic crisis should serve as a warning, a powerful warning to this Congress: face your economic demons, or be crushed by your political cowardice.

For years we have lived on borrowed time. We have continued to throw money at unsustainable and broken programs like Social Security, Medicare and Medicaid. These programs must be fixed.

On a more blunt point, our Nation's energy policy is an absolute travesty. To put it simply, our policies are bizarre. We want abundant energy, but we enact policies that do nothing but march us in the opposite direction.

It is time for this Congress to face reality. We should permit more oil development off Alaska and our coastlines. I know this is shocking to hear, but we must also match the leadership of France and produce 80 percent of our electricity from nuclear reactors.

The bottom line is we need jobs. Energy development will create jobs. I can assure you that throwing more and more money at the problem isn't going to solve the crisis. Simply taking action to be seen as doing something is denying reality and is an injustice to the American people.

Tough choices need to be made. While they will not always be popular, nor will they be easy, they are most certainly necessary.

Mr. PALLONE. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts, the chairman of the Environment and Energy Subcommittee, Mr. MARKEY.

Mr. MARKEY of Massachusetts. Mr. Chairman, I thank the gentleman.

This urgently-needed stimulus bill funds infrastructure projects that are shovel-ready, while also supporting future-oriented projects that are circuit-ready: broadband, electronic medical records, smart grid, advanced battery technologies, and other vital priorities.

This package is a major downpayment on the clean, renewable energy future this country has been waiting for and desperately needs.

But this legislation should not be characterized by what we spend, but rather by what we save. These smart, clean energy investments will save jobs, ensuring that windmills and solar panels are built here at home. It will save energy through efficiency measures on schools and buildings, and it will save consumers and businesses money on their heating, gas and energy bills.

With the support included in this package, wind capacity will grow from 25,000 megawatts today to 44,000 megawatts generated on a daily basis in 2012. At 220 tons of steel per wind turbine, that is nearly 3 million tons of new steel demands. Those steel jobs are blue collar jobs tinted green by the force of the clean energy revolution.

The massive investments in weatherization, State energy efficiency grants, and Federal building efficiency are some of the safest and smartest investments our country can make right now. They put money into the pockets of American workers and pay for themselves in the form of energy savings and lower energy prices.

This energy efficiency double dividend is a proven, reliable phenomenon that our current weak economy must exploit. Working smarter, not harder, that is what this bill is all about.

The bill provides $20 billion in new health IT infrastructure to improve care, lower costs and reduce medical efforts. I am pleased that the bill includes patient privacy safeguards that I have long advocated, including a provision that I offered at the Energy and Commerce Committee markup to ensure that patients' medical records are made unreadable to unauthorized individuals. This was supported by Chairman WAXMAN and Ranking Member BARTON. This is an issue that we all agree on, the privacy and security of our medical records.

Today we have before us a balanced, well-thought out package that provides tax relief for 95 percent of Americans and targets investments in key areas to turn around the American economy. I strongly support these measures and urge my colleagues to vote in favor of the American Recovery and Reinvestment Act of 2009.

Mr. LEWIS of California. Mr. Chairman, I am pleased to yield 2 minutes to my colleague from Indiana, Mr. BUYER.

Mr. BUYER. Mr. Chairman, in December as then President-elect Obama was putting together his transition team, I turned to the staff on the House Veterans' Affairs Committee on the Republican side and said I do appreciate Mr. Obama's tone for bipartisanship, and I instructed the staff to look at all of the construction projects and work with the Bush administration. We sent a letter then to not only Speaker PELOSI but also President-elect Obama. We asked for two things, in essence. What I sought to do was complement then President-elect Obama with regard to the extension of his hand in bipartisanship.

My letter asked to include veterans in the stimulus plan, and to do two things. Since my Democrat colleagues love to do public works, we would do that for them. We would do public works, and we will also do job creation and entrepreneurship to satisfy Republicans. We would be bipartisan in regard to our letter to the transition team and to the Speaker of the House.

Well, what do you think happened? My gesture was half met. So as the ranking Republican on Veterans' Affairs, I asked for a billion dollars with regard to $950 million for hospital nonrecurring maintenance, i.e. construction, and then $500 million for cemeteries, recurring maintenance, and then a billion dollars for small business loan guarantees.

Oh, we are not going to take creation of jobs and entrepreneurship. That was rejected. What they took were the public works side. Let's create jobs. Well,

excuse me, strike that. We are going to create work. See, there is a difference between creation of work and creation of a job.

So what I am hopeful is here, I have gone to the Rules Committee and I have offered four amendments to the Rules Committee, and I am hopeful that they will adopt this. Entrepreneurship is important.

The CHAIR. The gentleman's time has expired.

Mr. LEWIS of California. I yield an additional 30 seconds.

Mr. BUYER. Mr. Chair, the balance of my remarks I submit for the RECORD.

Mr. Chair, today, the headline in the State's largest newspaper noted an additional 50,000 job losses across the country. Indiana's unemployment rate jumped a full 1% last month to 8.2%. Hoosiers are worried about their economic future, wondering if they can afford to send their kids to college or afford retirement.

The stimulus bill being rammed through Congress is not the medicine to meet the economic challenges we face in the short term or the long term. Business owners, workers and employers tell me they believe we need a short term stimulus to get the economy moving again, real tools to help them stay solvent.

However, the bill before us is a political tool geared more toward 2012 than 2009. Very little of this stimulus bill will do anything to grow the economy or expand our job base. Not to mention the cost on future generations. According to the Congressional Budget Office (CBO), the federal deficit will rise to a record $1.2 trillion in 2009, and that does not even include the near $1 trillion included in this massive spending bill.

Most of the discretionary spending in this bill will not actually be spent until after 2010—only 8% of the spending will take place this year.

This legislation alone increases the national debt by $6,700 for every American household. It doles out enough money to give every man, woman and child in the Nation $2,700 each. How can I explain that as responsible and rational government spending to the Hoosiers that I represent back home in Indiana?

This is only the first shot. Watch out America. The increased debt caused by this legislation will be used as a further rationale for raising taxes and continued government spending in the future.

The Federal Government cannot spend its way out of this recession. History tells us that to expand the economy the private sector must grow. We need to pass policies that promote growth and economic expansion, not policies that give handouts. Instead of a handout, we must give Americans a hand through short-term stimulus and long-term tax policies which will allow the real job makers—the private sector—to grow our economy.

This legislation is not the appropriate means to revitalize the economy. Instead of creating higher taxes for American families by increasing government spending, we should make permanent the 2001 and 2003 tax reductions and reduce individual, small business and corporate taxes. Extending these tax cuts and further reducing taxes would stimulate long-term job production and increase the gross domestic product, thereby improving our economy and shortening the length of the recession. This bill creates a lot of work, not the desperately needed jobs that help bolster the long-term growth of this Nation's economy.

□ 1830

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank you for yielding.

I rise today in strong support of the American Recovery and Reinvestment Plan and to give you just 10 of the many good reasons to support this particular bill.

One, it will save and create three to four million jobs;

Two, it provides a critical boost in Medicaid assistance to States so that budget shortfalls don't harm access to health care;

Three, it will help those who lose their jobs maintain health insurance;

Four, it invests in renewable energy technologies and research;

Five, it provides a 100 percent increase in weatherization funding to help make homes and businesses energy efficient;

Six, it extends unemployment insurance coverage through the end of the year and increases the benefit by $25 a week;

Seven, it increases the maximum Pell Grant to help more people go to college;

Eight, it helps rebuild our schools and gives them financial support;

Nine, it increases funding for affordable housing and homelessness prevention programs;

Ten, it will give a tax credit to 95 percent of American workers, a credit worth up to $1,000.

This is a good bill, and I urge my colleagues to support it.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. I thank the gentleman.

This debate is really about two dollars. This is the dollar that's in the hands of the American people tonight, and this is the dollar, what it looks like when we give it to the Federal Government. You know, it shrinks because we don't spend it wisely.

Tonight we're being asked to consider a bill for $825 billion. And you know what? We don't have $825 billion. You know what we're going to have to do? We're going to have to print these. And guess what? In order to issue them, we're going to have to borrow the money from countries like China.

The question is, are we going to try and spend and borrow our way out of this economic downturn? The American people know that's not the answer. They also know that it's better for them to invest this dollar in the American economy than let the Federal Government go spend this dollar in our economy.

Mr. Chair, I'm disappointed that we are considering a bill tonight that's almost equal to the entire discretionary budget that would normally go through the appropriation process. Oh, no, we didn't go through any process, we were brought a bill and said this is what we should do.

The American people want us to leave this dollar in their pocket.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. I thank the gentleman.

Mr. Chairman, today this House will vote on the largest economic recovery package in this Nation's history. After weeks of discussion and debate, we have come to a compromise bill that incorporates different points of view and makes the necessary hard choices.

Funding in this bill rebuilds crumbling roads and bridges, locks and dams, it improves security on our borders and our ports, it repairs and maintains our VA and DOD health facilities, modernizes our schools, laboratories and classrooms. But, most important, this economic recovery package will put people back to work and put money back in their pockets with a tax cut for 95 percent of working families in America. It will create jobs, get the economy moving again, and leave this country with items of lasting significance to show for it.

Mr. Chairman, we simply cannot wait any longer to help our economy and get this country moving again. Passage of this bill is a necessary step in that direction.

Mr. LEWIS of California. Mr. Chairman, could I inquire as to the amount of time that's remaining?

The CHAIR. The gentleman from California has 53½ minutes remaining.

Mr. LEWIS of California. Mr. Chairman, pursuant to H. Res. 88, I yield the balance of my time to the ranking member of the Ways and Means Committee, Mr. CAMP.

The CHAIR. The gentleman from Michigan will control the balance of the time.

Mr. CAMP. At this time, Mr. Chairman, I yield 3 minutes to the distinguished ranking member of the House Budget Committee and member of the Ways and Means Committee, Mr. RYAN of Wisconsin.

Mr. RYAN of Wisconsin. I thank the gentleman.

Mr. Chairman, we can do better than this. We're losing tens of thousands of jobs a week in this economy. This is the worst recession we've seen in generations. And what are we about to vote on? We are about to vote on a trillion dollar spending package—yes, a trillion dollars, because the Congressional Budget Office just told us today just to pay for the interest on this bill

is another $350 billion. We're going to vote on a trillion dollar spending package that amounts to basically a spending wish list for all the special interest groups out there. In fact, for those who are into all of this spending, half of the spending doesn't even occur for 2 more years. But the spending that occurs quickly are things like $15 million for the National Endowment for the Arts, $6 billion for arts and culture, $600 million to buy new cars for Federal employees. Is this the way toward prosperity? Toward jobs?

I want you to take a look at the tax policy in this bill. The big idea is let's give everybody a rebate that's 10 bucks a week per individual or a whopping $20 a week for couples. Do you really think that's going to turn this economy around?

2.7 percent of this bill is aimed at encouraging businesses to retain and create jobs; 2.7 percent of this entire $1 trillion bill to help businesses create jobs. I think we need a little more than that. We need to help the small businesses, the self-employed, the entrepreneurs get out there and create jobs. We had a major manufacturer in the Midwest just announce 20,000 layoffs yesterday. There is hardly anything in this bill that will do anything to help those manufacturers get those jobs back.

What's worse is that after we go on this spending binge, this will lead to higher taxes. The Congressional Budget Office is saying we're going to have the highest unemployment we've seen in 25 years for the next 4 years. And what this bill will do is it will lead us to higher taxes; higher taxes on small businesses, higher taxes on capital, higher taxes on investment, on our savings portfolios, on our retirement, on our college savings plans. That's what is in store right around the corner at the end of next year.

My fear is this: we need to come together with an economic rescue package that actually helps the economy. This bill is not worthy of our new President's signature. We can do better than this. This is not something that should come to the floor. I understand the majority can do as they please. They can shut the minority out—and that's fine, they did that, and that is their choice and their prerogative—but what really matters is whether this creates jobs, and it doesn't.

Mr. PALLONE. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, let me just take up where my good friend from the other side left off. I take great umbrage with what he has said.

This is a very good measure that is timed for this extraordinary time that we're in now. We are in the worst economic crisis in the history of this country, many say since the Depression. But from what I understand, at the rate of losing 6,000 homes to foreclosures every day, we're losing 7,200 jobs every day since the beginning of this year, there has been nothing like that in the history of this country. The American people are expecting us to act and move with boldness, with confidence, not whining, not saying, oh, woe is me.

Now, Mr. Chairman, let me tell you that these are, indeed, the times that try men's souls. In the history of this country we've had those moments. When the history is written on this moment, what do we want them to say about what the Congress did when we faced the greatest economic crisis of our time? Do we want to say we whined and said no and did nothing? Or do they want to see where we did the practical thing of stimulating the economy by investing in its infrastructure, in its schools, in its health care, that not only creates jobs, but creates wealth and gets our economy well?

And, yes, we understand there's another way to stimulate the economy through selective tax cuts, but Mr. Chairman, those tax cuts needed to be targeted down at the level of the people at the lower incomes and the middle incomes that are going to be most likely to spend the money.

Now, Mr. Chairman, we've taken care of the banks; let's take care of the American people and pass this measure.

Mr. CAMP. Mr. Chairman, I yield 3 minutes to the distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this bill with the firm belief and hope that we can do better.

We are currently undergoing a severe economic downturn. My own State and district have been badly impacted. And I share our new President's desire to move quickly on an economic recovery measure. However, I cannot support a bill that claims to provide $275 billion in tax relief when $80 billion of that is going to people with no income tax liability. You can't cut taxes for someone who doesn't pay taxes. Mr. Chairman, we can do better by focusing on tax relief that creates incentives for economic activity.

Nor can I support a bill that spends hundreds of billions on big government programs like the National Endowment for the Arts or new cars for Federal workers. We do need to make long-term investments in infrastructure and health information technology, but long-term investments require careful planning. We can do better by taking the time to get infrastructure and health IT right, and by eliminating wasteful spending.

Nor can I support a bill that would lead employers to cut jobs or drop health coverage in the middle of a recession. Allowing workers to stay on COBRA longer—more than 30 years in some cases—could impose an unfunded mandate on employers of $40 billion or more. In the Ways and Means Committee, the majority refused even to study the effect of this provision on coverage. We can do better by expanding eligibility for health insurance tax relief, and by providing more funding for high-risk pools for those who can't get coverage elsewhere.

Finally, I can't support an $825 billion bill that won't fully take effect until 18 months or 2 years down the road, or even longer. Mr. Chairman, people in my district need help today. We can do better by passing fast-acting tax relief that will create jobs this year, plus extended unemployment benefits for those out of work.

I urge my colleagues to vote ''no.'' Mr. Chairman, we can and must do better.

The CHAIR. The gentleman from New Jersey has 30 seconds remaining.

Mr. PALLONE. I would yield that remaining time to Mr. OBEY.

Mr. OBEY. Mr. Chairman, I reserve the balance of my time.

Mr. CAMP. At this time, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. I know that our new President is sincere in trying to get the economy moving. Unfortunately, I think the only winners in this bill are the special interests who are swarming the Capitol looking for their piece of the pie. And the losers will be the American taxpayers, who ultimately are going to see their taxes increased to pay for all this spending. There's a right way to spur the economy. This isn't it. And again, it will lead to higher tax increases.

Proponents claim that this will help spur demand for families, but the average worker will only take home an extra $1.35 a day. I can't imagine them rushing to the mall with that small of a windfall. This is supposed to help small businesses create jobs, but in truth, there's more money allocated to buy new art in America than there is to help small businesses expense new equipment and computers.

This is designed to create jobs, but each job would cost $225,000 to create a smaller $50,000 job. This is supposed to be about infrastructure, but only about a tiny part, 3½ percent, will go to new roads. And school construction is just a tiny part of a massive education bill. And what's frustrating is there is no free money, there is no free money in Washington; someone sometime is going to have to pay for this. And at a time when we are seeing record debt, the highest debt in peacetime since 1930, it is the American public who ultimately will have to pay this bill.

To put it in perspective so that every taxpayer understands, the cost of this

measure is equal to doubling all the income taxes every American pays for 1 year; not just the wealthy, not just the middle class, every taxpayer would have to double their taxes in order to pay for this spending spree.

Mr. President, I would urge you to veto this bill. It is not targeted or timely. It is not an era of new responsibility. This is a tax increase, a stimulus that will fail, unfortunately, and we have a better idea.

The CHAIR. The gentleman from California is recognized and controls 10 minutes.

□ 1845

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. POLIS) for the purpose of entering into a colloquy.

Mr. POLIS of Colorado. Mr. Chairman, I would like to engage Chairman MILLER in a colloquy for purposes of illuminating the intent of the job training and worker diversification provisions of H.R. 1, the Economic Recovery and Reinvestment Act of 2009.

Earlier in the month, I, along with 12 of my colleagues, sent a letter to then President-elect Obama seeking to promote gender equity in the infrastructure job creation spurred by the economic recovery funding. With women holding less than 10 percent of construction jobs, the letter asked for additional funding for the Department of Labor program known as WANTO, which trains women for higher-wage nontraditional jobs, and to strengthen the Office of Federal Contract Compliance Programs so it can effectively enforce current laws that require contractors to reach out and recruit women into jobs in which they're underrepresented.

Mr. GEORGE MILLER of California. If the gentleman would yield, I want to say to the gentleman I share your concern that women receive equal opportunity to be trained and hired in the types of higher-paid positions that are traditionally occupied by men. The bill provides approximately $4 billion to train workers who need new or additional skills. Job training to train women in nontraditional job retains its priority recognition as under current law.

The CHAIR. The time of the gentleman has expired.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield the gentleman an additional 30 seconds.

The bill also provides $80 million to enhance worker protections on those jobs including through the Office of Federal Contract Compliance, Health and Safety, and wage and hour enforcement.

Mr. POLIS of Colorado. I thank the chairman for his explanation. I appreciate the consideration that this Chamber has given to improving the protections and opportunities afforded to women seeking to take care of their families in this very challenging economic time.

Mr. CAMP. Mr. Chairman, I yield 2 minutes at this time to the distinguished gentleman of the Ways and Means Committee from Washington State (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, just last week the Joint Committee on Taxation could not say whether any jobs would be created by the nearly $1 trillion package before us.

We cannot let calls for swift action overrun common sense, thorough consideration, and healthy debate. The bailout showed us the mistakes that can happen when government rushes to action.

We are united, however, Democrats and Republicans, together in recognizing the need for action. This is a time for smart, accountable, and targeted investments to get our economy back on track, not more of the same shotgun spending that mortgages our children's futures.

There are clearly provisions in this bill that I support and I think every Member in the House has something in this bill they support. But we are here to pass an emergency stimulus package that creates jobs, not another spending bill.

To stimulate the economy and preserve, promote, and create jobs, we must enact proven measures like broad-based tax relief for families and small businesses, opening new markets to trade, and investing wisely in infrastructure. Those are the things that will get our economy moving and create jobs for people in our Nation.

So I urge my colleagues to oppose this measure so that we can work together with President Obama, who has reached out to the Republican side and encouraged us to provide our input, our ideas, and our thoughts to craft effective legislation that gets our economy back on track.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise in support of the legislation.

Our economy is falling apart. We have millions of people out of work. We have millions of people who are out of work that don't even have unemployment benefits anymore. We have got to respond to the immediate needs of the American people.

I don't agree with everything in this legislation, but I know one thing: If we don't move quickly to try to take steps to stimulate this economy, we are only going to go down faster. I see this legislation as being an appropriate first step that will help bring needed money and put it in the hands of the American people.

We're going to have to do more, though. I have bills to create a universal pre-kindergarten program that will help American families relieve a lot of financial burden; a bill with JOHN CONYERS to create a not-for-profit health care system, universal health care, that will solve a major problem for business and industry and give all Americans health care.

Congress must make a beginning. That's what we were elected to do. We need to work together, Democrats and Republicans, and put aside our differences on some of the issues that are in this package in order to look for the higher good of the American people.

The CHAIR. The time of the gentleman has expired.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield the gentleman an additional 30 seconds.

Mr. KUCINICH. So I would say to my colleagues on both sides of the aisle, we see things in this package we don't like. We don't like the fact that some of the benefits aren't getting to people quickly enough. I am concerned about that as well. But the fact of the matter is we have to realize this is our first step, and that first step has to be in the direction of relieving the economic crisis for the American family.

I stood with Members on the other side of the aisle in challenging the bailout. But it's time that we start to give benefits to the American people, and this legislation does that. I urge its support.

Mr. CAMP. Mr. Chairman, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Louisiana, Dr. BOUSTANY.

Mr. BOUSTANY. Mr. Chairman, both sides can agree that our national economy is in trouble as tens of thousands of Americans are without work. But the question remains, are we going to get this right? The bill before us falls far short of the goals that we are hoping to achieve.

In 2005 my home State of Louisiana saw economic devastation as the result of two hurricanes. During that recovery effort, we learned many things about what government can and can't do effectively and quickly. Tax relief for small businesses and families enable businesses across the Gulf Coast to rebuild, expand, and create good-paying, long-lasting jobs. As a result, thousands of Louisiana families found security they desperately needed following these two storms.

Government direct spending was also attempted. However, 3 years later, 3 years later, much of that money is still tied up in bureaucratic entanglement.

There's a lesson here. There is clearly a lesson. There are many different solutions to a problem, and this economic crisis, as complex as it is, certainly proves this. But secondly and more importantly, we must look for solutions that will produce results.

We need to spur job creation to get Americans working again, and the best

way to achieve that job creation is by reducing taxes on small businesses, entrepreneurs, and companies who can put people to work now.

We are willing to work with the administration and with our friends across the aisle to accomplish these goals. Together I believe we could craft a bill that would stimulate private sector job growth, which is what's desperately needed. That will make this country competitive again. This bill will not accomplish those goals.

I would urge a ''no'' vote on this bill, and let's come up with a better way to do this.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the House, I must say that I truly admire the courage of my friends on the other side of the aisle. In the middle of the worst economic downturn that any of us can remember, our parents told us about the Depression, an unprecedented and accelerating job loss all across the American economy in every sector, our friends on the other side of the aisle ask us just for one last time to do what they've been doing the last 8 years; to just one more time give the tax cuts to the richest people in the country; to just one more time dive into the tank of fiscal irresponsibility.

They inherited a $5 trillion surplus, and they squandered it to an $8 trillion deficit. They created the slowest job creation since World War II, the slowest job creation since World War II in a recovery. They held middle income wages stagnate. In fact, many families lost ground. The wealthy did the best.

They stood by while banks created liar loans, while banks created no-doc loans, while people on Wall Street played fast and easy with hardworking Americans' money in their pension plans. And what do we get for their 8 years? We see people now getting their returns on their pensions, their 401(k) plans, and 30, 40, 50 percent of their assets are gone and those who are over 55 living in panic about how will they have a retirement. And yet they stand here day after day and say just let us have more of what we were doing in the past.

You know, when that helicopter took off outside here in this plaza, millions of Americans gave that President a wave good-bye because in the middle of this historic downturn, millions and millions of Americans made a decision to go in another direction because what you were doing hadn't worked for them or for their families, hadn't worked for them or their families, because that was your policy.

Mr. Chairman, that was their policy, crude and rude with respect to working Americans in this country and their families.

So what do we have now? We have an incredible consensus of economists who are on the left, who are on the right, who advised Republican candidates in the past, Ronald Reagan, JOHN MCCAIN, and they have said you have got to put together a recovery act where the government spends this money on projects to put people back to work to create jobs. It will not stop unemployment, but it will help. It will help. And that's what we're doing here. That's what we're doing here.

They also said from the right and the left, as they told us that the American economy is shutting down while you're asking to do more of the same, they said don't forget education. We cannot have young people lose a year or 2 years of education because of an economic downturn. You must support education at the local level. Why? Because the States and local governments are hemorrhaging, hemorrhaging the loss of revenues. Because people can't afford to buy a car, they're not buying a car. Because home price values are dropping so fast that they're going in and getting their property taxes reestablished because of the loss of value in homes, and that's costing local governments and school districts money from sales tax and property tax. So we're trying to make sure that those students don't lose that educational opportunity.

We see a number of students are now starting to forego college who are in the middle of their college education because of costs. Yes, we're going to increase the Pell grant so they can stay. We're going to give an income tax credit so they can stay in school. We're going to give them work opportunities on campus so they can stay in school. Because that's what the economists, that's what the venture capitalists said, that's the captains of industry said needs to be done. Don't lose that, because when this economy re-emerges, we need those people to be competitive with the rest of the world.

Yes, we're going to help school districts and school construction so that young students can go to school in a cleaner, better environment, so they'll be connected to the latest technology, so they'll have the educational opportunities. And it will be a safe school. It will be a modern school. Yes, we're going to help them out and do that because they don't have the ability to do that because your economic policies froze municipal bonds and school bonds where people voted to impose taxes on themselves to improve their schools, to improve their cities. But the credit markets are seized; so we're trying to help them out for the time being until those markets unfreeze.

And, yes, $300 billion was given to the Bush administration and Secretary Paulson, and so far it appears it was given without conditions in terms of any effort by the big banks to unfreeze the credit markets to lend to small businesses, to lend to families in need.

Yes, we're changing policy. And we're doing it at the direction of the American people because the policy you gave them for 8 years was a disaster for them, their families, their retirements, their wages, their health care. They want to go in a different direction, and we will take them in a different direction. We will take them to job creation. We'll take them to better education. And, hopefully, we'll take them to a stronger economy on the advice, on the advice, with all due respect, of not the other side of the aisle, but of economists from the left to the right of impeccable credentials who said the only question about this package really is, is it large enough?

ANNOUNCEMENT BY THE CHAIR

The CHAIR. All Members are reminded to address the Chair with their remarks.

□ 1900

Mr. CAMP. I thank the Chair for that statement.

At this time I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentleman for yielding.

So much material and so little time. You know, we heard the President in his speech talking about putting aside petty recriminations, and he characterized that as, actually, childish arguments. And I think that some of the tone that I have heard tonight, we can rise above.

You know, I find it ironic that the gentleman from California referred favorably, maybe for the first time in his career, the first time in my hearing, favorably quoting and referring to Republican economists as ''persuasive.'' I had never heard that from him before, Mr. Chairman.

But I would like to quote from our President. In his State of the Union Message, he said something that I think actually brings us all together, it's really poignant, and I think it's beautiful. In fact, it says it has been risk takers, the doers, the makers of things who have carried us up the long rugged path towards prosperity and freedom. The market's power to generate wealth and expand freedom is unmatched.

Here we are, on the verge of the majority spending $825 billion in a spending plan, the likes of which we have not seen before, with only $40 million in tax relief for small business. When the President came in, he seemed surprised at those numbers, by comparison, $40 million to the risk takers that we all say are the economic engine that are going to move us into the future.

We can do better, and I think it's incumbent upon us to take up that challenge.

The CHAIR. The gentleman from Minnesota (Mr. OBERSTAR) is recognized and controls 10 minutes.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Our committee's portion, the infrastructure recovery program is targeted. It will be transparent and recipients will be held accountable, and the investments are desperately needed. The construction sector is suffering the highest unemployment rate of any industrial sector, 15.3 percent, 1.4 million construction workers out of a job.

Fully implemented, as our committee proposes, we can have a million workers on a construction site in June of this year and generate $325 billion in total economic activity when fully implemented, jobs that cannot be outsourced to other countries, using materials that are made in America, not outsourced beyond our shores.

Transparency, we require reporting by every State DOT, every transit agency, every airport authority, every 30 days on the contract awarded, by contract, on the specific jobs, job description and payroll, which we will receive and make public through hearings that we will conduct 30 days after the funding is allocated to the States and every 60 days thereafter.

Accountability, an amendment which I expect or hope to offer tomorrow made in order by the Rules Committee, will have a requirement that funds be committed in 90 days, use it or lose it.

I am pleased to rise in strong support of H.R. 1, the "American Recovery and Reinvestment Act of 2009".

With more than 1.4 million construction workers out of work, and the construction industry suffering the highest unemployment rate (15.3 percent) of any industrial sector, this bill is urgently needed to put America back to work. The infrastructure investments funded by this bill will create good, family-wage jobs—jobs that cannot be outsourced to another country, because the work must be done here in the U.S. on our roads, bridges, transit and rail systems, airports, waterways, wastewater treatment facilities, and Federal buildings.

For more than a year now, I have worked to ensure that infrastructure investment plays a key role in our Nation's economic recovery.

I thank Chairman OBEY for working with me in this effort. We consulted extensively on the transportation and infrastructure provisions in the bill. Although the legislation before us today does not include everything I had proposed, it is a very good start, and I am hopeful it can be improved and fine-tuned as deliberations continue.

In December 2008, I proposed to House Leadership that the economic recovery legislation include at least $85 billion for transportation, environmental, and other public infrastructure investments. H.R. 1 includes approximately $63 billion for these programs.

My proposal adhered to the following six principles:

Funds must be invested in ready-to-go projects. I believe we need an aggressive timetable for the use of funds, including a 90-day, "use-it-or-lose-it" requirement for 50 percent of the funds, which will produce a "quick hit" that will jump-start our economy and create a substantial number of new construction jobs by June.

2. Funds must be used to create green-collar jobs and invest in projects that decrease our dependence on foreign oil and address global climate change.

3. The steel, iron, and manufactured goods required for these projects must be manufactured in the United States.

4. Wherever possible, funds must be distributed by existing statutory formulas, with no earmarks, to expedite the flow of funds.

5. Transparency and accountability in the use of funds must be achieved.

6. States and other recipients of formula funds must maintain their effort in terms of current State and local investment levels.

These principles are, in large measure, reflected in the legislation before us today.

Although the use-it-or-lose-it deadline in the bill is currently set at 180 days, I am hopeful it can be shortened to 90 days, and I will be offering an amendment to do so.

On December 18, I had a lengthy conference call with 14 State Secretaries of Transportation and Chief Executive Officers of public transit agencies. I outlined for them my 90-day, use-it-or-lose-it proposal, which would require them to obligate 50 percent of the funds allocated to them within 90 days.

Every one of the participants on the conference call enthusiastically affirmed that they are ready to go within 90 days and can meet the use-it-or-lose-it requirement.

In another conference call earlier this month and at a Committee hearing last week, we were again assured that State and local grant recipients are proactively preparing to meet tight deadlines and will be able use these funds quickly.

Despite these assurances from State and local officials, some here in Washington are skeptical that a 90-day deadline can be met. This skepticism is why the use-it-or-lose-it deadline was extended to 180 days in last week's Appropriations Committee mark-up.

Ninety days is a tight deadline, but that is exactly what we need.

Business as usual is not good enough anymore. If the purpose of this legislation is to be achieved, then we must set tight deadlines, and hold everyone—from Federal agencies to State and local grant recipients—accountable to them.

I firmly believe that the infrastructure funds provided by this bill can—with the right incentives—produce a substantial number of jobs by June, while also improving our deteriorating infrastructure and laying the foundation for our future economic growth.

I thank Speaker PELOSI, Chairman OBEY, Chairman of the Committee on Appropriations, and Chairman OLVER, Chairman of the Subcommittee on Transportation, Housing and Urban Development, and Independent Agencies, for working with me throughout the development of this legislation. I strongly urge your support for H.R. 1, a true investment in America's future.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMP. At this time I yield 2 minutes to the gentleman from Pennsylvania (Mr. TIM MURPHY).

Mr. TIM MURPHY of Pennsylvania. Mr. Chairman, with 11 million Americans out of work, we indeed should be concerned about Americans out of work and helping Americans to have jobs.

Tomorrow the House will vote on a bill of some $835 billion as an economic stimulus and spending package. Thirty billion dollars of that will be for infrastructure spending for roads and bridges, some $20 million for electronic medical reports, both worthy causes, which perhaps should be put into the highway section, but that's as it is. What's key here is are these really for American jobs?

The electronic medical records is important because it allows hospitals to have their records on computers so doctors can access them from everywhere competently and confidently, and can help reduce millions of dollars of waste and deaths that occur from hospital errors.

However, in the Energy and Commerce Committee a few days ago I offered an amendment to say let's guarantee that the software work and the applications of that technology be done in America. It's too easy, at the stroke of a keyboard, to send electronic data across the globe where these software applications for hospitals could be done.

So we put an amendment in. The chairman agreed to it. The committee unanimously agreed to, but, mysteriously, when the bill was printed, that and a few other Republican amendments were omitted.

Tonight I was at the Rules Committee asking them to please restore this amendment to say if we are going to spend $20 billion to help American jobs, let's make sure we have a clause in this bill that helps American jobs.

There's another amendment I offered too that says for construction and other parts of this bill let's also use that for American jobs. Let's not have the same mistake that occurred when we approved building a fence line at the border with Mexico, and it turned out it was done using a loophole with Chinese steel. Our concrete, our rebar, the cars that are going to be bought supposedly with this bill ought to be made in America.

From the iron mines to the manufacturers, to the mills, let's use it to buy America. Let's return those amendments to this bill. If we really are going to be serious about American jobs, let's make this American jobs.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished Chair of the Surface Transportation Subcommittee, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman.

For 8 long years our Republican colleagues stood shoulder-to-shoulder with George Bush as our country accelerated its slide toward a third world infrastructure. The collapse of the bridge

in Minnesota is perhaps the signal moment of the Bush administration. What did they do before and what have they done after for our infrastructure? Nothing.

They didn't believe in investing in our public infrastructure. Tax cuts, tax cuts, tax cuts. Tax cuts never built a single highway. Tax cuts never built a transit system. Tax cuts never replaced a bridge.

Tax cuts are not the answer to all of America's problems. We need to invest in our public infrastructure in this country. The most solid core point of this bill is what we are debating right now, more than $40 billion of investment in the future of America putting our highways and our bridges back in good repair, rebuilding our transit systems, beginning to provide new capacity, to get people more efficiently to work, to avoid the costs of congestion, the costs of the deficient services we suffer.

These are jobs. I heard someone, some bizarre Republican stand up earlier and say something about the difference between work and jobs. This is work that puts Americans to work, and it's jobs, and it rebuilds our country. I don't quite get what point that person was making. And it's not a tax cut. It's real investment.

I can justify borrowing money to build a bridge or a transit system that will serve the next two or three or four or five generations of Americans a lot more than I can justify a tax cut which is gone tomorrow and did nothing to rebuild our future.

They lack vision. In this we will buy American products. ''Buy American'' is the theme of transportation policy in this country. We will buy buses made in America. We will even start buying street cars for the first time made in America.

The CHAIR. The time of the gentleman has expired.

Mr. OBERSTAR. I yield the gentleman an additional minute.

Mr. DEFAZIO. We are going to rebuild our bridges made with steel in America, concrete sourced in America, labor of American workers. This is the core of this bill. It's not enough, in my opinion, and I have made that clear and made some angry by saying that, as has the chairman.

But it is a good, solid down payment and a solid core for an American recovery with these investments. Stop talking just about one-note tax cuts. They didn't work for George Bush. They are not going to work today. We need to begin real investment and rebuilding our future, transportation infrastructure. This is the core of this bill.

Mr. CAMP. Mr. Chairman, I yield 15 seconds to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. I would point out that it was a Democrat Congress that for decades robbed from the highway trust fund, and it was the Republican Congress, with the Republican President, who insisted for the first time that all the highway fuel dollars would go to actually building highways and bridges in America.

I would note too, Republicans doubled the research and development budget of America, not Democrats.

Mr. CAMP. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Republican Conference, the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, it should be evident to anyone looking on tonight, from the passion that's displayed on both sides of the aisle, this is a serious debate. The American people are hurting. Many millions of Americans have lost their jobs and many more are worried that they will be next.

And so we come to this floor tonight to begin a debate on legislation that should, in the best of worlds, be a result of a thorough vetting and a thorough and bipartisan negotiation over what would be, on balance, in the best interests of the American people. But this legislation falls far short of that standard, and I rise to oppose it.

I commend the President of the United States today for coming to Capitol Hill and meeting with House Republicans. It was a frank and cordial discussion. The conversation is not compromised, and the American people deserve to know that Democrats in Congress have completely ignored our new President's call for bipartisanship in the formation of this stimulus bill.

In reality, House Democrats have used this moment of national economic crisis to fund big government priorities under the guise of stimulating the economy. As I told President Obama today, we take him at his word, but we urge him to make good on his pledge to challenge his party to set aside partisan differences and to bring the best ideas from both parties to the table, and this bill does not accomplish that.

The promises of change and bipartisanship ring hollow in the face of a stimulus bill that does little more than fund a wish list of long-standing liberal spending priorities.

I ask, Mr. Chairman, what is $50 million for the National Endowment for the Arts going to do to create jobs in Indiana? What does $200 million to plant sod on the National Mall going to do to put people back to work in your State, or $400 million for climate change research going to do to get America working again.

The truth is the bill that we will consider tomorrow, fashioned entirely by the majority in this House, won't stimulate anything but more government and more debt. The slow and wasteful spending of the House Democrat bill is a disservice to millions of Americans, and Republicans are disappointed, but the American people should be disappointed as well. These are serious times, and what will come to the floor tomorrow is not a serious effort to address this crisis with reform.

Republicans have a plan. We don't claim to have the exclusive right to all the best ideas in the world, but the time-honored tradition of stimulus from this Chamber has always included real and immediate and significant tax relief for working families, small businesses and family farms. Handing out rebate checks this year, like we did last year, will likely have as little result stimulating our economy as it did before.

And so we will take our case to the American people. We may lose on the floor tomorrow, but the American people will have a choice between slow and wasteful government spending and a plan that will bring tax relief to working families and small businesses.

I urge opposition to the bill.

Mr. OBERSTAR. Mr. Chairman, I yield myself 30 seconds simply to point out that on the Committee on Transportation and Infrastructure the Republicans have been engaged fully from 2007 all through 2008 in fashioning a stimulus initiative. Their ideas have been fully engaged and they have participated in hearings and in the crafting of our portion of this bill.

So whatever criticism there may be of other committees, I say it doesn't apply in our Committee on Transportation and Infrastructure. In fact, Mr. MICA, my good friend, said our portion is a very good bill.

I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), Chair of the Water Resources Subcommittee.

Ms. EDDIE BERNICE JOHNSON of Texas. I want to thank the Chair of Transportation, as well as the Chair of Appropriations, for the hard work they put into this.

Mr. Chairman, you know I strongly support the underlying bill. I know that I understand it differently than some others here. But if we keep doing the same thing that we have been doing for the last 8 years, we will get the same results. You can't do the same thing and expect the results to change.

The needed funds for our Nation's roads, bridges, transit systems, airport and water-related infrastructure are very much needed. Over the past 2 years, the Subcommittee on Water Resources and Environment has held numerous hearings on the Nation's water-related infrastructure needs, whether it is the $300 billion to $400 billion investment needed to restore and upgrade our Nation's network of wastewater treatment infrastructure, or the projection of $50 billion to $60 billion for vital projects of the Corps of Engineers.

The water-related infrastructure needs of this Nation are struggling and

growing ever longer, and the longer it is put off, the more it will cost.

□ 1915

Each $1 billion of Federal funds invested in infrastructure creates and sustains approximately 34,000 to 47,000 jobs and $6.2 billion in economic activities. The $3 billion in infrastructure investment funding in the bill for the State of Texas will provide a real tangible benefit to the 700,000 individuals currently unemployed in our State, whether as a paycheck for those responsible for constructing these vital projects or through increased productivity for small businesses that produce the materials needed for these vital infrastructure projects.

These people cannot pay taxes. They don't have jobs.

However, unlike other economic recovery proposals, infrastructure investment provides not only a short-term benefit to American families, it also provides a long-term benefit in terms of sustainable and reliable infrastructure, as well as the potential for increased productivity for the Nation's economy through the efficient movement of goods and services.

It also can enhance the overall quality of the Nation's water-related environment through the implementation of environmental restoration projects by the Corps of Engineers, and through the control of pollutant discharges from combined sewer and sanitary sewer upgrades.

Finally, infrastructure investment provides one of the only benefits that cannot be shipped off to foreign lands. The direct beneficiaries of domestic infrastructure projects are our towns, our local communities, our constituents.

Mr. CAMP. Mr. Chair, I yield 1½ minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. I thank the ranking member for generously yielding to me.

Mr. Chairman, here are a half dozen of many reasons to oppose this legislation. We should wait and gauge the impact of the $350 billion in TARP funds already approved before spending even more. Spending another $825 billion—$6,000 for every taxpayer in America—will inevitably hike inflation and increase taxes, further damaging the economy.

Much of the money will be used to bail out States that have overspent their budget. This rewards bad behavior. What happened to the ''era of responsibility?''

This is not free money. It's a nonsecure loan extracted from the American people. Let them keep the dollars and decide how to spend them. It would be far better to provide tax incentives and investment credits to the small businesses that create 70 percent of all new jobs in America. This massive monstrosity of spending is the wrong kind of change. It will only make the economic crisis wider, deeper, and longer.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the Chair of our Economic Development Subcommittee, the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the gentleman for yielding and for his very important and brilliant work on this bill. I thought I heard my friend talk about putting money in people's pockets. Have you forgotten that is exactly what we did with the last stimulus bill? And, guess what? It went to pay the Saudis, who are now enjoying that. People paid off their high gas bills, they paid down their credit cards. Understand that people are afraid to spend money.

What does this bill do? This is not about ''the economy,'' it's not about ''the bailout.'' This bill is about jobs. What it says is if you give a person not money in his pocket, but a job, you have a better chance of reviving your economy.

The GAO says, indeed, if done properly, a public infrastructure program will pay for itself, and more, over time, by increasing productivity. That is the reason we focus on infrastructure and it's interesting to know that many on the other side are pointing in that direction as well.

I am not against some of the tax cuts, if properly done. But the reason we focus on infrastructure is that it alone has a track record of waking up other parts of the economy. That's what we want to do. This is about jobs. This is not about some generic economy. It is the multiplier effect that we are after. We are after jobs that then create support jobs on down the line. And there is no other expenditure that has been shown to do that as well as infrastructure.

We've got a job to do to make sure, as the chairman says, that this gets done, and gets done quickly. But there can be no debate. Even as we heard testimony, investments in infrastructure have a broader effect and a bigger benefit on the economy than, for example, tax cuts, or any form of tax relief.

Mr. CAMP. I yield 2 minutes to the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. I thank the gentleman.

Mr. Chairman, I am pleased that the President has asked for swift action to spur the economy in the need to usher in a new era of responsibility. I also agree that Congress must act immediately to help get our economy back on track.

My concern with the bill that we are addressing here tonight is that it is acting irresponsibly. This stimulus bill has essentially now turned into a supplemental spending bill. The budget deficit is already more than $1 trillion this year alone. What is Congress proposing? More borrowing and more spending.

After this bill passes, Mr. Chairman, the annual budget deficit will surpass $2 trillion in just 1 year. Just this 1 year. An economic stimulus should be quick and it should be immediate. However, the recent analysis by the Congressional Budget Office shows that only 7 to 8 percent of the infrastructure spending, which is valuable in this plan, will be delivered in the economy in the first year alone, and less than half will be spent in the first 2 years.

Mr. Chair, a real fiscal stimulus is one that will put people back to work and focuses like a laser beam to help protect and preserve and, most importantly, create jobs. Why aren't we focusing tonight on helping small businesses do what they do best?

We need to make sure that we are allowing those small businesses, the entrepreneurs, the risk-takers, the innovators, and the self-employed, do what they do best, and that is create jobs. Unfortunately, this bill has become a grab bag of special interest spending, and many of these may be some worthwhile projects, but they should not be snuck into a stimulus bill.

Instead, let's focus on changing politics as usual and working together and finding real solutions to put people back to work.

Mr. OBERSTAR. How much time remains?

The CHAIR. The gentleman from Minnesota has 1 minute remaining.

Mr. OBERSTAR. I yield the remaining time to the distinguished gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. As a new Member of this body, this is going to be one of the most important votes I cast. And to hear some of the rhetoric tonight from the other side makes one think of Charles Dickens. Are there no workhouses?

We are in the worst economic meltdown in 76 years. The middle class is crying for relief. We are on a precipice, and this body must act. I feel duty-bound to cast my vote in favor of this legislation because it is action. It is designed to spur infrastructure. It is designed to provide middle-class tax relief.

And when I hear language of special interest, I wonder if we mean by that our State and local governments that are hemorrhaging red ink and need the relief contained in this legislation. As someone who's just come from local government, I know firsthand how every State and every locality in this country is hurting.

I intend to support this legislation, especially the infrastructure provisions in it that will get people back to work and spur local economies.

Mr. CAMP. At this time, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. I thank the gentleman for yielding, and I am interested in the comment just made by the

gentleman from Northern Virginia, Mr. CONNOLLY. If the gentleman would take a question, I'd be pleased to yield to him for an answer.

Mr. CONNOLLY, would you be interested in taking a question? I was interested in your comments, because you said, Mr. CONNOLLY from Northern Virginia——

The CHAIR. The gentleman will address the Chair, please.

Mr. PRICE of Georgia. Mr. Chair, the gentleman said these are the worst economic times, and this will stimulate infrastructure. I was wondering if the gentleman was aware that only 7 percent, or $26 billion of the $274 billion in infrastructure money, will be spent by the end of this budget year. And adding the interest, this stimulus, which will exceed $1.1 trillion, will cost each and every American $3,300 in this economy.

Does the gentleman think that that is a wise idea? I yield to the gentleman.

Mr. CONNOLLY of Virginia. Mr. Chair, if I understand the gentleman's question, first of all, I think his numbers are not correct, if I look at the Chairman of the Transportation and Infrastructure Committee. I think it's considerably more than the number the gentleman has cited.

I also think the gentleman fails to recognize that there's cumulatively $120 billion of relief for State and local governments. I would also point out to him that every State and every locality virtually in this country is hemorrhaging red ink.

Mr. PRICE of Georgia. Reclaiming my time, Mr. Chairman, and I would ask the gentleman to tell the House if he believes that in this worst economy that it's appropriate to put in place a policy that makes it so that each and every American is liable for $3,300 more; $3,300 more for each and every single American. Is that an appropriate policy to be put in place at this time, I would ask the gentleman.

Mr. CONNOLLY of Virginia. Mr. Chair, I don't believe that is the appropriate question.

Mr. PRICE of Georgia. Reclaiming my time, Mr. Chairman. That is indeed the appropriate question. And that is why you hear individuals on our side of the aisle fighting on behalf of the American taxpayer, fighting on behalf of American jobs, fighting on behalf of appropriate policy that will in fact stimulate the economy.

Mr. CONNOLLY of Virginia. Mr. Chairman, I think the opposite is true. I think the gentleman is fighting for policies that prove to be a failure.

The CHAIR. The gentleman from Georgia has control of the time.

Mr. PRICE of Georgia. We all want our economy to turn around. The question really isn't is this too much or too big, although I believe it to be. The question is, Will it work, and, What else is in this bill?

I want to highlight an item that is buried in this bill. The Comparative Effectiveness Research Council. $1.1 billion for this board. In the language, it states, regarding health care, ''Those items, procedures and interventions that are most effective to prevent, control, and treat health conditions will be utilized, while those no longer found to be effective and, in some cases, more expensive, will no longer be prescribed.''

Mr. Chairman, this is the beginning and the foundation of nationalized health care.

The CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. PRICE of Georgia. I thank the gentleman. In fact, the Secretary of Health and Human Services said in his book that this body would have recommendations that may not have teeth because all Federal health programs would have to abide by them. But Congress would go back and further the board's recommendations. It could, for example, link the tax exclusion for health insurance to insurance companies that comply with the board's recommendations.

Mr. Chairman, this is indeed the foundation of rationing of American health care for each and every American. Not only will there be no stimulus in this bill, there will be major policy changes to health care; nationalized health care on its way, courtesy of the majority party.

The CHAIR. The gentlewoman from Arizona (Ms. GIFFORDS) now controls 5 minutes of the time.

Ms. GIFFORDS. I'd like to thank Chairman OBEY as well for all his work, and members of the committee on both sides of this bill, and I yield myself such time as I may consume.

As a member of the Science and Technology Committee, it's my great privilege to work with Chairman GORDON and Ranking Member HALL to advance our Nation's capabilities in scientific research and technological innovation.

The American Recovery and Reinvestment Act contains critical funding for the National Science Foundation, the Office of Science at the Department of Energy, the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and NASA. It also includes significant funding for research and development in advanced energy technologies.

These critical investments will create high-quality jobs, strengthen our economic competitiveness, and improve access to clean, affordable energy.

With that, I reserve the balance of my time.

Mr. CAMP. I'd like to inquire of the Chair the time remaining.

The CHAIR. The gentleman from Michigan has 28 minutes remaining.

Mr. CAMP. And on the other side?

The CHAIR. The gentleman has 51 minutes.

Mr. CAMP. At this time we will reserve our time until it becomes a little more balanced, Mr. Chairman.

Ms. GIFFORDS. I yield 2 minutes to the gentleman from Oregon (Mr. WU).

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Mr. WU. I thank the gentlelady, and I rise in support of the underlying legislation.

I want to commend President Obama, his administration, Speaker PELOSI, Chairman OBEY and Chairman GORDON for their leadership and commitment to ensure that this bill provides strong funding for science, technology, and long-term economic growth in order to get our economy back on track. We need to rebuild from the ground up. We need to invest in research that will create the jobs of the 21st century, including those jobs in health information technology.

Health IT has the potential to reduce medical errors, decrease inefficient, unnecessary, duplicative treatments that cost our health care system $300 billion annually. Health IT should lower our health care costs while improving the quality and safety of care. Health IT is economic stimulus.

However, one study states that more than 40,000 health care IT workers will be needed in health care facilities, and jobs already exist in this field. We just need qualified workers. Without the staff needed, our investments in health IT will do little to meet the potential of this field. That is why I am happy to see the provisions of the 10,000 Trained by 2010 Act, a bill that I introduced, are included as part of this legislation. My legislation helps train individuals in health IT, and provides the seed corn to create the jobs of our new economy in a field that will help curb the cost of health care for years to come. I urge my colleagues to support the provision and the legislation.

Mr. CAMP. I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I think when I yielded time earlier in the day, I shortchanged the gentlewoman from Arizona (Ms. GIFFORDS) by 5 minutes. I would like to yield an additional 5 minutes of my time to her.

The CHAIR. The gentlewoman will control an additional 5 minutes of the time.

Ms. GIFFORDS. Mr. Chairman, I now yield 1 minute to the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Mr. Chairman, I rise today in support of the American Recovery and Reinvestment Bill of 2009.

We are entering a new era of job creation through science, research, and technology, and this bill makes timely targeted investments to create high-quality jobs, strengthen American

competitiveness, and improve access to clean affordable energy.

The bill allocates funds to the National Institute of Standards and Technology, which is in my congressional district in Maryland, for competitive construction grants for research science buildings at colleges, universities, and other research organizations and to coordinate research efforts of laboratories and national research facilities by setting standards for manufacturing.

The bill also allocates funds to the National Aeronautics and Space Administration to put more scientists to work doing climate change, important climate change research, including earth science recommended by the National Academies, satellite sensors that measure solar radiation critical to understanding climate change.

I am proud that this bill includes $10 billion for science research facilities and instrumentation, to focus American brain power and education on solving the energy and climate challenges.

The CHAIR. The time of the gentlewoman has expired.

Ms. GIFFORDS. I yield the gentlewoman an additional 30 seconds.

Ms. EDWARDS of Maryland. This is an investment for the 21st century. It is for our children, it is for our grandchildren. I applaud Chairman GORDON and the House leadership for making these investments, and I urge my colleagues to support this bill. This is about the future.

Ms. GIFFORDS. Mr. Chairman, I now yield 1 minute to the gentleman from New York (Mr. TONKO).

Mr. TONKO. Mr. Chairman, I represent the capital region of New York State, an area which, led by Thomas Edison, pioneered a revolution in electricity which changed our society a century ago. I believe it is with that spirit that we look to take bold action with the American Recovery and Reinvestment Act.

This package contains some $4 billion for job training, which is essential to preparing the American workers to compete for the jobs of the future. It also contains $2 billion for alternative energy research, and $11 billion to develop and build the next generation energy grid. These are crucial investments that will create high-paying jobs right now and make our country more secure and energy efficient into the future.

In these difficult economic times, we must not forget our commitment to our children and grandchildren. The stimulus bill will provide over $140 billion to make sure that our education system can move forward into the 21st century. We must act now and boldly to move our country in the right direction and to provide relief for our overburdened working families.

Ms. GIFFORDS. Mr. Chairman, may I inquire how much time we have remaining?

The CHAIR. The gentlewoman has 4½ minutes remaining.

Ms. GIFFORDS. Mr. Chairman, I now yield 1 minute to the gentleman from Ohio (Mr. BOCCIERI).

Mr. BOCCIERI. Mr. Chairman, the people of Ohio's 16th district elected me to fight for them and their tax dollars. The American Recovery and Reinvestment Act is about putting America first. It is about investing in our country. Some on the other side didn't bat an eye when they voted to use American tax dollars to rebuild Iraq, spending billions on new roads and bridges there. There was no outrage during those spending days.

Our people are hurting. Our people are struggling and asking us for leadership. It is time to put partisanship aside. In this time of great need, investing in our schools, our roads, our bridges is about making America stronger. Ohio will receive a much-needed economic boost with these resources, and we will invest in the future of our country. Ohio needs the estimated $1.5 billion in infrastructure improvements to help create jobs. Creating jobs in alternative energy like fuel cells or plug-in hybrids being researched in my district will move us away from the dependence on foreign oil. This bill will help America innovate and invest in the jobs of tomorrow.

Ms. GIFFORDS. Mr. Chairman, I now yield 1 minute to the gentleman from Michigan (Mr. PETERS).

Mr. PETERS. Mr. Chairman, I rise in support of H.R. 1. This recovery package supports the development of new, advanced vehicle technologies that will lower emissions, improve fuel economy, and create new jobs across the country. This bill includes $2 billion to build new manufacturing facilities for the kinds of advanced vehicle batteries and battery components that will power the next generation of vehicles.

We are facing a global credit crisis, and auto companies around the world are struggling. Foreign governments are taking dramatic steps to help their own auto companies. If we are going to ensure the next generation of green manufacturing jobs are created here in the United States, we have to invest now in these advanced technologies. This bill helps ensure that we do not trade our dependence on foreign oil for a dependence on foreign batteries and other technologies.

The American Recovery and Reinvestment Act is good for Michigan and it is good for America. I urge its passage here today.

Mr. CAMP. Mr. Chairman, I yield 3 minutes to the distinguished ranking member of the Energy and Commerce Committee, the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the so-called stimulus bill for a number of reasons, both process and procedural. On the process, we had 1 day to consider 270 pages of text in the Energy and Commerce Committee. Five Republican amendments were accepted during the markup; three of those five were stricken from the bill before it came to the floor, and the fourth one, which is in the bill, is in the bill in a different form than which it was agreed upon during the negotiations during the markup. I don't think that is really good form.

On the substance of the bill, most of the Energy and Commerce title is really social program policy and spending. It may be good, but it is not stimulative in and of itself in terms of what we are here to do.

There is one title in the energy section which I think my friends on the majority side need to know about; it is something called decoupling. It gives a utility the right to petition a State that if the consumers in that State do all these energy efficient measures and they decrease their use of electricity, by decoupling what the consumers pay for it the utility has a revenue guarantee: Use less, pay more. I mean, as insane as that sounds, it is in this bill. I offered an amendment to strike that from the bill in the committee and it was on a party line vote rejected. Every Democrat voted to keep that in the bill; every Republican voted to remove it.

So if this actually becomes law, if a governor of a State acts positively on a petition from a utility in that State, the utility can decouple what it charges your voters for what you pay for electricity regardless of how much you use. If somebody cuts their electricity use 20 percent, they pay the same. Now, I don't know about most voters, but I know my voters, if they conserve and consume less electricity, they want to pay less; but under this bill, they are going to pay more. How is that stimulative to the economy? I think that is actually destructive of the economy.

So, Mr. Chairman, with all due respect, while there is some good in this bill, there is so much that is really not stimulative, and there is some stuff that is just really harmful that we should vote ''no.''

There is one other thing. Under this bill, they struck the amendment by Mr. STEARNS that says if a millionaire wants to get on COBRA and get his health care paid for two-thirds of the premium, he has got to prove that he is not a millionaire, that he doesn't have income and he doesn't have assets. They accepted that on a voice vote in the committee, but they struck it out. So there is no income test, there is no means test. Basically, Mr. Madoff, who just defrauded billions and billions of dollars, is going to be eligible for COBRA assistance under this bill. Vote ''no.''

Ms. GIFFORDS. Mr. Chairman, I now yield myself such time as I may consume.

As a Representative from the State of Arizona, the State that is the most abundant State in terms of sunshine, I would like to take the remainder of the time to talk about my support for solar power.

A strong solar power industry is going to create good jobs, it is going to increase our competitiveness internationally, and it is also going to help us reduce the threat of climate change. This form of renewable energy is going to be good for our economy, it is absolutely going to create much-needed jobs, and it is really going to focus on that next 21st century economy. It is going to really focus on our future. So I am pleased that this legislation includes some solar investments such as research and basic science, basic energy science, as well as applied research and development. The bill also includes critical funding for critical research into advanced transmission and energy storage technologies, what Representative PETERS from Michigan spoke of earlier.

Innovation in these two areas is essential to unlocking solar power's full potential. But that is not all that is included in this bill. We also are looking at language that contains critical financial incentives to support the development of solar power generating facilities. These provisions offer direct grants to qualified renewable energy products in lieu of the investment tax credits, also known as the ITC.

In the current economic downturn, the ITC cannot achieve its full potential, because many entities that would like to invest in solar power do not have taxable income. Therefore, this grant program is essential.

Unfortunately, the grant programs application is limited. It falls short of supporting large-scale solar projects with long lead times. We have seen many of these projects proposed throughout the Southwest and in other areas. That is why I have offered an amendment to expand this provision to include the large solar projects with the greatest potential to boost our economy. They are going to maximize job creation, foster greater investments and dramatically expand the amount of power our Nation gets from solar energy.

So as this bill moves forward, I urge the House and Senate to consider this amendment. We have this opportunity to take advantage and facilitate large and small scale projects. I would like us to help achieve President Obama's goal of doubling our Nation's renewable power capacity over the next 3 years. We are looking at 40,000 new jobs and $8 billion in investment. This is exactly the kind of bold action our Nation needs.

I reserve the balance of my time.

The CHAIR. The gentlewoman's time has expired.

Mr. CAMP. I reserve the balance of my time.

The CHAIR. The gentlewoman from New York (Ms. VELÁZQUEZ), the chairwoman of the Small Business Administration, now controls 5 minutes of the time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of the American Recovery and Reinvestment Act of 2009, which will help restore stability to our weakened economy and drive growth within the small business community.

Mr. Chairman, in a recent hearing my committee met an entrepreneur, Thomas Rankin, whose 83-year-old family business, Ramer Lumber, had managed to weather the great Depression but wasn't able to survive the current downturn. This past November, his business closed its door for good.

All across the country, countless small business firms are facing the same fate. Recovery efforts enacted last fall have not trickled down to Main Street. From Mom and Pop restaurants to technology startups, small firms of every kind are suffering. What we need now are solutions that work for entrepreneurs. After all, they are the ones that are promoting growth and they are the ones with a proven track record of creating jobs.

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But, unfortunately, a combination of restrictive lending and tightening credit has stunted small business growth, preventing entrepreneurs from playing their historic role of economic catalyst.

The Recovery and Reinvestment Act will help turn the tide. To begin with, $30 billion in targeted tax measures would allow struggling startups to stay afloat. For example, the bill will repeal the burdensome 3 percent withholding requirement for government contractors and allow for enhanced expensing for small businesses' purchases. For cash-strapped entrepreneurs, these initiatives could make the difference between meeting payroll and making layoffs.

The Recovery and Reinvestment Act also promises to thaw frozen small business lending and increase guaranties for new loans. At the same time, it will reopen the secondary market which has ground to a halt. Taken all together, these initiatives will put $13 billion into the hands of small businesses immediately, allowing entrepreneurs to do what they do best, create jobs. Small business lending provisions within the Recovery and Reinvestment Act will keep and create over 400,000 jobs. And at the end of the day, that is what small businesses do best, create jobs.

With unemployment at a 16-year high, let's not kid ourselves. There can be no recovery without job creation. That is why it is so critical that entrepreneurs have the resources they need to not just survive the downturn but to emerge from it stronger and ready to bring our economy back on track.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMP. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I want to say thank you to my colleagues who are joining me on the floor to fight this stimulus bill that we have before us. Actually, using ''stimulus'' on this piece of legislation is an incorrect term, because when we look at this, what we have learned today is primarily that this is just another spending bill.

I find it so interesting. I don't know if my colleagues have had the opportunity to look at what the information we've had from the Congressional Budget Office, the CBO. And I know time and again, when we were in the majority, you all would take the CBO figures as the gospel. So it's a little bit of a head scratcher to us. You want to say you have a stimulus bill. But it's a spending bill. It's going to cost $1.1 trillion when you add the interest. But, interestingly enough, Mr. Chairman, that money doesn't go into the economy quickly. And I think that is what our constituents are so interested to learn.

Out of this $836 billion, and you add the interest in and you are at $1.16 trillion, now, $92 billion of that is released within the next 12 months. That is 2009 money. And then in 2010 you get another $225 billion, and in 2011 you get $159 billion.

Well, Mr. Chairman, ''stimulus'' means something immediate that is targeted, that is focused and that is going to address a problem. And we don't see that in this piece of legislation.

It is more spending on top of more spending. It is $50 million for the National Endowment for the Arts. It is $16 billion for Pell Grants. It is $2.1 billion for Head Start. It is $200 million for the National Mall. That is not stimulus.

The CHAIR. The time of the gentlewoman has expired.

Mr. CAMP. I yield the gentlewoman an additional 30 seconds.

Mrs. BLACKBURN. That is not stimulus. That is government spending. That is growth of government problems. If you want to stimulate the economy, reduce taxes and leave money with the taxpayers, pay attention to small business and listen to their needs.

Mr. Chairman, my colleagues, the Democrats in Congress are building a ''Bridge to Bankruptcy'' for a lot of small businesses, for a lot of American families and for the U.S. government.

I urge my colleagues to stand strongly against H.R. 1.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentlelady from Illinois (Mrs. HALVORSON).

Mrs. HALVORSON. Mr. Chairman, I would like to thank Chairwoman VELÁZQUEZ for the opportunity to speak on this matter of utmost importance to the American people. Nothing is more critical at this moment in time than creating jobs. Days ago I learned that an important employer in my district is cutting 20,000 jobs. This is terrifying news to many of my constituents because each lost job forces a family to make difficult decisions. Health insurance becomes more difficult to maintain. College costs become more overwhelming. Mortgage payments become impossible to meet. It's clear we must act decisively, immediately, and on a scale that is bold, innovative and that will create new jobs to grow our economy.

It's critical that we invest in American infrastructure, including schools, energy, technology and small businesses. The American Recovery and Reinvestment Act will do exactly that.

I urge my colleagues to support this bill.

Mr. CAMP. Mr. Chairman, I reserve my time.

The CHAIR. The gentlewoman from New York has 1 minute remaining.

Ms. VELÁZQUEZ. Mr. Chairman, as a result of restricting lending and vanishing credit, small firms spanning every sector are folding at alarming rates. This is particularly troubling because they comprise 95 percent of American industry and employ half of the private sector workforce.

When these businesses disappear, so do many millions of American jobs. The American Recovery and Reinvestment Act offers an opportunity to keep the jobs we still have and to create hundreds of thousands more. Just as importantly, it is an investment in our Nation's entrepreneurs, the people creating jobs, driving innovation and strengthening the backbone of our economy.

I urge the adoption of this bill.

I yield back the balance of my time.

Mr. CAMP. I continue to reserve.

The CHAIR. The gentleman from South Carolina (Mr. SPRATT) controls the next 5 minutes.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we can debate this bill endlessly tonight, but no one can contest this point, this fact; we are in the midst of the greatest, longest and deepest recession since the Great Depression.

The question before us is simply this: Will we act, act now and act boldly in an effort to restore our economy to a healthy status, or will we run the risk that this recession will become even deeper and longer?

Now, I know that some doubt or disdain the steps taken so far by the government. Let me say up until a week ago that government was the Bush administration. I know that some question whether or not these steps have done any good. But let's go back to September and October. We witnessed a complete collapse of confidence in the global financial system and a wrenching credit crunch for corporate and consumer borrowers both. The spread between the 3-month LIBOR, the London Interbank Lending Rate, and 3-month Treasuries, which is a proxy for the willingness of banks to lend money, reached 360 basis points, 3.6 percent. Many feared, with good reason, that we would soon be in a cash-and-carry economy.

We passed the bill which provided additional liquidity. It hasn't accomplished all we hoped it would. But the spread that I just mentioned has fallen from 360 basis points to 100 basis points, still double the normal spread, but that is a big improvement and one clear indication that government actions have produced some good effect. Sure, they are not lending as much as we would like. Financing for consumer durables like autos and homes is not where we'd like it to be. But we are a lot better off than we would have been if the government had not intervened.

Now, I know some recoil at the enormous costs we are incurring. And I'll be frank with you, I find it stunning. $825 billion. But the cost of doing nothing is not zero. Far from it. What is the cost of doing nothing? Well, the CBO tells us that the cost of doing nothing, nothing tonight, nothing further, could be as much as a 2.2 percent contraction in GDP over 2009, the current year, and an unemployment rate climbing to 9 to 10 percent. Other forecasters predict even worse. We had several before our committee today. Mark Zandi of Moody's Economy.Com forecasted today a 3.4 percent contraction in the economy in 2009 with unemployment soaring to 11 percent next year.

Still people say, well, why does the government need to respond? Why can't we let this recession, like others in the past, run its course and self-correct? Well, our economy is up against some major head winds. Consumers have cut spending because their principal asset, their home, has plummeted in value by 20 percent, and some say it may go 20 percent more before we reach a reasonable trend line. There are huge overhangs in the real estate market. Real estate may have led us out of past recessions, but not this one. Nor will automotives. If anything, they are in deeper doldrums. With credit shrinking and retail sales falling, it is unlikely that the manufacturing sector will step up the production of goods for which there is little market. Finally, with the Fed fund rates at virtually zero, monetary policy is at the end of its tether.

What is left, if we were to do something, if we were to intervene, if we were to restore health to our economy? A major fiscal response by the government is the only viable option left on the table.

Now, what could a $825 billion stimulus bill accomplish? CBO forecasts an economy in 2009 or GDP equal to $14.2 trillion if we don't act. That is an economy operating at 6.8 percent less than its reasonable capacity, its potential. CBO predicts the same for 2010. My friend, that is a gap of nearly $1 trillion in potential production, goods and services that people in this country could enjoy and use, $1 trillion a year if we don't act.

According to CBO, the recovery bill will raise output between 1.3 percent and 3.6 percent by the end of this year. If we take the middle of that range, 2.5 percent, that is an additional $350 billion worth of goods and services purchased which businesses will then generate into several million badly-needed jobs.

A recovery bill that invests in America and begins to repair our stock of capital will yield dividends down the road. If investing in our schools, our children, our workforce, our roads, our bridges, our ports, our schools, our waterways, our transit and our scientific and technological base did not produce solid economic returns, how would our Nation have ever emerged to lead the world.

I urge everyone to support H.R. 1, the American Recovery and Reinvestment Act.

Mr. CAMP. I yield 2 minutes to the gentlewoman from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. Mr. Chairman, I thank the gentleman from Michigan for yielding and for the fine work that he is doing on these moments that we have together.

One guarantee that we do have from the stimulus bill that we can count on, that we can take to the bank, on which there will be no disagreement and no dissent is this: If we pass this $825 billion stimulus tomorrow, and it seems to be a certain thing because the majority has the votes, and if we add to that the debt service which would be over $300 billion added on top of that, bringing us to a total of over $1.1 trillion, the certainty, the guarantee that we will take to the bank, that we will need to look at the American people straight in the eye and be four square honest in telling them is this: You will encounter punishingly high tax increases at every level of the economic spectrum. It's a given. We have to.

Why can we say this with certainty? Because someone has to pay this bill. When you go out to eat, the check comes and someone has to pay for it. Maybe a nice person at the other table will pay for your check. But at the end of the day, someone is paying that check. And it's the American people that are paying for this party.

Make no mistake. This stimulus bill has very little to do with stimulating the economy and helping the average American. This is a bailout for big government. And let's get ready. We are looking at massive tax increases and we are looking at massive inflation or both. In fact, we could be looking at hyperinflation.

I don't want to be ''Debbie Downer'' bringing bad news to the American public, but it's a certainty. If you spend money at this level, and consider we are spending almost as much money on this stimulus bill as we will spend in our discretionary spending, take it to the bank. That is our future.

Mr. Chairman, the legislation under consideration today will saddle generations of taxpayers with hundreds of billions of dollars of debt and will, I fear, not lead this country to real economic recovery.

The Democrats' bill has a starting price of $825 billion—enough money to give every person living in poverty in the United States $22,000.

In fact, the total cost of this one piece of legislation is almost as much as the annual discretionary budget for the entire Federal Government.

To make matters worse, the nonpartisan Congressional Budget Office (CBO) estimates that the real cost of the legislation will be more than $1 trillion.

CBO reports that if Congress borrows more than $800 billion, it will burden future generations with an additional $347 billion in interest payments. That totals more than $1.1 trillion.

And, regrettably, that total includes frivolous spending on items such as $600 million for new cars for the Federal Government and $21 million for sod to fill in the mall after the inauguration.

We must not forget our responsibility to the taxpayer simply because we label something a crisis or even a response to a crisis.

The Democrats' have tried to sell this proposal as a transportation and infrastructure investment package. And, I'm all for investing in rebuilding our Nation's roads and bridges and believe that government spending on transportation infrastructure projects is absolutely important.

However, only $30 billion of the bill—or three percent—is for road and highway spending. And, CBO states that much of this spending will take several years to make any stimulative impact.

My constituents understand that we cannot spend our way to prosperity and that serious consequences lie ahead if Congress goes down this irresponsible borrow-and-spend path.

What the American people really need are long-term, permanent tax cuts which will impact families twice as fast as the Democrats' government spending in this bill. These tax cuts will spur job creation and help stabilize the economy over the long run.

I support much-needed, incentive-based relief for small businesses, the job-creators and the backbone of our economy, and I believe we must reduce the financial burden that the Federal Government imposes on middle-class families.

I'm a cosponsor of the Economic Recovery and Middle-Class Tax Relief Act, which is a real economic recovery plan that has NO welfare spending, NO pork-barrel spending, and NO bailouts.

This package would immediately inject private capital into our economy and at the same time, it would lay the groundwork for sustained economic growth.

It includes a permanent 5 percent across-the-board income tax cut. It increases, and makes permanent, the child tax credit to $5,000 and makes the lower 15 percent capital gains and dividends rates permanent.

It repeals the Alternative Minimum Tax, AMT, on individuals—a punitive and outdated relic of a tax which will hit more than 30 million people in 2009.

It permanently repeals required distributions on retirement accounts and makes all withdrawals from IRAs tax- and penalty-free during 2009. And, it increases by 50 percent the tax deduction on student loans and on qualified higher education expenses.

These are just some of the key initiatives of this legislation.

We have seen the mistakes of tax-and-spend government policies in the past and know that they will not lead to long-term economic growth and recovery.

We must implement real, permanent tax relief for American families and stop this Washington spending spree that will burden many generations to come.

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Mr. CAMP. I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. Mr. Chairman, I rise today in opposition to this spending bill that is before us.

I spent 12 hours in the Energy and Commerce Committee where we marked up our portion of this legislation, and I think there were some real amazing things in this bill that maybe some people on this floor don't know about. I was going to ask the gentlelady from Illinois (Mrs. HALVORSON) about it because she mentioned insurance. In here is a provision for the taxpayers in my district who are still working to support insurance payments up to 65 percent for those who may lose their jobs.

In the Energy and Commerce Committee, we passed an amendment in a bipartisan way to say that millionaires who made a million bucks last year, you don't have to have my taxpayers support your COBRA payments. Unfortunately, somewhere along the mystical way that this bill came to the floor, that bipartisan amendment got stripped out. So now you could be Madoff, I suppose, and get your COBRA paid for.

There is a recoupling provision in here on energy that I think is one of the most perverse things I have ever heard of; that if my constituents invest in energy conservation in their homes to reduce their energy consumption, which is good for the environment and good for their wallets, if you vote for this, you are going to vote to say the utility companies can raise their rates to make up the lost revenue. So this puts utility company revenues ahead of consumers in States, Massachusetts, Oregon, the other 48 States and the territories. You are going to encourage them on the one hand to conserve on energy, and on the other hand you are going to grant this new authority so the utility companies can raise their electricity or gas rates.

This is an enormous borrowing bill. This is making the Federal Government the next subprime lender. Why else is it for the first time I believe in our country's history there is now an insurance product available on U.S. securities? Why? Because people are starting around the world to say we are not so sure about America.

I am trying to figure out, and maybe the gentleman on the other side of the aisle can answer, who is going to loan us this money? Have we ever gone to the market for $2 trillion to $3 trillion?

The CHAIR. The Chair understands the gentleman from Michigan is the remaining speaker on this side. The gentleman from Wisconsin has the right to close.

Mr. CAMP. Mr. Chairman, we have one remaining speaker in addition to myself.

Mr. OBEY. Mr. Chairman, I have two remaining speakers on this side.

First, I would like to redesignate the time previously allocated to the Committee on Oversight and Government Reform to the gentlewoman from New Hampshire (Ms. SHEA-PORTER) of the Education and Labor Committee, 2 minutes.

Ms. SHEA-PORTER. Mr. Chairman, I rise today in strong support of the American Recovery and Reinvestment Act. This legislation is necessary to rebuild our economy. Like other States, my State of New Hampshire has been hit hard by the Nation's economic crisis. Our unemployment rate has risen, foreclosures have increased, and the State is facing a very serious budget shortfall.

Over the past few weeks, I have traveled throughout my district talking to local officials, business owners, and other constituents. In each meeting I have attended, the main theme is the same: infrastructure and jobs, infrastructure and jobs.

In Dover, we talked about the need to replace some of the water and sewer piping of a system that has been in existence since the late 19th century.

In Portsmouth, we discovered the need to invest in the water treatment plant to guarantee safe drinking water into the future.

In Manchester, the largest city in New Hampshire, I heard from the board of aldermen about the crucial need for transportation funding.

In North Conway, I heard from town officials whose projects were not only

necessary for public safety, but were forward-thinking, incorporating green energy technology.

The infrastructure investments in this bill are essential for the current and future health of our economy. We cannot fund every worthy project, but we will create and save jobs in New Hampshire and across the Nation.

I am very hopeful that these funds, like the investment that was made in Dover more than a century ago, will be used to make investments and infrastructure improvements that will leave real, meaningful and lasting results for our communities. After all, we are borrowing money, money that future generations of Americans will have to pay back. I hope that they will be able to see tangible benefits for their money.

So many Americans families are hurting. We must not only acknowledge their pain, we must help them recover. This package will help them recover. This package will help America recover. I urge my colleagues to support this bill.

Mr. CAMP. I yield 2 minutes to the gentleman from Tennessee (Mr. ROE).

Mr. ROE of Tennessee. Mr. Chairman, I rise in opposition to this enormous economic stimulus package. To put its size in perspective, one-tenth of 1 percent of the stimulus would solve Tennessee's State budget deficit.

To quote one of my favorite baseball philosophers, Yogi Berra, if you don't know where you're going, you might end up someplace else. I think with this bill we are going to end up someplace else.

We know that this spending is enormous. The question is, is it going to work? This past week the nonpartisan Congressional Budget Office cast doubt on whether this is going to be effective when it said only 7 percent of the plan's infrastructure spending would be spent by the end of the first fiscal year, and only 65 percent of the total package would be spent by 2010. I as a previous mayor support infrastructure spending.

Even more troubling for taxpayers is where their money is going. We were about to spend $50 million on the National Endowment of the Arts. Whatever one believes about spending taxpayer dollars on the arts, shouldn't we all be able to agree it should not be done when the country is facing a trillion dollar deficit and that it is not economic stimulus.

Until it was exposed, this so-called economic stimulus bill was spending millions on birth control.

People back in Tennessee are adapting to this troubling economic climate by tightening their belts and clamping down on unnecessary spending, and so they are understandably upset that the Federal Government's reaction is exactly the opposite. They are amazed that we preparing to spend an additional $825 billion of their money after a $700 billion bailout was spent without anybody being able to give a straight answer as to where the money went. They are skeptical of the results we are getting, and so am I. An economic stimulus project should fund projects that stimulate the economy, create jobs with long-term economic growth, not as a short-term fix.

Mr. CAMP. Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, the American people have been paying for the Republicans' party for the last 8 years. It is time now to get back to America's middle class. I rise in support of this economic recovery plan. It is a bold plan. It creates jobs and moves to long-term growth. We must act now to help a middle class hit hard by job insecurity, stagnant wages, rising health care costs, and a financial market in crisis. We have an urgent responsibility to invest wisely, target limited resources to proven initiatives that we know will boost employment, support economic growth, and provide critical relief.

That means expanding eligibility of the child tax credit by reducing the threshold from $12,000 to zero. Over 16 million children would benefit. It means child care, Head Start, a serious infusion of resources to No Child Left Behind, and IDEA, investing in our long-term growth so future generations can compete. There is $40 billion for infrastructure funding, transit funding, additional billions for water, housing and school projects to put Americans back to work at a time when we are facing staggering unemployment.

We need to put the resources in the hands of people most likely to spend them quickly. There is $100 billion in unemployment benefits and job training, $27 billion for rural development through health care, public safety services, and an additional $150 million for the Emergency Food Assistance Program, supporting food banks stretched thin by rising food prices and surging demands.

Anyone looking for immediate and significant impact need look no further than Food Stamps, which generate $1.73 in new economic activity for every dollar invested.

This bill provides $20 billion to increase the Food Stamp benefit which could reach 14 million households less than a month after the bill is enacted. Leading economists have said that increasing Food Stamps is one of the most efficient ways to prime the economy's pump, and it also helps part-time workers.

No investments are more critical than those we have to make in human capital. I urge my colleagues to support the bill.

Mr. CAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our economy is in a recession and we must act. The question, however, is what action do we take. The President has directly challenged us to put aside partisanship and find an American solution.

I was pleased to meet with the President today and ask about including new provisions in this bill. Frankly, what we saw from the President today was a greater effort to reach out to Republicans than we have seen from the House majority.

Mr. Chairman, the American people know we cannot spend our way to prosperity. What was once an $825 billion ''stimulus'' bill has now grown to be $1.1 trillion.

The American people know that adding $1.1 trillion to the deficit for new spending on old government programs will not create jobs. They know small businesses create jobs, not the Federal Government. And they know families can better manage their budgets than the Federal Government.

So as we go through this debate, we will point out some very simple facts about how effective Federal spending is versus tax cuts in creating real private sector job growth.

Just yesterday, the nonpartisan Congressional Budget Office released its review of the spending in the House Democrats' proposed ''economic stimulus'' legislation. This CBO review confirms what Republicans have been saying all along: the Democrat package won't stimulate the economy now when it needs it most.

The primary reason is, the Democrat plan relies too heavily on slow government spending initiatives, not tax cuts to do the job. As seen in the chart next to me, even the Democrat stimulus bill proves tax cuts impact families and the economy twice as fast as government spending.

CBO went on to say reductions in Federal taxes would have most of their effects in 2009 and 2010, but purchases of good and services, either directly or in the form of grants to States and local government, would take several years to complete.

Worse yet, CBO expects that the rate of spending in 2009 would be considerably slower than historical rates of spending, and many of the larger projects initiated would take up to 5 to 7 years to complete.

The bottom line is this, Mr. Chairman: The nonpartisan CBO confirms that tax cuts get more money into the hands of American families and our economy faster than government spending. The American people know that tax cuts are a better way to stimulate the economy than borrowing money from China just to increase Federal spending and raise the Federal deficit.

If the Speaker was interested in answering the President's call to reach a bipartisan American solution to this

crisis, she would work with Republicans to increase tax relief for every working American.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this has been in many ways a very sad debate. We face the prospect of economic collapse. We certainly face the worst economic crisis in our lifetime. We have been asked by the President to pass legislation that will try to put people back to work by repairing schools, by building roads, by developing modern energy grids, and by making broadband available to rural America. We have been asked to invest in science and technology to make our economy more efficient and more productive and more conducive to job growth. And we have been asked to invest money to make our health care system less costly and more efficient and more open to more people.

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We've also been asked to provide assistance to people who have lost their jobs through unemployment insurance, and by helping them to meet the cost of education, especially college.

And we've also been asked to take actions to help stabilize State and local budgets so that while we try to expand the economy at the national level we aren't shrinking the economy at the State level through unfortunate State tax increases or service cutbacks. That's what we're trying to do.

This is serious business. And yet when you look at much of the debate that we had today, you would think that we were playing a game of Trivial Pursuit. We've had at least 10 Members of this body on the other side of the aisle focus on the really big picture by complaining about the fact that there is a $50 million appropriation for the arts or, can you imagine, because we have the temerity to want to try to repair the Jefferson Monument to prevent the plaza on the Mall from sinking into the Tidal Basin. It is really sad, indeed.

I wonder why it's come to this. And then I recall a statement by a member of the House Republican leadership in which he advised his caucus members to deal with their minority status by behaving like a thousand mosquitos and apparently inflicting mosquito bites on the majority.

We've had a lot of Republican talk about bipartisanship, which was welcomed; but yet before President Obama even was able to appear before the Republican Caucus today we are told in newspaper stories that one of the key leaders in the Republican Caucus advised their Caucus even before the President came——

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 2 minutes.

And yet we're told that the Republican Caucus was advised to vote against this bill by one of their leaders.

I think the public will see through this. It doesn't matter much what we say to each other or how we talk to one another. It should, but apparently it doesn't. All I can say is we have a serious job before us. We have had many ideas expressed for many months, but the time for talk is over. We need to make decisions. And right now, like it or not, the only comprehensive package before us, the only balanced package before us is the one being brought to us in this bill today. And I would hope that tomorrow, when we vote on it, that there will be significant bipartisan support for that package. I don't know if I have any real expectations that will occur or not, but I would certainly like to think so.

Ms. JACKSON-LEE of Texas. Mr. Chair, I would like to address H. Res. 88, the rule providing for consideration of the "American Recovery and Reinvestment Act of 2009" and the bill itself. I believe the H. Res. 88 can be supported by every Member of the House.

Mr. Chair, just yesterday the Associated Press reported that tens of thousands of Americans will be losing their jobs. This news was on top of the 2.6 million jobs lost last year under the old Bush Administration. Some of the biggest names in industry have announced layoffs yesterday, from Sprint Nextel, Caterpillar, Home Depot, to GM, all of these companies have announced thousands of layoffs.

Experts believe that without intervention, unemployment will rise to 8.8 percent, the highest since 1983, and it is reported that the worst business conditions in greater than 20 years will exist.

The American Recovery and Reinvestment Act will result in infusing greater than $850 billion into America's ailing economy. With this economic recovery plan, there will be 4 million more jobs and an unemployment rate that will be 2 percentage points lower by the end of 2010. Moreover, H. Res. 88 provides for unprecedented accountability and transparency measures that are built into the legislation to help ensure that tax dollars are spent wisely. $550 billion is strategically targeted to priority investments; $275 billion in targeted tax cuts will also help spur economic recovery. All of these laudable aims are achieved without earmarks. This Act represents the culmination of priorities shared with the new Obama administration and is sure to help America's economy in the long term.

AMENDMENTS

I would have offered the following four amendments to the underlying bill, H.R. 1.

AMENDMENT 1

First, I would have offered several amendments that specifically addressed the issue of funding for parklands, either rural or urban in the bill. I would have made clear that the funding in the bill in Title VIII does not preclude the use of the funding "for the restoration, creation, or maintenance of local and community parks, including urban and rural parks."

The inclusion of such language would make eminently clear the Congress's intent to work on green spaces and the creation of green jobs in a new America. This is a priority already articulated by the present Obama administration and that would be appropriately mirrored here in this legislation.

AMENDMENT 2

Second, I would have offered an amendment that allowed local parks and recreation facilities to be provided with $125 million for construction, improvements, repair or replacement of facilities related to the revitalization of State and local parks and recreation facilities under the Land and Water Conservation Act Stateside Assistance Program, as amended (16 U.S.C. 4601(4)–(11)), except that such funds shall not be subject to the matching requirements in section 4601–89(c) of that Act:

URBAN PARKS

For construction, improvements, repair, or replacement of facilities related to the revitalization of urban parks and recreation facilities, $100 million is made available under the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), except that such funds shall not be subject to the matching requirements in section 2505(a) of the Act: Provided that the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 5 percent instead of the percentage specified in such section and such funds are to remain available until expended. Cities and counties meeting this criterion would have to include the required distress factors as part of their applications for funding.

AMENDMENT 3

The third amendment that I would have offered would have extended the special rule regarding contracting under this bill to all sections of the bill.

The special rule on contracting would provide that each local agency that received a grant or money under this Act shall ensure, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, women- and veteran-owned businesses, through full and open competition.

This amendment is important because it ensures that qualified bidders, including local, small, minority, women- and veteran-owned businesses, participate in the process through full and open competition. This would definitely create jobs and help these communities.

AMENDMENT 4

A fourth amendment that I would have offered would have conditioned the release of monies to the Department of Justice to prevent prosecutorial misconduct. Specifically, the language would have prevented the release of money to the Department of Justice unless the State did not fund any antidrug task forces for that fiscal year or the State had in effect State laws that ensured that:

(A) a person is not convicted of a drug offense unless the fact that a drug offense was committed, and the fact that the person that committed that offense, are each supported by separate pieces of evidence other than the eyewitness testimony of a law enforcement officer or an individual acting on behalf of a law enforcement officer; and

(B) a law enforcement officer does not participate in an anti-drug task force unless the

honesty and integrity of that officer is evaluated and found to be at an appropriately high level.

While I did not formally offer these amendments, I believe that their goals are no less aspirational and that these are indeed good ideas that should be included.

OBERSTAR AMENDMENTS

AMENDMENT 1

Mr. Chair, I support, and I urge my colleagues to support two amendments offered by Chairman OBERSTAR. First, I would urge my colleagues to support Chairman OBERSTAR'S amendment that any monies appropriated under Title XII be used within 90 days or the use of such funding will be forfeited. This so-called "Use or Lose It" amendment addresses the issue of job creation and the necessity that the Nation must act fast. It is believed that with the inclusion of this language entities will act without delay for fear of forfeiting access to much needed funds. These monies are critical for the renovation and improvement of the Nation's transportation and infrastructure and must be expeditiously used to ignite our transportation system across the Nation. This infusement of capital into the Nation's transportation and infrastructure will surely create jobs for Americans.

AMENDMENT 2

Similarly, I support Chairman OBERSTAR'S amendment that would authorize $9 billion for use for transportation and Infrastructure development, creation, and renovation in America. Frankly, I would support increasing the amount to $12 billion because the expansion of the Nation's transportation and infrastructure is critically important to the expansion of the economy and job creation. I urge my colleagues to support this second amendment offered by Chairman OBERSTAR as well.

Mr. Chair, given the exigency of the situation and the Nation's current economic crisis, I would urge this Committee and my colleagues to move this bill quickly to the floor and act without delay. The Nation is at a crossroads and is currently sitting in its nadir, as some pundits would argue, the Nation's economy needs to be infused with capital, critical infrastructure and development, and the American people need to employed with real jobs. H.R. 1 does this. It creates the development of infrastructure, provides Americans with jobs, and tries to correct the economy. I am hopeful that this bill will help alleviate the economic woes this country faces.

As the Obama Administration staked its campaign upon the idea of change and won, I believe that America is ready for a change. We are ready to be lifted from the doldrums of economic morass. We are ready for real change that puts America, its economy, its innovation, and entrepreneurial spirit back in its rightful place. I am hopeful and confident that H.R. 1 does just that and places America back in the spotlight as the sunbeam on the world stage. I strongly urge my colleagues to act quickly and support H. Res. 88 as vigorously as I do.

Mr. PRICE of North Carolina. Mr. Chair, I am pleased to rise in support of the package before the House today, which will help put our country on a steady path toward economic recovery.

I want to thank all of the committees that have worked to put this together, particularly the members of the Appropriations Committee and its hardworking staff. As Chairman of the Homeland Security Appropriations Subcommittee, I have tried to develop proposals Members can support with confidence that they will help get our economy moving while also making us safer.

We worked diligently to scrub this bill and to make sure that the provisions that we've included would create jobs and put our economy in a stronger position for the long haul.

The bill contains $1.1 billion in new homeland security investments. We estimate that this will not only directly create thousands of jobs, but will also contribute significantly to improving both security and efficiency at our ports of entry and airports. This funding will primarily accelerate critical investments that the House has repeatedly voted for.

The recovery package contains $500 million to buy and install Aviation Explosive Detection Systems and checkpoint screening systems in the Nation's airports, improving security while helping speed the flow of travelers through airports. A more efficient transportation system will help grease the skids of our Nation's commerce. Funds will be competitively awarded based on security risk.

$150 million is provided to replace and repair Customs and Border Protection-owned land ports of entry at the top 10 facilities. This will improve border security, facilitate travel and trade, and reduce wait times. Once again, it will stimulate commerce by improving the transport of goods.

The package also includes $150 million to enable the Coast Guard to alter or remove hazardous bridges and make marine navigation safer and more efficient.

$100 million is provided for non-intrusive inspection devices to enhance security at seaports. These new devices will replace aging cargo scanning systems to ensure that our security requirements do not interrupt the flow of commerce.

Lastly, this recovery package extends aid to those hit hardest by the recent economic crisis through FEMA's Emergency Food and Shelter Program. $200 million is included to help local community organizations provide food, shelter, and support services to the Nation's hungry, homeless, and people in economic crisis. This will provide, among other things, 1-month utility payments to prevent service cut-off, and 1-month rent or mortgage assistance to prevent evictions or to help people leave shelters. Funds will be distributed by formula based on unemployment and poverty rates.

This funding has been carefully reviewed to ensure it will help the most vulnerable among us, will create new jobs, can be obligated quickly, will make our country safer, and will help improve economic efficiency. I urge members to support these homeland security investments and to vote for this economic recovery package.

Mr. TOWNS. Mr. Chair, H.R. 1, the American Recovery and Reinvestment Act is a critical first step to beginning what will be a long process of recovering from our current economic crisis, the likes of which we have not seen since the Depression of the 1930s. I am proud to be an original cosponsor of this bill.

Our Nation has already lost 2 million jobs in the current recession, and is expected to lose another 3–5 million in the coming year. The bill before us targets priority investments in infrastructure, education, health care, and energy in an effort to forestall those job losses by creating or saving 3–4 million jobs.

While the need for this economic stimulus package is urgent, clear, and compelling, we must also make sure that the money is spent wisely, and that waste, fraud, and mismanagement of these funds is kept to an absolute minimum. That is why this bill includes provisions that will ensure an unparalleled level of oversight, transparency, and accountability.

Over the past few years, Oversight Committee investigations have uncovered waste and theft of government dollars on an unprecedented scale. Stacks of one-hundred-dollar bills were loaded onto cargo planes with forklifts and flown to Iraq—and nobody could say what happened to the money. Billions were spent on Katrina contracts, with little to show for it. When writing this bill, we worked with Chairman OBEY so waste and fraud is prevented from the beginning.

The bill will provide almost $210 million to agency Inspectors General and $25 million to the Government Accountability Office to ensure vigorous oversight of the programs and activities being funded through this bill. It will fund auditors and accountants, and more importantly, criminal investigators, to track the funds. The bill also creates a Recovery Act Accountability and Transparency Board to review management of the funds and provide early warnings of problems.

The bill requires an unprecedented level of transparency over the announcement and award of contracts and grants through a special Government Web site. Federal, State, and local officials will be required to post this information. Governors and mayors will have to certify that any investments funded with recovery act dollars are an appropriate use of tax dollars. It is often said that sunshine is the best disinfectant. This bill puts that sentiment to work in an extraordinarily rigorous way.

In addition, the bill makes clear that Federal contracts awarded using recovery act dollars must comply with the Federal acquisition regulation and that fixed-price, competitively awarded contracts are used to the greatest extent possible. This will ensure that the taxpayer gets the best bang for the buck.

Contractors and other non-Federal employees are also afforded whistleblower protections under this bill. This is critical, since they are often our first line of defense against wasteful spending.

Mr. Chair, this bill is essential to jump-starting our economy and providing sustained growth. But it does so in a way which will ensure unprecedented accountability and transparency. I urge all Members to support it.

Mr. LEVIN. Mr. Chair, there is a crisis of confidence in our country. Much of it related to the meltdown that has occurred within the financial system.

But there is also an uncertainty on the part of everyday people across this country about whether they will be able to maintain the basics in their lives. They wonder if the bottom is going to fall out from beneath their families.

People are worried about their jobs and whether they will be able to meet the mortgage payment. This bill contains funds to create jobs by building roads, sewers, a new

electric grid and other needed infrastructure. It also contains a tax cut for 95 percent of working Americans.

People are worried about whether they'll have health insurance for themselves and their families. This bill provides a 65 percent subsidy for COBRA health care coverage for unemployed workers. There is another provision that will allow people to qualify temporarily for Medicaid until they find another job or alternative health care. It is estimated that these two provisions will provide health insurance to more than 8 million people.

They are worried about the cutbacks they see happening in education and how it will affect their kids. And they wonder if they will be able to send their children to college. This bill contains funding for States and school districts to prevent deep cuts in critical education programs and modernize and repair schools. The bill also boosts Pell grants by $500 to make college more affordable.

As much as anything, people are wondering whether the Federal Government is going to take action to help them—or will the old political divisions keep this Congress from taking effective action to help people in their daily lives.

By passing this bill, we show that we will step up to the plate and help address these concerns. This bill is a first step. Other steps will be needed, but this recovery package is a good beginning. Vote for the bill.

Mr. STUPAK. Mr. Chair, I rise in support of the American Recovery and Reinvestment Act.

With unemployment at its highest level in nearly 30 years, millions of American are struggling to pay for basic necessities as food, housing and health care, it is clear Congress must act.

In my district, our manufacturers have been hit hard by the crisis in the auto industry; our tourism economy has taken a beating as fewer Americans can afford to take a vacation; mining and forestry are suffering as the demand and price for raw materials has plummeted.

Unemployment ranges from the national average of 7.2 percent in Menominee County to 19 percent in Mackinac County. The Congress must act.

This legislation is not perfect; it is not everything I would put into an economic recovery legislation. Still, the Congress must act and act without delay!

My staff and I have been contacted by dozens of local officials from across Northern Michigan who have identified more than $360 million in road, bridge, water infrastructure and construction projects that could help jump start their local economies.

I expect only a portion of these projects may be funded—but Congress must act.

While I have reservations about this legislation, Congress must act to invest in the Americans who need a helping hand, not a hand out.

Michigan's unemployment rate is at 10.6 percent. We must act to extend unemployment benefits to help 3.5 million Americans who have exhausted their benefits.

We must act to increase food stamps to help 31 million Americans, half of whom are children.

We must act to protect health insurance coverage for Americans who have lost their jobs and are one illness or sickness away from bankruptcy.

Mr. Chair, this bill is not perfect. But the needs of the millions of Americans struggling through this deep recession demands the U.S. Congress to act. We must act. I encourage all of my colleagues to join me in supporting the American Recovery and Reinvestment Act.

Mr. MEEK of Florida. Mr. Chair, I support the American Recovery and Reinvestment Act and the important first step it takes toward reinvigorating our faltering economy. The bill invests critical dollars in nearly all major industries and will create more than 4 million jobs by the fourth quarter of 2010.

Over 300,000 jobs will be saved in Florida alone, reducing unemployment by 2.4%.

The $102 billion investment in increased income support will go to those families who are feeling the strains of financial pressure the most, providing increases in unemployment benefits, food stamps and COBRA healthcare.

Floridians can expect to see over $29.8 million directed to Head Start, over $105 million directed to child care and development block grants, over $13 million for low-income energy assistance, over $15 million for elderly nutrition programs, and nearly $9 million aimed for preventative health services.

This will help us ensure that those who have fallen with the economy won't be beaten down, but are given the protection and help they need to get back up.

I am proud the bill provides $211 billion in aid to state and local governments for vital services such as public education and law enforcement.

My own state of Florida is grappling with significant fiscal problems, due in large part to our foreclosure crisis, which has resulted in shrinking tax revenue, declining property values and slow retail sales.

I know that this federal aid to state and local governments will help fill in the gaps, ensuring our children get the educational support they need to compete on the global market. The bill provides over $654 million for grades K–12 and over $306 million for higher education institutions to modernize, maintain and repair their facilities in Florida.

The inclusion of the repeal of the 3% tax withholding on payments made to vendors by government entities will also help stimulate our economy, relieving small business and local governments from this unfair and burdensome requirement. Tax cuts in the stimulus plan will help those with the lowest incomes save more of their hard earned dollars.

In Florida this means those from the lowest end of the scale to those with middle incomes will see their taxes cut by more than 20% in 2009.

I am also pleased that the bill uses this opportunity to look forward, investing in clean and renewable energy and green infrastructure, to create jobs, reduce pollution and help to bring us to a clean energy future.

Mr. Chair, I support this bill and urge its passage.

Mr. KENNEDY. Mr. Chair, I rise today to state for the record the intent of the legislative language in the Special Rules section H.R. 1—American Recovery and Reinvestment Act of 2009, Title V—Medicaid Provisions, Section 5001, subsection (f) STATE INELIGIBILITY AND LIMITATION.

The intent of this language is to ensure that states which had laws directing reduced eligibility in their state plan or waiver on or before July 1, 2008, not be deemed ineligible to receive the increased FMAP that this bill provides, due to subsequent delays when implementing those provisions. It was the case in Rhode Island that as of July 1, 2008, state law directed and authorized the reduction of eligibility in one group of beneficiaries. These provisions were not finalized and fully effective until October 1, 2008 due to a delay in the implementation of a new extension period for the waiver. The language in this special rule allows states which encountered similar delays to remain eligible for an enhanced FMAP in this Recovery and Reinvestment Act.

Mrs. CHRISTENSEN. Mr. Chair, I want to thank Chairmen WAXMAN, OBEY and RANGEL, for their leadership and to thank all of the Ranking Members, Committee Members and Staff for this successful effort to bring the American Recovery and Reinvestment Act of 2009 to the floor today so that we may deliver it on schedule to the President's desk. This bill, H.R. 1, will not only stimulate our economy, but will also do much to heal our Nation.

As our president has promised, this bill provides an immediate investment that will create jobs, but also does so with a look to the future so that the jobs created, the infrastructure built, the stronger healthcare system created, the technology that is expanded and the training and education that is improved, not only provides jobs for today but also those we need tomorrow. H.R. 1 will lay a strong foundation upon which to create a more stable and vital economy and will actually create savings in the future.

I am proud to support this bill for the very reason some on purely political reasons oppose it.

I support it because it begins to move our country in a new and better direction—one which once again supports children and working families and begins to lift Americans out of poverty and to expand access to quality, comprehensive and culturally and linguistically appropriate healthcare to everyone regardless of race, ethnicity, gender or geography.

As a physician and as the Chair of the CBC Health Braintrust, I am pleased that this legislation makes the sound and much-needed health and health care investments that many of us have been fighting for over the past eight years.

This bill not only invests needed resources into Medicaid, with increases for the Territories, it extends the period of COBRA coverage to help Americans who have lost their jobs keep their health care coverage and increases FMAP to bolster state economic recovery efforts, but it also begins to modernize our health care system through the widespread implementation of health information technology.

In H.R. 1 we finally begin to make prevention the priority it needs to be—with 3 billion dollars going into a prevention and wellness fund, 1.5 billion dollars going into modernizing and expanding health care services in community health centers and we finally invest in the diversification and expansion of our Nation's health workforce, increasing the number of primary care physicians, nurses and other health care personnel.

Ms. NORTON. Mr. Chair, I rise today to applaud a particular section of the stimulus package that will have a profound impact on the citizens of the District of Columbia. The hundreds of millions of dollars in AIDS/HIV testing and prevention contained in the legislation before us will assist an amazing organization in the District called the Whitman Walker Clinic. When it is time to award these funds, I strongly urge the Secretary of HHS and the Director of the CDC to look favorably upon the Clinic's application.

The District of Columbia is facing an HIV/AIDS epidemic of untold proportions. It is estimated that 1 in 20 citizens of the District now have HIV or AIDS. This is one of the highest incidences in the Country if not the highest compared to other major metropolitan areas.

The Whitman-Walker Clinic (WWC), a comprehensive primary care clinic with centers of excellence in HIV/AIDS care and Lesbian, Gay, Bisexual and Transgender (LGBT) health care, has been providing healthcare and supportive services to residents of the District of Columbia for 30 years. WWC is one of the largest nongovernmental HIV/AIDS medical and service organizations in the metropolitan Washington area. The Clinic provides a full spectrum of medical and support services to patients residing in the District of Columbia metropolitan area through its two District of Columbia sites: Elizabeth Taylor Medical Center (ETMC) and Max Robinson Center (MRC).

The overall aim of WWC HIV/AIDS services is to improve health outcomes of persons living with HIV/AIDS (PLWHA) by providing clients with comprehensive and coordinated primary medical care; dental care; HIV/AIDS specialty care; medical adherence case management; mental health and addictions counseling and treatment; HIV education, prevention, and testing; support groups; nutrition counseling; legal services; and day treatment programs. The Clinic offers a comprehensive continuum of HIV/AIDS-related medical, behavioral health, and social services through our ''one-stop-shop'' approach to service delivery where all client services are available and integrated at a single location at each of our sites. The WWC ''one-stop shop'' approach combined with a newly implemented Electronic Health Record (EHR) enhances and ensures coordinated treatment, continuity of care, confidentiality, and elimination of duplication of effort and/or services. The co-location also allows better and more efficient access to services for clients.

Among the many recent accomplishments of the Clinic are the four key new services which advance care for HIV patients: (1) the addition of an electronic health record (EHR) system; (2) the establishment of the Medical Adherence Case Management Department; (3) implementing the Public Benefits Department; (4) and implementing a new visit type: the ''Rapid HIV'' visit.

(1). The Electronic Health Record: WWC implemented an electronic health record system, ''eClinicalWorks,'' in order to achieve significant clinical and operational efficiencies that are needed to support a high quality client/physician encounter. WWC EHR allows for a complete multidisciplinary approach to health care. All clients of WWC are established in our electronic health record (EHR) system in order to track progress in an organized and efficient manner. This allows physicians, mental health practitioners, nurse case managers, and other providers to coordinate the care of that client, exchange information, and communicate with each other in an efficient and trackable manner. When we receive information from an outside health service, that information is scanned into the patient's Clinic-based EHR. Similarly, when we send out information to an external provider, a note is made in the EHR as to the nature of the communication.

(2). Medical Adherence Case Management Department: The Medical Adherence unit consists of Medical Adherence Case Managers and Medical Adherence Care Coordinators. The Medical Adherence Case Managers, all of whom are RNs, provide the following: barriers to care assessment, care planning, disease process education, medication/treatment management support, 24-hour support via pager and pillbox initiation. The Medical Adherence Care Coordinators provide support by addressing clients who no-show as well as: prescription refill reports and followup, home visits, accompaniment to medical appointments, social services as they relate to barriers to care (like emergency financial assistance clinics, housing clinics, access to food and transportation) and other elements as they relate to life skills for managing a healthy lifestyle. This unit provides an immediate point of care for our new clients, establishing the relationship from the minute they walk in the door, or receive an HIV positive test result. WWC recognizes that for many of our clients, access to food and transportation can be a huge barrier to maintaining their medical care. Each staff person in Medical Adherence will be trained in accessing resources available to assist clients in these areas. The Medical Adherence Department also employs two full-time referral coordinators who assist patients in securing specialty and subspecialty appointments. For HIV-positive patients, the Medical Adherence staff members, in conjunction with our physician providers, pay close attention to identifying those patients at risk of failing their treatment regimens.

(3). Public Benefits Department: As of October 1, 2008, all WWC clients receive eligibility screening for public and private insurance through our recently established Public Benefits department. This screening and support service ensures that clients are able to identify and apply for public insurance programs for which they qualify. By thoroughly assisting clients in securing insurance, it also ensures that Ryan White funds remain the payor of last resort. Public Benefits Coordinators meet with all new HIV clients soon after they test positive at the Clinic or seek care at the Clinic as a new patient with previously diagnosed HIV. Potential patients will be asked to bring in proof of residency and income. Public Benefits Coordinators then assist potential patients in determining for what insurance programs they are eligible and provide assistance in applying for benefits. Public Benefits Coordinators, most of whom are bilingual (English/Spanish), work closely with medical providers and the Medical Adherence Case Management department to help clients overcome barriers such as a medication they cannot afford, lack of insurance, denial of a service by their public insurance, all to ensure easy access to the services that they need. They guide clients through every step of the process necessary to eliminating barriers to care related to payor source. Most of the D.C. patients seen by WWC are ultimately deemed eligible for payor programs such as Medicaid and DC Alliance.

(4). The ''Rapid HIV Visit'': The development of a ''Rapid HIV'' appointment type has allowed the Clinic to retain new HIV clients in care. Through this system, all new HIV clients are seen by the Medical Adherence Nurse Case Management team as well as by their primary medical provider on the same day they test positive in one of our facilities or seek care at WWC for their previously diagnosed HIV. Medical Adherence Nurse Case Managers triage all new HIV clients and initiate their care at WWC. WWC reserves several ''Rapid HIV'' visits with providers for new HIV clients each day. Therefore, new HIV patients are almost always able to meet with a provider the same day they test positive or present to the Clinic as a new HIV patient. Medical Adherence Case Managers provide post-testing counseling and ''HIV 101'' education to help patients understand their new diagnosis and navigate their treatment options. For new patients, providers take a full history, screen for mental health and/or substance abuse issues, order HIV and other labs, and assess immunization and tuberculosis status. Patients will also be given the opportunity to meet with the Public Benefits Coordinators on that same day as well.

The Clinic offers expanded hours to accommodate clients who need services outside of the traditional work day. ETMC hours are Monday through Thursday from 8 am to 8 pm and Friday from 8 am to 5 pm. MRC hours are Monday and Tuesday from 8 am to 8 pm and Wednesday, Thursday, and Friday from 8 am to 5 pm. In addition to extended site hours, the Clinic provides an afterhours on-call nursing line pager with physician back-up for medical clients who may be experiencing a nonemergency problem or need medical advice.

WWC clinics are well situated, geographically, to provide services to underserved communities, including Blacks, recent immigrants, Latino/as, and men who have sex with men (MSM). Services at both sites are fully handicapped accessible and conveniently located on the Metro and bus lines. ETMC is located in Ward 2 near the U-Street corridor, serves an area of the city concentrated with Latinos, African Americans, MSM, and where a significant number of people live below the poverty line. MRC is located in Ward 8, serves residents of Wards 6, 7, and 8, and residents east of the Anacostia River. Located in one of the city's poorest neighborhoods, MRC is well positioned to outreach and serve residents in Southeast, D.C., which is the area currently hardest hit by the AIDS epidemic. WWC's MRC location facilitates access to difficult to reach populations, such as IDUs, women with children, and sex workers.

The funding that is made available in this legislation will help give the necessary tools to the staff and volunteers of the Whitman-Walker Clinic. I am told that the Clinic has major renovation and infrastructure needs as well. Funding awarded by the Secretary of HHS and the Director of the CDC will go a long way

to help identify and treat HIV/AIDs in the Nation's capital. Again, I am thankful that this money is contained in this package and I respectfully urge a favorable ruling on the Whitman-Walker's application for funding.

Mr. HARE. Mr. Chair, I rise in strong support of H.R. 1, the American Recovery and Reinvestment Act of 2009.

One week ago, President Obama called for bold and swift action to address the worst economic crisis since the Great Depression. Millions of jobs have been lost, homes have been foreclosed, and families have been stretched to the limit. We must act now.

I join my colleagues to give the American people hope that better days are ahead. The American Recovery and Reinvestment Act is a downpayment on the investment of our future. It is the first vital step in an intensive effort to reinvigorate our economy by focusing on JOBS, JOBS, JOBS.

This bill will save and create three to four million jobs by immediately putting people to work rebuilding our neglected roads and bridges. Further, the legislation confronts our 21st Century energy challenges by combating climate change and creating good-paying green jobs that cannot be outsourced. The bill also provides funding for education to ensure that every American has the ability to compete with any foreign worker in the new global economy.

Additionally, the measure provides relief for those who lost their jobs and will help struggling families make ends meet while the economy recovers. In fact, if we do not pass this legislation the unemployment rate is expected to explode to a staggering 12 percent.

This legislation must pass if we are to overcome the economic crisis. I urge my colleagues to vote yes on the American Recovery and Reinvestment Act.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. JACKSON-LEE of Texas) having assumed the chair, Mr. TIERNEY, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. OBEY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1.

And while I'm at it, I want to express my understanding that apparently an ice storm is on the way, and I appreciate the cooperation we've had from both sides of the aisle in ending this debate a mite early so that people can get to their homes before the ice storm hits.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

DTV DELAY ACT

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 328) to postpone the DTV transition date, as amended.

The Clerk read the title of the Senate bill.

The text of the amendment is as follows:

Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(c) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(b) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(c) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

(d) CONDITION OF MODIFICATIONS.—The amendments made by this section shall not take effect until the enactment of additional budget authority after the date of enactment of this Act to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act, including section 90.545 of the Commission's rules (47 C.F.R. § 90.545).

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. BOUCHER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the legislation now pending.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today we take a highly regrettable, but necessary, step and delay the date for the digital television transition from the currently scheduled February 17 until June 12. With this delay, and the additional funding for the program which the stimulus measure will provide, we can assure a smooth transition and avoid the disruption and the loss of television service by millions of American homes that otherwise would occur.

Yesterday, the Nielsen service that surveys and reports on television viewing in America reported that more than 6 million American households that have over-the-air dependent analog television sets are completely unprepared for the transition. Those homes will lose service if analog broadcast ends on February 17. These 6 million homes do not have cable or satellite subscriptions, they depend on the use of rabbit ears or outdoor antennas in order to receive television service delivered over the air.

More than 3 million applications for converter box coupons are currently pending at the NTIA, and the program is currently out of funds. These 3 million pending coupons, therefore, cannot be honored.

It's truly unfortunate that the situation that we now confront was completely avoidable, but previous action to avoid it simply was not taken. Many of us warned years ago, when the legislation setting the February 17 DTV transition date passed, that the $1.34 billion set aside for the coupon program for converter boxes was not sufficient. We pointed out that there are 70 million analog television sets in service in the U.S. that are over-the-air dependent. These television sets receive their television signals through the use of rabbit ears or outdoor antennas. The $1.34 billion finances converter boxes for less than one half that number. It simply was not realistic to assume that more than one-half of these 70 million sets would simply be discarded.

The decision was consciously made at the outset that only $1.34 billion in revenues from the 700 megahertz auction—which itself derived more than $20 billion in revenues—would be expended in order to ease this transition and assure that people do have over-the-air dependent analog sets could get some assistance in purchasing converter boxes. At the time, we were requesting a higher number. We suggested that approximately $2.3 billion was what was needed. And we now know that that number is closer to the mark of what the actual need is.

Beyond the problem of converter boxes and inadequate funding to finance the coupons for them, the call centers that the Federal Communications Commission is charged with operating under the statute in order to answer inquiries from people who have problems with the transition—connecting their converter boxes, or doing other things like adjusting their antenna in order to receive a digital signal—are today understaffed. These call centers do not have enough personnel to answer the many calls that are coming into the centers at the present time. And that call volume will only increase as the transition date approaches and occurs. They are understaffed today. They will be more understaffed unless additional resources are provided and time is provided for appropriate staffing.

And so today we have no alternative but to delay the transition date and provide in the stimulus measure the funding that should have been allocated for this program years ago. I regret the disadvantage that this delay will cause for the first responders and the public service agencies across the country that are awaiting access to portions of the 700 megahertz spectrum now occupied by analog broadcasting which will be vacated when analog broadcasting ends. These first responders have been counting on receiving that spectrum in order to have fully interoperable national communications first responder agency to first responder agency, and that is a clear need. Their portion of the spectrum now will not become available until June 12 under the terms of this bill.

But I would suggest, Mr. Speaker, that a far greater public service concern is allowing this transition to go forward at a time when 6 million households will be completely unprepared for it. People rely upon over-the-air television in order to receive vital safety information, information about natural disasters that can affect that individual in that home; and that information is vital to enable people to prepare. Yes, we are going to delay the arrival of this spectrum by 4 months for public safety agencies. But the far greater public safety concern lies in not taking this step.

And I would note that the legislation we are proposing tonight has been endorsed by a variety of public service agencies that are saying today that it is important that this delay occur, and specifically, that is the International Association of Chiefs of Police, the Association of Public Safety Communications Officials—and these are the individuals directly responsible within these first responder agencies for their communications equipment—and also the International Association of Fire Chiefs.

I also, Mr. Speaker, regret the disadvantage of this delay for the commercial wireless service providers who bought their portion of the analog spectrum for approximately $20 billion. But I would note, Mr. Speaker, that AT&T and Verizon, the companies that purchased most of the spectrum and contributed most of that $20 billion, have endorsed the legislation that is pending tonight and have said that this delay is appropriate.

I also regret the added cost that will be imposed on the TV broadcasters who had planned to turn off their analog transmitters on February 17 and now will incur higher than expected electricity and transmitter maintenance costs until June of this year, but at this juncture we simply have no choice.

I rise in support of the bill before the House tonight and ask Members to give their approval. The measure before us was approved last night in the Senate, and that vote was unanimous. It actually passed by unanimous consent, meaning that every Member of the Senate had an opportunity to object, and not one Senator raised an objection to this measure.

In addition to changing the transition date to June 12, the bill directs that coupons for converter boxes be sent by first class mail rather than the third class mail currently used by NTIA for delivery. The bill makes eligible for new coupons households whose previously issued coupons have expired. That's an important new provision. Many homes requested coupons some time ago and did not redeem them within their stated life.

The bill allows television stations to turn off analog broadcasts before June 12 in markets deemed by the FCC to be transition ready. And we fully anticipate that the FCC will be very flexible in applying this provision and will actually allow the transition to occur in markets prior to the 30-day period that current FCC regulations suggest the applications must pend before they're acted upon. We think a shorter time period for this would be appropriate.

□ 2030

The bill also requires NTIA to provide a monthly report to the Congress from this time forward on the progress with the coupon program.

One final word, Mr. Speaker, before I reserve the balance of my time. Another delay in the digital transition beyond the one contained in this bill tonight will simply not occur. I will

strongly oppose any effort to delay the transition beyond June 12, and I strongly discourage anyone from requesting that another delay be provided. This delay is a one-time occurrence taking place for predictable but extraordinary reasons, and no additional delay will be considered in our committee.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, before I begin my remarks on the issue, I want to extend my personal heartfelt condolences to my good friend Mr. BOUCHER, the passing of his mother.

We feel strongly for you in your loss, and our prayers are with you as you undergo that transition.

Mr. Speaker, I rise in strong opposition to Senate 328. It's a solution looking for a problem.

We have had on the books since 1996 a requirement that at some point in time, the United States telecommunication network in terms of television broadcast transits from analog to digital. Under the old law, that transition was supposed to occur when 85 percent of the households in America had the ability to receive a digital signal.

Three years ago in the Budget Reconciliation Act, we changed that to give a hard date of February 17, 2009. If we had not had changed the law, we would have already undergone the transition because 95 percent of America's households now can receive a digital television signal. But the legislation that we passed three years ago put a hard date to create certainty of February 17, 2009.

Now, we know that there are some problems in the transition. Until several weeks ago, we were working collectively, collaboratively with our friends in the majority to move a bill that would tweak the accounting or provide an additional $250 million not in appropriations but in authorization for the coupon program that Mr. BOUCHER has spoken about. Then the Obama transition team, in their infinite wisdom, decided that they wanted a delay, and as far as I can tell, and I could be corrected on this, they didn't consult with any of our legislative experts on either side of the aisle in either body, the House or the Senate. They just sent up a letter or a message to the majority side that they wanted this delay, and those discussions that we had on a bipartisan basis broke down.

We could do nothing worse than to delay this date. Now, I will admit that I am pleased to note that we now know that the perfect date is June 12. I wish I had known that 3 years ago when I was chairman of the committee working on this. If I had known that June 12 was the perfect date, we might have agreed with it. But we didn't know that. So we chose February 17, which was after the Super Bowl but before the Masters and before March Madness in NCAA. That's kind of where we picked this February 17 date.

I respect totally my friend from Virginia and his facts and figures. He's one of the most well-informed Members of this body. But on the number of households that are not yet ready, the number of over-the-air households who don't have satellite and don't have cable is less than 1 million. We think it's about 800,000. And all the other households are ready to go.

And if you're a true conservative, you could argue that there shouldn't be any coupon redemption program, that people should pay out of their pockets.

Now, I have a confession to make, Mr. Speaker. I'm one of those consumers who's not yet ready. It's not because I don't know the transition's not upon us. It's not because I don't want to be ready. It's because I just haven't got around to it. And I, quite frankly, have the means that if I need to, I can pay $40 out of my own pocket to buy a converter box.

The SPEAKER pro tempore (Mr. PERRIELLO). The time of the gentleman has expired.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 1 additional minute.

But when we were negotiating this with our friends that were then in the minority, now in the majority 3 years ago, they felt like we should defray the cost of these converter boxes. They also felt like we shouldn't means test it so that a billionaire, if they wanted to, could get a coupon. So we've actually sent out 13½ million coupons for 14 million over-the-air households that don't have satellite or cable. My guess is that most of the households that don't have these coupons are households like me, that for whatever reason they have chosen, they don't want to burden the government, they just don't feel like they want the hassle of asking for the coupon, whatever. I guarantee you no matter when you set the date, February 17, June 12, July the 4th, Valentine's Day, there are going to be some people that aren't ready.

We need to keep this hard date. We need to defeat this bill under suspension. We need to let the February 17 date go forward, Mr. Speaker.

Mr. BOUCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to thank my good friend from Texas, the ranking member of our Energy and Commerce Committee (Mr. BARTON) for his kind remarks acknowledging the loss that my family has recently suffered. I've been away for 3 weeks. This is actually my first day back, and his kind remarks both here and in the markup session before our Energy and Commerce Committee are deeply appreciated.

I would say, in response to the gentleman's suggestion, that the real number of households that would lose television service completely if this transition occurs on February 17 is 6 million. It is not the lower number that the gentleman suggested of somewhere between, I think he said, 750,000 and 1 million. And that 6 million number is not mine. That number comes from the Nielsen service. And the Nielsen company is perhaps, well, I don't want to say the most widely respected. I don't know that for a fact. But it is a widely respected national reporting service.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOUCHER. Mr. Speaker, I yield myself 1 additional minute.

It is a widely respected national reporting service that surveys television viewing habits in America. And it is based on the surveys done by the Nielsen service that, for example, television commercial rates can be set. There's that level of confidence in the reporting that Nielsen does. And Nielsen has just reported that the number of homes that are unprepared constitute fully 5.7 percent of all U.S. households; yet the actual number is 6.5 million homes, and these are homes that do not have cable or satellite connections. These homes are completely dependent on rabbit ears or outdoor antennas and receive over the air only television. These are the number of families that would lose reception if the transition takes place as scheduled in 3 weeks' time.

I don't want to delay this transition any more than the gentleman from Texas, and the last thing I wanted to be doing this week was to be here on the floor advocating a delay, but we simply have no choice. We can't permit the level of dislocation that otherwise would occur to take place.

So I do support the legislation. I think it is necessary. I think these are the best numbers that we're going to have available to us in determining how many households are truly unprepared.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 3 minutes to the ranking member of the Telecommunications Subcommittee of the Energy and Commerce Committee, the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. I thank my distinguished chairman, and I also give Mr. BOUCHER my condolences and sympathy on the death of his mother.

I rise in strong opposition to this bill. And I want to tell my colleagues that I had the opportunity to ask President Barack Obama a question 3 hours ago on this very debate. And I asked him, I said, Mr. President, in light of the fact that you have a stimulus package that you're pushing and you want to create more jobs, then certainly broadband and digital television

and third and fourth generation wireless will do just that. And he agreed. And I said, Then why would you want to delay the transition when we have spent all this money, billions of dollars, to publicize the date? We're going to waste all this time and money, and it's going to create a hardship for the broadcasters and so many other people. We should go ahead with this transition.

He said, Well, well.

I said, Now, if it's a question of money, Secretary Gutierrez sent a letter last year indicating $250 million would take care of anything; so it's not a question of money.

So the President said, Well, I agree with you, it's not a question of money, but it appears to be some kind of administrative or accounting problem that we need to fix.

Well, I said to the President, I said, Mr. President, we had a demonstration project in Wilmington, North Carolina, in which we had a transition, and it turns out almost 99 percent of the people were satisfied. So the demonstration project in Wilmington, North Carolina, showed that we could transition back in September in Wilmington. Surely, we can transition February 17 in the United States.

I liken this to a football stadium. Just bear we with me for this metaphor, this example. Let's say you have a large stadium with 90,000 people in it, and it actually takes 92,000 people. Well, it turns out at the front door, the door is locked. By chance a nail is caught in the door, and there are 2,000 people, just 2,000 people out there that can't get into this championship game. And the coin is tossed, they're ready to go, the lights are there, the televisions are going, everybody's roaring, they're waiting for the kickoff; and suddenly they say we've got to stop the game because these very few people, maybe 1 percent, maybe 1½ percent, can't get in the stadium; so we're going to stop the whole game because of those people. And that's what we have here. That is the analogy. We're delaying legislation on a very, very small amount. And, frankly, the demonstration in Wilmington, North Carolina, showed that we are ready to go.

Mr. Obama has made it a priority to make the government work for the people. So now in his first decision in his administration and this Congress, we're saying delay, delay, delay. We're going to delay and put a placeholder on this, and then the consumer is going to have to hold off. And by delaying 115 days, we are sending, I think, the wrong message to the people who are trying to put this in place.

So if you look at the players on the field, they're ready to go. All the stakeholders are ready to go. I urge you to defeat this.

Mr. BOUCHER. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to a distinguished member of the full committee and the subcommittee, the gentleman from Illinois (Mr. SHIMKUS).

□ 2045

Mr. SHIMKUS. Mr. Speaker, I too want to congratulate Chairman Boucher on his ascension to the Telecommunications Subcommittee. We have had a great working relationship, I look forward to doing it again.

But this is bad policy, and I am sad that you are the one who has to come and try to pawn it off on the American people.

Chairman DINGELL always used to talk about the takings clause, passing litigation and then the aspect of litigation. We have auctioned spectrum off. We have got small broadcasters who have people lined up to climb the towers, to do the transition, and we are saying, stop.

I know what I have done in my district. I have been working for 8 months with public service announcements, going to senior centers, newsletters, I have done about everything a Member can do to educate my individuals.

What I did today was I asked when was income tax day enacted into law, 1955. Everyone knows April 15 is the day you pay your taxes. Guess how many people we had not pay their taxes on April 15 last year, 12 million people, advertised, historic, annual.

The reason why we have this provision is because of the 9/11 Commission, the ability for the spectrum to be released for first-line responders to develop interoperability. Woe be it to us, Mr. BARTON, woe be it to us, Chairman BOUCHER, and we have another national catastrophe in these next months and we have failed to enact interoperability and released the spectrum to first-line responders so they can communicate with each other.

Mr. BOUCHER. Mr. Speaker, I yield to myself 2 minutes.

I appreciate very much the always eloquently expressed thoughts of my friend from Illinois.

Let me say in response that this legislation has been endorsed by some of the same groups that I have concern about and that the gentleman has also expressed concern about. Yes, it is true that the 700 megahertz spectrum, large portions of it, were auctioned for commercial services and purchased. The two largest purchasers of that spectrum were AT&T and Verizon, and we have endorsements from both AT&T and Verizon for the legislation delaying this transition.

It is true that other portions of the spectrum will eventually go to the first-responder community. And I am concerned about that community. We have a clear need to deploy fully interoperable telecommunications on a nationwide basis so that a fire department from one community can talk to a fire department or rescue squad or law enforcement agency from another community when they all converge on an event somewhere. Today we sadly don't have that capability, at least not fully deployed, and making the spectrum available will enable that to happen, and I am concerned about the delay.

But I would note that this delay has been endorsed for necessary and sufficient reason by the International Association of Chiefs of Police, by the Association of Public-Safety Communications Officials, who are responsible for their telecommunications equipment, and by the International Association of Fire Chiefs. And so the very people about whom we are concerned have said this delay is okay.

It is the last thing that I wanted to have to do, but we literally, at this point, have no choice.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOUCHER. Mr. Speaker, I yield myself an additional 30 seconds.

I would like to include this report from the Nielsen Company indicating that 6.5 million American households will lose television service completely because they don't have cable or satellite service and are simply not ready if the transition occurs on February 17.

[From nielsenmedia.com, Jan. 22, 2009]

5.7% OF U.S. HOUSEHOLDS STILL UNPREPARED FOR THE SWITCH TO DIGITAL TELEVISION

NEW YORK, NY.—More than 6.5 million U.S. households—or 5.7 percent of all homes—are not ready for the upcoming transition to all-digital broadcasting and would be unable to receive any television programming at all if the transition occurred today, The Nielsen Company reported today. This is an improvement of more than 1.3 million homes since Nielsen reported readiness status at the end of December.

TABLE 1.—PERCENTAGE OF HOUSEHOLDS THAT ARE COMPLETELY UNREADY FOR THE DIGITAL TRANSITION

Preparedness as of:	Overall	White	African-American	Hispanic	Asian	Under age 35	Over age 55
Jan. 18, 2009	5.7	4.6	9.9	9.7	6.9	8.8	4.0
Dec. 21, 2008	6.8	5.6	10.8	11.5	8.1	9.9	5.2

Source: The Nielsen Company.

Under government-mandated action, all television stations are required to switch to digital programming by February 17, 2009, which will leave viewers without a television signal unless they purchase digital television sets, connect to cable, satellite, and alternate delivery systems or purchase a converter box.

Nielsen is making these estimates available as a public service to the television industry, government policy-makers and local communities. This information is based on the same national and local television ratings samples that are used to generate national and local television ratings. To conduct the survey, Nielsen representatives observed and tabulated the actual televisions used in its samples. Because Nielsen has developed samples that reflect the total U.S. population including African American and Hispanic populations, these household characteristics in the samples can be projected to the whole country.

''Nielsen has been preparing for the transition to digital television for more than two years,'' said Nielsen Vice Chair Susan Whiting. ''Because we recognize that accurate and reliable information on consumer behavior is essential to this transition, we've been sharing our data with clients, government leaders and the public so they could track progress to digital readiness.''

''There are still millions of people who will be adversely affected because they are not ready for the digital transition. So it's critical that we provide them with the information and resources they need to stay connected with the world,'' said Ernest W. Bromley, Nielsen Hispanic/Latino Advisory Council (HLAC).

''Nielsen has played a key role in reaching out to our underserved communities and helping them understand what needs to be done,'' said Nita Song, Nielsen Asian Pacific American Advisory Council (APAAC).

''It is imperative that we operate at an accelerated pace to educate those who are at the greatest risk of losing their television service—low-income households, large numbers of senior, minority and disabled viewers. These viewers rely on traditional television the most and can least afford to lose their television lifelines. We have a responsibility to make sure that these groups whether in our families, churches or communities are equipped and ready for this transition,'' said Cynthia Perkins-Roberts, Nielsen African American Advisory Council (AAAC).

LOCAL MARKET RANKINGS

Among the 56 local markets that Nielsen measures with electronic meters, the one that is least ready is Albuquerque-Santa Fe, with 12.4% of the households completely unready. The most prepared market is Hartford & New Haven, with only 1.8% of homes unready.

TABLE 2.—LEAST PREPARED LOCAL METERED MARKETS BASED ON PERCENTAGE OF HOUSEHOLDS CURRENTLY UNPREPARED FOR DIGITAL CONVERSION

	Percent		
	Completely ready	Partially ready	Completely unready
National people meter sample	85.08	9.24	5.68
Local metered samples	82.31	12.36	5.33
Albuquerque-Santa Fe	81.29	6.47	12.24
Dallas-Ft. Worth	77.39	12.40	10.21
Houston	72.63	17.42	9.95
Tulsa	76.50	13.97	9.53
Portland, OR	80.85	10.08	9.08
Salt Lake City	81.58	9.85	8.58
Memphis	73.31	18.16	8.53
Austin	80.73	10.82	8.45
Los Angeles	82.54	9.80	7.66
Sacramento-Stkton-Modesto	77.04	15.63	7.33
Phoenix (Prescott)	77.82	14.87	7.31
Jacksonville	80.89	12.09	7.02
Dayton	75.14	17.98	6.88
Greenvll-Spart-Ashevll-And	84.94	8.37	6.69
Indianapolis	72.71	20.76	6.53
Milwaukee	73.94	19.63	6.43
San Antonio	77.19	16.61	6.20
Richmond-Petersburg	77.04	16.83	6.13
San Diego	84.42	9.64	5.94
Cleveland-Akron (Canton)	81.86	12.22	5.91
Minneapolis-St. Paul	78.21	15.94	5.85
Kansas City	75.88	18.37	5.75
Seattle-Tacoma	85.18	9.16	5.67
Miami-Ft. Lauderdale	83.11	11.41	5.47
St. Louis	79.72	15.02	5.26
Cincinnati	72.62	22.17	5.21
San Francisco-Oak-San Jose	89.45	5.35	5.20
Chicago	82.00	12.82	5.18
Las Vegas	81.79	13.04	5.17
Birmingham (Ann and Tusc)	82.91	12.23	4.86
Charlotte	85.50	9.72	4.79
Denver	81.24	14.01	4.75
Louisville	80.66	14.75	4.59
Nashville	81.58	14.01	4.41
Detroit	83.18	12.42	4.40
Raleigh-Durham (Fayetvlle)	80.47	15.15	4.38
New Orleans	84.14	11.51	4.35
Columbus, OH	79.64	16.08	4.29
Buffalo	86.04	9.69	4.27
Tampa-St. Pete (Sarasota)	89.47	6.39	4.14
Washington, DC (Hagrstwn)	81.76	14.16	4.08
Orlando-Daytona Bch-Melbrn	86.30	9.79	3.91
Norfolk-Portsmth-Newpt Nws	79.97	16.25	3.78
Baltimore	79.91	16.34	3.75
Greensboro-H.Point-W.Salem	85.20	11.38	3.42
Knoxville	84.78	12.02	3.20
Providence-New Bedford	83.25	13.56	3.20
Oklahoma City	85.62	11.31	3.07
Pittsburgh	88.89	8.07	3.05
Ft. Myers-Naples	89.55	7.48	2.98
West Palm Beach-Ft. Pierce	90.86	6.47	2.67
New York	92.51	4.93	2.57
Boston (Manchester)	84.05	13.70	2.25
Philadelphia	87.37	10.53	2.10
Atlanta	89.66	8.31	2.02
Hartford & New Haven	87.91	10.34	1.76

Source: The Nielsen Company.

Mr. SHIMKUS. Would the gentleman yield?

Mr. BOUCHER. I will be happy to yield. But to keep this absolutely proper, let me yield to myself an additional minute, and I am happy to yield to the gentleman from Illinois.

Mr. SHIMKUS. Thank you for yielding the time. I appreciate that.

You know, I chair the E–911 Caucus, and I have worked across in a bipartisan basis with now Secretary of State Hillary Clinton, who was on the Senate side.

I would ask if the National Emergency Number Association, NENA, which is the premier association that supports first-time responders, if they provided a recommendation on this legislation—I see staff saying yes.

Mr. BOUCHER. Will the gentleman permit me just one moment, please. The answer is the association the gentleman identified has sent a communication to us endorsing this delay.

Mr. SHIMKUS. Would the gentleman include that for the record?

Mr. BOUCHER. I will be happy to include that for the record. We will collect whatever is appropriate and be happy to do so.

Mr. Speaker, at this time I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I would like to include for the RECORD a letter from the Fraternal Order of Police opposing this legislation.

NATIONAL FRATERNAL ORDER OF POLICE,
Washington, DC, January 23, 2009

Hon. NANCY P. PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

Hon. JOHN A. BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND REPRESENTATIVE BOEHNER, I am writing on behalf of the members of the Fraternal Order of Police to express our concerns regarding S. 328, the ''DTV Delay Act,'' as it relates to public safety access to spectrum.

Many of the arguments being made in favor of delaying this transition were made during the consideration of the Digital Transition and Public Safety Act in 2005. This is not a new issue, and was first recognized in a public safety report issued in September 1996. In 1997, Congress granted public safety access to this portion of spectrum under Title III, Section 3004 of the Balanced Budget Act of 1997, which directed the Federal Communications Commission (FCC) to authorize broadcasters currently occupying the spectrum to remain there until 2006. Public safety access to this area of spectrum was repeatedly pushed back until the enactment of the Digital Transition and Public Safety Act in 2005, which set a hard deadline of 17 February for analog broadcasters to allow public safety access to 24 MHZ of spectrum on the 700MHz band. We are concerned that the staggered transition which would result if S. 328 is signed into law may jeopardize the channels that Congress promised to law enforcement and other public safety officers more than a decade ago.

For public safety to use the spectrum they have been promised, broadcast stations must stop analog broadcasts on those channels. Broadcast stations on the adjacent channels must also stop analog broadcasts to avoid interfering with the public safety communications we are trying to enable. For all those broadcast stations to have somewhere to go, additional broadcast stations must stop their analog transmission. It is this chain of events that makes the hard deadline of 17 February 2009 the most realistic and responsible option for clearing the spectrum for public safety's use.

While S. 328 would still allow broadcasters to voluntarily transition by 17 February, subject to current FCC regulations, and allow public safety to occupy this vacated spectrum, unless all the surrounding broadcast stations also voluntarily transition, it is unlikely anyone can move. Moreover, under current FCC regulations, broadcasters generally would not be permitted to transition even voluntarily until three months before the delayed transition date, and even then the FCC has the discretion to refuse them authorization.

The American public has asked broadcasters to take difficult, time consuming, and costly steps to enable better public safety communications. These broadcasters have admirably risen to the call and say they are ready for 17 February. If this delay goes into effect, it opens the door for future delays. More than a decade of work has gone by since Congress authorized public safety communications to expand on the spectrum, and we are very close to achieving our goal. I urge you not to bring all of this progress to a halt less than thirty days from the finish line.

Thank you in advance for your consideration of the views of the more than 327,000

members of the Fraternal Order of Police. Our communications are our lifeline and we need to know that they will function properly at all times. If I can provide any additional information on this matter, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

I want to yield 2 minutes to the distinguished former chairman of the Agriculture Committee and the current ranking member, Mr. GOODLATTE.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Speaker, I want to welcome my good friend and neighbor back to the House and offer my condolences as well regarding the passing of his mother, who I never had the opportunity to meet, but who I heard much about from my good friend, who is rightfully proud of her record as an attorney and a public office holder in his hometown of Abingdon, Virginia.

I rise, however, in opposition to the legislation that is offered today. This is of great concern to me and to the television broadcasters and emergency services personnel and others in my district. Since the decision to switch from analog to digital television, there has been a massive public awareness campaign that has been very successful in identifying February 17 as the day of transition.

This legislation, S. 328, will delay the switch, would undermine this transition and require another massive public outreach campaign to make the public aware. The American public has had almost 3 years to prepare for this transition for which entire industries have had to adapt, and the American public is ready. Forcing them to do so for what will essentially prove to be an arbitrary deadline will set a dangerous precedent that could easily lead to more delays and would likely result in an onslaught of lawsuits.

Delaying access to the 700 megahertz spectrum will unfairly prevent those entities that have been awarded access to this bandwidth from having immediate access, again, something that has been planned for several years. This is particularly troubling when considering our first responders, the very individuals that we sought to aid with this initiative in response to the communications blunder that occurred during the terrorist attacks of September 11, 2001.

Some claim that this delay will not prevent first responders from accessing this bandwidth, but that is simply not true. Television stations will have to stop broadcasting on channels that are sought for communications.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. I yield the gentleman an additional 15 seconds.

Mr. GOODLATTE. I would simply ask that the remainder of my statement be made a part of the RECORD and urge my colleagues to oppose this legislation.

Since the decision to switch from analog to digital television, there has been a massive public awareness campaign that has been very successful in identifying February 17 as the day of transition. This legislation, S. 328 will delay the switch, would undermine this recognition and require another massive outreach campaign to make the public aware.

The American public has had almost 3 years to prepare for this transition, for which entire industries have had to adapt. Forcing them to do so for what will essentially prove to be an arbitrary deadline will set a dangerous precedent that could easily lead to more delays, and will likely result in an onslaught of lawsuits.

Delaying access to the 700 MHz spectrum will unfairly prevent those entities that have been awarded access to this bandwidth from having immediate access—again something that has been planned for several years. This is particularly troubling when considering our first responders, the very individuals that we sought to aid with this initiative in response to the communications blunder that occurred during the terrorist attacks of September 11, 2001. Some claim that this delay will not prevent first responders from accessing this bandwidth, but that is simply not true. Television stations will have to stop broadcasting on channels that are sought for communications and neighboring channels will also have to be cleared to avoid interference.

Delaying the transition will also hinder the deployment of broadband, something that has also been planned for years, and will unfairly limit the companies and consumers that plan on utilizing this type of broadband access.

Furthermore, this proposed delay is being used to justify $650 million in new spending in the proposed new economic stimulus bill. In a time of economic distress and budgetary disarray, increasing the debt to American taxpayers by hundreds of millions of dollars hardly seems prudent. In fact, this legislation will work against any effort to stimulate the economy because the economic activity and growth that comes with deploying new broadband technology and new emergency communication will be delayed.

There are some reports that nearly 93 percent of households affected by this switch are already prepared, deeming this legislation excessive and overly burdensome.

I urge my colleagues to oppose this legislation.

Mr. BARTON of Texas. I would like to yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. I thank my ranking subcommittee chairman for the time.

Let me get right at it. The 1996 law that this law replaced said that when the marketplace had 85 percent of households with one television that could receive digital, this transition could occur.

The law that we passed a couple of years ago said, no, we are going to work this a little differently. We will set a hard date, we will make coupons available to do all of this. Currently, 94.3 percent of American households have a television that receives digital or that has the ability to receive digital signal.

So remember the old law that we updated said 85 percent could make this change today, or 94 percent. Only exclusively over-the-air homes without a digital division or converter box are at risk of losing all television service. Now, again, Nielsen, the rating service, says there are 3.4 million exclusively over-the-air homes, and already we have sent 13.5 million coupons to 13.5 million of those homes, leaving 800,000 exclusively over-the-air households that have not yet received the coupons.

Approximately 600,000 of them, however, are on the waiting list. This all gets down to a couple hundred thousand people. This could simple easily be solved by simply changing the accounting rules and allowing NTIA to go ahead and send out those coupons.

Mr. Speaker, I would also like to include for the RECORD letters from television stations in Oregon who point out that this delay will cost them upwards of $1 million in added energy costs at a time when they are having to lay off staff who do news coverage and other things because now they are going to get saddled with this burden, $500,000 to $1 million.

JANUARY 8, 2009.

Hon. GREG WALDEN,
Longworth House Office Building,
Washington, DC.

DEAR GREG, I hope this note finds you well. This letter is in reference to the possible delay of the DTV transition date for broadcasters from the scheduled date of February 17, 2009. Changing the date at this time would unravel a tremendous amount of work done by broadcasters to educate consumers about DTV, and most likely do more harm than good.

Attached find a list of issues from our Director of Engineering, Karl Sargent, related to the possible change of dates.

We hope you have success in keeping the date we have all been working towards, and please do not hesitate to let me know if you have any questions.

Sincerely,

BOB WISE,
Vice President/General Manager, KOBI–TV/KOTI–TV.

DELAY OF DIGITAL TRANSITION

We feel the delay of the digital transition is not in the best interests of the viewer, broadcaster, or country in general.

Delaying the transition will place doubt and uncertainty in the mind of the public. We have been diligently informing them of the positive benefits of the transition and it will now place doubt in their mind that technologically, it is not ready or up to its promises of improved TV performance.

Stations have spent a lot of money in their digital facilities, allowing the analog facilities to deteriorate. It would be more cost to the broadcasters to now have to invest money into keeping the analog transmitters operating in parallel with the digital transmitters or they have to invest in short-term capital to keep the transmitters running (i.e. KOTI driver tube failure).

Delaying the transition for months will not rectify the public not being ready for the

transition. In fact, it may make it worse. The public will feel that they now have time to back off their efforts to prepare. No matter when the transition takes place there are going to be viewers who are not prepared.

We need to make this transition now and get on to other critical items the stations have to do. In our case it is the capital improvement we still need to do to our station infrastructure to convert it to full digital and HD and to complete the Sprint-Nextel project.

We don't see any positives to the transition being delayed. We have been preparing for it for 5 years.

We are very concerned that the incoming administration will change the baseline rules and specifications of the digital transition. That would be a disaster in both money and time for both the viewers and broadcasters.

I get the political road the new administration is following, but to change would only prolong the pain.

Thank you,

CHRISTOPHER T. GALLU,
General Manager,
NPG of Oregon, Inc.

JANUARY 9, 2009.

To: Congressman Greg Walden, Second District, Oregon.

Fr: Jerry Upham, General Manager, KOHD Bend.

DEAR CONGRESSMAN, I was both shocked and disappointed to hear that Congress is considering delaying the implementation of the digital transition for television stations. With so much publicity and planning for this ''hard date,'' any change would result in huge consumer confusion, and give the indication that there really is no hard deadline. In addition, millions of consumers will feel like they were incorrectly advised—in a tough economic time—to spend money now to be able to receive their television signals.

At Chambers Communications, we've spent millions of dollars for this digital transition, and, in the case of KOHD, launched the station in 2006 with an exclusively digital signal. The decision to launch without a full power analog signal was made due to this upcoming deadline. KOHD has gone without an analog signal, and has sacrificed analog viewers during this time. If the deadline is pushed back, this will only extend the station's analog deficiency. Had we had an indication that this deadline would be extended, the company may have made a different decision with regard to an analog signal.

Please urge Congress not to extend this deadline, as both the private television sector and the public will be severely negatively affected by this decision.

Sincerely,

JERRY UPHAM,
KOHD General Manager.

JANUARY 9, 2009.

CONGRESSMAN WALDEN, thanks for including local broadcasters.

(1.) Tower lease agreements will have to be extended to continue to provide some outlying areas with analog.

(2.) We'll have to continue to operate two transmitters. (a.) Increase cost (b.) More energy consumption.

(3.) February ratings moved to March, making March non-useable.

(4.) People not ready today won't be ready in 3, 6 or 9 months unless forced to change because of the end of analog service.

(5.) All our efforts to inform the public for nothing and more confusion. If we change the date once, what's to say we don't change it again?

(6.) No credibility with the public.

(7.) Angry people who have already purchased new TVs, converter boxes or subscribed to cable or satellite adding extra expense.

JANUARY 9, 2009.

Hon. GREG WALDEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WALDEN: I strongly urge Congress to resist changing the digital transition date of February 17, 2009. Broadcasters around the country have been mandated by the FCC to provide unprecedented promotion and news coverage of this important date. Millions of Americans have responded with obtaining coupons, calling broadcasters for information and preparing for this important milestone in the broadcasting industry. To delay implementation at this late juncture will most certainly confuse the American public even further. In addition, millions of consumers will feel they were misled and incorrectly advised, during these tough economic times, to spend money now to be able to receive their television signals. In addition, this will put an extra burden on broadcasters in the form of additional power usage for transmitters and man power.

Chambers Communications has invested millions of dollars for the digital transition and countless man-hours in its implementation and preparation for the Feb. 17 cut-off. I urge you to rebuff attempts to extend the deadline at this late date.

Sincerely,

RENARD N. MAIURI,
General Manager,
KDRV/KDKF TV.

JANUARY 8, 2009.

Congressman GREG WALDEN,
Washington, DC.

DEAR CONGRESSMAN WALDEN, I am writing to implore you to retain the digital transition date of February 17, 2009, for which we have been planning and preparing.

At the beginning of the transition, I was not in favor of a hard shut-off deadline, preferring that the market decide when analog was no longer needed. However, now that we have committed hundreds of hours of time to prepare for this change, invested hundreds of thousands of dollars to enable us to change, and literally broadcast thousands of announcements, all focused on this date, I believe that changing would be a mistake.

The key to successful implementation of any change, including a historic change such as this one, is communication. The efforts of local broadcasters to inform the viewers have reached beyond news stories, announcements, and crawls over programming, to in-person demonstrations, community talks, and talking to callers to walk through the unique needs for their location in their individual situation.

Broadcast television is my livelihood, so I don't take this position lightly. If this transition fails, and viewers lose access to free-over-the-air-TV, it will damage our ability to broadcast to the communities we are licensed to serve. Our best chance to succeed is to stick with this heavily promoted date, and trust that we will do whatever it takes to insure that all of our viewers are not left behind in the digital age.

Sincerely,

KINGSLEY KELLEY,
General Manager,
KTLV–TV.

FEBRUARY 8, 2009.

Hon. GREG WALDEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WALDEN: I am deeply concerned and shocked that some in the Congress are considering delaying the nationwide DTV transition that is scheduled for February 17, 2009. I understand the concern given that the distribution of coupons has been suspended and those still wishing to receive a coupon have been put on a waiting list pending the authorization of additional funds. I urge you and other members of Congress to push for legislation that would immediately provide the necessary funds to fulfill the additional requested coupons.

This station has been planning for this DTV transition for over a year and along with my fellow broadcasters has been educating the public on this transition. Collectively the Medford market broadcast stations have run thousands of announcements regarding the transition and have also engaged in educating the public through numerous outreach activities. There will always be people that wait to the last moment or have not prepared themselves for the transition even though they know it is coming, and no delay is going to mitigate that problem.

Procedures are in place for helping the public with any problems they may incur during this transition and our engineers are ready to make the transition on February 17, 2009.

Given the amount of time we have spent educating the public that February 17, 2009 is the firm date, I believe that changing that date will cause an enormous amount of confusion and do great harm to an orderly transition.

Even if the date was changed for the transition we will not change our plans to transition on February 17, 2009.

Sincerely,

GARY D. JONES,
General Manager,
KMVU–TV.

Some of these stations, one of them is brand new, KOHD in Bend, went on air as digital only in anticipation of this date. And now this Congress apparently is going to move the date.

And then in the so-called stimulus bill we are going to borrow maybe $600 million, maybe from the Chinese, I don't know, that the next generation will get to pay back whenever that occurs so we can send out more coupons. This is a solution looking for a problem.

Mr. STEARNS. Mr. Speaker, can I ask how much time is left on both sides?

The SPEAKER pro tempore. The gentleman from Florida has 6 minutes and the gentleman from Virginia has 5½ minutes.

Mr. BOUCHER. Well, I would like to yield myself 30 seconds, Mr. Speaker.

I will submit for the RECORD a letter from the National Emergency Number Association, which I believe is the association that the gentleman from Illinois was referring to, and the chief executive officer of this association indicates support for the delay that is proposed in the legislation tonight.

Mr. STEARNS. Mr. Speaker, I am pleased to give time to the gentleman from Nebraska (Mr. TERRY) 2 minutes.

Mr. TERRY. Thank you. The ostensible goal of this legislation is to give consumers more time to prepare for the transition. But, unfortunately, this bill will only confuse customers by changing the date, cost more money and hurt public safety.

It will not give a single television viewer the coupon off the coupon waiting list. It will jeopardize the spectrum that police and firefighters say they need. Since 9/11 we have been hearing this, as our good friend from Virginia (Mr. BOUCHER) has already stated. And I don't know under what circumstances the national police chiefs and fire chiefs have written, but my local people are saying exactly the opposite.

And, also, this will jeopardize the spectrum that the original DTV legislation clears for advance wireless services, perhaps our Nation's quickest and most realistic way to improve broadband deployment, stimulate the economy and create jobs.

Now, if we are going to move this date to tornado season in Nebraska, let me use this Nebraska analogy about waiting so that we are at 100 percent of people already hooked up, which seems to be our new standard here.

Let me give you this story about Tom Osborne, three-time national championship coach of the Huskers. When he decided to run for Congress after being coach for, I think, almost 30 years, and three national championships, he polled and found out that he had name ID in Nebraska of 95 percent, meaning 5 percent of the Nebraskans had never heard of Tom Osborne. Yet, we are holding up this legislation here today because 5 percent of our Nation, although they may have the coupons in hand, have not hooked up yet.

If we are going to wait till 100 percent, we are going to come back and delay this again.

Mr. Speaker, we are ready. Nebraska is ready because of broadcasters and community groups in my district who have been preparing the population with educational efforts about this transition to digital television that have been on going for over a year now. They have worked very hard and I would like to recognize them for their efforts here on the floor.

The Nebraska Digital Television Conversion Coalition is comprised of not-for-profit organizations that have recognized the digital television conversion could be problematic for some in our society, including elderly and low income individuals. Members of this coalition include: Nebraska Educational Television, United Way of the Midlands, Nebraska Broadcasters Association, Little Brothers & Friends of the Elderly, the Nebraska Retail Federation, the Nebraska Office on Aging and my congressional office.

Mr. Speaker, please allow me to briefly describe one example of the problems my constituents will encounter if this bill becomes law. Nebraska Educational Television tells me that they will suffer both financially and technically because they will not be allowed to increase power at the six sites they have already converted to digital. At these six sites they have decommissioned the analog service and are digital only, this was done with permission from the FCC, which results in many of their viewers unable to receive the NETV signal until the power is strengthened.

My Nebraska Broadcasters Association is also opposed and I quote, "We plead with you Congressman Terry to oppose any effort to extend this date. Any change now would create an urgent need for a campaign far greater than the first to reverse the message indelibly affixed in the minds of Americans."

Lastly, Mr. Speaker, the ostensible goal of the legislation is to give consumers more time to prepare for the transition, but unfortunately, this bill will confuse consumers, cost more money, and hurt public safety:

It will not move a single television viewer off the coupon waiting list.

It will jeopardize the spectrum that police and firefighters said they needed 5 years to the day before September 11, 2001. The most important telecommunications-related recommendation of the 9/11 Commission was to make spectrum available for public safety by completing the digital television transition.

And it will jeopardize the spectrum that the original DTV legislation clears for advanced wireless services, perhaps our Nation's quickest and most realistic way to improve broadband deployment, stimulate the economy, and create jobs.

The DTV coupon program is not out of money; only half of the $1.5 billion in the coupon program has been spent on redeemed coupons. Instead of delaying the transition and spending hundreds of millions of dollars more, Congress has the opportunity to simple do what former Commerce Secretary Gutierrez suggested and modify the coupon program to allow all of those who have requested a coupon to get one.

I urge a "no" vote.

□ 2100

Mr. BARTON of Texas. Mr. Speaker, does the gentleman continue to reserve his time?

Mr. BOUCHER. I continue to reserve.

Mr. BARTON of Texas. I yield 2 minutes to one of our new members of the Energy and Commerce Committee, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Speaker, I rise in strong opposition to Senate bill 328, the DTV Delay Act. Due to the very rushed nature by which the legislation is being considered this evening, I have a number of concerns about both the policy and procedure represented within S. 328.

Basically, we are asked to vote on legislation that will have a significant impact on the telecommunications industry and our first responders without giving it proper consideration.

Mr. Speaker, the Nielsen Company estimated this past November that 93 percent of homes in the United States already had one or more TVs ready for the digital television transition. This same study indicates that 83 percent of households across the country are completely prepared for this transition.

Despite the fact that the vast majority of households across the country have taken the necessary steps to be ready for DTV transition, the DTV Delay Act would sacrifice the preparation of the masses as a means to assist the very few. Delay in this transition will only cost the taxpayers, needlessly, $750 million, at a time when we are facing a $1.2 trillion budget.

Mr. Speaker, the 9/11 Commission stated in its report that this transition should have occurred years ago to free up the lower frequency analog signals for police, firefighters, emergency personnel, and public officials. Because this transition has been years in the making, for the benefit of our brave first responders, I believe that we need to move forward in this transition as scheduled, instead of delaying it until June.

Mr. Speaker, delaying the digital television will only create more of a financial burden for American taxpayers and create further confusion among the public. For these reasons, I urge all my colleagues oppose the DTV Delay Act.

Mr. BARTON of Texas. I yield 1 minute to our very newest member of the Energy and Commerce Committee on the Republican side, the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. I'd like to thank the gentleman from Texas for yielding, and I rise in opposition to this bill to delay the transfer to digital. I think if we look at what this could do for our economy, number one, we are talking about the problems that we are having in our economy right now, and we want to create good jobs. There are billions of dollars of investment that are sitting on the sidelines right now, waiting to move, waiting to create new technologies, and create good new jobs in our economy, that this delay will further hamper.

In addition to that, I think we need to be very concerned about what this means to our first responders. It was just read into the RECORD from the president of the National Fraternal Order of Police, but also what this would mean for our firefighters as they try to implement interoperable capabilities, something that we experienced after Katrina, we saw after September 11, something we need to get to. Something, again, this delay will only hurt their ability to make those changes that they want so desperately to make for the safety of our people all throughout the country.

So there are many strong reasons why we are ready to get this implementation to take place and why we should oppose any delay.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want the American people to know that the Republicans want to solve this problem. If we defeat this bill tomorrow under suspension, then hopefully we can reach across the

aisle and work with our friends in the new Democrat majority to do things that actually solve the problem.

We can actually say that money that is in the Treasury that hasn't been spent on redemptions of coupons can be used to issue new coupons. We could even eliminate the coupon requirement. We could provide a small amount of additional funding.

I have a bill that I introduced this week that does most of those things. But if we need to do something differently, I pledge to the American people and my friends on the majority side that once we defeat this delay bill tomorrow, we still have time to work together on a bipartisan basis to put together a bill that does solve the problem, without delaying the hard date of February 17.

So, with all due respect, I would ask that we defeat S. 328, vote tomorrow not to suspend the rules, and then let's work together the rest of this week and next week to solve the problem. Vote ''no'' on S. 328.

I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield myself the balance of my time.

I want to compliment my friend from Texas, the ranking Republican member of our Commerce Committee, Mr. BARTON; Mr. STEARNS, the ranking member on our Subcommittee on Communications, Technology and the Internet, with whom I very much look forward to working over the course of the coming 2 years, for the very cordial way in which they have handled their opposition to this measure here today. That reflects the best traditions of our committee. We sometimes disagree, but we always do so in a very agreeable manner.

That certainly has been the situation here tonight. We all have the same objective, and that is to make sure that we have a smooth digital television transition and that American households are not dislocated when the analog television broadcast ends and all of the broadcasting from that time forward is in digital.

We have one formula for doing that and my friends on the other side of the aisle have another formula for doing that. I respectfully suggest that our formula is the better way.

I did not want to be here tonight advocating a delay in this transition. The gentleman from Texas is right. That date for the transition has been a feature of our law now for a number of years. A lot of advertising has gone behind publicizing that date. Many people have been relying on that date as the date upon which the 700 megahertz spectrum that analog broadcasting will, when it stops, will make available and be delivered. There have been plans made on this. And so this is not a step we take lightly or frivolously, but when in which we think we have no choice.

There are 6.5 million households in the United States, as revealed by the best numbers we have available coming from a highly reputable and well-regarded television reporting service, that will completely lose television coverage if this transition happens on February 17. These households are unprepared. They do not have a cable or satellite connection. They rely on over-the-air television reception only.

That dislocation simply must be avoided. These homes depend upon television service for vital information. Not just entertainment, but news and information about community emergencies that typically would only reach the home by means of the broadcast media.

We have talked about the public safety community and the fact that we do not want to see a delay in their receipt of the spectrum that they intend to use for fully interoperable communication equipment. But the greater public safety concern is turning off that analog broadcast at a time when 6.5 million homes are not prepared for the transition. Denying vital public safety information to those 6.5 million homes is the greater threat.

And so the delay for that reason is necessary. That has been acknowledged by the leading associations representing the public safety community. The National Association of Chiefs of Police, the Association of Public Safety Communications officials, the International Association of Fire Chiefs, all of whom have endorsed this delay. It has been endorsed by the major recipients on the commercial side of the 700 megahertz spectrum; by AT&T, by Verizon. It has been endorsed by the networks; by ABC, NBC, and CBS.

And so among all of those who will be disadvantaged by this delay, there is a recognition that the delay is unfortunately and regrettably necessary.

Mr. Speaker, I also want to emphasize that this is a one-time delay, and our committee simply will not entertain requests that a delay beyond the June 12 date be adopted. I would strongly oppose any further delay. The Chairman of our Energy and Commerce Committee, the gentleman from California (Mr. WAXMAN), has indicated his strong opposition to any delay beyond June 12, and we would strongly discourage anyone from suggesting that a delay beyond that date take place.

So the step we take tonight is necessary. None of us want to take it. I think it is the only approach we have before us at this moment that truly will assure that when this digital transition occurs, and that it occurs in a way that does not result in disruption for television viewing in America. I urge the passage of the measure.

Mr. ENGEL. Mr. Speaker, I rise today to support S. 328, delaying the digital television transition. It has become clear in recent days and weeks that the country simply is not ready for the transition.

For years, I have been saying that we are not providing enough resources or enough education for the public. That is why for the past two Congresses, I have introduced my Digital Television Consumer Education Act. This legislation would provide far more education about the transition, and would add $200 million to the converter box coupon program to get coupons to the 2 million people on the waiting list.

I do want to ensure that this delay is only a one-time event. If we keep delaying and delaying, we will never see the benefit of the transition. Television viewers will not get to see crystal clear images of their favorite programs, we will not enjoy the technological advances that will be rolled out by wireless companies, and most importantly, our first responders will not get the interoperable communication devices they so desperately need. But with the condition that this will be a one-time delay, I will support S. 328.

Mr. WAXMAN. Mr. Speaker, I rise in support of S. 328, the DTV Delay Act, which passed the Senate yesterday by unanimous consent. This legislation extends the digital television transition date and makes improvements to the converter box coupon program.

In 2005, Congress mandated that as of February 17, 2009, all television stations shut off their analog broadcasts and transmit in digital only. The transition from analog to digital will offer better pictures and sound, more programming choices, and interactive capabilities. It will also serve an important public safety purpose by freeing up spectrum for first responders for nationwide interoperable communications. Finally, it will provide consumers with new and innovative commercial wireless services.

Unfortunately, we are not prepared for this transition. The prior administration assured the Committee on Energy and Commerce repeatedly that the transition effort was on track. But on December 24, 2008, the National Telecommunications and Information Administration, NTIA, notified Congress that the converter box coupon program would run out of funding the first week of January and that it would need an additional $250 to $350 million to meet projected demand.

The President's Transition Team asked Congress to extend the deadline for a brief period. This is not a step that anyone wants to take. But we have no good alternative. Without a short, one-time extension, millions of households will lose all television reception.

The DTV converter box coupon program is supposed to ease the financial burden of the transition. But it has ground to a halt. There are currently over 1.7 million households on the waiting list. In addition, the FCC has not adequately planned for call centers and other assistance for consumers who will face technical problems after the transition has occurred.

The measure before us extends the date of the transition to June 12 and extends the coupon program date until July 31, 2009. It will also allow those who hold expired coupons—or never received their coupons because of problems with third class mail—to reapply.

Moreover, the economic recovery package that the House is considering includes $650 million to fix the coupon program and intensify consumer education and support.

S. 328 also takes steps to lessen the impact on other affected parties, including public safety, broadcasters, and wireless licensees.

I am pleased that this bill now has broad support in the public safety community, including the Association of Public-Safety Communications Officials-International, APCO, the International Association of Chiefs of Police, IACP, the International Association of Fire Chiefs of Police, IAFC, and the National Emergency Number Association, NENA. It has the support of the two biggest winners of spectrum that will be vacated as a result of the DTV transition—AT&T and Verizon. And, it has the support of a number of public interest groups.

S. 328 gives the new administration the resources it has told us it needs to fix the coupon program and better prepare consumers for the transition.

Unfortunately, our time to act on the legislation is short. If we do not pass this measure, it is likely that there will be no extension of the February 17 transition. Time will have run out for the administration to implement the changes necessary to fix the problems.

I urge Members to support this bill.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of this legislation to address the urgent problems occurring with the digital television transition.

After participating in numerous oversight hearings by the Telecommunications and Internet Subcommittee on the DTV transition in the 110th Congress, and seeing the mismanagement of the transition by the previous administration, we need time to get this right and correct the problems left for the Obama administration.

I am supporting this legislation, not because I think moving the transition date back is a good idea, but because when the National Telecommunications and Information Administration notified the Committee late last year that they would run out of money in the coupon program, postponing the date to get every household the coupons they need became necessary.

Our office sent out the coupon application in our constituent newsletters, handed them out at our townhall meetings, and took them to other events in our district to distribute. For their part, broadcasters, cable, and satellite television spent millions in advertising to educate the public about the upcoming transition.

The primary reason we have to delay this transition is due to the mismanagement of the program by the NTIA—after months of asking questions in hearings and letters to the administration, members of the Telcom Subcommittee were assured there was plenty of money to finance the program and provide every household that needed one a converter box coupon. On December 24, however, the Energy and Commerce Committee finally received word from NTIA that the program would run out of money, much too late for Congress to address the problem, and now there are over 2 million households on the coupon waiting list.

As expected, more problems are also surfacing as we have gotten closer to the transition. Last week the Washington Post ran an article about problems people are experiencing with their antennas, and in my hometown of Houston, we have continually raised the issue of there being limited options and availability of battery-powered converter boxes for households to purchase in the event of a hurricane like we experienced last September with Hurricane Ike. Currently, households must buy a separate battery-pack for a converter, and the coupon program does not cover the battery-pack.

I understand getting the coupon program rolling again is the most pressing matter, but I hope between now and June 13 we can address these other issues and create a program that will assist households who need to do more than just hook up a converter box to acquire the equipment they need to make the transition.

Again, I urge my colleagues to join me in supporting this legislation so we can get the households the coupons they need to purchase converter boxes to keep their analog televisions from going black, and to address other issues that are arising with the digital transition.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today in support of S. 328, DTV Delay Act. With the deadline of February 17, 2009 for DTV transition quickly approaching, it is very important that we recognize and address the reality that consumers are still confused by this transition and in many jurisdictions are not prepared for the transition to digital television. Unfortunately, the number of people who stand to lose their access to TV programming in the DTV transition is considerable. Approximately 30 to 40 million people still rely on over-the-air television, most of who are senior citizens, poor or non-English speakers and underserved communities. Although there has been a considerable amount of outreach, it has still been haphazard. There are still issues that may make the impending deadline unrealistic.

For example, in my district—the U.S. Virgin Islands—I have heard numerous complaints about the receipt of the vouchers via U.S. Postal Service, which in my district takes much longer than most areas in the U.S. mainland. Unfortunately, S. 328 did not include the House provision to require first class mail service for the delivery of coupons via the U.S. Postal Service. This provision would have made a big a difference in expediting the mail delivery time to the U.S. territories. I hope that NTIA will work on resolving this issue, although it is not a provision in the bill.

There are other components of the bill that can potentially make it a smooth transition. Although an extension will cause delays, it is important that we protect our Nation's consumers and ensure that no one is left behind in this transition. The DTV transition is not something that is easily understood by all consumers and it has become evident that it will take more time to bring everyone on board. We must work to ensure that this important transition does not leave millions of consumers in the dark.

In the interest of time, I urge passage of this legislation but encourage the NTIA to continue work with Congress on resolving the program's deficiencies.

Ms. JACKSON-LEE of Texas. Mr. Speaker, today I speak in strong support of S. 328, and I also want to thank my colleague Senator JAY ROCKEFELLER for authoring this insightful resolution.

The digital television transition is an unnecessary burden to be passed onto the American people at a time when the pressures of day to day life are heavy and growing.

To assist consumers through the conversion, the Department of Commerce through its National Telecommunications and Information Administration, NTIA, division handled requests from households for up to two $40 coupons for digital-to-analog converter boxes beginning January 1, 2008 via a toll free number or a Web site.

However, the Commerce Department has run out of funds to cover the cost of coupons and there are millions of Americans who have yet to receive the boxes. These Americans should not be expected to purchase the converter box without the aid of the government, seeing as the entire Nation is under extraordinary economic pressure caused by the recession.

Last week, President Obama's team joined a chorus of concerned voices requesting a delay because the National Telecommunications and Information Administration, NTIA, which is to provide education and $40 vouchers for people to buy digital TV converter boxes, ran out of money on January 4. There is also concern that many people, especially poorer and more rural areas, have not yet heard that they will need a converter and a larger antenna.

Older homes can not be easily wired for cable. The house walls might be made of concrete, brick, or stone that is difficult to wire through. This has caused some local residents to opt for analog over-the-air TV instead of cable or FIOS. Other people have decided to only wire their living room, and still use analog over-the-air in other rooms. The old construction can also cause problems running an antenna to a window, roof, or attic. These older homes are generally owned by lower income families that are being hit particularly hard by the current economic recession.

On January 22, the Nielsen Company said 6.5 million Americans had not prepared for the switch, a startling number considering the Commerce Department's inability to assist these Americans in the purchase of the converter boxes. TV stations would face extra expenses, which is a burden that they also cannot be expected to take on in times like these.

Mr. Speaker, I understand that the long-term effects of this transition will benefit the American people and support the eventual transition. Mr. Speaker we are in a recession at best. Our seniors can barely afford their prescriptions and we are asking them to pay another 40–50 dollars for a convertor box? To some of us that may not seem like much but for many it is a small fortune. Especially for our senior population who may have only the television as company.

I ask that my colleagues support this legislation and give Americans more time to properly prepare for the conversion.

Mr. DINGELL. Mr. Speaker, it infuriates me that thanks largely to the incompetence of the Bush Administration during the past three years, we are presently confronted by the need to delay the transition from analog to digital television. That we are today voting on

DTV delay legislation underscores the utter folly of the National Telecommunications and Information Administration's arrogant confidence in its management of programs to carry out the mandates of the Digital Transition and Public Safety Act of 2005.

As the Obama-Biden Transition Team highlighted in its January 8, 2009, letter to the Committee on Energy and Commerce, the inadequacy of the existing converter box coupon program and other federal programs meant to support consumers necessitates a delay in the date of transition to digital television. During numerous hearings in the 110th Congress, I asked representatives of NTIA whether they had sufficient funding for the DTV converter box coupon program. These representatives consistently responded that they did, even in light of a GAO report last year that NTIA would be unprepared to cope with a surge in consumer demand for converter coupons. We now know that there are some 1.5 million households on a waiting list to receive converter coupons and moreover that consumers, who apply for a coupon today, may not actually receive the coupon until after the DTV transition, as it is presently scheduled. I can only stress that had NTIA been more forthright with the Congress about the perilous reality of the coupon program, we would have been able to agree upon a solution well in advance of the consumer crisis that now looms before us.

While I intend to vote in favor of S. 328, I wish to take this opportunity to mention three brief, but important, points. First, I am troubled that S. 328 does not contain a provision to require monthly reports by NTIA concerning its administration of the DTV converter box coupon program. Given NTIA's poor administration of this program in the past, I feel it only prudent that NTIA be subject to more rigorous oversight in the future. I would add that the House version of this bill, which was to have been considered today by the Committee on Energy and Commerce, included such a reporting requirement.

Second, I would caution my colleagues that this bill's extension of the Federal Communications Commission's ability to auction spectrum gives rise to the possibility of waste, fraud, and abuse in those proceedings. I intend to work with the Chairman of the Committee on Energy and Commerce to see that oversight hearings are held following the enactment of this bill to ensure that the FCC is adhering to the statutory requirements of section 309 of the Communications Act of 1934, which specifies how the FCC shall grant licenses for the use of spectrum.

Finally, I am concerned about the DTV transition's effect on the natural environment, specifically as millions of analog television sets are disposed of by consumers. These old television sets contain such hazardous materials as mercury, chromium, cadmium, and beryllium, which could leach into the ground after these sets are deposited in landfills. I hope also to work with the Chairman of the Committee on Energy and Commerce to examine the environmental repercussions of the DTV transition and take such steps as necessary to mitigate them.

In closing, I remain committed to working with my colleagues in reaching a consensus-based solution to the problems associated with the DTV transition, especially to mitigate its impact on low-income, rural, and elderly Americans.

Mr. MARKEY of Massachusetts. Mr. Speaker, I want to commend you for quickly putting this Senate legislation (S. 328) before the House for immediate consideration. This is a bill that is responsive to the slate of digital television issues confronting consumers and the television industry.

In several weeks, without immediate action, millions of Americans may remain unprepared for the digital television transition. Mr. Speaker, as you know, I have had a long interest in the digital television transition. I held the very first hearing on "High Definition TV" in October of 1987—more than 20 years ago. In 1990, I battled hard and successfully as then-Chairman of the House Telecommunications and Finance Subcommittee to get the Federal Communications Commission to switch from pursuing an "analog" HDTV standard to a "digital" standard. Moreover, I fought to build into the Telecomm Act in 1996 the appropriate way in which broadcasters could utilize "spectrum flexibility" to multiplex the digital signal into several video programming channels or offer wireless interactive television or information services. And I pushed unsuccessfully in the context of the 1997 budget battles to prohibit the sale of "analog-only" televisions by the year 2000—an amendment that was opposed by every Republican in our Committee markup in 1997. The result was over a hundred million analog-only sets were sold into the marketplace even as the government was stipulating it intended to turn off the analog TV signal. The failure to mandate "dual tuner" TVs sooner has compounded the difficulty of this transition immeasurably by increasing the base of TV receivers that need converter boxes to receive digital TV signals.

Most recently, for the last two years as the Telecommunications and Internet Subcommittee Chairman, I convened six DTV hearings, requested and received three Government Accountability Office (GAO) reports, and wrote numerous oversight letters to the FCC, to NTIA, and to industry and consumer representatives in headlong pursuit of ensuring a successful digital television transition on February 17th.

At the last DTV hearing that we held the second week of September—just after the Wilmington, North Carolina switch-over test—the GAO testified:

> "NTIA is effectively implementing the converter box subsidy program, but its plans to address the likely increase in coupon demand as the transition nears remain unclear. . . . With a spike in demand likely as the transition date nears, NTIA has no specific plans to address an increase in demand; therefore, consumers might incur significant wait time before they receive coupons as the transition nears and might lose television service during the time they are waiting for the coupons."

In response, I asked the Acting NTIA Administrator to give the Subcommittee a contingency plan for dealing with the expected surge in coupons within 30 days. Now, that contingency plan did not arrive in 30 days. Instead, it arrived to us on November 6th—just after Election Day. The NTIA's "Final Phase" plan did not echo the GAO's alarm bells, but rather stated the following:

> "This Plan demonstrates that the Coupon Program has both sufficient funds and system processing capabilities to achieve this goal . . . . and to do so without the creation a large backlog. Also, NTIA has built flexibility into the Program to respond to various or unexpected events. Moreover, based on actual, cumulative redemption data, NTIA would not exhaust the authorized $1.34 billion in coupon funding despite increased demand leading up to the analog shut-down on February 17th, and, in fact, may return as much as $340 million to the U.S. Treasury."

That's from the NTIA just over two months ago. "No problem," the agency is saying. In essence the agency is telling Congress, "We have a plan to deal with the surge and we don't need any more money. No large backlog. And we'll have hundreds of millions of dollars left over."

Now, why is this important? It is important because we were actually in session in November. We could have acted during the "lame duck" session if the Bush Administration had said, "yes, we will likely have a shortfall", or "please, Congress, let's err on the side of caution and budget a couple hundred million more just in case . . .". Yet NTIA told us all just the opposite. The agency said everything was fine and they didn't need additional money for coupons.

In late December, I asked for an urgent status update on the program. That's when NTIA wrote back to me—on December 24th—stating that a waiting list was going to begin in January of this year because the coupon program was hitting its funding ceiling. The agency indicated that to solve this issue and spend up to the $1.34 Billion in the underlying statute for coupons that another 250 million dollars at a minimum might be needed. And that amount would not necessarily reflect the actual demand for coupons the agency was newly projecting. The waiting list now represents approximately 3 million coupons.

In an attempt to respond quickly, I reached out the first week we returned here in January to Ranking Member JOE BARTON (R–TX) and said if we work together on an accounting fix we could start to address the waiting list issue and get the coupons flowing to consumers again and buy some time. I want to thank Rep. BARTON for his willingness to proceed on such a bill.

But that effort has simply become overtaken by events. If we passed it and also gave NTIA a couple hundred million dollars for additional coupons in a measure that passed through the House and through the Senate today, and arrived to the President's desk this evening, we simply wouldn't be able to address the backlog and get coupons out to people who have requested them by February 17th.

Not every media market will be as unprepared as others on February 17th. I know that in the Boston market, our local commercial and noncommercial broadcasters, as well as our local cable operators, have worked diligently to be ready on February 17th and I commend them for their model efforts. Yet even in Boston, it is important to note that a recent test brought a flood of calls to consumer call centers from citizens confused about or unprepared for the switchover. Many

other media markets, in part due to the demographic makeup of such markets, will have an even greater risk of significant dislocation without immediate action. The Bush Administration has simply left us with so little time to make the needed adjustments on a national basis absent a short, one-time delay.

So, although this is the last place we all wanted to be, and in spite of the fact that we toiled mightily to make this effort work, it is my judgment that a short delay is in the public interest in order to protect consumers. I urge passage of this emergency DTV legislation.

Mr. MATHESON. Mr. Speaker, I'd like to thank Chairman WAXMAN for addressing problems with the transition to digital television which was due to happen next month.

The simple fact is that millions of Americans are not prepared for the digital switch.

In Salt Lake City, Nielsen Media Research reports that nearly 9 percent of households are completely unprepared. Salt Lake ranks as the sixth least-ready out of 56 surveyed.

The coupons authorized by Congress 4 years ago—to help families acquire the hardware they need to view programs once the digital change is made—aren't getting to the customers.

Millions of Americans are currently waiting to receive the coupons. The agency charged with distributing them has fallen behind.

My office has been attempting to assist constituents with the program for several months. I know of cases where coupons have expired before they even reach consumer mail boxes. That's ridiculous.

I'd like to thank Chairman WAXMAN for working with the Senate to address concerns I raised about the coupon program. This is a Senate bill, but it is important to acknowledge the work of the Energy and Commerce Committee in trying to fix DTV problems.

The last thing families need right now is the prospect of additional monthly bills in order to watch television.

Finally, I am pleased to see that this bill allows for emergency services to begin using some analog space. It also provides flexibility by allowing broadcasters who are ready-to-go to switch to digital service earlier than June, which is a good idea.

Mr. CASTLE. Mr. Speaker, I rise in opposition to S. 328, the DTV Delay Act.

Since 1996, our nation's first-responders have been calling for more broadcast spectrum to be made available for better and more effective communication among emergency services. Tragically, the lack of such spectrum was cited by experts as partially leading to many unnecessary deaths among those responding to the 2001 terrorist attacks in New York City. In fact, completing the digital television transition so that this spectrum may be used by police, firefighters, and emergency personnel was the main communications-related recommendation of the 9/11 Commission.

In 2005, after years of delay, Congress finally established February 17, 2009 as the date when the country will switch to all-digital broadcasting and eliminate the disruptions to public safety communications. Unfortunately, after more than a decade of preparing for the transition, the bill before us today would delay the digital transition for another three months.

Like many Delawareans, I am concerned about the management of the digital transition process and the shortfall in the number of converter box coupons available. It is critical that we act quickly to provide additional resources to address these complications and ensure our constituents are prepared for the transition date. Still, public safety services and broadcasters have spent millions of dollars preparing for the February 17th transition date and postponing the deadline again will only create more confusion and delay the implementation of this vital 9/11 Commission recommendation.

Mr. WELCH. Mr. Speaker, the question of whether to delay the transition to digital television is important and deserves thoughtful consideration. But today's debate misses a key point that will affect many Vermonters, many Americans, living in rural areas: once the transition to digital television is completed, even if every household in America has a DTV converter box, many TVs simply will not work.

Reception of a digital television signal is an "all-or-nothing" proposal: rural areas that currently receive a weak analog TV signal may receive no digital signal at all. For many people across Vermont and across the country, this transition does not represent a step forward, but a step backward. I am particularly concerned about the many elderly viewers living in rural areas; for them, television is a lifeline that provides information and entertainment.

We know that this problem is out there. In order to ensure that all our constituents have access to broadcast television, we need to do one or all of three things: increase digital television broadcast signal range; increase the ability of viewers to receive the signal through antennae; or increase access to low-cost cable or satellite television.

If there were an easy answer, this problem would most likely have already been solved. But the problem persists, and it must be addressed. I look forward to working with Chairman WAXMAN as well as you, Chairman BOUCHER, to ensure that rural Americans maintain access to television broadcast over the public airwaves.

Mr. BOUCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the Senate bill, S. 328, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Mr. POLIS of Colorado (during debate on S. 328), from the Committee on Rules, submitted a privileged report (Rept. No. 111–9) on the resolution (H. Res. 92) providing for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ECONOMIC STIMULUS PLAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2006, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the minority leader.

Mr. GINGREY. It is my privilege this evening to have the opportunity on behalf of our leadership to take this hour and talk about a number of things, particularly to discuss this economic stimulus package that we are going to be voting on very soon, probably tomorrow. And we will get into that, and hopefully some of my colleagues will join me on the floor.

But, before I begin that discussion, Mr. Speaker, I wanted to take an opportunity to rise and to recognize a great woman who I am blessed to call Aunt Eleanor on her 95th birthday. Eleanor Gingrey Murphy turned 95 years old today, Tuesday, January 27, 2009.

Unfortunately, I will not be able to attend her birthday celebration, but I wanted to take this opportunity, Mr. Speaker, to honor Aunt Eleanor and wish her a happy and a healthy birthday. Eleanor Gingrey Murphy has lived a great life and has been a blessing to both her family and to her community.

□ 2115

She was born on January 27, 1914, to Charlie and Effie Eubanks Gingrey, my grandparents, in Warrenville, South Carolina, just outside of my hometown of Augusta, Georgia. At the time of her birth, she had two older brothers, Bill and my father James Gingrey. About 2 years after her birth, her youngest brother Charles was born.

Just before Aunt Eleanor's fourth birthday, her mom died in childbirth at

age 26. My grandfather, Charlie, worked hard as a mail carrier and later as a carpenter to provide for his four children. But times were tough, Mr. Speaker, and the children often had to take care of each other when aunts and uncles were not available. After school, they often roamed the woods, learning the names of wild berries and fruits that were edible, and they would collect them and bring them home for food. Eleanor was left to do all the cooking for the family at an early age; and she must have learned well, for she is a wonderful cook today.

After high school, Eleanor followed her brothers to New York, where they had hitchhiked in their mid teens to search for work. While in the Big Apple, she met Bill Murphy. Bill Murphy, an Irish immigrant who immigrated legally to the United States with his family from Limerick, Ireland. Eleanor and Bill fell in love and were married in 1937 at the St. Rose of Lima Catholic Church in New York City. They had both been working at a little restaurant, Mr. Speaker. Some of my New York colleagues may remember it; I think it was called the Horn and Heart, where you put a little coin in a slot and you could see your food and you pull out a sandwich or a salad or a bowl of soup.

Well, they were blessed with five sons, my cousins, Larry, Billy, Charles, Tom, and Kenneth. Shortly after the birth of their second son, Billy, Eleanor and Bill left New York City, and they settled their family in a little town called Edgefield, South Carolina.

Tragically, my Uncle Bill left this world at the age of 44 after suffering a heart attack while supervising a sandlot baseball game that he had organized among his own sons and the African American neighbors. Once again, Aunt Eleanor was left to care for her family. Her boys were now becoming teenagers. At the time of my uncle's death their ages, Mr. Speaker, were 12, 13, 16, 17, and 19. And, believe me, times were not easy. Eleanor enrolled in nursing school, and she earned her LPN in order to support her family. Her oldest son Larry had to cut short his Navy enlistment to help out at home.

Through the years, Eleanor's family has continued to grow with her love and her support. She now has 12 grandchildren, and 20, and I understand soon to be 21, great grandchildren. Aunt Eleanor is a devout Christian woman who has a deep love for her family. She often remarks how blessed she has been to be able to watch her children become old men. Fortunately, that includes her nephews and niece, of which I am a proud member.

Eleanor Murphy is a remarkable, remarkable woman with a generous and a loving spirit, and I ask all my colleagues on both sides of the aisle to join with me tonight in wishing my aunt, Eleanor Margarite Gingrey Murphy, a happy and a blessed 95th birthday. And I thank you, Mr. Speaker, for allowing me to take the first part of this hour to discuss this wonderful, wonderful woman and to pay my respects to her.

Mr. Speaker, this is quite a week. We are going to be voting tomorrow on a bill that would spend $825 billion to stimulate our economy. I know that we all agree, both Republicans and Democrats, in this body and 100 Senators in the other body, that these are dire economic times. This country is in a deep recession, and something truly needs to be done about it. We need to stimulate the economy, we need to grow jobs, we need to free up credit markets, and we need to do it quickly.

My concern, Mr. Speaker, is that this package is not the right package. Sure, there are some tax cuts in the package and there are some spending programs; but when this was first described, the idea was there would be monies spent for infrastructure projects all across this country, restoration of roads and bridges, money spent on rapid transit and repairing decaying infrastructure. And each State was asked to prepare a list of projects, and States including my own of Georgia laboriously went through this process to find projects, so-called spade or shovel ready projects that we could immediately get started or purchasing right away and getting these projects underway and putting people back to work. And it was an estimate that several hundred billion dollars would be spent on the these projects.

But as this program has developed, and we now today at the 11th hour looking at this bill as it has been marked up on the House side, what we see is far different from what was originally projected. It is not unlike what happened before the first of the year back at the end of the 110th Congress when Secretary Treasury Paulson came to the Congress, to both the House and the Senate, and said: Look, the sky is falling; we are in dire economic straits. And I have a plan; it is just three pages long, but I have a plan. And I am going to ask you to authorize me to spend $800 billion to purchase something that was referred to, Mr. Speaker, as troubled assets, so the program became known as the TARP program, Troubled Asset Relief Program.

And I am not going to try to get too deep into the weeds of all of this, but the bottom line is that many financial institutions across the country were holding literally 50, 75, in some cases hundreds of billions of dollars worth of these collateralized, securitized mortgages, many of which contained subprime loans that had questionable value, particularly with the value of homes going down, and sometimes the mortgage alone on these homes was worth far more than the value of the home that they represented. But in any regard, that is what the Secretary of the Treasury and the Chairman of the Federal Reserve Board said to us, and that we needed to give them that authority to do it, and to do it quickly.

So, basically, over my vote and many on my side of the aisle, this bill did pass, and $350 billion was spent and spent quickly. But, Mr. Speaker, to this day I don't believe one thin dime has been used to purchase a troubled asset. No. The Secretary of the Treasury, former Secretary of the Treasury made a decision that maybe the British had a better plan, one that was not discussed with us at any time, at any time, as we deliberated and debated that bill. And we finally made some changes to it, and it went from a three-page bill to a 110-page bill, and at no time was there any discussion though of taking that money and literally giving it to the large national banks and regional banks to restore their capital and to purchase stock in these banks, preferred stock, and so the government would literally take an ownership interest in our banking system.

So that is basically what happened. No troubled assets were purchased. And what happened to the credit markets and the ability for a small business man or woman to get a loan from a bank, or indeed a person to get an automobile loan or someone to borrow a little money to send their child to college or get them through that last semester? That money was frozen. There was nothing available. And so this program, to my way of thinking, Mr. Speaker, hasn't worked at all. And it is pretty depressing when it was not even something that we in this Congress had talked about. This was just a decision that was made because the Secretary of the Treasury said: Well, there is some fine print or a section in the bill that says I have the authority to do this. And he did it.

And so now as we come back for the 111th, and just before President Obama was sworn in for his inauguration on January 20th, former President Bush asked for the rest of the money, so to speak, another $350 billion; and yet, again, no real restrictions on how that money was going to be spent, and no accountability, no transparency. And so we on this side of the aisle, Mr. Speaker, have some real concerns about what we are doing to this country and the amount of money we are spending.

Now, talking about the TARP program, that is a total of $800 billion. And now we are on the eve, literally, of passing another piece of legislation where we spend $825 billion, but some say it will end up being $1.5 trillion, or possibly even more, on a massive spending program that is a far cry from what we were originally told; that is, most of this money would be put immediately to work on spade ready or shovel ready infrastructure projects across

this country repairing roads and bridges and some for mass transit. And when we look at the content of the bill and we see things like hundreds of millions of dollars to resod the National Mall and several hundred million dollars for a contraception program, to me, that has very, very little, if anything, Mr. Speaker, to do with stimulating the economy. It just simply does not.

Fortunately, and I commend President Obama for this, there are some tax cuts in this economic stimulus package. But some $80 billion of $250 billion of tax cuts are literally going to people, Mr. Speaker, who currently are not paying any Federal withholding tax. They have no obligation to, because with their income and the amount of deductions, then they don't owe any Federal income tax but they do pay a payroll tax. So this is a refundable tax credit for those individuals, and it amounts to, as I say, approaching $70 billion. And it is really taking money out of the Social Security system and the Medicare system that benefits that group of people more than any other in our population.

A little lesson on Social Security, Mr. Speaker, is that individuals who are eligible for Social Security, who are in the lower income levels, their monthly check on Social Security replaces far more of their income than the monthly check to someone who is a higher income earner. Someone at a higher income level may get 15 percent or less of their income replaced by Social Security; but individuals at that lower income level who pay no withholding tax, their income replacement by Social Security is up to 40 or 45 percent.

□ 2130

And so to literally take that money and take it out of the Social Security system, to me it seems like it penalizes them more than it helps them. That is something that hasn't really been discussed. I haven't heard others discuss it, Mr. Speaker. But maybe we will hear more about that tonight from some of my other colleagues.

There is one most important point that I would like to make. And of course, President Obama very respectfully came to the Republican Conference today. I think he was very forthright with us. I think most, all of my colleagues on the Republican side would agree that the exchange was respectful, sincere and honest. There were honest differences of opinion in regard to what kind of taxes we really feel like we need to stimulate this economy. We Republicans feel very strongly that the tax breaks need to be across the board, that everybody that pays taxes needs to have a tax cut, not have a preponderance of the tax break going to those who currently don't pay any taxes. But most importantly, even more importantly than individual lowering of marginal rates, is to help our corporate men and women, small businesses. I'm not talking about IBM or General Motors or Apple Computer or anybody in that category. I'm talking about small businessmen and women, the ones that, quite honestly, because we goofed up the TARP program, are having such a desperate time getting a loan, a bridge loan to keep those businesses going and to keep the employment rate up in this country. They're not getting what they need. So we feel very strongly that there should be a significant lowering of the corporate income tax rate, maybe from 35 current down to 25 percent.

We feel like that a person who has a 401(k) or an IRA plan, Mr. Speaker, who is under age 59½ and normally would be penalized and have to pay a tax burden for taking money out prematurely from one of those plans, in this desperate year or two, there should be no penalty for withdrawing money out of a 401(k) or an IRA to possibly pay the heating bill or pay for a child's surgery or to ward off foreclosure when they are a couple of months behind on a mortgage payment.

Those are the kind of things that we, on the Republican side, have tried to bring to the committees of jurisdiction that marked up this bill last week, the Appropriations Committee, the Ways and Means Committee and the committee on which I now serve proudly, the Energy and Commerce Committee. And every little amendment, there weren't many, Mr. Speaker, that we got approved in Energy and Commerce last week, lo and behold, when it was all said and done, those amendments were pulled out of the final bill. And so the bill that we are seeing today, which is kind of an amalgam of those three bills sort of put together, maybe rewritten by the majority leader and the Speaker of the House, none of those Republican amendments, those well-thought-out amendments, after a 12½ hour markup, a lot of hard work went into that, and all of a sudden, poof, they are gone.

And so when President Obama was at our conference today, Mr. Speaker, we talked to him about that. And he listened. I think he sincerely listened. He made no promises. But I thought it was a very good opportunity, a very good exchange and a good start. And as he pointed out, we would love to be able to have a bill that we could agree on that had a good chance of stimulating this economy and stimulating it quickly and that we could do it in a bipartisan way.

But for that to happen, Mr. Speaker, he is going to have to make some changes that we Republicans can believe in. Let me repeat that. That has been the motto, ''change you can believe in.'' He, in this bill, to get Republican support, is going to have to make some changes that we Republicans and the people that we represent, literally 48 percent of the population of this country, that they, too, can believe in. And so we can only hope that as this bill is marked up in the Senate, and clearly, the two will not be the same, and ultimately there will be a conference report and some changes will be made. And I hope that President Obama, in working with Speaker PELOSI and Majority Leader REID, Mr. Speaker, we can work with the Republican minority with our Leader BOEHNER, JOHN BOEHNER, a gentleman from Ohio, and the Senate minority leader, MITCH MCCONNELL, a gentleman from Kentucky, that we can get together and this can be a work that we can be proud of that has a good chance of success, that truly we will be pouring water on a fire and not gasoline on a fire.

So with that, Mr. Speaker, I see that I have been joined by one of my colleagues, indeed one of my classmates from New Jersey, a gentleman that has served on the Financial Services Committee, he served on the Budget Committee, and I think he has an understanding of this whole process far deeper than most Members. Let me just put it that way.

And so I'm pleased to have with us tonight my good friend from New Jersey, SCOTT GARRETT. And Mr. GARRETT, I will yield some time to you.

Mr. GARRETT of New Jersey. Well, I thank you for the introduction and thank you for yielding as well. I don't know if I can live up to the level as being more informed and better versed than many of my colleagues, but let me just try to make a couple of points here in the next couple of minutes.

You are right when you begin by laying out a little bit of a history. And when you do so, what it points out is that really we have been down this road before. Several months ago, we were right here on this floor debating a similar issue, when then Speaker PELOSI said that the sky would fall if we did not take immediate action in the stock market and the credit market and the rest. And of course, at that time we were talking about TARP 1, TARP 1, a spending of $350 billion, because we were in the midst of a crisis, we were told, a crisis that required that there be absolutely no alternatives considered. In fact, the Treasury Department said they looked at other ideas and immediately dismissed them. In fact, when we were not even allowed to have a markup or a hearing on it to consider alternatives, no, they had picked the right solution to the problem that we were facing in the fall and winter of last year, and that was their TARP 1 piece of legislation, and we had to rush it through this body, pass it and have the President sign it. And we did that over my objection, and I believe your objection, as well.

At that time we said it was going to solve the problem. But what was the end result? Of course, well, they said if we didn't do it, the stock market would drop about 1,000 points. But by gosh, look where it is now, several thousand points down. And the credit markets, I was just in my office earlier today, credit markets, securitization of housing in the commercial markets, are still equally tight as they were then.

That was followed by TARP 2. It was just a week ago Wednesday of last week. We were again on this floor, and again we were told that we were in a panic phase, a crisis phase, if you will, and we had to vote on TARP 2. And what was TARP 2? TARP 2 was an additional $350 billion that would again go to now the new administration with no strings attached. And this is the rub that so many of my constituents are so angry about that basically we are just writing a proverbial blank check here, passing it off to the administration, they can use it for whatever they want, buy toxic assets, buy banks, nationalize the banks. If you saw Speaker PELOSI on TV the other day, she refused to use the words ''nationalization of the banks.'' But in essence she said that is exactly what they were doing, buying up the auto companies.

We could have our new Treasury secretary, if he wanted to, he could go out and buy a TurboTax for every American in this country so those people would be able to figure out how their taxes are done and make sure that they pay their right taxes. That is what we basically granted when we passed last Wednesday an additional $350 billion, again, over my objection, and I believe over your objection as well, when that TARP bill went through. And now here less than a week later, we are on the floor discussing an additional $800 plus billion, again because we are in a crisis, we are told, and if we don't move now, it will get even worse. And we were told, again, just as in TARP 1, as in TARP 2, no opportunity for hearing, no opportunity really for input, no opportunity for amendments and the like, so that we were in panic phase.

And with that, I would just like to refer you over to an article that was actually in today's ''Weekly Standard'' written by John Stossel, who I'm sure you're familiar with. The headline of that is, ''This Is No Time to Panic.'' And I think that is extremely important to consider. And it lays it out pretty well. The subheadline is, ''our economy has recovered before and we can do so again.'' And what he basically lays out here is just take your time, move in a careful and cautious manner, consider all the alternatives which you were not allowed to do in 1 and 2, and move appropriately and the economy will work its way through with appropriate action in Washington that takes all considerations and input to mind. We didn't do that in 1. We didn't do it in 2. And I think obviously we are not going to do it with the expenditure of $800 billion now.

So going forward, we should consider a couple of points. What do the economists say about this? What do some of their own members say about what is about to go on here? Well, the economists, let's talk about that. We had the President come and speak to us today in the Republican Conference, as you said, and I appreciate the fact that the new President came and said he would reach across the aisle and talk to us about these issues. Although I will add the caveat, each time we threw out some alternatives to him and said, well, we might want to improve the bill in this manner or in that manner, I believe for as long as I was in the conference, each time one of those alternatives was suggested to him, he said, well, I would disagree with you on those points, and I really can't accept that amendment or that suggestion as a change.

But I do still appreciate the fact that he would come and listen to our talks. While he was there, and other times as well, he said that all the economists side with them on the need for a spending plan right now as they have laid out. And in essence, it is sort of the same argument we have heard before where it says there is no economist on the other side. Well, there are economists on the other side. As a matter of fact, there are pages of economists on the other side of this issue who say that the right action is not the one that is being laid out in this stimulus package. The right action is not to put us deeper in debt. And it is not just economists outside of the mainstream. I can refer you, as well, to economists right in the Obama administration.

If you look to an article in the February 9 edition of National Review by Alan Reynolds, he quotes two economists. One is Peter Orszag, who of course is the new administration's head of the Office of Management and Budget. And also he makes reference to Douglas Elmendorf, who is the new Democrat head of CBO. So these are people within the Obama administration who, previous to coming into their administration, or the Democrat side of the aisle, I should say, disagreed with this approach to stimulus with regard to fiscal spending.

Let me just quote from the article with regard to Peter Orszag.

''Former Treasury Secretary Robert Rubin co-authored a 2004 paper with forecaster Peter Orszag of the Brookings Institute at that time, who has now been tapped by the Obama administration to lead the Office of Management and Budget. In that report they argued that 'budget deficits which will occur with this bill, decrease national savings which will reduce domestic investment and increase borrowing abroad.' ''

Big budget deficits, warned Rubin and Orszag, would ''reduce future national income,'' and this is the important part as well, risk a ''decline in confidence which can reduce stock prices.'' So that is his new OMB director raising those red flags. Democrats' CBO director said the following, and they warn that ''it is critical that efforts to fight a recession'' such as we are doing now ''do not end up increasing the long-run budget deficit and thus harming long-run growth.''

Elmendorf rightly noted that ''the idea that Congress should make legislative changes to tax and spending policies in order to counter the business cycle has fallen into disfavor among economists.'' So there it is right there.

Mr. GINGREY of Georgia. If I reclaim my time just for a second, I hope you will stick with me, I want to hear more from you. But you mentioned the majority CBO, Congressional Budget Office, they came out with a report that said that 7 percent, Mr. Speaker, 7 percent of this money would be spent in 2009 and up to 38 percent by the end of 2010.

□ 2145

So we have this dire emergency and we need spending and we need it right now, and yet only 7 percent of all of these projects are getting into the hands of the people, into the economy, to help grow jobs. Where is the emergency?

Well, I quite honestly, Mr. Speaker, feel there is an emergency. But that is why we take exception to this program and the many things that are in it that really have nothing to do with emergency spending. I mentioned a few of them at the outset. There are others. There are quite a few others.

In fact, Mr. GARRETT, I know you would agree with me, Mr. Speaker, I think he would, that when President Obama came to the conference today, he admitted the same thing. He said look, there is stuff in there if I had my complete way, and I am not sure why he doesn't, but he does have to deal, of course, with the legislative branch, that being Speaker PELOSI and Majority Leader HARRY REID on the Senate side, but there are things that I think clearly should be, and I bet my colleague from New Jersey would agree with me, it is just regular spending. Whether we are talking about some of the trillions of dollars on education spending, IDEA, increasing Pell Grants, that is part of a regular process that ought to work its way through the authorizing committee, Education and the Workforce, and let the appropriators appropriate money under regular order. That is not emergency spending. So we have turned this $825 billion emergency spending package literally into a Christmas tree, and it is not going to help, it is not going to get us

out of this deep recession. And we need something that is going to work.

I yield to my friend.

Mr. GARRETT of New Jersey. I appreciate the gentleman yielding and I think when you said I would probably agree with you, I do agree with you.

Before I describe the types of jobs that they may be creating with this so-called bailout of the economy, you have to ask yourself: what is the definition of a job? We have an idea when somebody says I just got a new job, they have a job, employment, a career that they will be starting next Monday and it will last not just through Monday afternoon but through the next year and as long as they perform their duties and services appropriately as to the requirements of their employer, that they will have a job.

Mr. GINGREY of Georgia. At least to work long enough to make them eligible for Social Security, 10 quarters worth of work.

Mr. GARRETT of New Jersey. There you go. But what the government means when they say they are creating jobs, and the Obama administration has given us different numbers as to how many jobs, 2 or 3 or 4 million jobs, we don't know how many jobs that they are creating, but a job is when an individual works at least one hour during the course of one week, and that means that they have created a job. So I could pay you to paint my fence in front of my house for an hour, and I just created a job. So we could be creating 2 or 3 million of these jobs under this proposal. But is that the type of job and the type of recovery that Americans are truly looking for?

As to what the nature of some of these jobs are, let's look at a couple of them. In Anchorage, Alaska, we have talked about building the bridge to nowhere in Alaska. Here is street lighting. I guess that is putting in light bulbs. That is one job.

Intercom upgrades, someone is rewiring intercoms in buildings.

Bus replacement. I am not sure how that is getting a job.

Also in Anchorage, Alaska, and Alaska does pretty well under this bill, potentially. These are proposals coming from mayors across the country as far as job-ready projects that they can submit to the administration and say let's roll with these programs, Greenbelt Trail resurfacing. I guess that is a job that we are looking to spend money on.

Again street light retrofitting.

Landfill methane recovery project.

In Huntsville, Alabama, they are looking for money to replace bathroom fixtures, software purchases, and replace trolley buses.

Down in Pines Bluff, Arkansas, they are looking to buy a fire department ladder. I am not sure how that creates a job, but that is what the mayors are submitting to say they are ready to go, dollar ready, and spend this money getting it out the door.

With regard to that, I think the point should be driven home as far as when the money would be spent. The original CBO budget said that only a small percentage of the money will actually go out during the course of this year.

Mr. GINGREY of Georgia. Absolutely. Again, that was a CBO report and it was 7 percent in 2009.

Mr. GARRETT of New Jersey. Yes, 7 percent.

Now the number on top of that that the majority has just come out with says actually, we are going to get around two-thirds of the money out in 18 months. Think for a second what that actually means. So 18 months from now will be July 2010. By July, we will be having our summer barbecue, and that is when the bulk of this money will be spent. That is not when we need to get the economy going, that is not when small businesses should be hiring new people, not a year or more from this summer, we should be hiring people today, we should be putting people back to work today. So the idea that the majority is saying is okay is favorable, spending money a year and a half from now as the best-case scenario is one that I think most Americans would have a problem with.

Mr. GINGREY of Georgia. Indeed, Mr. Speaker, and I would say to my colleague that the jobs are being lost today. They are not being lost 18 months from now. God help us if we are losing these kinds of job 6, 12, 18 months from now. We better be growing jobs and not losing 15,000, and I think Pfizer Pharmaceutical announced they were going to cut 15,000 jobs out of their workforce. Apple for the first time in its history I think recently announced a significant job loss. The big three automobile manufacturers, despite the fact that they got what, at least $5 billion, including GMAC, another billion in the first tranche of the TARP money, so these jobs are being lost and lost now. And as my colleague from New Jersey points out, we need to save these jobs, save the ones that we can and grow new jobs, but not 6, 12, 18 months from now but right now.

I wanted to just mention for my colleagues' sake on both sides of the aisle, sometimes it is a little difficult to know what is exactly in these massive bills, particularly one that has been brought to the floor in such rapid-fire fashion without any input really from the minority side, but maybe without much input, if any, from the rank and file of the Democratic majority. But, Mr. Speaker, and my colleagues, including Mr. GARRETT from New Jersey, just listen to a few of the things that are in this economic stimulus package: $650 million for digital TV coupons; $650 million for new cars for the Federal Government; $6 billion for colleges and universities, many of which have billion dollar endowments; $50 million in funding for the National Endowment for the Arts. That is a perfect example of something, Mr. Speaker, that should be funded under regular order. It should be debated and a case made whether or not that needs to be increased or decreased, not thrown in here in the dark of night and said we are going to spend $50 million because it is part of an economic stimulus package. It is not.

There is $44 million for repairs to the United States Department of Agriculture headquarters. What do they need new carpet, retrofitting of their bathroom fixtures? Can't that wait? Is that going to create new jobs? I don't think so.

There is $200 million as we said earlier for The National Mall, including $21 million for sod. I could go on and on. Some might say you are nitpicking, you are just going in there and picking out things that sound and look bad. Believe me, there are others that sound and look a whole lot worse. It is just a recurring theme. So we feel very strongly, and I want to spend some time talking about this because my colleague on the floor with me tonight, Representative GARRETT from New Jersey, he and I are both members of the Republican Study Committee, the more conservative 108 Republican Members out of about 175 of us now, in the minority, who have a better plan, we think, for stimulating this economy. We call it the Economic Recovery and Middle Class Tax Relief Act of 2009.

I want to bring out just a few of the things that are in that bill. We have submitted it. I am a proud cosponsor of this bill. I think the original cosponsors, the chairman of the Republican Study Committee, Mr. Speaker, and that would be Dr. TOM PRICE of my great home State of Georgia, and JIM JORDAN, the gentleman from Ohio, and a couple of other members of the Republican Study Committee, but here are some of the provisions.

We would provide an across-the-board tax cut of 5 percent for everybody who pays taxes. Every marginal rate, we would cut 5 percent. If you are paying 10 percent, it is 5. If you are paying in the 15 percent bracket, it is 10. If you are paying in the 28 percent bracket, it is 23. And we feel very strongly about that.

We would increase the child tax credit from $1,000 to $5,000.

We would repeal the AMT. Very quickly, I think the general public has heard enough about this to understand it. I know my colleagues understand it. AMT, alternative minimum tax, which was put in place 25 or 30 years ago to make sure that maybe 125 ultra-rich people had to pay some taxes, they couldn't use legal loopholes with very smart Philadelphia tax lawyers to get out of paying any taxes, and so it had

to be calculated in two ways and they had to pay an alternative minimum tax. Well, it was not indexed for inflation and this year come April 15, 25 million middle income taxpayers are getting caught by the AMT, and that should be repealed. It should not have any kind of a PAYGO provision. It is a wrong tax. It was never meant to apply to these 24 million, and it should be repealed and repealed permanently.

We want to make the capital gains tax lower and we want to make the dividends tax rate 15 percent and permanent. We want to increase by 50 percent the value of the tax deduction for interest on student loans and the tax deduction for qualified higher education expenses.

We want to make all withdrawals from retirement accounts tax free, as I said earlier, during the year 2009.

There are a number of other provisions in the bill. I know that my colleague from New Jersey is very familiar with that. I would love to yield to him at this time and we will further discuss the RSC stimulus bill which is called the Economic Recovery and Middle Class Tax Relief Act of 2009 which we firmly believe will get us out of this recession because people will have money in their hands that they will spend and we will not have to worry about this massive bureaucracy throwing $825 billion out the window and hoping that it sticks somewhere.

I yield to my friend.

Mr. GARRETT of New Jersey. Mr. Speaker, before I speak to the many merits of that piece of legislation, I just want to reiterate another point as to how we got here and what we are getting from the other side.

As I mentioned before, the proponents of the bailout bill that we are about to vote on tomorrow would say that the economists are on their side and there are no economists on the other side, and I made the argument that there are a number of economists who support our view, that the way to go is just what you were laying out in the Economic Recovery and Middle Class Tax Relief Act.

I should also point out that even within their own conference, there is growing realization that the way to get job creation going in this country is not by rushing a bill through this House without due deliberations, rushing a piece of legislation that is going to put our children and grandchildren in debt.

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And so I just wanted to point out that our friend from the other side of the aisle and the chairman of the Capital Markets Committee in Financial Services, Representative PAUL KANJORSKI—who, by the way, just an hour or so ago was trying to make a positive amendment to the underlying bill and was rebuffed in the Rules Committee—this is what he had to say on C–SPAN with regard to his own party. He said, the Democrats, ''have lost our way, and that we shouldn't be pressed by any silly deadlines.'' He went on to say further, ''We need to take our time. And I guarantee you we're going to come back and we're going to have to have another stimulus on top of this. We're going to have another bailout for Wall Street because we are not doing things properly.'' He says, again, ''I think we lost our way in a way. We shouldn't be pressed by these deadlines. You know, what makes the President's Day holiday''—which is where they were initially aiming for—''so important for us to get out of town to get these things done?'' Which just goes to show that there are individuals from both sides of the aisle who realize that when you're talking about such sums of money and when you're talking about such a situation that we're in right now, that a solution is not to be found by rushing to judgment, nor is a solution to be found by putting all consideration to alternatives aside.

That's why I commend the gentleman from Georgia to making reference to the RSC, the Republican Study Committee, proposal. Because what this does is to make a realization that the failed policies of the past, as far as economic policy of saying that we can spend our way into a new paradise of the economic situation, history does not prove that. If you think about the Great Depression—which a lot of people are now referencing right now—some of them from the other side of the aisle will make that argument and say, well, what pulled us out of the Depression they'll say was FDR. And I know our new President makes reference to himself with regard to FDR, besides Lincoln. But the other side of the aisle will say that the way to get out of this doldrums is do additional spending such as the New Deal, and that's what they're talking about today is another New Deal.

But if you actually study the history of the Great Depression—and I know there is much dispute as to how we got into the Depression in the first place, but I will commend the gentleman from Georgia to an article written by Robert Higgs which makes the case very well that going into the Depression, there is question as to how we got into it, not so much into question is how we got out of it. And how we got out of it was an opportunity by the private sector to make decisions on their own to invest as they wanted to invest, hire people how they want to be hired, and to do so without excessive control by the Federal Government.

And I'll bring this all around to your point of why the RSC's bill is so important. During the Great Depression you had the FDR, the Roosevelt administration, setting up a whole alphabet soup of new agencies to regulate the economy. During the Depression, you had excessive government expenditures in various sectors of the economy, all of which made the private sector basically say, we're going to sit back for a little while. We're not going to invest anything because tomorrow, where I invest over here, the government may start regulating in such a way that I can't make a profit; or tomorrow, if I decide to invest over here, the government may decide to subsidize my competitor, so I will not be able to make a profit.

So during that time, during the Depression, the investor groups or individuals stayed on the sideline. And it wasn't until the Great Escape, when the Roosevelt administration began to back off, that investors began to get into the market again. The legislation you refer to, the RSC bill, would go in the direction of what came after FDR and during what we call ''the Great Escape,'' allowing for the investor class to say I'm going to invest again. And why are they going to do so? Just because of all those great things that you listed right there. Section 179 expensing. An investor is going to say, I can start investing tomorrow. I can buy this new machine, this new factory, this new truck, or what have you, to hire new people because I can expense it today.

I will yield to the gentleman.

Mr. GINGREY of Georgia. This is without a doubt. And I'm glad you mentioned section 179. I think under current law, section 179, Mr. Speaker, of course is that section of the Internal Revenue Code which does allow a small business to expense a certain amount of capital improvement or equipment purchase in the very first year. But it's limited under current law, I believe—Mr. GARRETT, correct me if I'm wrong—to about $125,000.

We say, in the Economic Recovery and Middle Class Relief Act of 2009, the RSC stimulus package, that that ought to be expanded. And not only that, but also to immediately cut the top corporate income tax rate from 35 percent down to 25 percent. And my colleagues and my friends, that would just align us with the average rate in the European Union. We're all talking about the European Union and what they're doing on cap and trade and global warming and how we ought to get in line with that—even though it will probably break our economy at a time that we can ill afford to do so—but yet we let them rob our bank, literally, with a more attractive corporate tax rate, and we drive our corporations offshore. That makes absolutely no sense. So there are so many things that we could do with the tax code.

And I want to say one other thing before yielding back to my colleague. You know, I've heard the majority side talk about the tax portion of this stimulus bill, the $250 billion or so worth of

tax incentives, and this business of refundability of a tax credit to people for their payroll taxes, people that don't even pay taxes. And the attitude is that, well, the RSC is wrong; you shouldn't cut taxes across the board because people at a higher income level—let's say $40,000, $50,000, $60,000 a year—they won't have to spend that money and they will just hold onto it and it won't get flowing in the economy, it won't stimulate the economy. But these nearly poor and poor people have no choice but to spend that money because they're desperate, they have to spend the money. They can't save it, they can't pay down their debt, they can't put it in a college fund for their child. To me, Mr. Speaker, that is insulting to these people—good, hardworking salt-of-the-earth people—who I truly believe know how to control their money and know when to spend and know when to save and know when to pay down debt and know when to tear up their credit cards. But no, we have this attitude that only uncle knows, only uncle knows and has to make the decision for us.

And I'm just afraid, Mr. Speaker—and that's why I'm opposed to this bill in its present form—I just feel that we're only going to get one shot at this. We are losing too many jobs, the economy is in a severe downturn—I think it's fair to say a deep recession—and we need to give it our best shot. And we certainly don't need to be throwing gasoline on the fire.

And so I yield back to my colleague for some additional comments and then we'll move to close.

Mr. GARRETT of New Jersey. It looks like the time is coming to a close. And it just makes me think, as someone else said earlier today, there is a culture of arrogance, I believe, in the Nation's Capitol when the thought is that the bureaucrats and the Representatives here in this House know how to spend the money better than the people back at home. There is an arrogance to think that there is elitist—whether it's here or some administrative agency—that they are somehow imbued with special qualities, that their action of spending a dollar will generate more wealth for this country than if you and I or our constituents spend a dollar.

And of course we're not really only spending a dollar, are we? We're talking about billions and trillions of dollars. And if this $5 bill was actually a $1,000 bill and I put it right here, how many would I need of those to have a million dollars? Well, I would need four inches of these stacked up here to give to you and then say that you would be a millionaire. And how many of these, if these were $1,000, would I have to have stacked up here in order to say go out tomorrow and spend a trillion dollars—which is just about what the other side wants to do? I would need to have this stack go 63 miles into the air, into the space. That's how much money we're talking about spending. And the arrogance is that we somehow think that we know how to spend it better.

How much money are we talking about here? And I will close on this. If you took all the money that Congress or that Washington ever spent on the Marshall plan to rebuild Europe and added that to all the money that this country used to buy the Louisiana Purchase some time ago, and you added that to all the money that we spent in this country to the race to the moon, and you added that to all the money that we had to spend to get us out of the savings and loan crisis, and then you added to that all the money that we spent on the Korean War, and then you added that to all the money that FDR spent on the New Deal, and then you added that to all the money that we spent on the invasion of Iraq, and finally, if you added all the money that we spent on the entire Vietnam War, all those things together would not equal what the other side of the aisle thinks that they know how to spend better than the American taxpayer. And I think the American taxpayer knows how to spend it far better.

With that, I yield back to you for closing comments.

Mr. GINGREY of Georgia. My colleague from New Jersey, I appreciate those figures. And boy, if that doesn't put it into perspective for all of us, Mr. Speaker.

Let me just say this, and then I want to recognize my colleague from Minnesota, possibly, for a minute. But at the end of our conference today, Mr. Speaker, with President Obama, our conference chairman, MIKE PENCE, the gentleman from Indiana, said to the President, one thing is for sure, you have our prayers. And you have our prayers on both sides of the aisle. We'll be praying for the administration, we'll be praying for the leadership. We'll be praying for the majority and the minority that we can do the right thing for the American people.

I see that my colleagues are leaving. So as I finish up, again, I just want to say, Mr. Speaker, that this issue is much too important for partisan politics, but it is about policy. And if we're going to be—we, the Republican minority—are going to be the loyal opposition, then it is our duty, it's our responsibility to express our concern in a respectful way to the President of the United States, to President Obama, and to Majority Leader REID in the Senate and the Speaker of the House, Ms. PELOSI, here in this great body, that we have some concerns. We want you to listen to us. We want to work with you. We want to save this economy so that we can help all the American people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. GINNY BROWN-WAITE of Florida (at the request of Mr. BOEHNER) for today and the balance of the week on account of a family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BOUCHER) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. SCALISE) to revise and extend their remarks and include extraneous material:)

Mr. JONES, for 5 minutes, February 3.

Mr. POE of Texas, for 5 minutes, February 3.

Mrs. BIGGERT, for 5 minutes, January 28.

Mr. DUNCAN, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today and January 28.

ADJOURNMENT

Mr. GINGREY of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 28, 2009, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

270. A letter from the Chief, Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Revision of the Hawaiian and Territorial Fruits and Vegetables Regulations [Docket No.: APHIS-2007-0052] (RIN: 0579-AC70) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

271. A letter from the Assistant Secretary, Installations and Environment, Department of the Navy, transmitting notification of the decision to conduct a streamlined A-76 competition of aircraft maintenance functions being performed by one hundred nine (109) military personnel in various locations; to the Committee on Armed Services.

272. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Golden Parachute Payments (RIN: 2590-AA08) received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

273. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled,

''Report to Congress on Head Start Monitoring for Fiscal Year 2007,'' pursuant to Section 641(e) of the Head Start Act; to the Committee on Education and Labor.

274. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Casper, Wyoming) [MB Docket No.: 08-108 RM-11451] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

275. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Kansas City, Missouri) [MB Docket No.: 08-111 RM-11454] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

276. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Kearney, Nebraska) [MB Docket No.: 08-199 RM-11486] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

277. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Omaha, Nebraska) [MB Docket No.: 08-115 RM-11445] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

278. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Superior, Nebraska) [MB Docket No.: 08-209 RM-11496] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

279. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Huntsville, Alabama) [MB Docket No.: 08-194 RM-11488] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

280. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations. (Superior, Nebraska) [MB Docket No.: 08-209 RM-11496] received January 9, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

281. A letter from the Chief of Staff, Wireline Competition Bureau, Federal Communications Commission, transmitting the Commission's final rule — In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers [CG Docket No.: 03-123; CC Docket No.: 98-67; WC Docket No.: 05-196] received January 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

282. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

283. A letter from the Acting Assistant Secretary Legislative Affairs, Department of State, transmitting a report in accordance with Section 3 of the Arms Export Control Act; to the Committee on Foreign Affairs.

284. A letter from the Attorney — DOT Office of General Counsel, Department of Transportation, transmitting the Department's final rule — Railroad Saftey Enforcement Procedures; Enforcement, Appeal and Hearing Procedures for Rail Routing Decisions [FRA-2007-28573] (RIN: 2130-AB87) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

285. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's report on a June 2008 limited reevaluation study conducted to review previous reports prepared for the Modified Water Deliveries to Everglades National Park (Mod Waters) project; (H. Doc. No. 111-11); to the Committee on Transportation and Infrastructure and ordered to be printed.

286. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting an interim response to conduct a feasibility study to evaluate problems and opportunities associated with ecosystem restoration and protection for the New York and New Jersey Port District; (H. Doc. No. 111-12); to the Committee on Transportation and Infrastructure and ordered to be printed.

287. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting a study on the Santa Cruz River, Paseo de las Iglesias, Pima County, Arizona, pursuant to Public Law 75-761; (H. Doc. No. 111-13); to the Committee on Transportation and Infrastructure and ordered to be printed.

288. A letter from the Director of Civil Works, Department of the Army, transmitting a study that recommends authorization of an ecosystem restoration and recreation project for an eight-mile reach of the Salt River between 19th Avenue and 83rd Avenue in Phoenix, Arizona; (H. Doc. No. 111-14); to the Committee on Transportation and Infrastructure and ordered to be printed.

289. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting a report on the budgeting for the Island Creek Local Protection Project, Logan, West Virginia; (H. Doc. No. 111-15); to the Committee on Transportation and Infrastructure and ordered to be printed.

290. A letter from the Deputy Associate Director Energy, Science and Water, Department of the Army, transmitting a study for the ecosystem restoration and recreation for the Salt River (Va Shly'ay Akimel), Maricopa County, Arizona; (H. Doc. No. 111-16); to the Committee on Transportation and Infrastructure and ordered to be printed.

291. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting a feasibility study to evaluate problems and opportunities for East St. Louis, Illinois; (H. Doc. No. 111-17); to the Committee on Transportation and Infrastructure and ordered to be printed.

292. A letter from the Secretary, Department of Health and Human Services, transmitting a report of the Department of Health and Human Services entitled, ''Geographic Variation in Drug Prices and Spending in the Part D Program,'' pursuant to Section 107 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. RANGEL: Committee on Ways and Means. H.R. 598. A bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health; with an amendment (Rept. 111–8, Pt. 1).

Ms. SLAUGHTER: Committee on Rules. House Resolution 92. Resolution providing for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes (Rept. 111–9). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Energy and Commerce, Science and Technology, Education and Labor, and Financial Services discharged from further consideration. H.R. 598 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RAHALL (for himself, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. MARKEY of Massachusetts, Mr. BERMAN, Mr. GRIJALVA, Mr. COSTA, Mrs. CHRISTENSEN, Mr. HOLT, Mr. STARK, Mr. KILDEE, Mr. HINCHEY, Ms. ESHOO, Mr. BLUMENAUER, Mr. KENNEDY, Mr. KIND, Mrs. CAPPS, Mr. SCHIFF, Mr. HONDA, Mr. SALAZAR, and Ms. TSONGAS):

H.R. 699. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Natural Resources.

By Mr. MCNERNEY (for himself and Mrs. TAUSCHER):

H.R. 700. A bill to amend the Federal Water Pollution Control Act to extend the pilot program for alternative water source projects; to the Committee on Transportation and Infrastructure.

By Ms. FALLIN (for herself, Mr. COLE, Mr. LUCAS, Mr. BOREN, and Mr. SULLIVAN):

H.R. 701. A bill to prohibit the use of funds to transfer enemy combatants detained by the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in Oklahoma, or to construct any facility for such

enemy combatants in Oklahoma; to the Committee on Armed Services.

By Ms. HIRONO (for herself, Mr. GEORGE MILLER of California, Mr. CASTLE, Mr. ANDREWS, Mrs. DAVIS of California, Mr. TIERNEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BERMAN, Mr. BISHOP of New York, Ms. BORDALLO, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Ms. CASTOR of Florida, Mr. CLEAVER, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. CROWLEY, Ms. EDWARDS of Maryland, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HARE, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. HONDA, Mr. KENNEDY, Ms. KILPATRICK of Michigan, Mr. KUCINICH, Mr. LOEBSACK, Ms. MCCOLLUM, Mr. MCNERNEY, Mrs. MALONEY, Mr. MOORE of Kansas, Mr. PALLONE, Mr. PERLMUTTER, Mr. POLIS of Colorado, Mr. PRICE of North Carolina, Mr. REYES, Mr. RUPPERSBERGER, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Ms. SCHWARTZ, Ms. SHEA-PORTER, Mr. STARK, Ms. SUTTON, Mr. VAN HOLLEN, Mr. WELCH, Ms. WOOLSEY, Mr. WU, and Mr. YARMUTH):

H.R. 702. A bill to amend the Elementary and Secondary Education Act of 1965 to improve early education; to the Committee on Education and Labor.

By Mr. FRANK of Massachusetts:

H.R. 703. A bill to promote bank liquidity and lending through deposit insurance, the HOPE for Homeowners Program, and other enhancements; to the Committee on Financial Services.

By Mr. KING of New York (for himself and Mr. BILIRAKIS):

H.R. 704. A bill to provide for free mailing privileges for personal correspondence and parcels sent to members of the Armed Forces serving on active duty in Iraq or Afghanistan; to the Committee on Armed Services.

By Mr. EHLERS (for himself, Mr. REYES, Mr. GALLEGLY, Ms. RICHARDSON, Mr. HOLT, Mr. MCGOVERN, Mr. GORDON of Tennessee, Ms. HIRONO, Ms. ROS-LEHTINEN, Mr. OLSON, Mr. CARNAHAN, and Mr. LIPINSKI):

H.R. 705. A bill to amend the Internal Revenue Code of 1986 to encourage teachers to pursue teaching science, technology, engineering, and math subjects at elementary and secondary schools; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Ms. NORTON, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 706. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the Administrator of the Federal Emergency Management Agency to continue to administer the National Urban Search and Rescue Response System, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. CASTOR of Florida (for herself, Mr. ABERCROMBIE, Mr. BARROW, Mr. BILIRAKIS, Mr. BISHOP of Georgia, Mrs. BONO MACK, Mr. BOOZMAN, Ms. BORDALLO, Mr. BOSWELL, Ms. CORRINE BROWN of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. BUCHANAN, Mr. BURTON of Indiana, Mr. BUTTERFIELD, Mr. CARTER, Mr. CHANDLER, Mr. CHILDERS, Ms. CLARKE, Mr. CLAY, Mr. COHEN, Mr. CONYERS, Mr. COURTNEY, Mr. CROWLEY, Mr. CUMMINGS, Mr. DEFAZIO, Mr. DELAHUNT, Mr. EDWARDS of Texas, Mr. ELLISON, Mr. FARR, Mr. FILNER, Mr. FOSTER, Mr. FRANK of Massachusetts, Mr. FRANKS of Arizona, Mr. GONZALEZ, Mr. GORDON of Tennessee, Mr. GRAYSON, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Mr. KAGEN, Mr. KENNEDY, Mr. KILDEE, Mr. KIND, Mrs. KIRKPATRICK of Arizona, Mr. KISSELL, Mr. KLEIN of Florida, Ms. KOSMAS, Mr. LANGEVIN, Mr. LATOURETTE, Ms. LEE of California, Mr. LUJÁN, Mr. MASSA, Ms. MATSUI, Mr. MCDERMOTT, Mr. MCMAHON, Mr. MEEK of Florida, Ms. MOORE of Wisconsin, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. PETRI, Mr. PIERLUISI, Mr. PUTNAM, Mr. RODRIGUEZ, Mr. ROGERS of Alabama, Mr. ROSS, Mr. ROTHMAN of New Jersey, Mr. RUPPERSBERGER, Mr. RYAN of Ohio, Mr. SABLAN, Mr. SCHIFF, Mrs. SCHMIDT, Mr. SESTAK, Mr. SHUSTER, Mr. TANNER, Mrs. TAUSCHER, Mr. TERRY, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TONKO, Ms. WOOLSEY, Mr. SCHRADER, Mr. DOYLE, Ms. KAPTUR, Ms. SCHWARTZ, Ms. SUTTON, Mr. PLATTS, Mr. MINNICK, Mr. TAYLOR, Mr. BOCCIERI, Ms. PINGREE of Maine, Mr. SCHAUER, Mr. HALL of New York, Mr. BERRY, Mr. CLEAVER, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. BISHOP of New York, Mr. CARNAHAN, and Mr. ARCURI):

H.R. 707. A bill to provide monthly vouchers to members of the Armed Forces serving in overseas operations, or hospitalized due to a disease or injury incurred as a result of service in such operations, that a member may transfer to another person to permit the person to mail, without charge, correspondence and small parcels to members of the Armed Forces; to the Committee on Armed Services.

By Mr. SMITH of New Jersey (for himself, Mr. SENSENBRENNER, Mr. STUPAK, and Ms. ROS-LEHTINEN):

H.R. 708. A bill to restrict assistance to foreign organizations that perform or actively promote abortions; to the Committee on Foreign Affairs.

By Mr. ABERCROMBIE (for himself, Ms. HIRONO, Mr. FRANK of Massachusetts, and Ms. WATERS):

H.R. 709. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians; to the Committee on Financial Services.

By Mr. ACKERMAN:

H.R. 710. A bill to secure additional Tier I capital for the United States banking system from parties other than the Federal Government by providing authority to the Secretary of the Treasury to guaranty certain new preferred stock investments made by public pensions acting in a collective fashion, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAPUANO (for himself and Mr. CASTLE):

H.R. 711. A bill to amend the Investment Advisers Act of 1940 to remove the registration exception for certain investment advisors with less than 15 clients; to the Committee on Financial Services.

By Mr. CASTLE:

H.R. 712. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to require in the annual report of each defined benefit pension plan disclosure of plan investments in hedge funds; to the Committee on Education and Labor.

By Mr. CASTLE:

H.R. 713. A bill to require the President's Working Group on Financial Markets to conduct a study on the hedge fund industry; to the Committee on Financial Services.

By Mrs. CHRISTENSEN:

H.R. 714. A bill to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes; to the Committee on Natural Resources.

By Mr. GRIJALVA:

H.R. 715. A bill to expand the boundary of Saguaro National Park, to study additional land for future adjustments to the boundary of the Park, and for other purposes; to the Committee on Natural Resources.

By Mr. ISRAEL (for himself, Mrs. MYRICK, and Mrs. CAPPS):

H.R. 716. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide coverage for individuals participating in approved cancer clinical trials; to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. MCGOVERN):

H.R. 717. A bill to amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. JONES:

H.R. 718. A bill to reinstate the Interim Management Strategy governing off-road vehicle use in the Cape Hatteras National Seashore, North Carolina, pending the issuance of a final rule for off-road vehicle use by the National Park Service; to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEE of New York:

H.R. 719. A bill to amend the Internal Revenue Code of 1986 to extend relief from the alternative minimum tax; to the Committee on Ways and Means.

By Mr. LEE of New York:

H.R. 720. A bill to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Ways and Means.

By Mr. MEEK of Florida (for himself and Mr. BRADY of Texas):

H.R. 721. A bill to amend the Internal Revenue Code of 1986 to modify the exception from the 10 percent penalty for early withdrawals from governmental plans for qualified public safety employees; to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself and Mr. YOUNG of Florida):

H.R. 722. A bill to amend title XIX of the Social Security Act to provide an option of

States to cover a children's program of all-inclusive coordinated care (ChiPACC) under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. NEAL of Massachusetts:

H.R. 723. A bill to amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries; to the Committee on Ways and Means.

By Mr. PASTOR of Arizona:

H.R. 724. A bill to amend the Public Health Service Act to authorize grants to increase the number of qualified nursing faculty, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PASTOR of Arizona:

H.R. 725. A bill to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI (for himself and Mr. KANJORSKI):

H.R. 726. A bill to amend the Internal Revenue Code of 1986 to provide a credit and a deduction for small political contributions; to the Committee on Ways and Means.

By Mr. POMEROY (for himself and Ms. HERSETH SANDLIN):

H.R. 727. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and Labor, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PUTNAM (for himself and Ms. GINNY BROWN-WAITE of Florida):

H.R. 728. A bill to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Ways and Means.

By Mr. ROTHMAN of New Jersey:

H.R. 729. A bill to help keep students safe on school-run, overnight, off-premises field trips; to the Committee on Education and Labor.

By Mr. SCHIFF (for himself, Mr. MCCAUL, and Mr. ISRAEL):

H.R. 730. A bill to strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG (for himself, Mr. HALL of New York, Mr. BRADY of Pennsylvania, Mr. CHILDERS, Mr. BACHUS, Mr. HELLER, and Mr. LATTA):

H.R. 731. A bill to amend title 38, United States Code, to exclude individuals who have been convicted of committing certain sex offenses from receiving certain burial-related benefits and funeral honors which are otherwise available to certain veterans, members of the Armed Forces, and related individuals, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WEINER:

H.R. 732. A bill to authorize the grant program under which the Secretary of Homeland Security makes discretionary grants for use in high-threat, high-density urban areas, and for other purposes; to the Committee on Homeland Security.

By Mr. MCGOVERN:

H. Con. Res. 26. Concurrent resolution providing for an adjournment of the House; considered and agreed to.

By Mr. JACKSON of Illinois:

H. Con. Res. 27. Concurrent resolution authorizing the use of the rotunda of the Capitol for a ceremony in honor of the bicentennial of the birth of President Abraham Lincoln; to the Committee on House Administration.

By Ms. HARMAN (for herself and Mr. TURNER):

H. Con. Res. 28. Concurrent resolution expressing the sense of the Congress regarding sexual assaults and rape in the military; to the Committee on Armed Services.

By Mr. EHLERS:

H. Res. 91. A resolution honoring the life and service of Dr. William Spoelhof, president emeritus of Calvin College in Grand Rapids, Michigan; to the Committee on Education and Labor.

By Mr. BACA (for himself, Mr. LEWIS of California, Mr. CALVERT, Mr. FILNER, Mr. ISSA, Mrs. BONO MACK, and Mr. DREIER):

H. Res. 93. A resolution honoring the Armed Forces from the Inland Empire in California and their families for their extraordinary sacrifices serving the United States in Operation Enduring Freedom and Operation Iraqi Freedom; to the Committee on Armed Services.

By Mr. HALL of New York (for himself, Mr. WELCH, Ms. KAPTUR, Mr. ARCURI, Mr. HIGGINS, Mr. ROTHMAN of New Jersey, Mr. BURTON of Indiana, Ms. HIRONO, Ms. LINDA T. SÁNCHEZ of California, Ms. BALDWIN, and Ms. LORETTA SANCHEZ of California):

H. Res. 94. A resolution urging the Secretary of the Treasury to take certain actions under the Emergency Economic Stabilization Act of 2008 to protect the interests of the taxpayer, and for other purposes; to the Committee on Financial Services.

By Mr. SIRES (for himself, Mr. TOWNS, Ms. HIRONO, Mr. MCGOVERN, Ms. KILPATRICK of Michigan, Mr. BACA, Ms. WASSERMAN SCHULTZ, Mr. PASTOR of Arizona, Mr. PASCRELL, Mr. SHULER, Mr. ELLSWORTH, Mr. ELLISON, Ms. HERSETH SANDLIN, Mr. CARDOZA, Mrs. DAHLKEMPER, Mr. DOGGETT, Mr. BRADY of Pennsylvania, Mr. HIGGINS, Mr. ALTMIRE, Mr. CLAY, Mr. CLEAVER, Mr. HARE, Ms. VELÁZQUEZ, Mr. COSTA, Mr. ANDREWS, Mr. CARSON of Indiana, Mr. SESTAK, Mr. FARR, Mrs. CAPPS, Mr. MCKEON, Mr. HALL of New York, Mr. GENE GREEN of Texas, Mr. SALAZAR, Mr. HOLT, Mr. GONZALEZ, Mr. RODRIGUEZ, Mr. ARCURI, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. BALDWIN, Mr. TEAGUE, Mr. WELCH, Mr. BRALEY of Iowa, Mr. REYES, Mr. RYAN of Ohio, Mr. ORTIZ, Mr. GRIJALVA, Mr. WILSON of Ohio, Mr. HINOJOSA, Mrs. NAPOLITANO, Mr. YARMUTH, Mr. DAVIS of Tennessee, and Mr. KENNEDY):

H. Res. 95. A resolution supporting the goals and ideals of ''National Girls and Women in Sports Day''; to the Committee on Oversight and Government Reform.

MEMORIALS

Under clause 3 of rule XII,

2. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 232 memorializing the Congress of the United States to assist Michigan in rebuilding the state's economy; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mrs. NAPOLITANO introduced a bill (H.R. 733) for the relief of Jayantibhai Desai and Indiraben Patel; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. POSEY and Mr. MILLER of Florida.

H.R. 31: Mr. SESTAK, Mr. ANDREWS, Mr. BERMAN, Mr. BLUMENAUER, Mr. BOYD, Mrs. CAPPS, Mr. COOPER, Mr. HARE, Ms. HARMAN, Mr. HINCHEY, Mr. ISRAEL, Mr. MICHAUD, Mr. OBERSTAR, Mr. ORTIZ, Mrs. TAUSCHER, Ms. WOOLSEY, Ms. LEE of California, Mrs. CAPITO, Mr. SNYDER, Mr. COHEN, and Mr. BAIRD.

H.R. 80: Mr. NADLER of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LANCE, Mr. STARK, and Mr. PALLONE.

H.R. 85: Mr. OLSON, Mr. MCHUGH, and Mr. NYE.

H.R. 106: Mr. HINOJOSA, Mr. BUTTERFIELD, Mr. FILNER, and Mr. LEWIS of Georgia.

H.R. 147: Mr. TIM MURPHY of Pennsylvania, and Mr. CARNAHAN.

H.R. 153: Mr. YOUNG of Alaska.

H.R. 154: Mr. YOUNG of Alaska.

H.R. 155: Mr. KLINE of Minnesota, Mr. ROGERS of Kentucky, Mr. KING of New York, and Mr. YOUNG of Alaska.

H.R. 156: Mr. OLSON, Mr. SCHAUER, and Mr. KLINE of Minnesota.

H.R. 159: Mr. BROWN of South Carolina, Mr. MCHUGH, Mr. CONNOLLY of Virginia, Mr. MASSA, and Mr. SARBANES.

H.R. 175: Mr. FILNER.

H.R. 179: Mr. BRADY of Pennsylvania and Mr. RYAN of Ohio.

H.R. 181: Mr. MCHUGH and Mr. GONZALEZ.

H.R. 200: Mr. KUCINICH.

H.R. 234: Ms. TITUS and Mr. HELLER.

H.R. 235: Mr. BISHOP of New York, Ms. GINNY BROWN-WAITE of Florida, Ms. ESHOO, Mr. SOUDER, Mr. OBERSTAR, Mrs. SCHMIDT, Mr. ROYCE, Mr. DEAL of Georgia, Mr. SERRANO, Mr. MANZULLO, Mr. KING of New York, Mr. GUTHRIE, Mrs. BONO MACK, and Mr. MORAN of Virginia.

H.R. 240: Mr. SOUDER, Mr. OLSON, and Mr. TERRY.

H.R. 254: Mr. HOLT.

H.R. 294: Mr. LATTA.

H.R. 301: Mrs. MYRICK, Mr. BARRETT of South Carolina, Mr. SMITH of Nebraska, and Mr. MANZULLO.

H.R. 333: Mr. RAHALL, Mr. SCOTT of Georgia, Mr. GONZALEZ, Mr. ABERCROMBIE, and Mr. NYE.

H.R. 347: Mr. WEINER, Mr. BERMAN, Mr. DELAHUNT, Ms. JACKSON-LEE of Texas, Mr. CULBERSON, Mr. WAXMAN, Mr. ROTHMAN of New Jersey, Mr. MCNERNEY, Mr. HOLT, Mr. COURTNEY, Ms. SUTTON, Mr. HARE, Mr. HASTINGS of Florida, Ms. WASSERMAN SCHULTZ, Mr. MILLER of North Carolina, Mr.

FILNER, Ms. EDWARDS of Maryland, Ms. MOORE of Wisconsin, Ms. ESHOO, Mr. OLVER, Mr. BRALEY of Iowa, Mr. MORAN of Virginia, Ms. HIRONO, Mr. SPRATT, Mr. DICKS, Mr. MOORE of Kansas, Mr. ISRAEL, Mrs. TAUSCHER, Mr. FLAKE, Mr. KILDEE, Mr. BUTTERFIELD, Mr. BRADY of Texas, Mr. GONZALEZ, Mr. SMITH of Texas, and Mr. GUTIERREZ.

H.R. 361: Mr. NYE.

H.R. 367: Mr. MCINTYRE.

H.R. 377: Mr. WESTMORELAND.

H.R. 378: Mr. WESTMORELAND.

H.R. 379: Mr. PITTS, Mrs. MYRICK, Mr. WITTMAN, and Mr. GALLEGLY.

H.R. 381: Mr. WESTMORELAND.

H.R. 391: Mr. SHADEGG.

H.R. 392: Mr. LATTA, Mr. NEUGEBAUER, Mr. CRENSHAW, Mr. BARTLETT, and Mrs. MYRICK.

H.R. 424: Mr. SMITH of New Jersey, Mr. LINDER, Mrs. MYRICK, Mr. BURTON of Indiana, and Mr. KIRK.

H.R. 426: Mr. RADANOVICH, Mr. CARNEY, Mr. CONNOLLY of Virginia, and Mr. NUNES.

H.R. 460: Ms. SCHAKOWSKY, Mr. YOUNG of Alaska, Mr. SARBANES, Mr. HONDA, and Mr. GORDON of Tennessee.

H.R. 463: Mr. CARSON of Indiana, Mr. COOPER, Mr. JOHNSON of Georgia, Mr. KLEIN of Florida, Mr. MARKEY of Massachusetts, Mr. MASSA, Mr. MILLER of North Carolina, and Mr. TIERNEY.

H.R. 470: Mr. BARRETT of South Carolina, Mr. BROWN of South Carolina, Mr. ROONEY, and Mr. SHADEGG.

H.R. 471: Mr. FORTENBERRY, Mr. SOUDER, Mr. WILSON of Ohio, Ms. SUTTON, Ms. KAPTUR, Mr. JONES, Mr. BRADY of Pennsylvania, and Mr. KILDEE.

H.R. 490: Mr. LANGEVIN.

H.R. 498: Mr. NYE.

H.R. 502: Mr. LAMBORN.

H.R. 503: Mr. ROONEY, Mr. BERMAN, Mr. DICKS, Mr. AL GREEN of Texas, Mr. PETERS, and Mrs. LOWEY.

H.R. 510: Mr. BOUSTANY.

H.R. 515: Ms. DEGETTE, Mr. ROSS, Mr. MURPHY of Connecticut, Ms. SLAUGHTER, and Ms. MATSUI.

H.R. 527: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HONDA, and Mr. THOMPSON of California.

H.R. 536: Mr. FILNER, Mr. NYE, and Mr. SOUDER.

H.R. 537: Mr. SIRES and Ms. GINNY BROWN-WAITE of Florida.

H.R. 538: Mr. FILNER.

H.R. 578: Mr. STARK.

H.R. 593: Mr. CUMMINGS.

H.R. 610: Mr. DAVIS of Alabama, Ms. KILPATRICK of Michigan, Mr. ROTHMAN of New Jersey, Ms. SCHAKOWSKY, Mr. COHEN, and Ms. HIRONO.

H.R. 614: Mr. SHADEGG, Mr. LUETKEMEYER, Mr. SHIMKUS, Mr. ADERHOLT, Mr. RADANOVICH, Mr. ALEXANDER, Mr. DUNCAN, and Mr. WAMP.

H.R. 620: Mr. MANZULLO.

H.R. 621: Mrs. BIGGERT, Ms. KAPTUR, and Mr. ELLISON.

H.R. 634: Mr. LINCOLN DIAZ-BALART of Florida, Mr. SMITH of Nebraska, Mr. SOUDER, Mr. KING of Iowa, and Mr. WAMP.

H.R. 658: Mr. DINGELL, Mr. HINCHEY, Mr. BISHOP of New York, Mr. HOLT, Mr. LOBIONDO, and Mr. WILSON of Ohio.

H. J. Res. 11: Mr. MCINTYRE and Mr. ROGERS of Kentucky.

H. J. Res. 16: Mr. POSEY.

H. J. Res. 18: Mr. PALLONE, Mrs. MALONEY, and Mr. NADLER of New York.

H. Res. 18: Mr. LARSON of Connecticut and Mr. MURPHY of Connecticut.

H. Res. 22: Mr. FRANK of Massachusetts.

H. Res. 36: Mr. FILNER, Ms. KILPATRICK of Michigan, Mr. HIGGINS, Mr. LARSON of Connecticut Mr. GORDON of Tennessee, and Mr. BISHOP of Georgia.

H. Res. 60: Mr. MILLER of Florida, Mr. KLINE of Minnesota, Mr. CARTER, Mr. HENSARLING, Mr. NEUGEBAUER, Mr. SAM JOHNSON of Texas, Ms. GRANGER, Mr. BARTON of Texas, Mr. SMITH of Nebraska, Mr. GINGREY of Georgia, Mr. WAMP, Mr. DUNCAN, Mr. BROWN of South Carolina, Mr. BLUNT, Mr. CONAWAY, Ms. ROS-LEHTINEN, Mrs. CAPITO, Mr. LATTA, Mr. POE of Texas, Mr. BILIRAKIS, Mr. BUCHANAN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. PETRI, Mr. MANZULLO, and Mr. DANIEL E. LUNGREN of California.

H. Res. 70: Mrs. BACHMANN.

H. Res. 75: Ms. WOOLSEY, Ms. SPEIER, Mr. STARK, Mr. HONDA, Ms. ZOE LOFGREN of California, Mr. COSTA, Mr. SCHIFF, Mr. BECERRA, Ms. SOLIS of California, Ms. WATSON, Ms. ROYBAL-ALLARD, Ms. WATERS, Ms. HARMAN, Ms. RICHARDSON, Mrs. NAPOLITANO, Mr. BACA, Mrs. DAVIS of California, Mr. LATOURETTE, Mr. HIGGINS, Mr. ARCURI, Mr. BISHOP of New York, Mr. WEINER, Mr. CHILDERS, Mr. EHLERS, Mr. WILSON of Ohio, Mr. ALTMIRE, and Mr. BOUSTANY.

H. Res. 77: Mr. WOLF.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: At the appropriate place in the bill, insert the following:

LAND AND WATER CONSERVATION FUND STATE ASSISTANCE

For construction, improvements, repair, or replacement of facilities related to the revitalization of state and local parks and recreation facilities, $125,000,000 is made available under the Land and Water Conservation Act Stateside Assistance Program, as amended (16 U.S.C. 4601(4)–(11)), except that such funds shall not be subject to the matching requirements in section 4601–89(c) of that Act:

URBAN PARKS (UPARR)

For construction, improvements, repair, or replacement of facilities related to the revitalization of urban parks and recreation facilities, $100,000,000 is made available under the Urban Park and Recreation Recovery Act of 1978 13 (16 U.S.C. 2501 et seq.), except that such funds shall not be subject to the matching requirements in section 2505 (a) of the Act: Provided, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section and such funds are to remain available until expended: Provided further, That notwithstanding section 2504 of the UPARR Act of 1978 (P.L. 95–625), any local government within a Bureau of the Census defined metropolitan statistical area may apply for assistance under the UPARR program. Cities and counties meeting this criterion, but not among the originally designated eligible units of government, would have to include the required distress factors as part of their applications for funding.

H.R. 1

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 3: At the appropriate place in title VIII of the bill, insert the following:

Provided further, That no funds shall be precluded from being dispensed for use for the restoration, creation, or maintenance of local and community parks.

H.R. 1

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 4: Page 175, strike lines 1 through 8.

Page 647, after line 12, insert the following new section and make the necessary conforming change in the table of contents:

SEC. 7008. SPECIAL RULE ON CONTRACTING.

Each local agency receiving a grant or money under this Act shall ensure that, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, women- and veteran-owned businesses, through full and open competition.

EXTENSIONS OF REMARKS

UNI-CAPITOL WASHINGTON INTERNSHIP PROGRAM

HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. COURTNEY. Madam Speaker, for decades the United States has worked closely with Australia on issues of great importance to our two nations. Australia has stood out among the international community as a friend of the United States and remains one of our closest cultural, economic and security partners. It is in this spirit that a program was launched 10 years ago to further foster those close ties. Since that time, the Uni-Capitol Washington Internship Program has delivered to the United States approximately 100 of Australia's best and brightest to serve as interns in a variety of Federal agencies and congressional offices.

During my first term in Congress, I was privileged to welcome Anthony "A.J." Bremmer to my office. Anthony was a welcome addition to my congressional staff and he quickly became an integral part of the team. When the opportunity arose again this winter to participate in the Uni-Capitol Washington Internship Program, I immediately agreed to welcome another Australian "ambassador." Jehane Sharah, much like A.J., has quickly become a valued part of our staff. Jehane has demonstrated a maturity and a curiosity beyond her college years. Prior to coming to the United States, Jehane worked for two members of the Australian parliament. This experience has helped her flourish during her short time in Washington. She has attended briefings, assisted constituents, and worked with my staff on a variety of research initiatives. Jehane also has an extensive background in communications, serving as a senior reporter for a newspaper in Canberra. As a result, she has assisted my communications director on a number of important projects. Jehane truly is an exceptional ambassador for the people of Australia.

Many of my colleagues have also been privileged to welcome students like Jehane to their offices. This year, 12 students from all across Australia are serving in offices here in Washington. They were drawn from seven Australian universities in four different states and the Australian Capital Territory. From my experience, it is clear that this program will help foster a new generation of understanding and shared experiences between our two countries. One example of this can be seen in a recent feature piece written by Jehane for the Sunday Canberra Times. The article details her experience at the inauguration of President Obama, an event that united not only the people of our country, but those around the world as well.

We in the United States and Australia owe a debt of gratitude to the program's founder, Eric Federing. Eric is a former senior House and Senate Congressional staffer who has worked tirelessly to bring students from Australia to the halls of Washington through his efforts at the Uni-Capitol Washington Internship Program. Madam Speaker, as Members of Congress we have a responsibility to our constituents back home and an opportunity to reach out to people across the globe. It is with that in mind that I would encourage all of my colleagues to open their doors to students from around the world so that they can share in our great democracy. Similarly, I would encourage American university students to travel abroad to learn about other cultures and governments and share their knowledge of our country. I ask my colleagues to join with me in recognizing the contributions of the Uni-Capitol Internship Program and to once more thank Jehane Sharah for her dedication and hard work.

HONORING DIANE GLASSER AND PAMELA BUSHNELL

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. WEXLER. Madam Speaker, I rise today to honor Diane Glasser and Pamela Bushnell, both of whom were sworn in on November 10, 2008 as new commissioners of the city of Tamarac, Florida. As outstanding public servants and great friends of mine, I wish to recognize their accomplishments and congratulate them on their election as commissioners.

Diane Glasser, who was elected as commissioner of District 3, has been a leader in our community for many years. A resident of Kings Point in Tamarac, Diane has been a member of many important committees and task forces, including the Senior Citizens Involvement Task Force for the Broward County School Board, the Charter Board of Tamarac, the Tamarac Redistricting Committee, and the Broward County Human Rights Board. She was chairwoman of Tamarac's 25th anniversary celebration and has served as a four-time delegate to the Democratic National Convention, has been chosen a Democratic National Committeewoman since 1992, and has been First Vice Chair of the Florida Democratic Party since 2001. Her commitment to service and to the issues that matter to our constituency makes her a wonderful choice for commissioner, and I look forward to working with her in the years to come.

Pamela Bushnell, recently elected as commissioner of District 1, has also been a member of many local boards and is an active leader in our community. A resident and current president of Mainlands 1 & 2, Pamela has served on the boards of the City of Margate Committee for the Disabled; the Zoning Board of the town of Sutton, New Hampshire; and Schenectady County Community College; among many others. A volunteer at Calvary Chapel in Fort Lauderdale and a participant in the Broward Sheriff's Office Citizens Observer Patrol Program, Pamela will make a fine addition to Tamarac's government and will serve her district with the utmost distinction.

I look forward to working with Diane, Pamela, Mayor Beth Talabisco, and the rest of the Commission of the City of Tamarac, and wish Diane and Pamela only the best as they begin their service on the City Commission.

TRIBUTE TO SERGEANT MICHAEL DUNN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. STARK. Madam Speaker, I rise today to pay tribute to Sergeant Michael Dunn who retired from the Pleasanton Police Department on January 16, 2009 after 25 years of dedicated public service. Michael began his career as a Military Police Officer with the United States Marine Corps, where he served for over eight years. He was a member of the Los Angeles Police Department from 1982 until he was hired by the City of Pleasanton in 1985 and was promoted to the Rank of Sergeant in 1997.

During his career in police service, Michael was recognized on numerous occasions for his tenacity, professionalism and dedication to his work. He was an exemplary police officer and consistently gave more to the community than was asked of him. For example, he was instrumental in introducing a variety of programs to the community, including bicycle rodeos and a minor offense court to provide rehabilitation alternatives for juvenile offenders.

Michael worked a variety of assignments during his career, including Field Training Officer, DARE Officer, SWAT Officer, Traffic Motor Officer, Juvenile Detective, Rangemaster, Patrol Field Supervisor and Traffic Division Supervisor.

During his career, Michael experienced all that law enforcement offers, including capturing kidnapping and homicide suspects within hours of the crime, handling high profile child molestation investigations, assisting in controlling large scale public demonstrations, providing critical assistance during the Oakland Hills Firestorm, and saving the life of a young girl at a local restaurant. Michael always put the community and people first.

He possesses the critical qualities of an exemplary police officer and has been a positive influence to his colleagues in law enforcement. I commend Michael Dunn for his legacy of leadership and attention to detail, while always caring for those with whom he worked as well as the community at large.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. GRAVES. Madam Speaker, due to personal reasons, on Monday, January 26, 2009 I missed rollcall votes 30 and 31. Had I been present, I would have voted "aye" on those rollcall votes.

Thank you.

HARDROCK MINING AND RECLAMATION ACT OF 2009

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. RAHALL. Madam Speaker, last Friday, January 23, marks the passing of 137 years predecessors in the U.S. House of Representatives began to debate a bill to promote the development of mineral resources in the United States. One described the legislation as "an experiment."

On that day in January 1872, Representative Sargent from the State of California noted prior fierce debate in the House over a core element of the proposed mining law—that the Federal Government would be selling off the mineral rights of the United States rather than holding onto Federal ownership and imposing a royalty on future production. Representative Maynard from the State of Tennessee questioned whether the law might encourage speculation.

During an April 1872 debate in the U.S. Senate, Senator Cole from the State of California cautioned that the proposed mining law would allow a person to acquire large tracts of land "which might be worth thousands of dollars per acre, perhaps millions . . .". Senator Alcorn from the State of Mississippi acknowledged that he had never seen a gold mine in his life, while Senator Casserly, also from the State of California, warned of men who could not imagine the mineral deposits that "lie to a fabulous extent in value between the Mississippi River and the Sierra Nevada."

Ultimately, however, our predecessors believed the bill would "meet with universal favor" and would prevent litigation among mining claimants. They liked the idea that the bill might, as Representative Sargent hoped, "bring large amounts of money into the Treasury of the United States, causing the miners to settle themselves permanently, and improve and establish homes, to go deeper in the earth, to dig further into the Hills . . . and build up their communities and States."

And so, on May 10, 1872, Congress passed a law that encouraged people to go West, locate hardrock minerals and stake mining claims on Federal lands, and remove treasure troves of gold, silver, copper, and platinum from the public domain—for free.

The General Mining Law of 1872, or the "experiment," as some of our predecessors named it, has endured for more than one and a third centuries—a total of 137 years.

Today, we can resoundingly assert that the experiment has lasted long enough.

Consider some of the impacts of the 1872 Mining Law:

According to the Congressional Budget Office, it allows the hardrock mining industry to remove $1 billion in precious metals every year from America's public lands, with no royalty payment or production fee to the Federal Government. By comparison, the coal, gas, and oil industries pay royalties of 8 percent to 18.75 percent.

According to the Department of the Interior, it has allowed mining claimants to buy American public's lands for $2.50–$5 an acre—lands that could easily be worth thousands or tens of thousands of dollars an acre today. Between 1994 and 2006, the U.S. government was forced to sell off more than 27,000 acres of public land holding valuable minerals for a pittance: $112,000.

Finally, as detailed in several Government Accountability Office reports, there have been instances where American taxpayers have paid a fortune to buy back the very lands we once gave away. From Central Idaho's Thunder Mountain, to Telluride, CO, to land outside Yellowstone National Park, millions of public and private dollars have been spent to reacquire thousands of acres of mining claims to protect public access for hunting, fishing, and other recreational opportunities.

Given our current economic crisis and the empty state of our national Treasury, it is ludicrous to be allowing this outmoded law to continue to exempt these lucrative mining activities from paying a fair return to the American people.

Beyond that, the 1872 Mining Law has allowed unscrupulous owners of hardrock mines to abandon hundreds of thousands of mines—and to require American taxpayers to foot the bill because there is no "polluter-pays" funding source, that is, a dedicated source of cleanup funding.

In 2007, the U.S. Forest Service estimated that, with its current annual abandoned mine cleanup budget of $15 million, it would take 370 years to complete its $5.5 billion in abandoned mine cleanup and safety mitigation work. In 2008, the inspector general of the Department of the Interior concluded that the public's health and safety is jeopardized by the unaddressed hazards posed by abandoned mines on Federal lands, including lands in the national parks. These old mines are not just eyesores, they are killers.

Today, I, along with Representatives MILLER, WAXMAN, MARKEY, BERMAN, GRIJALVA, HOLT, COSTA, CHRISTENSEN, STARK, KILDEE, HINCHEY, ESHOO, BLUMENAUER, KENNEDY, KIND, CAPPS, SCHIFF, HONDA, SALAZAR, TSONGAS, and CONNOLLY, introduce the Hardrock Mining and Reclamation Act of 2009. This legislation would end the financial and environmental abuses permitted by the 1872 Mining Law—archaic provisions that fly in the face of logic, and are not what taxpayers, sportsmen, conservationists, and western communities want or need.

This is the same bill that the House of Representatives passed by a bipartisan vote of 244–166 in 2007. It contains the same critical requirements, including:

An 8 percent royalty on production from future hardrock mines on public lands, and a 4 percent royalty from current mines.

A permanent end to the sell-off of public lands holding mineral resources.

The establishment of a clean-up fund for abandoned hardrock mine sites, prioritizing the riskiest ones.

Stronger review requirements, specifically for mines proposed near national parks, to help protect nationally significant areas such as Grand Canyon National Park, where miners had filed more than 1,100 claims within five miles of the park as of October 2008.

A threshold environmental standard for mining. This standard would not preclude mining, but it would make it possible to protect public lands if a mining proposal would irrevocably destroy other equally valuable resources.

Every year, the mining industry's fear of losing the sweet deal they currently enjoy on U.S. public lands leads, predictably, to baseless arguments that reform will cause a large scale departure of mining from American soil.

But we know there are many reasons companies will still want to mine for hardrock minerals in the United States. In an annual survey of metal mining and exploration companies published by the independent, Canadian-based Fraser Institute in 2008, Nevada ranked second out of 68 jurisdictions worldwide for overall policy attractiveness. Utah and Wyoming also made the top 10, and Arizona the top 20. The survey highlighted why the U.S. has appeal. Relative to many other countries the U.S. offers good enforcement, good infrastructure, a stable political system, minimal risk of terrorism or guerrilla groups ruining a mining investment—and a predictable regulatory system. Imposition of a Federal royalty—or fee—on production—will not change those powerful advantages.

We also know that the mining industry is clinging to an outdated boondoggle. Nearly every country in the world imposes a royalty—except the United States.

Industry might also trot out the argument that this bill undermines our Nation's secure access to the minerals we use in everyday products. Yet, import reliance alone is not a problem, as the National Research Council of the National Academies asserted in a recent study of critical minerals. Some minerals we have always imported in significant quantities, simply because the ones we need do not exist in mineable quantities here.

Furthermore, a 2008 Congressional Research Service report concluded that Mining Law reform legislation would not likely have much impact on domestic mining capacity or the import reliance of minerals like copper, uranium, platinum, and molybdenum, in large part because the vast majority of mining on federal lands is for gold—about 88 percent.

Today, our goals for mining policy are no longer what they were in 1872, when Representative Sargent hoped the mining law would encourage miners to "dig deeper into the earth" and "further into the Hills." We can aspire to a law that does not merely promote mining, but one that also protects the other values of the hills themselves: clean water, wildlife, recreation, open space, and tourism. We should aim for a law that encourages mining but also encourages responsible corporate citizenship. And, a law that brings a fair return to the taxpayer. That would be a Mining Law worthy of the 21st—rather than the 19th—century.

REWARDING YOUTH MENTORSHIP IN THE NEW YEAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. RANGEL. Madam Speaker, I rise today to commend anyone who dedicates his or her time to mentoring this country's impressionable youth—in any capacity, in all capacities. There is no greater gift than the selfless giving of one's time and energies to the emotional, scholastic, and moral development of another. We can all trace back in our histories that one person or group of people who set us on the straight and narrow, from whom we drew inspiration, motivation, and a sense of purpose.

For far too long, wayward youth have had few role models to emulate, few adults to guide them in an otherwise confusing, self-deprecating, and turbulent moment in their lives. For far too long, the corrosive influence of drugs, domestic abuse, academic failure, and delinquency have instilled in our youth a hopelessness that permeates far into their adolescence and even adulthood. These honorable many, who have taken the charge of leading these youngsters to the road of successes, deserve our praise and our respect, and I am thrilled to support naming this month of January "National Mentoring Month" in an attempt to do just that.

Three million youngsters are currently benefitting from a mentoring relationship, but that just isn't enough. Five times as many kids are in urgent need of guidance, and it is up to us to demonstrably reward mentors for their vows of time, commitment, and effort. A mentorship is not a task taken up lightly or without the resolve to work diligently, generously, and openly—but it provides its participants such innumerable, intrinsic rewards that it becomes a challenge, and pleasure, certainly worthy of fulfilling.

May mentors across this great Nation feel proud of the work they are doing, and may others take note of their tremendous example and develop a mentoring relationship of their own.

THE ST. PETERSBURG TIMES CELEBRATES 125 YEARS OF PUBLISHING EXCELLENCE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. YOUNG of Florida. Madam Speaker, The St. Petersburg Times, my hometown newspaper, began its 125th year of publishing this month.

Starting from humble beginings in the back of a Dunedin, Florida drugstore, 3 people—a doctor, dentist and printer—turned out 480 copies of the newpaper's first edition. Today, The Times is Florida's most read newspaper.

Following my remarks, I will include for the benefit of my colleagues, a column by Paul Tash, the Editor, Chairman and Chief Executive Officer of The St. Petersburg Times, commemorating the newspaper's growth and plans to celebrate its history over the next year.

Madam Speaker, The St. Petersburg Times has dutifully recorded the history of our community these past 125 years, and as Paul Tash writes, "sharing in the success, suffering in the setbacks." Please join me in thanking all those past and present employees of The Times who have brought the news to our doorstep, in good times and bad, and even during the most trying of times.

[From the St. Petersburg Times, Jan. 14, 2009]

OUR COMMON HISTORY: TAMPA BAY AND ITS TIMES

(By Paul Tash, Editor, Chairman, CEO)

This year the St. Petersburg Times turns 125 years old. To mark the occasion, we are starting a weekly feature of local history, drawn from the newspaper's own pages. In their origins, neither the newspaper nor its community amounted to much.

The Times started out as a weekly in July of 1884. In the back room of a drugstore in Dunedin, three men—a doctor, a dentist and a printer—teamed up to produce the first edition. The total circulation was 480 copies. As my colleague Rob Hooker once wrote, "Their paper was like the community—small, humble and faced with an uncertain future."

Over the years, however, the frontier villages scattered around Tampa Bay grew together into a vibrant, dynamic metropolitan region, and the Times grew with it.

Today it is Florida's favorite newspaper, with the largest circulation in the state. Nelson Poynter, a generous and far-sighted owner, protected its independence, and three decades after he died, the Times remains rooted in this community, not part of a chain or conglomerate.

There have been rough patches along the way. Back in the 1930s—the last time a real estate boom collapsed into depression—St. Petersburg city government defaulted on millions of dollars in bond payments, and the public schools started charging tuition. On the outskirts of town, a sign went up warning visitors, "Do Not Come Here Seeking Work."

Those hard times also hit the Times. Advertising dropped by two-thirds. Since they had no cash, merchants paid their bills with vouchers, which the newspaper parceled out to employees as pay. At one point, the news staff dropped to 15 people, and the paper itself dwindled to eight pages.

But over the long term, the trend lines have kept climbing. Compare just two scenes.

During the World Series in 1924, a crowd gathered outside the Times' offices while an editor with a megaphone called out the play-by-play, coming by telegraph into the newsroom. Eighty-four years later and just a few blocks away, 40,000 fans gathered to watch the town's own team playing in the World Series.

For a century and a quarter, the St. Petersburg Times has recorded the unfolding story of our region, sharing in its success, suffering in the setbacks. Now we celebrate our common history by offering these slices of it. And even in this difficult stretch, we are betting that Tampa Bay's best days lie ahead. That is one of history's lessons.

IN HONOR OF GERTRUDE PINTZ

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. KUCINICH. Madam Speaker, I rise today in honor of Mrs. Gertrude Pintz, upon the recent celebration of her 100th birthday.

Gertrude Pintz was born on December 29th, 1908 in Austria-Hungary. She has been blessed over her lifetime with strength, joy, her family and friends. She is known for seeing only the good in others and beauty in life. Mrs. Pintz lives every day with a grateful heart, warm smile and positive outlook.

Mrs. Pintz married the love of her life, Sebastian, and together they raised 3 sons—Sebastian, Adam and the late Henry. She remains close with her sons, 7 grandchildren and 10 great-grandchildren. As the matriarch of her family, Mrs. Pintz hosted the family's annual Thanksgiving dinner at her Cleveland home, continuing this tradition until the age of 88. In her early seventies, following the passing of her beloved husband, Mrs. Pintz embarked on pursing her artistic talents. She enrolled in a four year art school, where she studied oil painting. To this day, her artwork adorns the homes of numerous family members and friends.

Madam Speaker and colleagues, please join me in honor of Mrs. Gertrude Pintz upon the joyous occasion of her 100th birthday. Her love of family, love of life and youthful soul all serve as an inspirational example for all of us to follow. I wish Mrs. Pintz an abundance of peace, health and happiness today, and throughout the years to come.

JIM RICE'S ELECTION TO THE BASEBALL HALL OF FAME

HON. NIKI TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Ms. TSONGAS. Madam Speaker, I rise today to honor Jim Rice of Andover, MA for his election into the Baseball Hall of Fame.

Regarded as one of the most dominant hitters to have played the game, Rice was a 1978 American League Most Valuable Player and an eight-time All Star. With a .298 career batting average, Rice hit 382 homeruns and 1,451 RBIs during his 16 years in Major League Baseball. Having spent his entire career in Boston, Rice becomes the fourth Hall of Fame player to have spent his entire career with the Red Sox.

Rice has also been an active member of his community, contributing his time and effort to several charitable organizations in Massachusetts. In 1979 he was named an honorary chairman of the Jimmy Fund, which supports cancer research and care at the Dana-Farber Institute in Boston. He was also recognized by the Jimmy Fund in 1992 with the Jimmy Award, which honors individuals who have shown "exceptional devotion" to cancer research. Some of his other charitable activities include working with the Neurofibromatosis

Foundation of New England and raising money for toy drives for local homeless children.

Since retiring in 1989, Rice has continued his commitment to the Red Sox, working as a hitting coach and instructor. Rice also serves as a popular studio analyst on the Red Sox pre- and post-game shows for NESN.

Rice and his wife, Corine, have lived in Andover since 1975 with their two children, Carissa and Chancey.

I congratulate him for his election to the Baseball Hall of Fame and for his notable achievements throughout his career.

PERSONAL EXPLANATION

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. MILLER of Florida. Madam Speaker, rollcall vote No. 30 was a suspension vote on agreeing to the resolution H. Res. 31—A resolution expressing support for designation of January 28, 2009, as "National Data Privacy Day." If present, I would have voted rollcall vote No. 30—"yea."

Rollcall vote no. 31 was a suspension vote on agreeing to the resolution H. Res. 84—A resolution honoring the heroic actions of the pilot, crew, and rescuers of US Airways Flight 1549. If present, I would have voted rollcall vote No. 31—"yea."

THE CONGRESSIONAL ANTI-SLAVERY CHAMPION OF 2008

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mrs. MALONEY. Madam Speaker, I rise today to read into the CONGRESSIONAL RECORD remarks made by Dorchen Leidholdt, Director of Center for Battered Women's Legal Services at Sanctuary for Families, regarding my selection as the Congressional Anti-Slavery Champion of 2008:

On behalf of the Coalition Against Trafficking in Women, an international NGO fighting human trafficking since 1988, and Sanctuary for Families, a New York City-based provider of services to victims of domestic violence, I am delighted to join other leaders of the New York State Anti-Trafficking Coalition in saluting Congresswoman Carolyn Maloney, the Congressional Anti-Slavery Champion of 2008. Congresswoman Maloney's enduring and dedicated advocacy on behalf of victims of human trafficking is unparalleled in the halls of Congress. Over and over she has demonstrated her profound understanding of the harm of human trafficking, gleaned primarily from her compassionate, respectful attention to the testimony of survivors, and her acute awareness of what it takes to stop this horrific crime and severe human rights violation.

Thanks to Congresswoman Maloney's visionary leadership, it is widely recognized that stopping trafficking requires both strong measures to curtail the demand for prostitution and well-crafted criminal provisions that enable prosecutors to put traffickers out of business—permanently.

Ken Franzblau has focused on the critically important role Congresswoman Maloney has played in the drafting and passage of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which enhances protections to victims while strengthening the ability of prosecutors to hold traffickers accountable. Thanks to Congresswoman Maloney's inspiring leadership, the 2008 Reauthorization continues the important advances made by the previous two Reauthorizations.

While we celebrate the achievements of the 2008 Reauthorization, our task of strengthening our federal anti-trafficking law is not over; critically important work remains to be done in two important areas. Through her exemplary work in the House of Representatives, in the draft that she shepherded there to close to unanimous approval, Congresswoman Maloney, has pointed the way to two critically important goals that lie ahead. First, the obstacles of proving force, fraud, or coercion, while eased under specific circumstances by the 2008 Reauthorization, continue to stymie the effective prosecution of many sex traffickers. Going forward we must ensure that sex traffickers are never provided a loophole, because their trafficking was not provably 'severe.'

Second, sex tour operators fuel the demand for sex trafficking worldwide by sending planeloads of affluent American men to the poorest countries in the world to buy the bodies of women and girls in prostitution. While Congresswoman Maloney succeeded in including such a provision in New York State's landmark anti-trafficking law (the strongest state anti-trafficking law in the nation), and saw to it that the House draft reauthorization contained it, the compromise that resulted in the 2008 Reauthorization does not include a provision criminalizing sex tour operators.

We must ensure that the next TVPA Reauthorization criminalizes sex trafficking per se and makes it a federal crime to operate a sex tour business. With Congresswoman Maloney leading the campaign, I am confident that we will accomplish these two remaining goals.

Congresswoman Maloney, on behalf of the Coalition Against Trafficking in Women and Sanctuary for Families, our congratulations on receiving this well-deserved recognition and our heartfelt thanks for your invaluable leadership in the battle to end human trafficking.

IN MEMORY OF ROGER BONE

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. ETHERIDGE. Madam Speaker, I rise today in recognition of the life and achievements of Roger Bone, a former North Carolina legislator and a good friend to me and to all of Nash County. He died on January 25, 2009, after battling cancer for many months. He will be sorely missed.

Roger and I shared parallel lives in many ways. He grew up on a tobacco farm, like I did, and like me was first elected to the state legislature in 1978. It was a pleasure to have him as a friend and partner in my early legislative career.

He quickly rose through the General Assembly to become chairman of the House Banks and Thrift Institutions Committee, where he served with distinction until 1981. In 1987, he started his own lobbying business, Bone and Associates, which has been among the most influential firms in North Carolina. Last year, the N.C. Center for Public Policy recognized him as the number one lobbyist in the state, and he was also one of the most well-liked. People knew they could trust Roger, and his influence was a credit to his honesty, hard work, and easy humor.

Last June, Roger received the Order of the Long Lead Pine, the highest honor our state gives to our native sons and daughters. I can think of no one who is more deserving of North Carolina's respect and admiration.

Roger's family shared his love of Nash County and commitment to public service with his family. His lovely wife Reba was an elementary and middle school principal, and his son, Fred, was his partner in Bone and Associates. In addition to his wife and son, he is survived by two grandsons, Jacob and Caleb; his father, Winslow; and two brothers and a sister.

It was my honor to be asked to offer the following eulogy at the funeral of this great man.

It is an honor to take part in this memorial service for my good friend Roger. I wish I could be there today with you to honor and remember Roger. However, today in the House of Representatives we are taking a critical vote to help our economy recover from its current downturn, and I will he thinking of Roger as I take today's votes. I will be thinking of his love of politics and legislation, and his many years in the arena, and I know he would understand, and Reba and his family understand, but I still wish I could be with you.

There is not a person here who doesn't know how Roger Bone loved Nash County and loved serving his community in the legislature. He was not only a student of politics, but he was a practitioner all his life. I remember that when he gave Reba her engagement ring, they didn't celebrate with dinner, they went to watch the General Assembly, so you know that politics was really in his bones.

As most of you know, he was ranked the top lobbyist in North Carolina last year, and he was so successful because he truly cared about people. In his work, he made friends, not enemies; knowing that those who were not with him today could be his partner tomorrow. Roger was a good friend to me, as he was to many of you. He could be calm in the midst of a storm. No matter what—the commotion of business, the furor of political debate—he was always steady, always smiling, always a reliable partner and friend.

I count it a distinct blessing that we were freshman members of the General Assembly together and I will never forget that year. In 1979, we were part of a group of "Liston's Boys": Roger, myself, Martin Lancaster, Paul Pulley, and others. As roommates at the Brownstone Hotel, Roger and I spent many late hours talking about our new roles and the politics of the House. My fondest memories were the early mornings. Even though we both grew up on a farm, Roger never appreciated my getting up early in the morning to go running. As I was heading out, my stirring would wake up Roger while he was still trying to finish his sleep. Then, I would wake him up again when I got back.

However, the work ethic he gained from farm life served him well in the General Assembly and in the rest of his life. His positive attitude contributed to his success in everything he did. Everyone who knew him liked him, and everyone who worked with him liked him as well. It says a lot about him that he could always laugh at himself, and in the toughest of times if you can laugh you'll be alright.

While this is a sad day for all of us, it would be wise of us to remember the words of the great artist, Leonardo da Vinci, who said on the death of a friend, ''As a well-spent day brings happy sleep, so a life well used brings a happy death.'' Roger used his life well, and Nash County, and the State of North Carolina are better due to his efforts. I am better because I knew him, as are we all. Thank you for allowing me to be part of this remembrance.

DANTE ''GLUEFINGERS'' LAVELLI

HON. STEVEN C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. LATOURETTE. Madam Speaker, when you were a Cleveland Browns fan, there is no halfway. To be a Browns fan requires a lifelong devotion, an unflinching loyalty, a reverence for all those who came before. As a Browns fan, you come to accept that your loyalty will be tested often, and in ways you cannot fathom—the Drive, the Fumble, the stealth, dark-of-night move to Baltimore. Yet, the loyalty never wavers—mostly because the rewards and the memories forged on Sunday afternoons between fathers, sons, friends and neighbors are so powerful—even when they are few and far between.

One of pillars of the Browns recently passed: Dante "Glue Fingers" Lavelli. He played with Otto Graham, Marion Motley and Lou "The Toe" Groza and was coached by the legendary Paul Brown. He led the team to seven championships in the 1940s and 1950s. He was a gridiron star in his hometown of Hudson, OH, which is part of my district. He led his high school team to three straight undefeated seasons.

Dante Lavelli was a World War II Army veteran who missed most of college to defend our Nation, trading the Horseshoe at Ohio State for the beaches of Normandy. The famed receiver—nicknamed "Gluefingers" because he never dropped the ball—was enshrined in the Pro Football Hall of Fame in Canton more than 30 years ago, where his 386 catches for 6,488 yards and 62 touchdowns are part of football lore. He loved one woman for more than 60 years, his beloved wife, Joy. He is survived by his wife, two daughters, a son, and four grandchildren, including Aaron Bill, who worked for me in Washington and now attends law school.

I want to submit into the RECORD a column written by renowned Cleveland Plain Dealer sportswriter Terry Pluto, who so eloquently captured the magic of a man who meant so much to his family, his community, the Browns and the NFL. The article was published on January 25, 2009, the day after Lavelli's funeral in Hudson, OH.

He was a man who put salt on almost everything, especially a salad. He drank a huge can of ice tea each night and would drive his grandchildren around, forcing them to listen to polka music in the car.

Dante Lavelli was so much more than a Hall of Fame receiver for the Cleveland Browns, as family and friends made clear during his funeral at St. Mary's Church in Hudson on Saturday.

Aaron Bill walked up to the pulpit with a comb as he prepared to talk about his grandfather, who died Tuesday at the age of 85.

''He was always trying to comb my hair,'' said Bill. ''He'd tell me that my sideburns were too long, that I needed a haircut. He wanted me to pull up my pants even when they were as high as they could go.''

Yes, he's Dante Lavelli, ''Gluefingers.'' He was Dante Lavelli, Mr. ''Clutch.'' He was Dante Lavelli, the receiver's receiver, a player whose football personality was opposite to so many of the self-absorbed types who play the position today.

He's the man ''who never dropped a pass that he touched, not in practices or games.'' So said great Browns coach Paul Brown at Lavelli's Hall of Fame induction in 1975. He also never did a celebration dance in the end zone, because he had been there before—a total of 62 times in his 11-year Browns career.

Lavelli caught all but 20 of his 386 receptions from Hall of Famer Otto Graham. He also played games in 1956, his final season, with a notebook and pencil tucked inside his pads so he could sign up opponents after the game to join the new Players Association that he helped assemble.

''When my father walked, the floor shook,'' said his son, Edward Lavelli.

Or so it seemed.

He led Hudson High to three undefeated seasons in the late 1930s.

He played only three games at Ohio State before joining the Army, where he was in the 28th Infantry.

The flag on his casket was a reminder that Lavelli was part of the group of men who landed at Omaha Beach. He was in Bastogne during the Battle of the Bulge in the winter of 1944–45, where the Allies lost an estimated 81,000 men.

In an interview with Scout.com, Lavelli said at one point in the fighting, ''I spent three days in a foxhole.'' He also said he prayed the ''Our Father'' constantly for three days.

After his football career, Lavelli had ownership interest in a furniture store, in two bowling alleys and other business ventures. He had been the oldest living member of the Pro Football Hall of Fame. He pushed for recognition of the 1948 Browns for their undefeated season, which had been dismissed by the NFL because it happened in the old All-American Football Conference.

As Father John Betters said in his homily, ''Dante Lavelli truly was one of America's Greatest Generation.''

Lavelli was married for nearly 60 years to Joy, and spent much of his later life in Westlake. His family members mentioned how he loved to win at anything, from gin rummy to golf to negotiating to buy a car.

Oldest daughter Lucinda said her father often offered this advice: ''Save your money and get some rest.''

Or as grandson Aaron Bill said, looking up and speaking to his deceased grandfather, ''I love you very much, and I'll miss talking to you every day. And don't worry, my shoes aren't untied. I wore loafers.''

IN RECOGNITION OF ARMY STAFF SERGEANT CARLO M. ROBINSON

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. ROSS. Madam Speaker, I rise today to recognize a true American hero. On January 17, 2009, our Nation and our state lost a brave soldier when Army Staff Sergeant Carlo Montel Robinson died in Bagram, Afghanistan, in support of Operation Enduring Freedom. He died of wounds sustained in Kabul, Afghanistan, when a vehicle-borne improvised explosive device detonated near his vehicle.

Staff Sergeant Robinson grew up in Hope, Arkansas—a tight-knit community where I had the privilege of growing up as well. Although I never had the honor to meet Staff Sergeant Robinson, on behalf of the community of Hope, I extend my utmost condolences to his family, friends and all who knew him for this devasting loss.

Staff Sergeant Robinson was assigned to the 1st Maneuver Enhancement Brigade at Fort Polk, La., and carried out his duties with pride in his country and without reservation. Staff Sergeant Robinson spent the last thirteen years in the U.S. Army where he served with distinction and dedication, epitomizing a true patriot.

My deepest thoughts and prayers are with his daughters, Carneshia and Destiny, son, Da'karia, mother, Jennifer, grandmother, Martha, and the rest of his family, friends and loved ones during this difficult time.

Today, I ask all Members of Congress to join me as we honor the life of Staff Sergeant Carlo Robinson and his legacy, and all those men and women in our Armed Forces who gave the ultimate sacrifice in service to their country.

INTRODUCTION OF THE CITIZENS INVOLVEMENT IN CAMPAIGNS (CIVIC) ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. PETRI. Madam Speaker, today, Representative PAUL KANJORSKI and I are introducing bipartisan legislation to establish a program of limited tax credits and tax deductions to get average Americans more involved in the political process. This bill, the Citizens Involvement in Campaigns (CIVIC) Act, will broaden the base of political contributors and limit the influence of big money donors in federal elections.

We need to take a fresh look at innovative approaches to campaign finance reform, with special attention paid to ideas that encourage, and not restrict, greater participation in our campaigns. Toward this end, I have been advocating tax credits and deductions for small political contributions for many years. An updated tax credit system would be a simple and effective means of balancing the influence of big money donors and bringing individual contributors back to our campaigns. The impact of

this counterweight will reduce the burden of raising money, as well as the appearance of impropriety that accompanies the money chase.

Most would agree that the ideal way to finance political campaigns is through a broad base of donors. But, as we are all painfully aware, the economic realities of modern-day campaigning lead many candidates to focus most of their efforts on collecting funds from a few large donors. This reality alienates many Americans from the political process.

The concept of empowering small donors is not a new idea. For example, from 1972 to 1986, the Federal government offered a tax credit for small political contributions. This provided an incentive for average Americans to contribute to campaigns in small amounts while simultaneously encouraging politicians to solicit donations from a larger pool of contributors. Currently, six geographically and politically diverse states (Oregon, Minnesota, Ohio, Virginia, Arkansas, and Arizona) offer their own tax credits for political contributions. These state-level credits vary in many respects, but all share the same goal of encouraging average Americans to become more involved.

The CIVIC Act can begin the process of building this counterweight for Federal elections. This bill is designed to encourage Americans who ordinarily do not get involved in politics beyond casting a vote every two or four years (that is, if they bother to vote at all) to become more active participants in our political process.

The CIVIC Act will reestablish and update the discontinued Federal tax credit. Taxpayers can choose between a 100 percent tax credit for political contributions to Federal candidates or national political parties (limited to $200 per taxable year), or a 100 percent tax deduction (limited to $600 per taxable year). Both limits, of course, are doubled for joint returns. As long as political parties and candidates promote the existence of these credits, the program can have a real impact and aid in making elections more grassroots affairs than they are today.

A limited tax credit for political contributions can be a bipartisan, cost-efficient method for helping balance the influence of large money donors in the American electoral process. Instead of driving away most Americans from participation in political life, we can offer an invitation for citizens to play a larger role in political campaigns. It seems to me that this will be a fruitful way to clean up our system, while at the same time convincing Americans that they actually have a meaningful stake in elections.

A TRIBUTE TO SAN BERNARDINO COUNTY SHERIFF GARY PENROD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. LEWIS of California. Madam Speaker, I rise today to pay tribute to one of the most respected public servants in my district, San Bernardino County Sheriff Gary Penrod, who is stepping down this month after nearly 40 years protecting our citizens.

A Southern California native, Gary Stephen Penrod graduated from Redlands Schools, worked as a U.S. Forest Service firefighter and is a U.S. Army veteran. But his life has been in law enforcement, and he has served in the sheriff's department since being deputized in 1971.

Sheriff Penrod spent time on patrol in most of the vast desert and mountain reaches of San Bernardino County, and received regular promotions over the years. When the city of Hesperia incorporated in 1988, the sheriff's department contracted to provide police services, and Gary Penrod became the first Hesperia Police Chief.

By the time our former sheriff retired in 1994, Gary Penrod had been promoted to Deputy Chief. He easily defeated six other candidates and was sworn in as sheriff on Jan. 3, 1995. He has been reelected to three more four-year terms.

When he first took office in 1994, San Bernardino County had a population of 774,000 people. Today, more than 2 million people live in the sheriff's jurisdiction. Deputies responded to 617,000 calls in 1994, last year they had more than 1.2 million.

Mr. Speaker, San Bernardino County was known in the past for having some colorful characters as our top law enforcer. Sheriff Penrod has had a reputation for quiet leadership, for helping the department achieve high recognition for professionalism, and for encouraging his deputies to stay on the cutting edge as law enforcement has modernized.

During his tenure, Sheriff Penrod implemented community based policing and many innovative programs and staffing enhancements including: Crime Free Multi-Housing, Operation CleanSWEEP, Public Safety Internship Academy, Marijuana Eradication Team, Methamphetamine Lab Task Force, Narcotics Special Enforcement Teams and Gang Enforcement Units. Sheriff Penrod oversaw the merger with the San Bernardino Marshall's office and in 2005 he became Sheriff-Coroner of San Bernardino County.

A highly respected leader, Sheriff Penrod is a member of San Bernardino County Children's Network, San Bernardino County Chiefs of Police and Sheriff's Association, California Police Officers' Association, International Association of Chiefs of Police, National Sheriffs' Association, Western State Sheriffs' Association, California State Coroners' Association, and the Governor's Corrections Standard Authority. He is a past president of the California State Sheriffs' Association.

Although he is respected for his professionalism and progressive thinking, among his deputies Sheriff Penrod is most known as someone who always cares for the members of his department. Wounded deputies have often told of finding the sheriff by their bedside, personally promising to help them and their families.

Madam Speaker, after 38 years as a law enforcement officer, Sheriff Penrod has decided to retire to spend more time with his wife Nancy and at his hobbies—horseback riding, raising cattle, fishing, camping and snow skiing. Please join me in thanking him for his years of service, and wishing him and Nancy success in all of their future endeavors.

RECOGNITION OF STEELTON-HIGHSPIRE HIGH SCHOOL FOOTBALL TEAM FOR THEIR SECOND CONSECUTIVE PIAA SINGLE A CHAMPIONSHIP

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. HOLDEN. Mr. Speaker, I rise today to recognize the 2008–2009 Steelton-Highspire Steamrollers, from Steelton, PA in my congressional district. They completed an undefeated season with a victory over Clairton High School to become PIAA Single A State football champions.

The Steamrollers certainly had a season to remember setting school records in wins, points, and games played. They established the longest winning streak in school history with 25 wins dating back to last year. The Rollers capped off the season by winning their fourth straight District 3 title and their second consecutive PIAA State Single A Championship.

The Rollers were led by a group of seniors who will go down in Steelton-Highspire history as the most successful class in the great history of Steamroller football. In 4 years this group compiled a record of 51 wins and 9 losses winning the district title all 4 years and two state championships. The offense was led by senior tailback Jeremiah Young, who ran for 2,812 yards and 30 touchdowns on 283 carries. Mr. Young broke the State's all-time career rushing record and stands seventh all time in the Nation with 9,027 yards.

I congratulate Steelton-Highspire High School and Coach Rob Deibler on a season to remember.

HONORING THOMAS G. LANDAAL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to the life of Thomas G. Landaal. Sadly, Mr. Landaal passed away on December 5, 2007, at the age of 53, and the International Corrugated Packaging Foundation will posthumously induct Tom Landaal into their Circle of Distinguished Leaders on March 31st in Washington, DC at the joint meetings of the Fibre Box Association and the Association of Corrugated Converters. Mr. Landaal will be the ninth person to be inducted into this circle.

Born in Hinsdale, IL, Tom, as he was known to his friends, relocated to Flint, MI as a child. After graduating from Powers Catholic High School he obtained two degrees from Ferris State University, an AS degree in Building Construction and a BS degree in Business Administration. In 1979 he assumed a managerial role in the family business, Landaal Packaging Systems. As president of Landaal Packaging Systems he went on to become a leader in the packaging industry. He was affiliated with the International Corrugated Case Association in Paris, the Federation Europeenne

des Fabricants de Carton Ondule based in Paris, the Sales and Marketing Executives and Technical Association Pulp and Paper Industry, as well as the International Corrugated Packaging Foundation. Tom served on the Board of Directors of the Fibre Box Association and the Independent Corrugated Converters Association. He was chair of the Fibre Box Association's Independent Sheet Plant Committee and served as the Fibre Box Association's representative on the Board of the Independent Corrugated Converters Association for many years.

In addition to his work in packaging industry, Tom Landaal was very active in his community and is sorely missed. He held leadership roles with the Food Bank of Eastern Michigan, Hurley Medical Center, Hurley Foundation, Flint Classroom Support Fund, Hero of Flint, Burton Business Association, Burton Economic Development Corporation, Friends of Sloan Museum, Flint College and Cultural Center, Incorporated, Goodwill Industries of Mid-Michigan, Heartland Manor, Information Services of Michigan, Michigan State University, University Affiliated Hospitals of Flint, the Industrial Mutual Association, the Genesee Regional Chamber of Commerce, Michigan Manufacturers Association, and Powers Alumni Association. He belonged to several golf and ski groups including the National Ski Patrol.

Madam Speaker, the International Corrugated Packaging Foundation's Circle of Distinguished Leaders was instituted to honor those persons that have brought vision, creativity, and energy to the promotion and advancement of the packaging industry. Tom Landaal was an advocate for improved technology and safe working conditions. This recognition by his peers is a fitting tribute to his enthusiasm for designing the best system to deliver the best product to his customers and to ensure the packaging industry remained on the cutting edge for fulfilling customer needs. I congratulate the International Corrugated Packaging Foundation for their selection of Thomas Landaal for this honor and hope his example will inspire the next generation to continue his work. I ask the House of Representatives to rise with me today and applaud the life and work of my good friend, Thomas Landaal.

YEAR OF THE OX

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. SCHIFF. Madam Speaker, I rise today to extend my best wishes to the millions of Asian Americans who are celebrating the Lunar New Year, which ushers in the Year of the Ox. Representing one of the largest Asian American populations in Southern California, I have had the distinct privilege in joining many of my Asian American constituents to commemorate this historic tradition.

The communities of Alhambra, San Gabriel, and Monterey Park have organized events and festivities for families to gather and celebrate the Year of the Ox. I am also delighted that this will be the 110th year that the Annual Golden Dragon Lunar New Year Parade, hosted by the Chinese Chamber of Commerce of Los Angeles, will be bringing floats, marching bands, and various forms of entertainment to over 100,000 people. From parades to festivals, all will be able to enjoy the colorful, rich traditions that have been observed by many Asian cultures for centuries.

I wish you all the best in the Year of the Ox.

INTRODUCTION OF THE SOCIAL SECURITY AND MEDICARE IMPROVED BURN INJURY TREATMENT ACCESS ACT OF 2009

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. NEAL of Massachusetts. Madam Speaker, I rise today to introduce the Social Security and Medicare Improved Burn Injury Treatment Access Act of 2009. This legislation provides a waiver of the 24-month waiting period now required before an uninsured individual becomes eligible for Medicare coverage for disabling burn injuries, as well as the five-month waiting period for Social Security disability benefits.

Each year an estimated 500,000 people are treated for burn injuries. Of these 500,000 injuries, about 40,000 require hospitalization. Fire and burn deaths average about 4,000 per year.

Burn care is highly specialized. While there are thousands of trauma centers in the United States, there are only 125 burn centers with a total burn-bed capacity of just over 1,800. These specialized burn centers treat about 25,000 patients annually, or on average, 200 admissions per year for each center. U.S. hospitals without burn centers treat the remaining patients and average less than three burn admissions per year.

Medical care for serious burn injuries is very expensive, which places a great financial strain on burn centers, about 40 percent of whose patients are uninsured. Because of these financial challenges, burn centers in Pennsylvania, Mississippi, Iowa and South Carolina have closed in just the past two years.

This is occurring at a time when the Federal Government is asking burn centers to expand their capacity to deal with mass casualty scenarios. The Departments of Health and Human Services and Homeland Security have included burn centers in the Critical Benchmark Surge Capacity Criteria in the funding continuation requirements for State plans administered through the Health Resources and Services Administration (HRSA). HSS, in conjunction with the American Burn Association, has created a real-time, web-based burn bed capacity system in the national emergency preparedness center and funded Advanced Burn Life Support (ABLS) and clinical, on-site burn nurse training for 200 public health service nurses as a reserve capacity for potential mass burn casualty incidents, as well as supporting more than 20 ABLS courses with over 600 first-responders in 10 key areas of the country.

The 9/11 terrorist attacks on New York City and Washington, DC, and major accidents like the Rhode Island nightclub fire and North Carolina chemical plant explosions demonstrate the substantial number of burn injuries that can result from such events. Over one-third of those hospitalized in New York on 9/11 had severe burn injuries. The Department of Homeland Security has recognized that there would be mass burn casualties in terrorist acts, and there is a need for appropriate preparedness activities. For example, if the United States should suffer further terrorist attacks using explosions, incendiary devices or chemical weapons, most victims would suffer severe burn injuries.

Even a relatively modest number of burn injuries can consume large segments of the Nation's burn bed capacity. For example, the victims of the Rhode Island nightclub fire absorbed the burn bed capacity of most of the northern East Coast of the United States. Mass burn casualties that reach into the hundreds or thousands would strain the system to the breaking point.

It is clear that burn centers are a national resource and a critical link to public health emergency preparedness. Medicare coverage for serious, disabling burn injuries would enable these burn centers to remain financially viable and preserve an essential component of our public health emergency infrastructure.

This legislation follows an approach already taken with respect to End Stage Renal Disease (ESRD) and amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease), both of which result in waivers of the 24-month waiting period for Medicare eligibility. While these 2 diseases tend to be progressive in nature, the very initial phase of a serious burn injury is when things are most acute.

This legislation is similar to H.R. 685, which I introduced in the 110th Congress, except for the inclusion of some important cost containment provisions. No one with either public or private insurance at the time of their burn injury will be eligible for the 24-month waiver. Nor will State public insurance programs be permitted to restrict coverage for burn patients so as to place the burden solely on Medicare. The legislation also requires that the individual's disability status be reevaluated at least once every 3 years to ensure that those patients who have fully recovered from their burn injuries will not be able to stay on Medicare indefinitely.

Providing immediate Medicare coverage for uninsured patients suffering serious, disabling burn injuries is fully justified and a necessary step. Although not all hospitalized burn injuries would qualify as ''disabling'' and thus result in immediate Medicare coverage, this legislation is about providing coverage for the many uninsured patients suffering from serious burn injuries and ensuring the survival of a vital national resource that already is in jeopardy, a situation we cannot accept as we seek to prepare the Nation to deal with potential mass casualty terrorist events.

PERSONAL EXPLANATION

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. NEUGEBAUER. Madam Speaker, due to a death in the family I was absent for the following rollcall votes held January 21 and January 22, 2009. Had I been present, I would have voted as indicated for each roll call listed: rollcall vote 23: "yea"; rollcall vote 24: "nay"; rollcall vote 25: "yea"; rollcall vote 26: "nay"; rollcall vote 27: "yea"; rollcall vote 28: "yea"; rollcall vote 29: "yea."

IN MEMORY OF AUSTIN CUNNINGHAM

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. WILSON of South Carolina. Madam Speaker, on January 26th, a long-time friend and favorite son of South Carolina, Austin Cunningham, passed away. In his lifetime—that spanned almost an entire century—Mr. Cunningham was a successful businessman, a tireless leader in the community, a prolific philosopher, and a mentor. He was a valued advisor to the late Congressman Floyd Spence and Governor Carrol Campbell leading the efforts to reduce capital gains taxes. His steadfast belief in the importance and virtue of service was an inspiration to many, and he left a positive and indelible mark on South Carolina and the Nation.

Staff writer Lee Tant of the Times and Democrat of Orangeburg, South Carolina has thoughtfully developed the following fitting tribute to Mr. Cunningham.

[From the Times and Democrat, Jan. 27, 2009]

AUSTIN CUNNINGHAM DIES AT 94

(By Lee Tant)

It is hard, if not impossible, to describe the life of Orangeburg icon Austin Cunningham.

Cunningham, who died Monday at the age of 94, was a community leader, businessman, writer, lawyer, soldier and citizen of the year.

He was the definition of a Renaissance man.

His lifetime spanned 18 presidents, 11 recessions, two world wars and the civil rights movement.

Cunningham was the leader of five companies and in 1998 was named Outstanding Elder Citizen of the Year for South Carolina.

A decade later, he was named the Kiwanis Club of Orangeburg's Citizen of the Year. He also was honored with the Order of the Palmetto.

Cunningham was involved with nearly everything in the Orangeburg community. He was constantly willing to be out front in volunteering and promoting community involvement.

During the 1970s, Cunningham made business trips to Denmark and Manning while an executive at the Sunbeam Outdoor Co. It was then he first became interested in Orangeburg. When the company relocated its executive headquarters to Santee in 1974, Cunningham and his family moved with it.

He said his new home was like an "island" because its residents had to drive at least 50 miles to reach Columbia or Charleston.

The man who once called cities such as Chicago and New York home quickly became involved in the community. He joined what was then the Greater Orangeburg Chamber of Commerce, attended First Presbyterian Church, and was active in the local Republican Party.

He retired from Sunbeam to open a Burger King restaurant on John C. Calhoun Drive in 1975.

Cunningham accepted the chairmanship of the Orangeburg Regional Hospital's major gifts division four years later. His work was instrumental in procuring the funding to build the Regional Medical Center.

Cunningham also became a tireless advocate of the Targeted Jobs Tax Credit program during the summer of 1983. The program provided a tax credit for employers who hired underprivileged teenagers.

During that time, Cunningham served as chairman of the local Economic Recovery Committee.

To market the program in Orangeburg, Cunningham illustrated how it not only made good financial sense but also helped the community.

"Your reward is two-fold. You'll get a good worker for jobs you want them to do. And when you go to pay your federal businesses taxes next year, you'll get back 85 percent of what you paid out," he said to encourage local employers.

In the spring of 1984, President Ronald Reagan invited Cunningham to the White House to honor his efforts in promoting the program.

Reagan lauded Cunningham and credited him with fostering partnerships with 77 local businesses that gave 264 jobs to teenagers in poverty.

"For most of these 16- and 17-year-olds, it was their first real job. Now that's partnership in action, and everybody is better off because of it," Reagan said.

A July 1983 T&D editorial described Cunningham as "a one-man crusade" that informed the community about the program's merits. It also noted he was dubbed "Mr. TJTC" by the head of the State Employment Security Commission back then.

However, Cunningham didn't want all the attention and refused to take credit for it.

He insisted the real heroes were the businesses that hired the young workers.

He said the success of the program in Orangeburg boded well for industry and race relations here.

"It's made Orangeburg a better community than it was 10 weeks ago," Cunningham said after the program concluded its first summer.

He served on the People's Assault on Drugs Committee in the 1990s.

Cunningham was also behind getting 132 streetlights installed in New Brookland as part of efforts by the People's Assault on Drugs. He said then that drug dealers were relegated to hanging back in the shadows.

"They can't stand out in the streets anymore. They are not aggressively stopping people and vying with each other," he said.

Additionally, Cunningham was a patron of the arts.

After hearing the South Carolina State University Choir, he realized how good it was and, he spearheaded the choir's partnership with the South Carolina Philharmonic Orchestra. This led to an annual concert series in Orangeburg.

S.C. State awarded him its Distinguished Service Award at the 1995 Founder's Day festivities.

When he was named the "Outstanding Older South Carolinian" of the year by the state Department of Health and Human Services' Office on Aging in 1998, Cunningham used the honor to make a push for funding county councils on aging. The annual Elder Hop event on New Year's Day in Orangeburg was his brainchild as a fundraiser for the Meals on Wheels program.

Born in Washington, he lost his journalist father at age 12. Cunningham went to work in the U.S. Supreme Court as a page at age 14 and subsequently worked under J. Edgar Hoover at the FBI. He served in the U.S. Army Air Corps during World War II. He lost two brothers in the war.

After earning a law degree from the University of Virginia, he did advanced studies at the University of Chicago and Oxford University.

He married his late wife Jacqueline in 1946. An infant son, Paul, died in 1954.

He is survived by two daughters, Manhattan psychotherapist Kathryn Janus (wife of Jeffrey Janus), magazine journalist Amy Cunningham of Brooklyn (wife of Steven Waldman), son Austin Cunningham III, a business owner residing in Swansea, and two school-aged grandsons Joseph and Gordon Waldman of Brooklyn. His younger sister, Mrs. Clotilde Luce, at age 88, still works at New York City's renowned Neighborhood Playhouse School of the Theatre.

As a longtime author of articles for The Times and Democrat and other publications, Cunningham wrote from his vast repertoire of life experiences. He offered insight on historical figures from George Washington and Abe Lincoln to Bill Clinton. He spent a weekend in a state prison, at his own request, gathering material to provide insight on life behind bars.

Most recently, Cunningham was the subject of a story about his experience as an usher on the podium at Franklin Roosevelt's presidential inauguration in 1933.

Also, he was honored this past week by the Orangeburg County Community of Character initiative. The board of directors voted to create the Austin Cunningham Orangeburg County Community of Character award. It will be given once a year to worthy citizens who exemplify the character traits that make their communities better places to live, work and play.

A memorial service for Cunningham will be held at noon Friday at First Presbyterian Church in Orangeburg. The family will receive visitors from 7 to 9 p.m. Wednesday at Dukes-Harley Funeral Home.

PERSONAL EXPLANATION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. GENE GREEN of Texas. Madam Speaker, I would have voted "Aye" on both H. Res. 31 expressing support for the designation of a National Data Privacy Awareness Day, and H. Res. 84, honoring the heroic action of the individuals involved with the rescue effort of U.S. Airways Flight 1549.

Our office holds a twice yearly event, the Paying for College Workshop, to provide high school seniors and their parents options for financing a college education. We invite the Sallie Mae Foundation to join us and they have given out dozens of scholarships over

the years. Last night we had over 200 people attend the Workshop at Milby High School in our district, and Sallie Mae provided a $500 scholarship. We had to schedule the event before the 2009 voting schedule was finalized and for that reason I was not able to be in Washington for the two votes last night.

I would have supported both resolutions that were voted on last night, and was a cosponsor of H. Res. 31. People are increasingly using electronic communications in all walks of life—from social networking to e-commerce, more and more personal information is being compiled by online sites. While we have realized incredible efficiencies and other benefits from new electronic technologies, those technologies have also raised significant challenges for protecting the privacy of personal and proprietary information. H. Res. 31 would designate January 28 as National Data Privacy Day to raise awareness and educate people on safe practices when submitting personal information online.

TRIBUTE TO MIKE SHAIN

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mrs. EMERSON. Madam Speaker, there are all kinds of public servants in our communities, but we seldom think first of journalists in that category. In the Eighth Congressional District of Southern Missouri, a journalist springs to mind as a public servant: Mike Shain of KFVS in Cape Girardeau. Mr. Shain is retiring after 53 years in the news businesses (the last 37 at KFVS), and I want to commend him to the U.S. House of Representatives for his long labors in the service of our region, our State and our Nation.

Though the craft of news reporting has changed greatly in the time Mr. Shain has spent in the business, his fair reporting, his work ethic, and his professionalism have remained constant. Everyone who has looked at Mr. Shain over a microphone or across a table on the set of his weekly news magazine knows they have better done their homework. Mr. Shain takes preparedness to another level—he knows his subject matter and his audience inside-out.

Whole generations in Southeast Missouri have grown up with the informed voice of Mr. Shain in their ears. He has not only conveyed to us the news of the day, but he has also placed that news in context for his viewership. He has told us what is important as well as why. He has always had something important to say, which is a tough thing to do when most of your sentences end in a question mark. Still, Mr. Shain has been so successful and is so respected because his intellect is only surpassed by his understanding of the news media and its responsibilities to the public.

In service to the public, Mr. Shain has shaped minds and informed opinions among an electorate in Southern Missouri which is serious about its civic duty, patriotic obligations and the wellbeing of its neighbors. His name is synonymous with the news—with what is current and worth understanding. As much as the station that broadcasts him, Mike Shain is an institution.

Even though regular viewers of our evening news will no longer see Mr. Shain every day, his presence will continue to be seen and heard in the generations of newsmen and newswomen who have learned their craft from him. Mr. Shain's voice will be missed across the Heartland, but his legacy will endure. I'm proud to have known and worked with Mr. Shain, and I am glad to thank him on behalf of the entire Eighth Congressional District of the State of Missouri.

TRIBUTE TO ROSE FOWLER

HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. COURTNEY. Madam Speaker, I rise today to honor Rose Fowler of the McSweeney Regional Senior Center who will be retiring after a decade of service to the seniors of eastern Connecticut.

Rose is a dedicated public servant who works tirelessly in the town of Coventry, Connecticut. She has been a familiar face in local politics, serving as chair of the town council and as the moderator on Election Day. Rose actively volunteers her time with a host of community organizations, including the town's historical society. She and her husband Joseph also own and operate the Country Store that is located on Main Street.

Rose is best known to the people of eastern Connecticut for her work at the McSweeney Regional Senior Center. For nearly thirty years, the center has provided services to the residents of ten area communities. They offer extensive preventive care programs, including a number of health screenings and support groups. There are also a variety of social programs which have helped to foster a family atmosphere among the participants. From exercise classes to arts and crafts and a variety of trips, the seniors at McSweeney Regional Senior Center have truly found a second home. These activities have fostered a true sense of companionship and enjoyment for all who participate and are indicative of the warmth and friendship that Rose brings to work each and every day.

Even though I want to congratulate Rose on her well deserved retirement, I admit that I am saddened by this event. While the McSweeney Senior Center will continue its tradition of quality service and support for the region's seniors, it will be difficult to match the legacy that Rose has left behind. I know that I will miss our discussions and interactions when I visit with the seniors and that I will not be alone in this regard. I wish Rose the best as she begins the next journey in her life and remain confident that whatever she does, she will continue her legacy of service to the seniors and people of eastern Connecticut.

IN RECOGNITION OF THE VIETNAMESE NEW YEAR: TET, YEAR OF THE BUFFALO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. KUCINICH. Madam Speaker, I rise today in recognition of the Vietnamese New Year: Tet, 2009, Year of the Buffalo. As the Vietnamese community in Greater Cleveland gathers at St. Helena Catholic Church to celebrate, I join them in celebration of their rich history and culture.

Tet is the time of the year to pay homage to ancestors, reconnect with friends and family and celebrate every hope and possibility rising with the new year. This year's gathering will once again honor community volunteers and leaders, showcasing many Vietnamese cultural treasures including Vietnamese culinary cuisine, music and dance.

09 also marks thirty-four years of service to the community by the Vietnamese Community in Greater Cleveland, Inc. This organization has been an invaluable resource for hundreds of Clevelanders of Vietnamese descent, linking them to needed resources and preserving the rich heritage of the Vietnamese people.

I would also like to take this opportunity to recognize Le Nguyen, President of the Vietnamese Community in Greater Cleveland, Inc., and every member, past and present, for their dedication to Vietnamese-Americans of Northeast Ohio.

Madam Speaker and colleagues, please join me in celebration of the Vietnamese New Year, Tet 2009: Year of the Buffalo. May every American of Vietnamese heritage hold memories of their past forever in their hearts, and find peace and happiness within every new day of the rising new year.

THE 36TH ANNIVERSARY OF ROE V. WADE

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. MURPHY of Connecticut. Madam Speaker, I rise in honor of the recent 36th anniversary of the Supreme Court decision, Roe v. Wade.

Citing the constitutional right to privacy, the decision recognized women's equal standing with men to make decisions about their own bodies, and constituted a landmark step forward in the ongoing fight for gender equality.

Roe has advanced both the health care and human rights of women throughout America. It stands for the simple premise that government should not, and cannot, tell a person what to do with his or her own body.

As a proud cosponsor of the Prevention First Act, I certainly recognize that the term "pro-choice" is not synonymous with "pro-abortion."

Instead, to me, the right to choose is the right of a woman to make her own decisions about her health and future, free of coercion,

based on medically-accurate information, and with access to all reproductive health options.

Roe has provided us a legal foundation upon which to build a framework of reproductive health options for women. Our responsibility, as we celebrate the decision's anniversary, is to make sure we honor the tradition of that decision by assuring that women and families throughout this great country have access to family planning and reproductive health options so that never again do women have to retreat to alleyways and dark corners to receive proper medical care.

Madam Speaker, January 22, 1973 marks a landmark day in our nation's constitutional history—for women, for health, and for individual liberty.

SYSTEMS HEALTHCARE APPROACH

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. BOREN. Madam Speaker, I rise today in hope of raising the awareness of the House as to the significant health disparities facing medically underserved areas, particularly rural areas and those with large minority populations. Many parts of the country face shortages in health care providers and services. In the rural areas of my district in Eastern Oklahoma, we have a deep understanding of the significant health disparities facing populations in medically underserved areas.

As Congress moves forward with this initiative to stimulate our nation's prosperity, I urge your consideration of the great need in underserved areas for coherent health care delivery systems, systems that integrate primary care, preventive care, specialty care, and acute care, and that are connected through a health care technology infrastructure. I would like to work with you, Mr. Chairman and Ranking Member, as this legislation proceeds to focus funding toward projects that take a comprehensive systemic approach in underserved communities.

RECOGNITION OF WEST VIRGINIA'S ARMY NATIONAL GUARD PARTICIPATION IN THE PRESIDENTIAL INAUGURATION

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. RAHALL. Madam Speaker, I rise today to recognize West Virginia's Army National Guard for their assistance at the Presidential Inauguration of Barack Obama on Tuesday, the 20th of January 2009.

West Virginia provided nearly 500 men and women with the National Guard to usher in President Barack Obama. From crowd control to communication, West Virginia National Guard troops assisted local law enforcement in providing security and other services. In addition, the West Virginia National Guard sent helicopters, airplanes, mobile satellite-communications trailers, medical gear, and a mobile kitchen. Our brave men and women witnessed history and gave their all to help at this historic occasion.

Our heroic men and women in uniform are never far from my thoughts. They are our Nation's consistent example of valor and courage. In West Virginia, they earned a Special Category "First Place" award in the Army Communities of Excellence, ACOE, competition in May 2008 for their strong strategic planning process, communication, and customer-driven focus. Their excellence reflects the hard work and dedication of the men and women not only of the West Virginia Army National Guard, but also of every family member and friend who stands behind them. It is important to remember that our brave soldiers have given so much and have expected so little in return. I am proud to take this moment to recognize the excellence of the West Virginia Army National Guard for all they do to keep us safe from harm.

Our Armed Forces have paid the debt for the freedom we enjoy today, and I will continue, as I have in the past, to do everything I can to honor their sacrifices and service. Our soldiers and their families remain foremost in the thoughts and minds of southern West Virginians, and I will continue to devote my all to those who wear or have worn America's uniform.

HONORING SPECIALIST TIMOTHY R. LONG

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. ANDREWS. Madam Speaker, I rise today to honor Specialist Timothy R. Long for his service in Iraq. In 1996, when Tim was eleven years old, I sat with him in his middle school classroom and prepared Valentine's Day cards for U.S. troops serving in Bosnia. Thirteen years later, as this Valentine's Day approaches, Tim is stationed in Iraq serving in the National Guard. On behalf of New Jersey's First Congressional District and the entire Nation, I would like to thank Tim for his service and dedication.

HONORING REAR ADMIRAL DOUGLAS TEESON

HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. COURTNEY. Madam Speaker, I rise today to honor Rear Admiral Douglas Teeson who is retiring from his position as the president and chief executive officer of the Mystic Seaport. Admiral Teeson has dedicated his life to public service and I am honored to stand here today to offer these remarks.

Admiral Teeson is certainly no stranger to the people of southeastern Connecticut, where he has lived with his wife Phyllis for many years. He graduated with honors from the Coast Guard Academy in New London, Connecticut in 1965 and began his long and distinguished career as a Coast Guard officer. While in the Coast Guard he served in a variety of commands, including a term as head of the major training center located in Yorktown, Virginia. His career came full circle when he returned to the Coast Guard Academy to serve as the 36th superintendent, where he remained until his retirement in 2001.

In 2001, Admiral Teeson assumed his role as President and CEO of the Mystic Seaport, America's premier maritime history museum. Under Teeson's leadership, the Seaport flourished, adding new collections and undertaking historic renovations. During his tenure at the Mystic Seaport, Admiral Teeson oversaw the opening of the Carlton Marine Science Center and the completion of the new 500 ton ship lift facility among other important improvements that revitalized this unique American treasure.

Admiral Teeson has also been an integral part of the fabric of southeastern Connecticut. Admiral Teeson has served on the Board of Directors for The New London Day newspaper and as a commissioner for the Connecticut Commission on Culture and Tourism. Admiral Teeson is also a recipient of the Eastern Connecticut Chamber of Commerce's William Crawford Distinguished Service Award, given annually to an individual who has exemplified the spirit of community service and contributed to improving the quality of life for all of southeastern Connecticut. Never has there been a more deserving recipient of this prestigious honor.

Admiral Teeson's retirement marks the end of an era at the Mystic Seaport. I ask my colleagues to join me in congratulating Admiral Teeson on his exceptional career and to wish him well in his retirement.

PERSONAL EXPLANATION

HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mr. Luetkemeyer. Madam Speaker, I would like to state for the record my position on the following votes that I missed on Monday, January 26, 2009, as a result of an ice storm delaying my flight from Missouri to Washington, DC.

On Monday, January 26, 2009, I missed rollcall votes 30 and 31. Had I been present, I would have voted "aye" on both rollcall votes 30 and rollcall vote 31.

RECOGNIZE THE PARTICIPATION OF THE MINNESOTA NATIONAL GUARD IN THE INAUGURATION OF PRESIDENT BARACK OBAMA

HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 27, 2009

Mrs. BACHMANN. Madam Speaker, one week ago today Barack Obama was sworn in as the 44th President of the United States.

Millions flooded into Washington, DC to witness this historic occasion, presenting law enforcement authorities with an enormous logistical and security challenge.

To meet this challenge, the selfless men and women of Minnesota's National Guard came to Washington to assist with the Presidential Inauguration and to ensure the safety of the President as well as everyone present for inaugural festivities.

The superlative conduct and ability of Minnesota's guardsmen helped to make certain the ceremony and surrounding events occurred as safely as possible for all attendees, despite the many obstacles present in such a complex undertaking.

And so it is my honor to recognize and pay tribute to all the brave citizen-soldiers of the Minnesota National Guard. Their exceptional service during our President's inauguration is a true source of pride for all Minnesotans, as is the Guard's continuing and unbroken tradition of noble service to our State and country.

SENATE—*Wednesday, January 28, 2009*

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Creator God, whose breath is like the dawn of a new day, Your hands hold the paths of our steps and Your call gives direction to our lives. Direct our Senators during today's labors. Lead them to know Your power and to experience the joy of surrendering to Your purpose. Help them, Lord, to turn their ears and eyes and hearts toward You, as they approach the critical moments of decision. Remove the distractions from their hearts so that they will love You more dearly and make room in their lives for fellowship with You. As they follow Your lead, empower them to be steadfast, always abounding in Your love.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, January 28, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following the remarks of the two leaders, the Senate will resume consideration of the Children's Health Insurance Program. The time until 11 a.m. will be for debate on the McConnell substitute amendment, with the time equally divided between the two leaders or their designees. I designate Chairman BAUCUS to handle the work on this side of the aisle. At 11 a.m., the Senate will proceed to vote in relation to the amendment. Additional rollcall votes are expected throughout the day as we continue to work through amendments to the bill.

Because of the Finance Committee and Appropriations Committee being heavily involved in the economic recovery bill yesterday, we perhaps did not get as much done as we normally would have. I expect today to be a day of work done on this underlying legislation. Amendments to the bill should be offered as soon as people feel it appropriate to offer them.

We would like to complete this legislation no later than tomorrow. With a little bit of good luck, we can finish it today, but it likely will be tomorrow. I am confident we will not have to file any procedural roadblocks on either side, and we can move forward on this legislation.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. MCCONNELL. Madam President, let me say I share the view of the majority leader that we debate and vote on a number of amendments today. That certainly is our plan on this side of the aisle.

With regard to the SCHIP legislation, I do think we had a good day of debate yesterday, in spite of the interruptions the majority leader referred to in relation to the Finance Committee and the Appropriations Committee action on the stimulus package. I know Members of both parties were participating in that business most of the day. I particularly compliment Senators COBURN and BURR for the outstanding job they did managing the Republican time while our colleagues were occupied at that markup.

Republicans are committed to making sure every child has access to affordable health insurance. But there are some pretty important differences between Republicans and Democrats in how we get there.

Today the Senate will vote on our Republican alternative, the Kids First Act. To remind our colleagues, the Kids First Act refocuses SCHIP on its intended purpose, which is providing insurance to low-income, uninsured children.

The Kids First Act closes a number of loopholes and gimmicks that are being used to expand the definition of "low income" to families making up to $88,000 a year. I don't know anyone in Kentucky who would characterize $88,000 a year as low income.

Some States have used SCHIP to cover adults—remember, this is a program for children—even when thousands of eligible low-income children are still lacking coverage. It is worth repeating. Insurance for children is being used instead for adults. That is wrong, and the Kids First Act would ban such practices.

The CBO reports that our legislation will provide coverage to nearly 2 million low-income children who currently lack health insurance, and it does so in a fiscally responsible manner without raising taxes.

I know many of my Republican colleagues have other commonsense ideas to improve this legislation, and those will be offered. Republicans understand taxpayer resources are too scarce to be squandered away by waste, fraud or abuse. And Republicans are prepared to offer amendments to fix those problems and make the bill better.

For example, one provision of the bill allows a select few States to expand coverage to more than three times the Federal poverty level. Let me say that again. One of the provisions in the underlying bill allows a few States to expand coverage to more than three times the Federal poverty level. We don't think it is fair to provide special treatment to certain States, and we expect an amendment to address that situation.

The bill also provides Government health insurance to 2.4 million kids who already have health insurance, providing Government-paid insurance to kids who already have health insurance. Republicans believe those kids should be able to keep the coverage they have, and we will have amendments to let kids who already have health insurance keep that coverage, freeing more resources for kids who are actually in need.

Just as working families are trying to get the most out of every dollar, Republicans believe Government needs to

do the same thing by rooting out waste, fraud, and abuse in all programs, including Medicaid and SCHIP.

These are a few of the ideas we will be discussing today and tomorrow as the Senate continues this very important debate.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall resume consideration of H.R. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

Pending:

McConnell amendment No. 40 (to amendment No. 39), in the nature of a substitute.

Grassley amendment No. 41 (to amendment No. 39), to strike the option to provide coverage to legal immigrants and increase the enrollment of uninsured low-income American children.

Mr. McCONNELL. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 40

Mr. BAUCUS. Madam President, the amendment before us is the amendment offered by the Senator from Kentucky, Mr. McCONNELL. It is a substitute amendment to the bill before us. The bill before us is an expansion of the Children's Health Insurance Program. It is very similar to the two bills that were taken up by Congress in 2007. Both were vetoed by President Bush. Both bodies had more than a majority. Both bodies passed the program. But the House did not get enough votes to override the President's veto.

The point is this is a very popular expansion of children's health insurance. The fact is we would add approximately 4 million more low-income, uninsured children who currently do not have health insurance.

Today about 6.7 million low-income kids have health insurance. Clearly, in this very difficult time of recession, parents are losing their jobs, their incomes are not what they once were. They have a hard time getting health insurance for their kids.

We took the same bill—actually, there were two bills last year, but they are very close—and mixed and matched a little bit, essentially the same bills that passed in 2007 which President Bush vetoed, and we are bringing up that same bill today, with one exception, and that is including perfectly legal alien citizens. They are not citizens but perfectly legal kids in America. Not illegals but legals.

The other side is opposing this bill because they do not want to include perfectly legal kids in the program. I think that is a big mistake because these children are here legally. Their parents pay taxes. If you are an 18-year-old, you could be drafted if we had a draft. These parents are in line to be full citizens after several years. They have green cards, but they will be full citizens. The perfectly legal folks in America receive food stamps. They are eligible for lots of things. They are in public school. It seems to me, therefore, they should be entitled to get health insurance, just like every other kid.

What this comes down to is either you are for low-income, uninsured kids getting health insurance or you are not. It is pretty simple. It is pretty basic. I believe, and I think most people on this side of the aisle believe, therefore, the bill should pass and the substitute offered by the Senator from Kentucky, which does not include these children, should not be adopted.

The other difference is the bill before us will add about 4 million more children who are currently uninsured to the Children's Health Insurance Program. The amendment before us does not add that many. It adds about 2 million. Again, the point is, you are for kids or you are not for kids. I think the answer to that is pretty clear. We do want to add 4 million more low-income, uninsured kids to the Children's Health Insurance Program.

We are going to hear from the other side: Gee, the underlying bill crowds out private coverage; that is, some parents will say: Gee, if the addition passes, I can no longer insure my child with a private health insurance plan but, rather, go off private health insurance and go into the public program.

The point is, that is a national phenomenon that occurs in a lot of ways and in a lot of places. It occurs in Medicaid. For example, some person might be on private health insurance but Medicaid might be better. And if you compare the two bills; that is, the underlying bill and the substitute being offered, essentially they are the same in that about two-thirds of the additional children covered under the underlying bill will go on the public program and about one-third will come out from private coverage in the same proportion that occurs in the substitute amendment—lower numbers but the same proportion.

It just seems to me that the main underlying point is we want low-income, uninsured kids to have health insurance. That is what we want here. In the next several months and in the next year, probably, we will be doing health insurance reform, and then we can make sure private health insurance is bolstered so people who are not insured—46 million, 47 million people in America uninsured—will be able to get insurance either through the public program or private coverage.

It is a bit difficult to explain here, but the main point is if every American has to have health insurance and the low-income people have to have subsidies to get health insurance, that is something the Congress should do. But at this point here today, let's reject the substitute amendment. Why? Because, as I said, a lot of kids who are here, perfectly legally, won't get health insurance, and that is not right. It also doesn't go nearly as far as it should because there are so many kids who don't have health insurance here today but who should get it.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, let me say to the Acting President pro tempore that it is a shame she has to be in the chair every time I give a speech, hearing the same things twice.

The ACTING PRESIDENT pro tempore. I am enjoying that, I say to the Senator.

Mr. GRASSLEY. I shouldn't have put the new Senator in that position, but I thought a little bit of humor around here doesn't hurt anything, does it?

I thank the Senator from Montana, the chairman of the committee, for his remarks. Obviously, from what I stated yesterday, I have a difference of opinion on that issue. I am not going to speak about that because I spoke about it yesterday.

Madam President, I would like to speak generally about the SCHIP bill, not about a specific amendment at this point, although I might mention some differences we have with the original bill.

I have been a Member of the Senate now for quite a few years. I have worked across the aisle on many initiatives in my time in the Senate. We have worked together—we meaning Democrats and Republicans, and in my case as an individual, the Senator from Iowa—and I am speaking about a close working relationship I have with the Senator from Montana, the chairman of the committee now. We have worked together on major tax, trade, and health care legislation over the last few years where we were able to set aside partisanship and work together to make good policy. I know what it means to make a compromise. I know what it means to keep that compromise.

In 2007, I worked with my friend Senator BAUCUS, as well as Senator HATCH, a Republican, and Senator ROCKEFELLER, a Democrat, to pass the reauthorization to the Children's Health Insurance Program. We twice passed a bill in the Senate with wide bipartisan margins. Was it a bill Senator HATCH and I as Republicans would have written? No. Was it a bill Senator BAUCUS and Senator ROCKEFELLER would have written if they were writing the bill all by themselves? No. The bill was a compromise, so everybody gives a little bit. We compromised to get a bipartisan vote, and we were successful in getting that bipartisan vote. We won a veto-proof majority in the Senate. We came just a few votes close of a veto-proof majority in the House. In fact, Senator BAUCUS and I worked with House Republicans to try to get a few more House Republicans to come around so we could have a bill on the books in 2007 or early 2008. Unfortunately, that didn't work out. Unfortunately, at the time, President Bush refused to sign the bill. I thought he was wrong to veto the bill. I still think he was wrong to veto it. I said so loudly and clearly.

I would like to refer to some comments I made 2 years ago to the Senate at that particular time. I don't have the exact date, but it was during the debate on the SCHIP bill at that particular time, and I would quote from that debate. This is the Senator from Iowa saying this 2 years ago:

First, the President himself made a commitment to covering more children. I wish to refer to the Republican National Committee in New York City in 2004, and President Bush was very firm in making a point on covering children. Let me tell you what he said.

This is the quote I read from President Bush at that time, and he refers to a new term, meaning the term that would start in 2005.

American children must also have a healthy start in life. In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs. We will also not allow a lack of attention or information to stand between these children and health care that they need.

Now, that is the end of the quote from President Bush in 2004. And, Madam President, when I referred to the Republican National Committee in that quote, I think I made a mistake 2 years ago. I was referring to the convention and I said committee.

At that time during the debate in 2007, I went on to say:

That was back in New York City, early September 2004. Three months later the President is reelected, with a mandate. It seems to me the President was very clear in his convictions then. Let me repeat his words because I think they are important. He said he would lead an aggressive effort to enroll millions of poor children in government health insurance programs.

Then I go on to speak for myself:

President Bush, this is your friend Chuck Grassley helping you to keep the promise you made in New York City, and helping you keep your mandate that you had as a result of the last election. But somewhere the priorities of this administration seem to have shifted. The Congressional Budget Office reports that the proposal for SCHIP included in the President's fiscal year 2008 budget would result in the loss of coverage, not an increase of coverage as the administration had been advocating for in the year 2004; and that the loss of coverage would add up to 1.4 million children and pregnant women.

That is the end of my speech for that day to the Senate. But I want to say that later in the debate, I referred to this again. So I was trying to make very clear that I was speaking to the President of the United States. This is quoting me:

I quoted the President making a promise at the Republican Convention in New York. I did that yesterday. I want to state again what the President said. You can't say it too many times. I hope at some time the President remembers what he said.

And this is the President from the Republican Convention:

We will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance program.

That is the end of the President's quote, but continuing to quote from myself.

An extension of law, which is what is going to happen if the President vetoes this bill, will not carry out what the President said at the Republican Convention in New York in 2004. Faced with that, your answer today on this bill, Mr. President of the United States, should be yes. This bill gets the job done that you said in New York City you wanted to do. I hope the President's answer will be yes because if he doesn't veto this bill, then we will do those things he said he wanted to do. It will help more than 3 million low-income, uninsured children. About half of the new money is just to keep the program running. The rest of the new money goes to cover more low-income children.

Before I go on with my remarks, I want to say that I think I and a lot of other Republicans who voted for that SCHIP bill in 2007 were vindicated when we made the point that, at $5 billion the President didn't have enough money in his budget to cover kids currently enrolled in SCHIP because the next year, the President's budget for SCHIP was $20 billion. We kept saying to President Bush in 2007, you know, $5 billion isn't going to do it. But I think that by putting $20 billion in for FY 2008, the President was admitting that $5 billion wasn't enough.

Now, why do I go to the trouble of explaining to the Senators who are listening what I said 2 years ago? Because we had a Republican President.

I don't like the way this bill has worked out because the bill we have before us today departs so much from that bipartisan compromise on which so many of us worked so hard. So maybe people listening are saying: Well, CHUCK GRASSLEY, a Republican, we have a Democratic President, he is my President, but I am going to just be partisan. So I want the public to know that I am approaching this issue in a way where when I disagree with the policy—whether it is the policy of the Bush administration at that time, or the policy of the partisan bill we have before us now that I will speak out.

We have a President today who is going to sign this bill. Unfortunately, we are here with a bill that goes back on those compromises we worked so hard on 2 years ago. For reasons I still don't fully understand, the majority is bound and determined to set aside that hard work that led to that bipartisan agreement 2 years ago. They have decided that going back on critical compromises is more important than achieving the same bipartisan votes as we did in 2007. The Senate should now be considering our second bill, our final compromise of 2007.

I am disappointed because the State Children's Health Insurance Program is the product of a Republican-led Congress in 1997, signed into law by a Democratic President. This has been a very bipartisan issue for 11 years down the road. It is a targeted program designed to provide affordable health coverage for low-income children of working families. These families make too much to qualify for Medicaid but struggle to afford private insurance.

In 2007, Senator ROCKEFELLER made the point that, "CHIP," the Children's Health Insurance Program, "legislation has a history of bipartisanship. I am quite proud of it." That is what Senator ROCKEFELLER said. In 2009, however, the Democratic leadership, having increased their majority, has decided to abandon a number of good-faith agreements made between Members during the last Congress. In doing so, the Democratic majority has embarked on a reckless course of action designed to alienate the very Republicans who stood up to President Bush when he vetoed the SCHIP bills and who still carry the scars from those fights. It is very disappointing, then, that the first health bill the new Democratic Congress sends to the new Democratic President, my President, is legislation that breaks from that bipartisan tradition.

I want my colleagues to understand that I am very reluctantly in a position of having to fight against this bill. After the bruising battles over SCHIP in 2007, and with the emergence of health reform as a priority for the 111th Congress, I wanted to avoid another fight over the Children's Health Insurance Program and direct all efforts to enacting a broadly bipartisan health reform bill, which I still think is a possibility. At least the meetings we are having lead me to say that at this point. Maybe 6 months from now I will be disappointed, but I hope not.

However, the Democratic majority was determined on this bill that they

wanted a short-term ''win'' over a broader, larger effort, and therefore I was told SCHIP was going to be one of the first bills considered by the new Congress.

I was informed that rather than move forward with the second vetoed bill—a bill with changes that Speaker PELOSI called, and this quote is about that compromise of 2 years ago, which she said was ''a definite improvement on the [first] bill''—the Democratic leadership had decided to move ahead with the first vetoed bill instead of this compromise that Speaker PELOSI said was better than the first bill.

Even though I could have insisted on negotiating off the second bill which represented a number of improvements, as Speaker PELOSI said, and I believed it strengthened the bill, I agreed to try to work out a compromise somewhere between that first vetoed bill and the second vetoed bill of 2007. Unbelievably, under pressure from Democratic leadership, my willingness to work out a compromise that could have set us on a bipartisan pathway was met with a resounding: Thanks, but no thanks. No negotiations, no give and take, no compromises, no bipartisanship: Take it or leave it.

The Senate has abandoned moving forward with a bill that generated a great deal of Democratic praise just 2 years ago. The hard work and bipartisan cooperation that went into the children's health insurance bills in 2007 produced legislation that President Obama's new Chief of Staff, Rahm Emanuel, who was a Member of the House of Representatives at that time, said ''should have strong support from both Democrats and Republicans.'' That is from 2 years ago.

However, on a number of key issues, the other side does not even want to support the first children's health insurance bill of 2007.

The bill before the Senate now completely eliminates policies on crowdout of private insurance that were in both vetoed bills, which brings me to a question: What exactly was wrong with the crowdout policy of both of those vetoed bills? The Congressional Budget Office, in a 2007 report on crowdout, estimated that the Children's Health Insurance Program has a crowdout rate of ''between a quarter and a half of the increase in public coverage resulting from the Children's Health Insurance Program.''

The Congressional Budget Office goes on to elaborate that ''for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children.''

I would be very interested in learning the reasons those on that side of the aisle completely eliminated the crowdout provisions from both of the 2007 SCHIP bills. Certainly, it is not because Democrats have put forward a policy that addressed crowdout in a better or more efficient manner in the bill before the Senate now. Certainly, it is not because Democrats have a new analysis that crowdout is no longer occurring, as CBO says, especially in the expansion of public programs.

I hope Members of this body who supported the crowdout policy of 2007 and now are supporting its elimination will come to the floor and explain to me and other Members of this body why the Democratic majority is not concerned about the problem of replacing private coverage with public coverage.

In other words, if people have insurance today, and you are setting up a program that, even though it increases the number of people covered will not cover all the children eligible for public programs, why would you want to drive people out of private coverage into public coverage? That is what happens, according to the Congressional Budget Office. The Congressional Budget Office is a nonpartisan group of people who are experts in this area.

As I said yesterday, I believe it was, in a comment directed to something Senator DURBIN of Illinois said—and I am not denigrating what he said, I am supplementing what he said—he led us to believe the reason you want to have this policy is because there might be some people who have poor private coverage who would be better off in the public program. I am not saying that might not be true. But the Congressional Budget Office tells us you get most crowding out in upper middle-income people, more than you do in lower income people. In other words, maybe people who can afford it better and have higher incomes decide: Why should I pay out of my pocket when I can go on the public program?

I think it is wrong to throw aside something that we had in 2007 that was going to keep people in private coverage and encourage them to go where we do not have enough money to cover children who do not have anything.

Neither bill vetoed by President Bush in 2007 included a provision to allow States to be reimbursed at the Medicaid and SCHIP levels for legal immigrant children and pregnant women. I am not going to go into this issue in depth because I did that yesterday. But this issue does open a difficult and contentious immigration issue that does need to be brought up.

One of the reasons I was able to support the compromise of 2007 on the Children's Health Insurance Program was it did not contain the controversial provisions to direct Federal resources to the coverage of legal immigrants. I said yesterday how in some instances it could end up covering people who have come here illegally.

In the 1996 welfare reform bill, we required the sponsors of legal immigrants to sign an affidavit that they would provide for those immigrants for the first 5 years they were in the country. With this bill we are allowing sponsors to go back on that commitment. If you have a contractual relationship, it seems to me to be only morally right that the Federal Government would want to have that moral contract—not encourage ditching it. But this bill would allow that to happen. We are allowing sponsors to go back on that commitment they made to the taxpayers of this country.

Additionally, the $1.3 billion the bill provides for these immigrants who were promised they would be taken care of is money that could be far better spent on poor, uninsured American children. It is a little bit the same argument I just gave about crowdout.

If you have people on private insurance, then save the public money for people who are currently eligible for public programs, but who are not insured. Use the $1.3 billion for those people.

In 2007, during the debate, the majority leader, Mr. REID, said this about the Children's Health Insurance Program. It was ''a very difficult but rewarding process for me. It indicates to me that there is an ability of this Congress to work on a bipartisan, bicameral basis.''

You have an election in between, but it seems to me, kind of, comity would dictate if that was a good statement to make in 2007, it would hold true for 2009 as well. This should have been an easy and quick bill to pick up and pass this year. Our bipartisan coalition fought side by side to get the Children's Health Insurance Program done in 2007. Picking up that baton and carrying it across the finish line should have been a straightforward exercise. For somebody like me in the Republican Party who went against his own caucus to get a bipartisan agreement, to stand against my own President and work hard in the House of Representatives to get a few more Republican votes, it kind of leaves us dangling out there. Without a show of appreciation, how can you work in a bipartisan way?

Instead, what are we headed toward? A process that will end up with a bill that many Republicans, like this Senator, who have been strong supporters of the Children's Health Insurance Program are no longer comfortable supporting.

In 2007, the Children's Health Insurance Program received high praise from the other side. I would like to give a quote, ''a very difficult but rewarding process,'' and one that indicated—showed the ability of Congress, quoting again ''to work on a bipartisan, bicameral basis.''

If the Senator from Montana—I am going to smile at you. That is your quote from 2 years ago.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRASSLEY. I have three sentences, if I can have unanimous consent for those?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. This is a very unfortunate beginning for the 111th Congress. I regret the Democratic leadership has so quickly abandoned a bipartisan process. It does not bode well for cooperative work in the coming months.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I ask unanimous consent that at 10:55 a.m. the Senate resume consideration of the Grassley amendment, No. 41, and proceed to a vote on the amendment with no intervening action or debate; further, that no amendment be in order to the Grassley amendment prior to the vote; that upon disposition of the Grassley amendment, the Senate resume consideration of the McConnell amendment under the previous order.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I also want to inform my colleagues that vote at 10:55 is expected to be a voice vote.

Mr. GRASSLEY. I have yielded the floor.

Mr. BAUCUS. How long does the Senator wish to speak?

Mr. KYL. Madam President, if I can take 4 minutes, that will be fine.

Mr. BAUCUS. I yield 5 minutes to the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 40

Mr. KYL. Madam President, yesterday I spoke to this issue and detailed the reasons the underlying legislation is not a good bill and why the substitute that is being offered by Senator MCCONNELL will be a much better approach to this issue. I want to reiterate one of these points because of a question a reporter asked me out in the hall. We talked about the massive number of people, 2.4 million people, who will leave their private insurance coverage in order to participate in this Government-run program. It is called the crowdout effect.

The reporter said: Does it appear to you that this is just one more step toward Government-run health care for Americans?

I said: Well, you can certainly conclude that. The reason I said it was because there were efforts last year to try to fix this problem. Everybody acknowledges there are almost 2.4 million people who will leave private health insurance coverage because, obviously, the businesses that are paying for that today would not have to pay for it if their employees go to this Government-run program. It, obviously, makes sense for them, therefore, to drop the coverage.

The reason I said what I did is because there is a way to handle this. We tried to deal with it last year. When the legislation was finally—the final version was written, it was written by the chairman of the committee and by other Democratic leaders in the House and in the Senate.

It was approved by both Houses. It included the language that dealt with this crowdout effect. Now, it was not very meaningful language, from my perspective, but at least it was a recognition of the problem. Surprisingly, that language was dropped from this bill, and I never have been able to figure out why.

So I offered an amendment in the committee to reinsert the same language that the chairman and other Democratic leaders had put together to deal with this problem. On essentially a party-line vote, my amendment was defeated, so the problem remains. And it is the one of many problems in the underlying bill.

The point of the Kids First Act, which is Senator MCCONNELL's alternative, is that it is targeted and it is a responsible reauthorization to preserve health care coverage for millions of low-income children. That is what the program is all about. That is what we should be doing.

Unlike the underlying bill, the McConnell amendment adds 3.1 million new children to SCHIP. It minimizes the reduction in private coverage, as I said before, by targeting SCHIP funds to low-income children and not high-income families who have access to private coverage. And importantly, it is offset without new tax increases or a budget gimmick as is the underlying bill.

So I think my colleagues and I have two choices here, either a budget buster that does not protect SCHIP coverage for low-income children, represents an open-ended burden on taxpayers, and takes a significant step toward Government-run health care, or a fiscally responsible SCHIP reauthorization that preserves coverage for low-income children and is fully offset without a tax increase, and minimizes the effect on employer-sponsored health coverage.

The answer is clear, the Kids First Act is the right solution, and I urge my colleagues to vote yes on the McConnell amendment.

The PRESIDING OFFICER (Mrs. HAGAN.) The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the real question is, do we want more low-income uninsured children to have health insurance? That is the basic question. I am sure the answer to that question is yes. Most Americans, certainly parents of low-income kids and low-income parents, wish to have their children covered.

Next question: How do we do it? The Children's Health Insurance Program is immensely popular. It was enacted, I think, in 1997. It was set up as a block grant program. States had the option whether they wanted to participate. And immediately, in a very short period of time, all States decided, yes, they wanted to participate in the Children's Health Insurance Program, because it so helps their kids get health insurance.

Now, many people have private health insurance. That is good. The question is, what about lower income people, not Medicaid levels, but working poor who have private health insurance. What should they do? And this legislation gives people the option, gives States the option that a person can continue his private health insurance. If he or she wants to, a person currently on private health insurance who has a couple three kids and who qualifies for the Children's Health Insurance Program, because the parents are working poor, has the option to keep the private health insurance or to put the children in the Children's Health Insurance Program.

Now, this question always arises, that is, when there is a public program, a health program, there is always going to be a question for those who have private coverage, should they stay in their private plan or should they move to the public plan?

About one-third of the new children who have health insurance under the underlying bill will come from the private sector; two-thirds have no insurance whatsoever. The real answer to the dilemma is to make sure that the people in our country have good private health insurance at premiums they can afford, benefits that make sense. The Children's Health Insurance Program has good benefits. So, clearly, a mother whose income is quite low, not quite as low as Medicaid levels, but quite low, will probably want her child to enroll in the Children's Health Insurance Program.

We have to bolster private health insurance in this country. There are 47 million Americans who do not have health insurance. That is unconscionable. About 25 million Americans are underinsured; they have got health insurance, but it is not very good.

So the answer to this question is, how do we insure more kids but in a way that private health insurance is also a viable option for low-income families. How do you do that?

We are going to take up health care reform this year in this Congress. It is so important. It should be a result where all Americans have health insurance. It also means we have to figure out ways to get the cost down, because

health insurance is so costly, and health care is so costly.

Unfortunately, today, insurance in the individual markets is very expensive. The benefits are not that great and the copays are pretty high. It is not a good choice for low-income people. That is the individual market, even small group markets in many cases. So the goal here of national health insurance reform, through all kinds of mechanisms, of health care delivery, and pay for performance, et cetera, is to make sure that private health insurance is a viable option for all Americans, more of an option than it is today.

That means insurance reform, eliminating preexisting conditions as a means to deny coverage. The fancy term ''guarantee issues'' means that when someone applies for health insurance, that health insurance provides there is no discrimination on the basis of health care or age or whatnot.

That is the goal we are all striving for. And, fortunately, it is a goal that almost all of our colleagues agree with. I very much hope—it is imperative that this year, this Congress move aggressively for national health insurance reform, because that will then tend to eliminate this question of crowdout.

But, more importantly, as we worry about crowdout, I do not think it is that much of a worry, frankly. We should keep our eye on the ball which is how do we get more low-income kids insured. That is what the underlying bill does.

Madam President, I suggest the absence of a quorum and ask unanimous consent that the time of the quorum be charged to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Madam President, I wanted to make a few observations on the pending amendment, the McConnell amendment, before the vote. What we are trying to do here in this amendment is to refocus SCHIP toward low-income children. This amendment would close loopholes that allow States to use SCHIP funds to cover both adults and children in higher income families.

What has happened here is some States have drifted off in the direction that was not the original intent of the measure, which was supported on an overwhelming bipartisan basis, and written by both Republicans and Democrats in the 1990s.

So the goal of the Kids First amendment, upon which we are about to vote, is to refocus the program on low-income children, and to take the funds that are being diverted to high-income families and put them back in to cover low-income children, and it probably would cover up to 2 million additional low-income children.

So if you are in favor of putting kids first and focusing the SCHIP program as it was originally intended, I would recommend strongly that you support the amendment upon which we are going to vote here shortly.

I yield the floor.

AMENDMENT NO. 41

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of amendment No. 41.

The question is on agreeing to the amendment.

The amendment (No. 41) was rejected.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. MENENDEZ. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 40

Mr. BAUCUS. Madam President, while we are waiting for the vote, which occurs in a few minutes, I will make a couple of points here.

Mr. McCONNELL. Would the Senator from Montana yield?

Mr. BAUCUS. I will yield.

Mr. McCONNELL. Madam President, I am reminded that I have not requested the yeas and nays yet on my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, very briefly in response to the Senator from Kentucky, the underlying legislation adds 4 million more children to the Children's Health Insurance Program for a total of about 10 million. I think that is a good goal. On the other hand, the substitute amendment offered by the Senator from Kentucky does not go near that far. It is about 2 million fewer children. I think we want to add more kids to the Children's Health Insurance Program.

Second, he claims his substitute focuses more on low-income kids first. I might say that the underlying bill, the bill offered by myself and others, focuses on low-income first. How does it do so? There is a bonus to States to seek out low-incomes first.

Second, the bill phases out coverage of childless adults. That has been an issue; that is, should adults, who are not children, be covered under the Children's Health Insurance Program? That is an issue because this is a block grant program, and States have the option to cover whom they want to. Some States have covered adults. Actually only one or two have. And we are saying, no, no more of that. So we are phasing out the ability of any State to cover an adult who does not have children.

Parents or pregnant women and kids are another issue. But childless adults are being phased out. So we are focusing more on low-income kids first. I might say too that there is a lower match rate for those States at their own option that want to go to a higher level. Some States want to go to a higher level. That is their choice under the Children's Health Insurance Program, because it is a State option. That is a choice those States can take.

But if they do so, the match is a lower rate than it otherwise might be.

Again, I am trying to make sure that low-income kids are helped first.

And, finally, under the underlying legislation, 91 percent of children covered are at a level of 200 percent of poverty or lower; 91 percent, 200 percent or lower. So this legislation clearly is focused on the working poor.

The PRESIDING OFFICER. All time has expired. The question occurs on Amendment No. 40 offered by the Senator from Kentucky, Mr. McCONNELL.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—32

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Gregg	Sessions
Burr	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker
Crapo	Martinez	

NAYS—65

Akaka	Feingold	McCaskill
Baucus	Feinstein	Menendez
Bayh	Gillibrand	Merkley
Begich	Grassley	Mikulski
Bennet	Hagan	Murkowski
Bingaman	Harkin	Murray
Bond	Hatch	Nelson (FL)
Boxer	Inouye	Nelson (NE)
Brown	Johnson	Pryor
Burris	Kaufman	Reed
Byrd	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Shaheen
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Tester
Durbin	Lugar	

Udall (CO)	Warner	Whitehouse
Udall (NM)	Webb	Wyden

NOT VOTING—2

Chambliss	Kennedy

The amendment (No. 40) was rejected.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding that the Senator from Florida, Senator MARTINEZ, is going to offer an amendment. The amendment, as I understand it, deals with the Mexico City issue.

I ask unanimous consent that Senator MARTINEZ have 5 minutes to speak, that he be followed by Senator BROWNBACK for 5 minutes; Senator BOXER for 5 minutes; Senator DURBIN, 5 minutes; Senator MCCAIN, 5 minutes; and following that, that Senator MENENDEZ be allowed to speak for up to 15 minutes. He is just going to speak on the bill. Then, I would arrange—general debate for Senator MENENDEZ.

I will work with Senator MCCONNELL to follow up with a time for a vote. We would like to do it before 12:30, but I will work with Senator MCCONNELL on that. Also, there would be no amendments in order to the amendment offered by Senator MARTINEZ.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 65

Mr. MARTINEZ. Madam President, I call up amendment No. 65 and send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MARTINEZ], for himself, Mr. VITTER, Mr. WICKER, Mr. BUNNING, Mr. ENZI, Mr. COBURN, Mr. JOHANNS, Mr. BROWNBACK, Mr. INHOFE, and Mr. CHAMBLISS, proposes an amendment numbered 65.

Mr. MARTINEZ. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore the prohibition on funding of nongovernmental organizations that promote abortion as a method of birth control (the ''Mexico City Policy''))

At the appropriate place, insert the following:

SEC. ___. RESTORATION OF PROHIBITION ON FUNDING OF NONGOVERNMENTAL ORGANIZATIONS THAT PROMOTE ABORTION AS A METHOD OF BIRTH CONTROL (''MEXICO CITY POLICY'').

Notwithstanding any other provision of law, regulation, or policy, including the memorandum issued by the President on January 23, 2009, to the Administrator of the United States Agency for International Development, titled ''Mexico City Policy and Assistance for Voluntary Family Planning,'' no funds authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for population planning activities or other population or family planning assistance may be made available for any private, nongovernmental, or multilateral organization that performs or actively promotes abortion as a method of birth control.

Mr. MARTINEZ. Madam President, while we are debating SCHIP and considering the best ways to promote healthy children in our country, we are going to look at many amendments covering a wide range of topics. Whether we support extending this program or not, everyone wants children to have the best health care available. Into this broad-ranging debate, I have also introduced an amendment to reinstate the Mexico City policy—a policy that prohibits U.S. foreign assistance from going to groups in foreign countries that support or perform abortions.

The fact is, we often talk about promoting a culture of life. We talk during political campaigns about how we wish we had fewer abortions and how we wish to promote other alternatives such as adoption, and, in fact, that we want abortions to be rare. However, actions do matter, and last Friday President Obama changed the tone of this conversation by approving the use of taxpayer dollars to fund international organizations responsible for performing and promoting abortions in every corner of the world.

Today, I am proposing an amendment to H.R. 2, the SCHIP bill, that would return this policy to its original intent, which is to restrict the use of taxpayer money to family planning organizations that are known to perform and promote abortion. This policy, known as the Mexico City policy, was first signed into Executive order by President Ronald Reagan in 1984. Over the years, the policy has been wrongly attacked and falsely characterized as a restriction on foreign aid for family planning. This policy is not about reducing aid, but it is instead about ensuring that family planning funds are given to organizations dedicated to reducing abortions, instead of promoting them.

Reversing this policy means there is no longer a clear line between funding organizations that aim to reduce abortions and those that promote abortions as a means of contraception. If not reversed, the funding would enable organizations to perform and promote abortions in regions such as Latin America, countries in the Middle East, and Africa, where the sanctity of life is not only respected but, in many instances, is the law of the land and, in fact, where strong religious convictions make this practice abhorrent.

The United States is a generous country. We give to countries around the world for many reasons and for many purposes. At the same time, we also want to be on the positive side of respecting the culture of so many of the countries that would be impacted by this dramatic change in what has been the U.S. policy abroad.

So I urge my colleagues to support this amendment restoring the Mexico City policy first enacted by President Ronald Reagan and then reenacted again by our last President. It is necessary—if we want to continue fostering a culture of life where every life is sacred, every child is celebrated, and life at all stages is given the dignity it deserves—that we support this amendment in promoting life, in standing for the things we say we believe in during campaigns, which is promoting a culture of life and looking for abortions to be rare and to be the last option and to not be something that comes into the picture as a result of a desire to use it as a family planning tool and not with the understanding that it is disrespecting the very sanctity of life we all believe ought to be observed from the moment of conception until the end of life.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from California.

Mrs. BOXER. Mr. President, is Senator BROWNBACK next?

The PRESIDING OFFICER. Yes.

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Florida for raising this issue. This has come up recently as President Obama has changed the Mexico City policy so that the United States can fund abortions and groups that promote abortions overseas. This, of course, was not the policy of the United States in the last administration for the last 8 years. It was prior to that in the Clinton administration. And prior to that in the Reagan and Bush years, it was not the policy. This has been going back and forth for some time.

I think it is pretty clear as far as the U.S. public that they do not like the idea of us funding abortions overseas. Some people may tolerate it here at home and say, OK, that is something I will just live with, but they do not like the idea of our taxpayers' dollars going to fund abortions overseas. And at a time when we are staring at $10 trillion in debt going to $12 trillion, with a stimulus package of lots of different items, including some that do not seem particularly stimulative, this does not make any sense to people. Then you go overseas, and to a lot of places, it does not make any sense, either, as Senator

MARTINEZ mentioned, that in Latin American countries, African countries that are very strongly pro-life, in many cases, we are supporting policies or groups or institutions that are promoting abortion.

What is going on with the United States? I thought you guys stood for life and for the dignity of the individual, and then the United States is funding this? This has been back and forth, a long seesaw battle, within our overall discussion here. I simply point out that this does not help us in foreign policy. This certainly does not help the budget deficit or the debt. This certainly does not stimulate the economy. There is no major policy reason to do this.

Some people will argue that we should be supporting this policy and that this is something we ought to do to help people overseas. I think most people overseas would much rather have us put this money in AIDS prevention work, in malaria work, in working on neglected diseases that affect so many people overseas that have a broad basis of support in the United States and there, rather than this policy, which is such a controversial, negative policy that is being promoted and pushed and seen that way in so many places around the world. This does not help us out at all.

Then we look at some countries such as China where situations arise of forced abortions and forced sterilizations continuing to come out in the media. We have family planning support there, in places where forced abortions and forced sterilizations still take place. Our money is associated with some of these efforts in different places around the world. People do not like that policy. No matter how pro-choice they are, they do not want us associated with that, and they do not see any reason for us to be involved in it.

One can look at different things where one is on the choice or life spectrum. I am pro-life. I am strongly pro-life. I believe life has dignity from the very beginning to the very end and that it should be protected. Then we add this into the mix, using U.S. taxpayers' dollars, dollars that we approve here, dollars from all the United States to promote something that a whole bunch of people in the United States completely disagree with on a whole variety of grounds.

I ask my colleagues to back up for a second and say: Aren't there better places for us to put this money if we are looking to do something that is life-affirming and helping people who are in difficulty? There are much better places we can certainly agree on, and I listed several of those on which we could agree and we could work together in this supposedly postpartisan period we are in, that we could work together on these issues. I pushed a number of them, and I can tell you for sure we have a need on neglected diseases in Third World countries and that a little bit of interest and focus on our part yields a whole bunch of saved lives. People dealing with malaria has been a big one. But we need to go on to diseases such as elephantiasis, sleeping sickness—there is a series of them that would build up a lot of good will by the United States overseas, that would increase our standing in places around the world, that there would be no controversy whatsoever associated with but instead would be wholeheartedly embraced both here and overseas.

For these reasons, I do not think it is wise for us to reengage with groups that promote abortion overseas. I ask my colleagues not to do that but to support the Martinez amendment and say to themselves: Let's not do this. Let's do this better, let's do this together. Let's support the Martinez amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say to Senators, if you want to save the lives of women around the world and you want to cut down on abortions, vote against the Martinez-Brownback amendment.

I say to my friend who is asking for bipartisanship, this vote will be bipartisan. We will have more than 60 people in this Senate, I believe, who will vote against this amendment and affirm the action of our new President, President Barack Obama, who very wisely understands that with a stroke of a pen, undoing what the Bush-Cheney administration did will indeed save the lives of women.

I could talk quite a bit about generalities and the thousands of women who are waiting to have reproductive health care who cannot get it because of this Mexico City gag rule which says to nongovernmental organizations who work overseas: You cannot get U.S. funding if you even speak about the possibility that abortion is an option; all of your funds will be cut off. So many of these groups gave up the funds so as not to be gagged.

If this was done in this country, it would be unconstitutional on its face because what the gag rule says to international nongovernmental organizations is: If you do not do what the Bush administration wants, you cannot use your own money to provide health care which could include, for example, counseling when there is an unintended pregnancy.

Let me tell you the story of a 13-year-old girl named Min Min because I think it is important to put a face on this issue. She is from Nepal. She was raped by a male relative. A relative helped her get an abortion, and Min Min was sentenced to 20 years in jail while the male relative walked. In Nepal at that time, abortion was illegal, even in the cases of rape or incest. Because of the gag rule, organizations in Nepal that wanted to help girls like Min Min and change the laws and get children out of jail were told: You will lose all your U.S. funding if you even talk about it. So you know what one particular organization did? They gave up the money and they struggled, and then they did not have funding for family planning or for reproductive health care.

That is the kind of cruel policy that is called the Mexico City gag rule. That is the kind of cruel policy that my colleagues, Senator MARTINEZ and Senator BROWNBACK, want to put back into place. And they do it in the name of life? How is that being done in the name of life when you put a 13-year-old child in prison because she was raped, the relative who did this to her walks, and an organization that is seeking justice is shut out of U.S. support? That is not life-affirming.

I applaud our President for doing this. Again, a lot of these issues are difficult. This was a stroke of a pen. This is a reflection of a bipartisan majority in this country who thinks that it is cruel and wrong to tell these organizations they have to dance to the tune of politics, the politics of America, before they get any funding from us to prevent abortion, to promote family planning, to help a little child such as Min Min get out of jail.

I am proud today to stand in front of you, Mr. President, and say that with President Obama, this is just the start of the changes he will bring that will help women, that will help families, that will help children. I hope we will defeat this amendment with an overwhelming vote, and I predict we will.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, I respect very much Senator MARTINEZ and Senator BROWNBACK. Their views on the issue of abortion, I am sure, are a matter of conscience. They come to us to raise this issue which has been debated so many times in the Senate.

I say at this point in time that many of us who oppose abortion also believe that a woman should be able to make that choice with her family, with her doctor, with her conscience, and, of course, we believe in the first instance that family planning avoids unintended pregnancies. Unintended pregnancies lead to abortion. So reducing the number of unintended pregnancies is going to give women a chance to control their own lives and to reduce the likelihood of abortion.

It is the law of the United States of America, and it has been for many years, in a provision added in 1973 by Senator Jesse Helms explicitly banning the use of American taxpayer funds for overseas abortion. Unequivocally, that

is the law. Regardless of the Mexico City policy, signed by President Obama or the situation before that, that is the law. Not one penny of taxpayers' dollars can be used to fund abortions overseas.

The issue here is whether an organization which also counsels women that they have an option for abortion is going to be denied these funds by this policy. Senator MARTINEZ's amendment would deny them the funds to even offer family planning if they counsel a woman that abortion is an option. As Senator BOXER said, in the United States that is unacceptable. You have to give doctors at least the opportunity, even if they do not perform an abortion, to tell a woman what her legal rights are. But that is what is at the core of this issue.

Mrs. BOXER. Will the Senator yield for a moment?

Mr. DURBIN. Let me make two or three other points and then I will.

There are several points I would like to make about the importance of President Obama's decision.

First, when we provide family planning funds to organizations overseas that may counsel abortion but not spend a single U.S. dollar on abortions, when we provide that money, we literally reduce the number of abortions worldwide. A report by Guttmacher Institute and the U.N. Population Fund estimated that providing family planning services to the 201 million women in developing countries whose needs are unmet would prevent 52 million unintended pregnancies by family planning and 22 million abortions. So when you reduce the family planning, there are more unintended pregnancies and more abortions.

Secondly, an estimated 536,000 women, mostly in developing countries, die from pregnancy-related causes. By giving a woman family planning counseling, the pill or something similar, they will have access to contraception and pregnancy-related deaths will drop by 25 to 35 percent of women who would give birth.

Finally, the repeal would save the lives of children in many developing countries. Many of these women have successive pregnancies that they cannot control, and the children, sadly, are weaker and weaker because the mothers cannot restore their bodily strength before they have another child. That is the reality of this situation.

I will say, as I have traveled around the world with people such as Senator BROWNBACK, the most important single question one can ask in a developing country is, How do you treat your women? We should treat the women of the world with respect. We should give them access to sound family planning. Let them plan their lives and plan their families. There will be fewer abortions, fewer maternal deaths, and fewer children dying as a result.

Mrs. BOXER. Well, first, I thank the Senator so much for adding those numbers. We are talking about saving women's lives and we are talking about stopping thousands of abortions. That is why it is so inexplicable to me that this amendment is coming from the other side.

I wanted to ask a couple of questions of my friend. Senator BROWNBACK asked for us to find common ground, and I want to find common ground, and I said we are going to find common ground with this vote. But further, wouldn't my friend agree that family planning is the common ground between those of us who support a woman's right to choose and those who oppose it? Isn't family planning finding common ground?

Mr. DURBIN. I would say, through the Chair, that I am not one who celebrates the incidence of abortion in this country or anywhere. I wish to see far fewer abortions. But let's be honest. How do you reach that goal? You reach that goal by educating women and giving them opportunities to avoid unintended pregnancies. I think that is why this amendment is inconsistent with the sponsor's goal. If you want fewer abortions, give women an option, let them control their bodies and their lives, and let them make family decisions that are right for them, instead of being at the mercy of a situation they cannot control.

Mrs. BOXER. I have one last question to ask through the Chair.

The PRESIDING OFFICER. Time has expired.

Mrs. BOXER. I ask unanimous consent for 1 more minute, and to give Senator MCCAIN an extra minute if he wishes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I also wanted to make the point that this denial of funds to these nongovernmental organizations—which the Senator is absolutely right to stress—is far-reaching. Even if they tell a woman what her options are, and as long as they know these options are legal, it should be fine and they shouldn't be punished. But does my friend know, because I wasn't clear until recently, that this punishment of this gag rule goes beyond this?

In the case of Nepal, where a nongovernmental group wanted to simply change the law so that abortion could be legal if a child was raped, they were denied the funds because they wanted to go in front of their government and say, sir and madam, let us have compassion for those like this 13-year-old child. She is in jail for 20 years; she was raped. So is my friend aware that is how far this global gag rule went?

Mr. DURBIN. I am glad the Senator from California made that point clear. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to address the issue of the legislation before us, the SCHIP reauthorization.

We all know that the Children's Health Insurance Program is a vital safety net program the Congress created to offer coverage to one of our Nation's most vulnerable populations, and that is low-income children. It is an objective that all of us stand behind. Unfortunately, the measure before us is an attempt to take a good program, expand it far beyond its original scope, and to fund it by imposing higher tobacco taxes. Remarkable. That is not the right approach.

When it was created, it was done to address the needs of millions of children who went without health coverage. I was pleased to join my colleagues in supporting the establishment of the CHIP program. And thanks to this program, many low-income children have been able to obtain health care coverage they otherwise wouldn't have had. Today, obviously, this bill would drastically expand coverage, and as has been discussed several times on the floor, it contains loopholes, for example, that would allow one State—the State of New York—to go ahead with their planned expansion and cover children of families earning up to $88,000 a year. That will have a crowdout effect, where 2.4 million of the 6.5 million newly enrolled individuals would have had private coverage without this legislation.

Some of us who look at this may view it as another effort to eliminate, over time, private insurance in America, and I am concerned about that. I am also concerned about the drastic expansion. We should take the word ''children'' out of it, since it is now being expanded to many other citizens than children. But what I find unacceptable here is that we are basically going to count on Americans to use tobacco products—smoking—in order to fund it.

Is there anyone in this body who doesn't know that smoking and the use of tobacco products is harmful and a danger to the health of these same children we are insuring? Is there anyone who isn't concerned about what seems to be a rise in the use of tobacco amongst young Americans? One of the reasons for that is because the deal that was negotiated between the lawyers and the attorneys general of this country was that these supposed funds from tobacco taxes were supposed to go to advertising for anti-tobacco usage and for treatment of illnesses associated with the use of tobacco, but it has now become another source of revenue for every State in America.

Yesterday, during a Health and Education Committee roundtable discussion, the topic of preventive measures was discussed at length, and what did

we talk about? We talked about the ill effects of the use of tobacco, particularly smoking and secondhand tobacco, and yet here we are funding an attempt to improve the health of young Americans with billions and billions of dollars of taxes on tobacco products. Couldn't we have found somewhere in our budget programs that could have been reduced or even eliminated to fund the SCHIP program? Apparently not. Apparently not.

So we now are at a point where the States no longer use the money in the form of taxes on tobacco products that was supposed to go to discourage the use of tobacco. We are now going to depend on a tax on tobacco products for funding of insurance for children and others, thereby, at least in some ways, encouraging the use of tobacco. So I am very much opposed to this legislation.

I am proud of what we did initially. But it seems to me that using the ill-gotten taxes from the use of tobacco—smoking in particular—in order to fund any program is not an appropriate legislative remedy. So I believe the bill differs drastically from the original intention of SCHIP, and I disagree strongly with its funding mechanism of increased tobacco taxes.

I support the ideas contained in the alternative bill, which would keep the Children's Health Insurance Program focused on low-income children, and would have done so without dramatic increases in Federal spending or higher taxes.

Mr. President, I appreciate the courtesy of my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today, this Congress is facing a fundamental test of our values: whether to reauthorize the State Children's Health Insurance Program and expand it to cover millions of children who would otherwise be left uninsured. We must ask ourselves: Is this good for our Nation's children? The answer is, clearly, yes. And I say this as a father. There is nothing more important to parents than the health of their children, and there is nothing more important to helping them grow up to achieve their potential and contribute all they can to our society.

It is no secret what a major financial burden health care can be. We are reminded of the costs every time we go to the doctor or fill a prescription at the pharmacy. There are parents who work every day in some of the toughest jobs in our country, but their jobs don't offer health insurance and their paychecks don't cover the cost of private coverage.

They are not the only ones whose health is at serious risk because of this lack of insurance. It is also a major risk for children. Parents stay up at night worrying about whether the hard cough they hear coming from their daughter's room means she has asthma; hoping that the pain in their son's stomach doesn't mean he is going to need surgery; wondering how they are going to pay for a routine checkup; and just praying—praying—that everyone stays healthy until they can afford to get the health care they need.

Here is one story: A boy named Jonathan took a trip to the New Jersey shore with his family. His head started to throb on the ride from his home in New Hampshire, and finally the pain became unbearable. I want to read what Jonathan wrote about his experience. He wrote:

> The pain was so bad; I had to crawl on the ground. My mom drove me to the medical center. I remember my mom calling my dad and asking the question, Do we still have medical insurance? I remember being really scared. The doctor explained that I had an arachnoid cyst about the size of an ice cube growing on the left side of my brain. My mother started to cry. There was another problem: Our insurance coverage had ended. Going to the hospital and having all of the CAT scans and MRI testing was super expensive. Suddenly, insurance was a huge issue. Friends told us about a program called New Hampshire Healthy Kids. My parents had to act quickly and register my brothers and me for the program. The people at NHHK were really helpful. I was able to get the medical attention I needed.

Thank goodness Jonathan was okay. But stories such as this are why the Federal Government and the States teamed up to create the State Children's Health Insurance Program. It has been a great success across the country, covering almost 7 million American children. In New Jersey, it covers almost 130,000 of those American children. This year, Congress has an opportunity to make children's health even more inclusive, to pass a bill that will continue to provide health care to the almost 7 million children already enrolled, and expand the program to include 4 million children across America, and that includes another 100,000 in my home State of New Jersey.

As we are considering whether to reauthorize and expand children's health, we all have to ask ourselves two questions: One, would we have wanted Jonathan's story to have turned out differently? Absolutely not. And two, are we going to sit back as millions of other stories such as Jonathan's don't end up as happily? The decisions we make today have very clear implications for hardworking families across the country. The difference here between no and yes can mean, for millions of children, the difference between helplessness, suffering, and pain versus opportunity, health, and a better quality of life. That is how high the stakes are.

Now, some in this Chamber may question whether we can afford health care for our children. Let us look at the facts. First, this legislation won't cost us a dime because it is completely paid for. Second, making sure kids can get regular checkups and focus on preventive care has the potential to reduce emergency room visits and save costs down the line.

We also need to be very clear that public health insurance does not mean free health insurance. Many families across America and in New Jersey are responsible for copays and have to pay a premium every month. They are part of supporting their children's health care coverage.

But all that aside, let us look at the bigger budgetary picture, at where our priorities have been for the last several years. The war in Iraq is currently costing us $5,000 every second. With what is spent on the war in Iraq in 40 days, we could insure over 10 million children in America for 1 year. In fact, with the amount that has been spent on the war, we could provide 2 years of health care coverage for all of the 47 million Americans who don't have health insurance, who play Russian roulette every day with their lives and their wallets. And even after providing all that health care for every American who doesn't have it, we would still have $30 billion remaining.

If we are willing to look at our priorities and choose our children—as we often say, and I have heard many of my colleagues speak on the floor about how our children are our most precious resource, and they are, but they are also our most vulnerable resource—tackling America's health care crisis is something we can absolutely do within the reasonable constraints of our budget.

Now, some of our colleagues have also objected—I have heard it here on the floor—to how States such as New Jersey are treated under this legislation. They object to my home State's ability to cover children whose parents' salaries are up to 350 percent of the Federal poverty level.

I want to give a round estimate of the monthly costs facing a family living at 250 percent of the poverty level, or about $4,594 per month, in one of our counties, in Middlesex, NJ.

When you look at that monthly income and then look at the costs for housing, for food, for childcare so you can go to work, for transportation, for the taxes paid there, and then what it costs for health insurance, the reality is you have a set of circumstances where that family has a monthly deficit, a debt of $898, which means they do not have the wherewithal to do all of this. These are the basics. These are no frills. They find themselves in debt.

On top of that, comparable private health insurance in my home State can cost almost $1,800 a month.

What does a family have left at the end of the month? The answer is a staggering load of debt. If they are

making 250 percent of the Federal poverty level, they are going to be in debt almost $900.

It is the same in other parts of the State as well. For example, if they are living at that income level in Trenton, NJ, the State's capital, they are going to be in debt about $856 every single month to do the basics—to have a place to call home, to put food on the table, to have childcare, to go to work, transportation to be able to achieve that, to pay their taxes, and then to have health insurance. They do not have enough money to make ends meet.

The Federal poverty level does not reflect the difference in cost of living between States. For example, if you are a family making 250 percent of the Federal poverty level in Phoenix, AZ, after all is said and done, under the same set of criteria—housing, food, childcare, transportation, and taxes and health insurance—you have a monthly surplus of about $1,347. That is left over at the end of the month because the cost of living is lower.

There is a huge difference in the family's reality with a surplus and being able to have all of these essentials versus having a debt in the two examples I showed before.

Let me give another example. In Salt Lake City, UT, the same set of circumstances—housing, food, childcare, transportation, taxes, health insurance—you have a $1,469 surplus, so you have disposable income to be able to make other choices for your family with the same set of circumstances in terms of the Federal poverty level.

The reality is, we face a much higher cost of living. The consequences are real to New Jersey families. Let's compare State by State.

I understand 350 percent of the Federal poverty level sounds somewhat high if you do not see the numbers. But what it takes to meet that amount in New Jersey is, it takes a much less amount in all of these States—from Kentucky, Arizona, Oklahoma, Georgia, Tennessee, Utah, Missouri, North Carolina—much less. It takes much less to meet the same level of the Federal poverty level.

The bottom line is, we simply have a higher cost of living and one size does not fit all. I wish our citizens could get the same quality of life in terms of the essentials for much less money, but that is not the reality. So it makes perfect sense for different States to cover children at different levels of income in order to accomplish the same goal, which is ensuring that children at the end of the day are covered.

Even former President Bush understood that when he approved New Jersey's waiver, as he did for a long time. Even then, I would like to point out, the number of New Jersey children who fall into that category is just about 3,300 children, a tiny fraction of those enrolled nationally. Only about 2.5 percent of our children are covered under this level of the Federal poverty level.

Finally, the last time legislation to expand children's health came up, hundreds of thousands of children were left out, children who are legal—underline legal, emphasis legal—permanent residents of the United States. They follow our laws every step of the way, children whose parents work hard and pay taxes. Some of them are actually in the service of their country. These children are eventually eligible for Medicaid or CHIP, but the law says we have to bar them from coverage for 5 years first.

To a young child, 5 years is a lifetime. Here is what it means to bar legal permanent resident children and pregnant mothers from affordable public health for that long. As it stands, a girl with asthma has to go through 5 years of attacks before she can get an inhaler. A boy whose vision gets so blurry he can't see the chalkboard in the fourth grade has to wait until high school before he gets glasses. A pregnant woman who urgently needs prenatal care can't get it until her child will be ready for kindergarten.

I have not met anyone who is not outraged when they hear kids with cancer would have to wait 5 years for chemotherapy. Most people cannot believe that is the law, and it should not be. Children should not have to wait a single day to get the care they need to save and improve their lives. Good health care is essential for them to be able to fully realize their God-given potential. Children, whether they be in a classroom or on a playground, are contagious. So whether it is a legal immigrant child or a U.S.-born citizen, the bottom line is they are playing in that playground together, sitting in the classroom together. If one has health care and the other doesn't because we have an arbitrary bar, it is easy to get some cold or disease that is contagious, so there is a public health interest for all of us.

We have the opportunity to do what is right and make a major step in ensuring no child goes to bed at night without health care in the greatest Nation on the Earth. This would bring a half million kids nationwide into the State health insurance programs in this category.

Let me conclude. For all of us, this is a matter of values. Do we value our children and do our actions match our values? For those who value life, who have spoken very eloquently in this Chamber about its sanctity, and those who value family, who consider it the bedrock of our lives and our country, now is the time to show the depth of that belief because if children's health is not about protecting life, I do not know what is. If this bill is not profamily, I do not know what is.

Now is the time to give new security to millions of young lives to help America's children achieve their God-given potential and to replace fear in millions of minds with hope for a better day. That is the opportunity before the Senate, and that is the one I hope we will adopt at the end of this process.

I yield the floor.

Mr. LEAHY. Mr. President, I have listened to the debate on the amendment offered by Senator MARTINEZ to reverse President Obama's decision to overturn the Mexico City policy. I have been struck by the statements of proponents of the amendment that the President's action means Federal funds will now be used for abortions overseas. That is nothing more than a scare tactic and a flagrant misrepresentation of fact.

As those who make such statements know well, U.S. law has banned the use of Federal funds for abortion overseas for more than 30 years and that is the law today. Most recently, it can be found in title III of the fiscal year 2008 State and Foreign Operations Appropriations Act, should they choose to refresh their memories. Whether or not the Martinez amendment passes, no U.S. funds are available for abortion, even in countries where, like the U.S., abortion is legal.

The irony of this debate is that the Martinez amendment would prevent funding to private organizations that, thanks to the President's action, would be eligible to receive U.S. funds for contraceptives which prevent unwanted pregnancies and abortions. Yet they claim that unless we pass the Martinez amendment the number of abortions will increase. It is a counterintuitive, disingenuous argument that has been consistently proven to be false. The facts are indisputable. Where family planning services are available, the number of abortions declines.

Another false claim by proponents is that unless we pass this amendment U.S. funds will be used to support coercive family planning policies in China. They know that is not true. The Mexico City policy has nothing to do with coercion, pro or con. Another provision, also in the State and Foreign Operations Appropriations Act, provides the President with the authority to prohibit funds to any organization that supports coercion. And the law explicitly prohibits the use of U.S. family planning funds in China. The President's action reversing the Mexico City policy does not change that.

We all want the number of abortions to decline. But one would hope that even as we disagree on how best to achieve that, those who oppose the President's decision would stick to the facts and not try to distort or misrepresent U.S. law.

The Mexico City policy is discriminatory, it would be unconstitutional in our own country, it would deny women in poor countries access to family planning services, and it would increase unwanted pregnancies and abortions. The amendment should be defeated.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent the vote in relation to the Martinez amendment, No. 65, occur at 12:10 p.m. today, and the additional time be divided and controlled by Senators BOXER and MARTINEZ or their designees, with the remaining provisions of the previous order in effect.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I ask unanimous consent to be allowed to speak for 2 minutes to close on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARTINEZ. Mr. President, this amendment is to reinstate the Mexico City policy which President Obama, just a couple of days ago, eliminated with the stroke of a pen. Much has been said in opposition to this amendment, which I think is erroneous. I think at the core of what this amendment is about is whether we want U.S. taxpayer dollars—my taxes, as someone who finds abortion to not be something I can live with, which is not consistent with my faith and personal beliefs—whether my tax dollars and those of other people similarly situated should be utilized to fund family planning that utilizes abortion as a means of family planning with organizations abroad.

That, I think, is wrong. That, I think, is abhorrent. It is not about denying organizations family health assistance when they are simply looking after a person's health. It is not about those rare exceptions of rape and incest, which are dragged in to try to make what is unjustifiable justifiable. Abortion should not be utilized as a means of family planning.

We talk about wanting to have fewer abortions not more, to have it be rare not frequent, but then we do things like this, and that is completely contrary to what is the avowed intent of what so often is portrayed as the position on this issue during political campaigns.

This policy does not restrict foreign aid funding. It is to ensure that American taxpayer dollars will not go to promote nor support abortion or abortion-related services. I think it is that simple. I hope my colleagues will join in this effort. This is about what the taxpayer dollars of America should be funding overseas, in countries where very often we find that the culture and the religion of the host country is consistent with the Mexico City policy.

This is a vote to reinstate the Mexico City policy which has been the policy of this country until last week. I hopefully urge my colleagues to support amendment No. 65.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, despite the previous unanimous consent agreement, I ask consent the Senator from California be allowed to speak for 1 minute prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I want to have an up-or-down vote on this amendment. I am not going to make a motion to table. I think this is a very bad amendment, an amendment that would consign women all over the world to desperate situations because what Senator MARTINEZ wants to do is restore the gag rule. That means that nongovernmental organizations overseas who help women get reproductive health care and tell them what their legal options are and make birth control available to them so they can plan their families will lose every dollar of American support if they even try to do those things.

President Obama, like President Clinton, did the right thing. With the stroke of a pen, he stood for the lives of women and for family planning and for the health of women all over the world. We have statistics that are very clear. Senator DURBIN read them. Tens of thousands of abortions will be avoided because of the actions of our new President. For the life of me, I do not understand how someone who is against abortion could offer such an amendment which in essence will consign women to back-alley abortions and death.

If you really want to vote to promote life and health, vote against the Martinez amendment and stand with President Obama on what I know will be an overwhelming majority of Senators from both sides of the aisle in favor of doing away with this global gag rule.

If it were tried in America, it would be unconstitutional. Stand for freedom. Stand for women. Let's definitely vote this down.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—37

Alexander	Bunning	Cornyn
Barrasso	Burr	Crapo
Bennett	Coburn	DeMint
Bond	Cochran	Ensign
Brownback	Corker	Enzi
Graham	Kyl	Sessions
Grassley	Lugar	Shelby
Gregg	Martinez	Thune
Hatch	McCain	Vitter
Hutchison	McConnell	Voinovich
Inhofe	Nelson (NE)	Wicker
Isakson	Risch	
Johanns	Roberts	

NAYS—60

Akaka	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden

NOT VOTING—2

Chambliss	Kennedy

The amendment (No. 65) was rejected.

Mrs. BOXER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Montana.

Mr. BAUCUS. Madam President, I ask unanimous consent that the next speakers be the following Senators: Senator MURRAY for 10 minutes, Senator CORNYN for 5 minutes, and Senator ROBERTS for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Madam President, regular health care is critical for a child to grow up to be a strong and healthy adult. We all know that. Yet every day millions of American children are denied access to this very basic need. They cannot get regular checkups or see a family doctor for sore throats or ear aches or fevers. So as our economy continues to struggle, this problem is growing worse.

At the end of 2007, all of us came together on a bipartisan bill that would have taken big steps toward helping millions more kids get health care. It would have renewed the Children's Health Insurance Program and made sure that almost 10 million low-income children would be covered.

It is a tragedy and a shame that children's health care became the victim of a partisan fight. But, this week, now we have the opportunity to make children's health a priority by renewing and expanding the Children's Health Insurance Program and getting it signed into law. And it could not come at a moment too soon.

In the year since former President Bush last vetoed CHIP, unemployment has skyrocketed nationally and in my

home State of Washington. As a result, millions of families across our country have lost their health care in just this last year alone. That is wrong, and it is one of the reasons we have now put CHIP at the top of our agenda this year.

In difficult times such as this, it is more important than ever we make sure our Nation's children have a place to go where they can get medical care. So I am here to urge all my colleagues to support the 2009 CHIP reauthorization. It is the smart thing to do for our economy. It is the moral thing to do for our children.

Most of us in the Senate support reauthorizing and improving the Children's Health Insurance Program because we share the goal of ensuring that all our kids can get health care. Study after study has shown the benefits. Children in this program are much more likely to have regular doctor and dental care. The health care they do receive is better quality. They do better in school because they are healthy.

This bill is almost identical to the one we passed overwhelmingly in 2007. It ensures the children already enrolled in CHIP will continue to receive health care, and it provides another 3.9 million low-income children with coverage. Most of those are kids who never had insurance because their parents could not afford it or kids who lost Medicaid coverage or kids who were recently dropped from private insurance rolls. I think it is critical we expand health insurance to make sure they are covered.

Now, there are a couple specific provisions in this bill I wish to highlight to make sure everyone understands why it is so important to pass this bill now.

First, as I said at the beginning of my remarks today, the economic recession has made it even more critical that we make children's health care a top priority and reauthorize this CHIP program.

On Monday of this week, some of the strongest companies in our Nation announced they would cut 75,000 jobs combined. Unemployment is now at the highest level in 16 years, and we are being told we have not seen the worst of it yet.

The Kaiser Family Foundation estimates every time the unemployment rate increases a point, 700,000 more children lose their health insurance. By those numbers, well over a million more children have lost their insurance in the last year alone, and many more will lose their coverage in the weeks and months to come.

This bill makes it easier for our States to ensure those children will continue at least to get health care. It adds more flexibility to the program and sets funding rates based on State budget projections, so our States that are in the worst financial shape will get more money to help pay for health care. This would be a huge help for my home State of Washington and for the many families who are struggling to provide health care for their children.

At the same time, the bill will strengthen CHIP by making sure resources are targeted at covering the low-income, uninsured children Congress meant to help when we created CHIP back in 1997. It gives States new tools to raise awareness about CHIP in rural, minority, and low-income communities to help reduce the disparity in care for minority children and extend care where it is most needed. Also, it creates a performance-based system that rewards our States for reducing the number of uninsured children by making sure that the lowest income children are the top priority for CHIP and Medicaid.

Finally, CHIP is paid for. The $32.8 billion cost is covered by a 61-cent per pack tax increase on cigarettes and other tobacco products. We aren't taking away from our other economic priorities, Social Security isn't raided, and the deficit won't be increased. It is a win-win for everyone because experts estimate that by increasing the cost of cigarettes, almost 2 million adults will quit smoking and then we will prevent millions of kids from ever getting hooked. It is good for our children now and it will help millions stay healthy in the future as well.

Although this bill does have broad bipartisan support, some of our colleagues on the other side of the aisle have tried to throw up some obstacles that distract us from the real issues. I wish to make clear right now what this bill is about. It is about our kids. This legislation is about making sure our children can see a doctor when they are sick. It is about making sure they get medicine that will help them get better. It is about honoring our promise to provide 10 million kids with health care that will help ensure they can grow into happy and healthy adults.

I come to the floor this afternoon to share a story about a little girl from my home State because I think it puts the importance of this legislation in perspective.

Meet Brenna. She is 6 years old, a bright and happy child, but she has a serious genetic condition called cystic fibrosis. Brenna's family lives in Marysville, WA, in a part of my State that has been hit tremendously hard by the economic downturn. Like a lot of people with cystic fibrosis, Brenna's health care costs are about 10 times more than the average child. It is nearly impossible for her to get private health insurance to cover the bills she and her family are facing. In fact, almost half of the children with cystic fibrosis would not have health care at all if they didn't have CHIP or Medicaid.

Brenna's mother Brandy recently wrote to me to tell me that her family depends on CHIP for Brenna and to keep her family going. I wish to read what she wrote. She said:

> I don't know what I would do if I did not have this wonderful program. I simply would not be able to pay for her to receive the care she does now. I would be in never-ending medical debt, and in the end of it all, I would most likely lose my daughter either way.
>
> The economy is rough enough right now. The SCHIP program is something I am extremely thankful for. It provides me sanity and strength every year to take care of my child and her needs. Please allow this program to continue. Our lives depend on it.

Those are heart-wrenching words from a mom. Most of us can't even imagine being in Brandy's shoes. Her daughter's story shows us how critical this Children's Health Insurance Program is. This bill in front of us today is about Brenna and the millions of children like her around the country.

What it comes down to is this: When a child gets a cut that needs stitches, has a fever or an earache or develops a serious illness such as cystic fibrosis, they should be able to get health care period. I want to make sure Brenna's mom never has to worry about her going into debt to keep her own child alive, or whether health care will be there for her daughter.

So let me say it again: This bill is about making sure our kids can see a doctor. Passing it is the smartest thing we can do for our economy, but it is also the moral thing to do for our children. So on behalf of 6-year-old Brenna, the 115,960 uninsured children in my home State of Washington, and the almost 9 million uninsured children across the country, I urge all of our colleagues to support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 67

Mr. CORNYN. Madam President, I call up amendment No. 67 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 67.

Mr. CORNYN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure redistributed funds go towards coverage of low-income children or outreach and enrollment of low-income children, rather than to States that will use the funds to cover children from higher income families)

On page 45, between lines 17 and 18, insert the following:

"(3) LIMITATION.—

"(A) IN GENERAL.—A State shall not be a shortfall State described in paragraph (2) if the State provides coverage under this title to children whose family income (as determined without regard to the application of

any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) exceeds 200 percent of the poverty line.

''(B) GRANTS TO STATES WITH UNSPENT FUNDS.—Of any funds that are not redistributed under this subsection because of the application of subparagraph (A), the Secretary shall make grants to States as follows:

''(i) 75 percent of such funds shall be directed toward increasing coverage under this title for low-income children.

''(ii) 25 percent of such funds shall be directed toward activities assisting States, especially States with a high percentage of eligible, but not enrolled children, in outreach and enrollment activities under this title, such as—

''(I) improving and simplifying enrollment systems, including—

''(aa) increasing staffing and computer systems to meet Federal and State standards;

''(bb) decreasing turn-around time while maintaining program integrity; and

''(II) improving outreach and application assistance, including—

''(aa) connecting children with a medical home and keeping them healthy;

''(bb) developing systems to identify, inform, and fix enrollment system problems;

''(cc) supporting awareness of, and access to, other critical health programs;

''(dd) pursuing new performance goals to cut 'procedural denials' to the lowest possible level; and

''(ee) coordinating community- and school-based outreach programs.''.

Mr. CORNYN. Madam President, I am here today to lend my full support to the reauthorization of the State Children's Health Insurance Program.

SCHIP was created with the noblest of intentions: to cover low-income children whose families did not qualify for Medicaid but who could not afford private health insurance. Unfortunately, there are too many children today who are eligible for CHIP who are not enrolled. I strongly believe that before we consider expanding the scope of this program, as the present bill does, we need to focus on the currently eligible population of low-income children.

That is why I have joined with a number of my colleagues in supporting an alternative known as Kids First that focuses on the original intent of SCHIP, and that is to cover low-income children. Kids First provides funding to Texas—my State—over the next 5 years at levels beyond projected spending by the Texas Health and Human Services Commission.

Across the country, thousands of children are eligible but not enrolled in health insurance programs such as Medicaid or SCHIP, and I believe we need to focus on those children first. Frankly, in my State—not something I am proud of—850,000 children are eligible for Medicaid and SCHIP, but they are not enrolled. I think it is important we focus our efforts on getting these children covered. That is why Kids First provides $400 million for 5 years for outreach and enrollment.

We can all agree that during these tough times it is important that we assist as many low-income children as we possibly can, but it is also necessary that we accomplish this goal without placing excessive burdens on taxpayers. Kids First protects taxpayer dollars and pays for the funding by reducing administrative costs, duplicative spending, and eliminating earmarks.

Unfortunately, the bill that is now on the floor is structured in such a way that it provides billions of taxpayer dollars to cover children whose parents earn up to $100,000 and more and eliminates the requirement that States first cover low-income children before expanding their programs. One might ask how that could possibly be so. Well, through a mysterious thing known as ''income disregard'' that would, under this bill, allow coverage at 300 percent, 350 percent, and higher of poverty, but then allow States to disregard certain income which, if fully employed, would mean that a family earning about $120,000—a family of four—would be eligible for CHIP coverage, even though children in my State with families of four who make only $42,000 would not be covered. It is important we take care of the low-income children who are the original focus of the SCHIP program before we see that money being drained off, using it in other States to cover adults or to cover families making as much as 400 percent of poverty and more.

I think the bill on the floor takes an unfortunate step backward in terms of fiscal responsibility as well. The bill imposes a regressive tax on middle and low-income families and relies on the creation of 22 million new smokers to afford the future imposition of an additional tax—a staggering fact.

To improve the bill and to focus on low-income children, I have offered this amendment that prohibits redistributing funds to States that have expanded their SCHIP program to higher income families or adults, at least until we take care of the low-income kids first. The current bill rewards States for exceeding their budget, even if they spent outside of the original intent of the program. In fiscal year 2007, for example, of 14 shortfall States that received redistributed funds, out of those 14, 7 of them had expanded the SCHIP program for children beyond the 200 percent of poverty level. Of those 7, 4 had expanded their programs above 300 percent. Redistributed funds should be reserved for covering low-income children to assist States with specific outreach and enrollment activities that will help enroll a large number of low-income children who are eligible but not enrolled.

We have a choice. We can either focus on low-income children or we can choose to expand the program and leave many low-income children behind. I hope my colleagues will join me in refocusing our efforts to cover low-income children first, which is what my amendment will do.

Madam President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 75

Mr. ROBERTS. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 75.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS], for himself and Mr. HATCH, proposes an amendment numbered 75.

Mr. ROBERTS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit CHIP coverage for higher income children and to prohibit any payment to a State from its CHIP allotments for any fiscal year quarter in which the State Medicaid income eligibility level for children is greater than the income eligibility level for children under CHIP)

Strike section 114 and insert the following:

SEC. 114. LIMITATION ON FEDERAL MATCHING PAYMENTS.

(a) DENIAL OF FEDERAL MATCHING PAYMENTS FOR COVERAGE OF HIGHER INCOME CHILDREN.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR HIGHER INCOME CHILDREN.—

''(A) IN GENERAL.—No payment may be made under this section for any expenditures for providing child health assistance or health benefits coverage under a State child health plan under this title, including under a waiver under section 1115, with respect to any child whose gross family income (as defined by the Secretary) exceeds the lower of—

''(i) $65,000; or

''(ii) the median State income (as determined by the Secretary).

''(B) NO PAYMENTS FROM ALLOTMENTS UNDER THIS TITLE IF MEDICAID INCOME ELIGIBILITY LEVEL FOR CHILDREN IS GREATER.—No payment may be made under this section from an allotment of a State for any expenditures for a fiscal year quarter for providing child health assistance or health benefits coverage under the State child health plan under this title to any individual if the income eligibility level (expressed as a percentage of the poverty line) for children who are eligible for medical assistance under the State plan under title XIX under any category specified in sub-''paragraph (A) or (C) of section 1902(a)(10) in effect during such quarter is greater than the income eligibility level (as so expressed) for children in effect during such quarter under the State child health plan under this title.''.

Mr. ROBERTS. Madam President, first, I ask unanimous consent to add Senator COLLINS as a cosponsor of this amendment, which is already cosponsored by Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Madam President, I rise today to offer an amendment to refocus this bill and to more accurately reflect our priorities in regard to low-income children. After all, that is what this bill is supposed to be all about.

The SCHIP program was established in title XXI of the Social Security Act. We had one goal, and that goal was to cover targeted low-income children. A targeted low-income child is defined as one who is under the age of 19 with no health insurance, whose family makes too much money to qualify them for Medicaid but not enough to be able to afford to buy them health insurance.

The statute is very clear about who SCHIP is intended to cover. Low-income children should be our priority. That is the intent of the program. That is what the authors of the program had in mind when it was first passed in 1997.

In Kansas, we take this priority very seriously. Our SCHIP is called HealthWave, and it covers children under the age of 19 whose families' incomes are up to 200 percent of the Federal poverty line. That is about $44,000 per year for a family of four. In 2007, we were able to cover nearly 40,000 children through HealthWave, but an estimated 32,000 low-income kids still remain uninsured. So my colleagues can imagine my surprise and frustration when I learned that some States were not following the intent of SCHIP. This was under the previous administration. That administration had granted, I think, something like 14 waivers to States that violated, in my mind, the intent of this program. So instead of prioritizing low-income children, they were, instead, exploiting loopholes and waivers granted by the previous administration to cover high-income kids and even adults—adults being covered by a program intended for low-income children. It shows us what can happen to a program.

In the 2007 SCHIP reauthorization bill, which I and other Republicans supported—and, I might add, at no small political cost—we worked hard to close some of those loopholes and to refocus our priorities toward low-income kids. Now, this new bill, H.R. 2, cancels all of our good work.

I wish to ask my colleagues a question about H.R. 2: Do you know, and do the folks back home whom you represent know, that this bill allows youngsters from families with incomes of $128,000 in some States to be eligible for SCHIP—$128,000? If that is low-income children—I don't know what the allegory is. I will think of it. I will come back to it.

So consider this: Under H.R. 2, the State of New York will be allowed to cover children from families with incomes up to 400 percent of the Federal poverty line. Now, start right there. That is $88,200 for a family of four. In other States, 200 percent, maybe 250 percent; in New York, 400 percent. When I asked the Senator from New York how on Earth I could go back to Kansas taxpayers and say why are you paying taxes—or why am I paying taxes, on the part of the constituent for SCHIP for low-income kids, and yet you are providing it to a State where they are having the income level at 88,200? The answer I got back is that when you are poor in New York you are poorer than you are in Kansas. My response to that is, they might want to move.

In addition, a State can use something called—now get this. This is bureaucratic talk. This is—I don't know what kind of talk this is. It is gobbledygook. A State can use something called an income disregard. So we can use this income disregard which the expert panel at our Finance Committee markup admitted could exclude as much as $40,000 of additional income.

So in New York, a family of four making $128,000 per year could be eligible to receive SCHIP. In the last SCHIP bill, we closed this loophole. We put a hard cap on income at 300 percent of poverty, still higher than some of us like, to target those low-income kids. It is a lot easier to raise that level, find those kids, and add them to the rolls than go after the low-income kids and give them the insurance the program was intended to do. We came up with a compromise I thought was worth the extra coverage for Kansas youngsters.

In addition, we disallowed the practice of block income disregards. The current bill reverses that policy. How can I explain this to my Kansas families making $40,000 a year? What does this say about our priorities? We just considered an $825 billion economic stimulus bill in the Finance Committee late last night, 9:30, with amendment after amendment after amendment after amendment after amendment. It pretty well wore us out. All were defeated except one by a party-line vote.

Now we are talking about an additional $33 billion to provide health insurance to kids in families with incomes close to $130,000. I repeat, with incomes close to $130,000. That does not make any sense.

I have one more question for my colleagues, Mr. President. Are they aware that H.R. 2 could result in bonus payments being made to States for expanding their Medicaid Programs to cover kids from families making over $128,000 a year? Let me explain how this works.

In order to increase the enrollment of the lowest income kids into Medicaid, which is a good cause, we establish a bonus payment program for States that go out and identify and enroll these young people. However, some States, using their existing Medicaid flexibility, have added a new layer of Medicaid eligibility on top of their maximum SCHIP income eligibility level. They mixed the two. This Medicaid group is made up entirely of people with incomes that are above the maximum SCHIP income levels, which we have seen under H.R. 2 could be over $128,000.

We call this phenomenon in some circles the Medicaid-SCHIP sandwich. It is an extra sandwich. It is frosting on the cake, and the cake is $128,000. It will unintentionally result in States being eligible for bonus payments for expanding their Medicaid enrollments to cover very high income kids. It would be a nice thing to do if we could afford it, but we cannot.

Obviously, this is a gross abuse of congressional intent. Increasing the coverage of low-income children is and should be our priority with these bonus payments. No more sandwiches to add on to SCHIP. Even so, I still believe SCHIP is a program that is worth keeping and putting the SCHIP program back where it belongs—on low-income children.

SCHIP is not supposed to be the Adult Health Insurance Program. It is not the Rich Kid's Free Health Care Program. It is not the Pathway to Government-Run Health Care for All Program. This program is supposed to be targeting, again, low-income children. So let's make sure we take care of them first. Let's get our priorities right.

The amendment I am offering will close some of the loopholes I described in H.R. 2 that corrupt the intent of this program and skew our priorities.

Let me say something I do not have in my prepared remarks, and it refers to a good conversation I had with the former leader of the Senate, Senator Tom Daschle, who is now the designee to be Secretary of Health and Human Services. That is a job I would not want, and I told him that when he came to the office and we had a nice chat.

He asked me: PAT, what could we do, like the President wants to do, to reach out across the aisle, pass something bipartisan where everybody could agree that we could do it, do it quickly, and say: There, we have done something, instead of the back-and-forth politics like last night when we had, what, 40 amendments—I don't know, 30, 40, 50 amendments, straight party-line votes. This is not the road we want to take.

I said: Tom, why don't we take SCHIP that was passed in the last Congress. It was vetoed by President Bush, but we had large majorities. It could be passed again, same bill.

That did not happen. SCHIP popped out of the woodwork. The SCHIP horse came out of the chute, and it was a different rodeo. Underneath that saddle were four burrs. In the SCHIP program, there is a crowdout provision in regard to private insurance. That is the problem we have today. There is the problem of inserting immigration into this

bill, which is a very passionate issue. We should not do that either. There are other things wrong with the bill.

This is not the bill we intended, we passed, everybody voted—not everybody voted for it; some on our side, everybody over there—and we passed it. It was the same thing in the House. We could have done it again, the same bill, but the bill is changed. And, I might add, I don't like the way it was done. This is not the way this place is supposed to run. This is not the way the Senate is supposed to run. We should have regular order. We should have committee jurisdiction. We should have hearings. We could have passed that other SCHIP bill we passed in the last session of Congress. It did not happen.

All of a sudden we had a new bill. I went to our ranking member, the distinguished Senator from Iowa, Mr. GRASSLEY. I said: What happened?

I went to the distinguished chairman of the committee, the Senator from Montana, and I asked Senator BAUCUS: MAX, I don't understand this. We usually meet as Republicans; we meet as Democrats. We get together and the Finance Committee is usually bipartisan and then we come up with something and figure out if we cannot do a bipartisan bill, we should not do it.

This is a brand new ball game. This is not what the President said yesterday when he met with Republicans and said: I want to work with you. This is not what the President said when he said: I am going to reach out; I need your suggestions. This is a cramdown. This is a thing where we had SCHIP, and then, boom, here we are. We have SCHIP, a different bill. I cannot now vote for it. I voted for the last one, but I am not going to vote for this one because of the problems it has.

This is not the way to do business. I feel very badly I advised Tom Daschle who, obviously, advised the transition team who may have advised the President to start off with SCHIP. Now we have SCHIP and it is not SCHIP; it is sandwich plus and plus and plus, most especially for New York and New Jersey. I have been picking on New York. I might as well pick on New Jersey.

The amendment I am offering will close some of the loopholes of H.R. 2 that corrupt the intent of the program and skew priorities. My amendment strikes section 114 of H.R. 2 and replaces it with language that prevents any State from receiving Federal SCHIP funds to cover kids, young people, children, not adults, from families with incomes which are the lower of $65,000 or the State median income for a family of four.

Why do I do that? Because I want to target the program to the low-income kids. You raise all of these caps and all of these income disregards—income disregards; I love those two words, ''income disregards.'' Does that make any sense? That is not an oxymoron; it is something that does not make any sense. Income disregard. We are going to disregard this income—your house, your car, I don't know, maybe your dog. It would have to be a pure-bred dog.

At any rate, this is ridiculous. You raise it and you spend money on those folks, if you can find them. They are sure going to come to the waterhole. But you need not do that and fine the low-income kids who desperately need it. They desperately need it in Kansas and desperately need it in every State. Again, we cover families with incomes which are the lower of $65,000 the State median income for a family of four.

In addition, my amendment addresses the Medicaid-SCHIP sandwich—SCHIP funding for bonus payments for higher income Medicaid kids.

To be sure, even if this amendment is accepted, a lot of my concerns with this bill will remain, although this would be a giant step forward.

I am also concerned—this is another one of the burrs under the saddle of the SCHIP horse that came out from the chute looking entirely different from the old SCHIP horse which was about to finish first in the race. I am very concerned about the removal of the crowdout provision that had been included in both SCHIP 1 and 2 of last year.

What am I talking about? My concerns are confirmed by the CBO's estimate that over 2 million out of the 6 million new children who will be covered by SCHIP or Medicaid under this new bill already have insurance in the private market. So here we have 6 million youngsters, 2 million of whom are already covered by private insurance. That is the very definition of crowdout, and it needs to be addressed.

What is going to happen to the insurance company that covers these kids? Of course, we are trying to find the low-income kids. But we find out that 2 million—actually it is more than that—are covered by insurance. Do you think that insurance company is going to cover them? Of course not. They are going to get the free Federal program. And what does that do to the insurance company that is covering them now? It means they will probably say: I think we are not going to go into that business anymore. That could leave a lot of other people without insurance. So it is crowding out private insurance, and that needs to be addressed.

I am also upset that this debate over children's health insurance has largely been hijacked by an amendment which inserted one of the most passionate and divisive issues of the past decade into the bill. I am obviously talking about immigration. That has been debated on the floor before. That is the immigration issue. I am very disappointed it was injected into this debate.

Finally, I reiterate my discouragement with the partisan character of this new bill. I think I have indicated that. It is an insult to myself and to my Republican colleagues who worked so very hard to convince our own caucus in the Senate—very difficult—and over in the House to reach across the aisle to work on a bipartisan basis on an issue of huge importance to the children and families of this country. All of that time in good faith. Again, the horse came out of the chute. Wrong horse. Wasted now. It is unfortunate and sets a very negative tone for future health care reform discussions in the 111th Congress.

I said when we started the debate on this bill, and I appealed to the chairman who is a very fair man, a great chairman who works closely with Senator GRASSLEY—either one, it doesn't make a difference who is chairman; we work in a bipartisan way—this tears at the fabric and the comity of the Finance Committee, the very committee that is in charge of the economic stimulus that affects every American. If we are going to do this, simply ram it down our throats, burrs under the saddle and everything, or fish hooks or whatever you want to call it, that is a very bad precedent.

Now, all that being said, I hope my colleagues will support my amendment. I hope we can recapture some of that bipartisan spirit that accompanied the previous SCHIP bill just in the last session. And I hope we can again—that we can again, Madam President—place our priority on covering low-income children.

I yield the floor.

Madam President, it appears to me that a quorum is not present. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I support the amendment offered by Senator ROBERTS. I would like to say a few things about it at this point.

The Roberts amendment would focus the Children's Health Insurance Program back to the original purpose of the program, which is coverage of low-income children. This amendment eliminates the earmarks in the bill which make it easier for States to cover children from families with incomes above 400 percent of poverty.

The amendment sets an actual threshold on a State's ability to expand SCHIP at higher income levels. It does this by capping eligibility for taxpayer-subsidized health coverage in the Children's Health Insurance Program at $65,000 in annual income. The amendment fixes another loophole in the bill which would permit States to

set Medicaid eligibility higher than the Children's Health Insurance Program.

Last night the Senate Finance Committee voted out an economic stimulus package with $87 billion in increased Medicaid spending. The increased Medicaid spending is in the form of higher Federal payments to States for the coverage of people in the Medicaid Program.

We heard over and over, from the other side of the aisle, how the Federal taxpayers need to pay for more Federal dollars going into Medicaid because, if they do not, then States will cut benefits or cut back on the already dismal payments for providers who see Medicaid patients. In fact, I offered an amendment to that stimulus bill to protect the safety net. It was defeated on a party-line vote.

My amendment essentially said that if Congress is going to give States $87 billion for their Medicaid Programs, then we should make sure they do not undermine access to vital services with cutbacks to children's hospitals and public hospitals that are already struggling, and we should make sure States do not cut funds for health centers and for pediatricians.

The $87 billion in the so-called stimulus bill will not do much good to protect low-income children and families' health coverage if States are allowed to take these billions of dollars intended to protect the safety net and instead use them as their own slush fund to do whatever they want.

But, sadly, my amendments to protect the safety net were defeated. What we now have is the so-called stimulus bill. In that is nothing more than a $87 billion slush fund for the States.

With States crying out for a multibillion dollar bailout from the Federal Government, it seems to me very ironic that we have come to such a logjam over whether to allow States to expand income levels as high as 300 percent to 400 percent of poverty.

In one State, I believe it is New York, that is above $87,000-a-year income, plus $40,000 to disregard above that.

On the one hand, the other side is fighting so hard to allow States to expand the Children's Health Insurance Program to allow coverage at these higher income levels while, on the other hand, they are saying that unless the Federal Government dumps billions of dollars into State coffers, States will be forced to eliminate benefits and services at very lowest income levels.

That argument obviously makes no sense whatsoever. We should be focusing our efforts on covering low-income kids first. The other side will come down here and say that is what they are doing. But when they are unwilling to back up their rhetoric with changes to actually do that, I wish to make sure everyone understands what we are talking about with this legislation and particularly the Roberts amendment.

The Children's Health Insurance Program provides higher Federal matching dollars to States to provide health coverage for low-income children. That is what it does. The higher Federal matching dollars are there to encourage States to expand their program and get these kids covered. This program has been in place now since 1997—obviously 12 years—and still there are about 6 million low-income uninsured children in America today. The Children's Health Insurance Program reauthorization should be focused on getting these low-income kids covered and that should be the top priority in this bill. But this bill goes in a different direction. It allows coverage of kids and families with incomes of $83,000.

The median family income in America is roughly $50,000, and I imagine in my State it is probably even lower than that. The median income is the point at which half the households have incomes above that level and half have incomes below that level. So when the Government steps in and says let's have the taxpayers pay for your health coverage, those scarce dollars should be focused on the low-income kids this program is intended to insure—those kids, obviously, who are still uninsured. That ought to be our first priority.

But when the program is allowed to cover children in families at $83,000, and even higher, that means families below the median income are being forced to pay for the health care costs for children of families in the top half, and they are being forced to have their taxes go up to pay for that coverage in the top half, when they may not even have coverage for their own children. That is just plain wrong.

What Senator ROBERTS' amendment does is cap the eligibility for programs at families with incomes of $65,000. Some people are going to say even that is too high. But at least we are kind of keeping it toward the national median income. That is still a family income that is above, obviously, the median income. A lot of people would say that is still way too high. I cannot say that too many times because I know what the grassroots of America are saying about what we do around here, particularly in rural America; that it seems like we do not understand how the average family lives. But the Roberts amendment is better than the unlimited coverage this Children's Health Insurance Program bill would allow.

But the other side does not want to have any amendments. This is a fundamental difference we have in how we think about things. They believe the Government has to be the solution. They will oppose putting any income limits on eligibility. They want to allow States to expand their programs so taxpayers in the bottom half of incomes in America are helping to buy health coverage for people in the top half of the income or in my State of Iowa, where the average income is less than $50,000, they are going to say Iowans ought to support New York families with incomes of $83,000 for a Children's Health Insurance Program in that State. They believe Government has to be a solution to cover higher income kids. They believe if the Government does not do it, then it will not happen—even though we have about 6 million low-income kids still uninsured in this country; even though States are crying out for the multibillion dollar bailout that is going to be in the stimulus package. They still want to say they will oppose putting any limits on this program. It is outrageous.

When we are headed toward a Federal budget deficit of $2 trillion or more this year, we need to get a grip on reality. Policies that encourage expansions at such high income levels, $83,000 and above, are counter to that effort and are at odds with the fiscal reality and the current demands of States.

I say that every Member ought to take a look at the Roberts amendment. It is a commonsense step to make this bill do what the Children's Health Insurance Program was supposed to be doing for the last 12 years, since it was first instituted in 1997—to help low-income kids get the coverage that they would not otherwise have.

I support this amendment and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Madam President, I rise today to offer my strong support for the reauthorization of the State Children's Health Insurance Program because I have been a longtime advocate. It is so crucial to my State, to the Presiding Officer's State, and to the country in terms of the magnitude of the problem it seeks to address with uninsured children.

Before I address the merits of the legislation, I wish to recognize the exceptional leadership of the chairman of our committee, Senator BAUCUS, for bringing us to this point, for a long overdue reauthorization. It has been quite a journey over the last few years.

I know there have been some differences, ones that have been expressed by the ranking member, Senator GRASSLEY, as we have heard here on the floor, but he has been a constructive voice to bridge the divide and to reach a mutually acceptable agreement on this legislation. So his good-faith efforts always should be saluted.

Regrettably, the stakes are monumentally higher than when we first tried to pass a reauthorization bill a year and a half ago. Just this week, the Department of Health and Human Services announced that 7.4 million children were enrolled in the SCHIP

program in 2008, which is a 4 percent increase over the previous year. While part of that increase is attributed to state outreach efforts, which should certainly be promoted, the fact remains that SCHIP is offsetting the continued declines we have been experiencing in employer-sponsored coverage. And we cannot turn a blind eye to the fact that a 1 percentage point rise in the national unemployment rate boosts Medicaid and SCHIP enrollment by 1 million, including 600,000 children.

For many working families struggling to obtain health care, if benefits are even accessible to them, the costs continue to rise, moving further out of their reach. In my own State of Maine, a family of four can expect to pay $24,000 on the individual market for coverage. For most, taking this path is unrealistic and unworkable.

The fact is, SCHIP for years has been a saving grace to millions of parents who have had to make wrenching choices when it comes to balancing adequate health insurance coverage with the cost of mortgages, heating bills, trying to save for their child's college education, and myriad other financial pressures. While some may mistakenly characterize SCHIP coverage as a welfare benefit, they may not realize that nearly 90 percent of uninsured children come from families in which at least one parent is working.

The anguish of parents who work hard to make ends meet, yet still cannot afford to pay for health coverage for their children, is truly devastating indeed. They face decisions no parent should have to confront such as whether their child ''is really sick enough'' to go to the doctor. They worry about their children doing simple, everyday activities such a playing on the playground, riding a bicycle, or participating in sports, merely because they cannot afford the consequences of a broken arm or a sprained ankle. All too often, their only alternative is to ratchet up their credit card balances, often irrespective of mounting debt.

And over the past 10 years, Maine has been one of the most aggressive states in the nation in enrolling eligible children. Today, SCHIP covers 15,000 children in Maine. Yet there are 11,000 children who are eligible and still un-enrolled. That is why a strong reauthorization is so critical. The bill before us will maintain health coverage for the children who are already enrolled and reach nearly 4 million additional children. It provides $100 million explicitly for outreach efforts. And it changes the funding formula to recognize the gains States like Maine have made in successfully enrolling low-income children, while at the same time building in performance incentives for States that have room to improve their outreach and enrollment efforts.

I know many in my caucus will have amendments that condition eligibility expansions in the program to the ability of States to reach nearly all eligible but un-enrolled children. Make no mistake, I share their goal in trying to reach out to as many children as we can. One way is through the ''express lane eligibility'' option which is already part of this bill. More than 70 percent of low-income uninsured children live in families that already receive benefits through Food Stamps, the National School Lunch Program, or the Special Supplemental Nutrition Program for Women, Infants, and Children, WIC. Giving States the option to use Express Lane Eligibility will simplify the way States determine who is eligible. It will lead to quicker and more meaningful coverage gains.

Beyond simply enrolling children in the program, this bill provides us an opportunity to emphasize preventive care, so not only are children covered, but we also improve their care. I am particularly heartened that the package recognizes that dental care is not a ''luxury'' benefit, but one that is paramount to the healthy development of children. Under current law, dental coverage is not a guaranteed benefit under SCHIP. While all States offer dental coverage today, the lack of a Federal guarantee for dental care in SCHIP has left children's oral health unstable and unavailable in some States. An unstable benefit that a State may offer one year and then drop the next threatens a dentist's ability to see a child regularly and can even discourage dentists from participating in SCHIP altogether. That is why I am pleased that the bill contains a guaranteed dental benefit under SCHIP, a policy that Senator BINGAMAN and I have advocated both in the Finance Committee and here on the Senate floor.

And even beyond access to a guaranteed benefit, we had an opportunity to further meet an unmet need. Today, there are 4.1 million children in our country under 200 percent of poverty who have private medical coverage but not dental. That is why I am delighted that the Finance Committee accepted by voice vote the Snowe-Bingaman-Lincoln amendment that builds on a guaranteed dental benefit under SCHIP by giving States the option to provide dental-only coverage to income eligible children.

A number of my colleagues have expressed concern about SCHIP crowding out private coverage. Our amendment addresses part of that problem. Anecdotal evidence suggests that some parents eventually drop employer-sponsored coverage for a child in order to access dental coverage through SCHIP. We give States this option so that working families without dental coverage have an incentive to maintain private medical coverage, while gaining parity with their peers who are now guaranteed dental coverage through SCHIP. It is a win-win situation.

All children should have access to comprehensive, age-appropriate, quality health care, including dental coverage, whether they are in public coverage or private coverage. Proper dental care is crucial to a child's health and well-being. Yet more than half of all children have cavities by age 9, and that number rises to nearly 80 percent of teenagers by the time they graduate from high school.

And if we required any more reason why we should support better coverage of dental care, consider the heartbreaking story of the late Deamonte Driver from Maryland. His tragedy puts an all-too-human face on the critical need for proper preventive dental care. The cost of treating his brain infection that resulted from an abscessed tooth at Children's National Medical Center 2 years ago was over $250,000, and despite their best efforts, the medical team failed to save his life. Yet a tooth extraction in a dentist's office would have cost under $100. In describing this tragedy, the Washington Post reported that ''there can't be a more vivid reminder of how shortsighted our system is in not fostering access to preventive health care that saves not only money, but lives.''

Another accomplishment of this bill is the option for States to extend coverage to low-income pregnant women through SCHIP. It is inconceivable to me that the most prosperous nation on earth continues to lag behind the rest of the developed world in providing quality health care to expectant mothers. The United States ranks 41st among 171 countries in the latest U.N. ranking of maternal mortality. Our country is better than this. That is why Senator LINCOLN and I have long been involved in promoting investments in maternal health both in this country and globally.

The benefits of covering pregnant women are clear. Women who regularly see a physician during pregnancy are less likely to deliver prematurely, and are less likely to have other serious medical issues related to pregnancy. Sometimes, these medical problems can be caught early on and can be addressed before the child is born. Other times, knowing about these health issues ensures that the necessary facilities will be available at the time of birth so that the baby has the best chances for a healthy start. Without a doubt, coverage of low-income pregnant women through SCHIP, combined with the development of quality measures so we know how we can improve, will build stronger, healthier families.

I also supported Senator ROCKEFELLER's amendment to give States the option to provide coverage of legal immigrant children. More than 20 States make this coverage available using their own dollars, and the longer we wait to extend coverage to legal immigrant children and pregnant women,

the more likely they will be in worse health if they eventually are covered by Medicaid and SCHIP. Allowing States the option to extend coverage to new legal immigrants would reduce these health disparities, as well as address inefficient health care spending by ensuring access to preventive care, as opposed to relying on expensive emergency room care.

I hope that my colleagues will see the true benefits of this bill and support it. This bill would allow states to increase SCHIP eligibility up to 300 percent of poverty, or $61,950 for a family of four, a boost that represents the right policy in view of the fact that over 8 million children remain uninsured today in the United States. The data available demonstrate that drawing the eligibility line at 300 percent of poverty will help maximize the number of children we help with this bill. In Maine alone, for example, approximately three-quarters of uninsured children are from families with incomes of 300 percent of poverty or below.

The bill contains exemptions for State expansions that are already in place or for States that already have a State law allowing an expansion in coverage in place today. From the start, States were given flexibility in how they could count income. The reason is due to the fact that there are strong variations among States in cost of coverage. A poverty rate of 200 percent in the New York metropolitan area is very different than that same rate in rural regions of the country.

This bill addresses the concerns over future coverage expansions. Going forward, if a State wants to exclude large blocks of income and expand beyond 300 percent of poverty, they can do so at the regular Medicaid match not the enhanced SCHIP match. And to further ensure that we are creating incentives for States to concentrate on the poorest children before expanding to higher income children, the bill provides over $3 billion in bonus incentives for increasing Medicaid enrollment of eligible children.

And yet, inexplicably, we will hear a chorus of reasons why we should not expand SCHIP. Some will express concerns about the size and cost of the package, which is $32 billion. Given the fact that over 8 million children in this country are uninsured, I would respond that it is a reflection of the magnitude of the problem. Is it any wonder that States have responded to the call of families who are struggling every day with the cost of health insurance and are assuming a tremendous burden in the absence of Federal action? This bill is a critical first step towards greater health reform.

Some of my colleagues will say that SCHIP will crowd out private coverage. Again, parents are choosing SCHIP because their employer sponsored coverage is often too expensive if it is even offered at all. In the early days of SCHIP, employers covered about 90 percent of the cost of health insurance for employees. Today, it is closer to 73 percent. And according to a recent Corporate Executive Board survey, one-fourth of large employers increased health insurance deductibles by an average of 9 percent in 2008, and 30 percent plan to increase deductibles by an average of 14 percent in 2009. This bill is reaching out to these families who are struggling with the costs while aligning the incentives for States towards coverage of families below 200 percent. And under this bill, 91 percent of children will come from families under 200 percent of poverty.

Some of my colleagues will argue that SCHIP is the first step toward Government-run health care. Our 10-year experience thus far with SCHIP demonstrates that this absolutely has not happened. Moreover, these claims ignore the fact that today, 73 percent of the children enrolled in Medicaid received most or all of their health care services through a managed care plan.

SCHIP has been the most significant achievement of the Congress over the past decade in legislative efforts to assure access to affordable health coverage to every American. Compromise on both sides of the aisle helped us create this program 10 years ago, and hopefully a renewed sense of bipartisan commitment will help us successfully reauthorize this vital program.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENTS NOS. 67 AND 75

Mr. BAUCUS. Madam President, I ask unanimous consent that the Senate debate concurrently the Cornyn amendment No. 67 and the Roberts amendment No. 75.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. If I might continue, Madam President.

The PRESIDING OFFICER. Yes.

Mr. BAUCUS. That the time until 2:15 p.m. be equally divided between the chairman and ranking member, or their designees; further, that at 2:15 p.m., the Senate proceed to a vote in relation to the Cornyn amendment No. 67; following disposition of the Cornyn amendment, the Senate proceed to a vote in relation to the Roberts amendment No. 75; further, that no amendments be in order to the Cornyn and Roberts amendments prior to the votes; that there be 2 minutes for debate equally divided prior to the second vote; and that the second vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 46

(Purpose: To reinstate the crowd out policy agreed to in section 116 of H.R. 3963 (CHIPRA II), as agreed to and passed by the House and Senate)

Mr. KYL. Madam President, I ask unanimous consent that the pending business be laid aside for the purpose of my offering amendment No. 46.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 46.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, January 27, 2009, under ''Text of Amendments.'')

Mr. KYL. Mr. President, this amendment deals with a problem we have discussed before, the so-called problem of crowdout. This problem was dealt with in the amendment by my colleague Senator MCCONNELL. But the Senate did not see fit to adopt that amendment, so I have now offered the amendment to specify that as to this one specific problem, hopefully, we can get together and resolve it.

First of all, what is ''crowdout''?

Put simply, the more individuals you enroll in a Federal health program such as SCHIP, the more you crowd out or displace from employer-sanctioned or sponsored coverage. In other words, the more opportunity there is for the Government program, fewer employers will offer insurance to their employees.

The Congressional Budget Office actually did a study of this in May of 2007, and here are some of the things they said: For every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children. So that is between 25 and 50 percent will leave private insurance to come to SCHIP.

They said: The potential for SCHIP to displace employer-sponsored coverage is greater than it was for the expansion of Medicaid because the children eligible for SCHIP are from families with higher income and greater access to private coverage. Again, that is from CBO.

Unfortunately, we have exacerbated this problem because, as I had explained earlier, in the underlying bill we have actually allowed some States to cover families with very high incomes.

For example, there is an exception for two States: New Jersey and New York. New Jersey will be allowed to continue covering children from families earning as much as $77,175 per year. New York will be allowed to cover children from families earning as

much as $88,200 per year. That is 400 percent of poverty.

Making matters worse, the committee counsel acknowledged that States can exploit a loophole in the current law whereby a State may disregard thousands of dollars' worth of income in order to make a child eligible for SCHIP.

So you add these numbers together. If we set an income level for New York, for example, of $88,200, and then the State disregards an additional $40,000 worth of income for expenses such as clothing or transportation or the like, then children whose families earn over $130,000 would be eligible.

Not only, obviously, is that wrong, not only is it unfair for those of us who come from States that cover half that number—in other words, our citizens would be subsidizing the coverage at twice as much as a State such as Arizona provides—but it will also exacerbate the problem of crowdout because these are higher income families more likely to have insurance coverage that would then devolve to the SCHIP program.

So this is the essence of the problem of crowdout, the problem we are seeking to deal with.

Mr. ROBERTS. Mr. President, will the distinguished Senator from Arizona yield for a question?

Mr. KYL. I am happy to yield.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I would ask the distinguished Senator from Arizona, it is my understanding section 116, the anticrowdout section from the previous bill—meaning SCHIP II which passed both the House and the Senate by big majorities last year, and was recommended by some of us as the first bill that should come up this year so we could demonstrate bipartisan support, thinking, of course, the anticrowdout legislation would be in it. It is my understanding that section 116 was left out of the SCHIP bill that we are considering today.

Section 116 required that all States submit a State plan amendment detailing how each State will implement best practices to limit crowdout—the very problem the Senator has been talking about. It also required the Government Accountability Office to issue a report describing the best practices by States in addressing the issue of SCHIP crowdout. Finally, it required the Secretary of HHS to ensure that States which include higher income populations in their SCHIP program to cover a target rate of low-income children, or these States would not receive any Federal payment. This is the very thing we are talking about here whereby under H.R. 2, two States are allowed to expand eligibility up to 400 percent of poverty—that is $88,200—and then you allow income disregards on top of that—that is a marvelous term: ''income disregard''—which allow you to subtract $10,000 for your car; $10,000 for your house; $10,000 for your food, clothing, whatever; up to $40,000 on top of $88,200—how on Earth am I going to explain to a Kansas taxpayer, an Arizona taxpayer, any taxpayer that you are giving a program intended for low-income kids to children of people earning $128,000?

At any rate: Section 116 required that states that included these higher income populations in their SCHIP programs cover a target rate of low-income children, or these States would not receive any Federal payment for such higher income children. That was section 116. What happened to that?

Mr. KYL. Mr. President, well, that is exactly the point of my amendment. The bill the Senator from Kansas voted for last year had section 116 language in it. The Senator is precisely correct about what it did. That was not Republican language. That was drafted by the chairman of the committee and the leadership in the House, Democratic leadership, and supported by Members on both sides of the aisle when that bill passed. But in writing the bill this year, they dropped that language.

Now, I do not know why they dropped it, but it was dropped. All my amendment does is to add back that language. I have not changed a comma or a period or a semicolon. I took the language they drafted last year, in the bill that passed, and reinserted it in this bill.

Mr. ROBERTS. Mr. President, will the distinguished Senator from Arizona yield for another question?

Mr. KYL. Mr. President, I would. If I could ask the Senator from Texas, who has one of the pending amendments, if he wants to speak on his amendment, I will yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I might remind all my colleagues 69 Senators voted for the underlying bill, essentially, when it was last before the Senate in 2007, and that bill did not include the amendments the Senators on the floor are now suggesting; that is, 69 Senators voted for the bill without these two limiting amendments that are being suggested on the floor.

The Children's Health Insurance Program is clearly helping lower income families. In 2007, 91 percent of children enrolled in CHIP were in families living at or below 200 percent of poverty. It is helping those people. The bill also, I might say, with respect to this so-called issue of crowdout, provides States with bonus payments—additional money—to cover more uninsured low-income kids in Medicaid, and those are the kids from the lowest income families. This bill targets low-income people.

Also, there are other outreach initiatives designed to encourage States to find low-income kids who are eligible but not enrolled.

Now, I must say, it is true in some States kids are eligible in families earning more than twice the poverty level. These two amendments would reduce Federal funding to these States. I think that is not a good idea. We should resist efforts to kick kids off the Children's Health Insurance Program. That is what those amendments would do.

One of the hallmarks of the Children's Health Insurance Program is giving States flexibility in designing their own programs. Remember, this is a block grant program.

States have the option to participate. States decide if they want to participate. I must also say this bill before us takes the more limited version of the two bills that were voted on by very large margins in this body last year with respect to the 300 percent of poverty.

What I am getting at is this. If the States want to go above 300 percent of poverty, they get the lower match rate. The lower Medicaid rate. They do not get the higher Children's Health Insurance Program match rate. It is a discouragement to those States that, at their own option, decide they want to go above 300 percent of poverty.

Do not forget the poverty rate is a national figure. It is not the poverty rate of one State versus another State. It is a national figure. Some States are healthier States. Some incomes are higher than they are in other States. So it makes sense some States, at their own option, might decide they want to cover children above the national Federal poverty level. But if they do so, the bill provides a lower match rate. I must also say, this bill gives States a reduced Federal match rate along the lines I have indicated.

Let me add to that and make one more point. It is a difficulty with the Roberts amendment because it caps the Federal match at families with $65,000 or median State income. What is the problem?

First, the amendment uses a flat dollar amount and does not index it for inflation. Obviously, over time, that means the Federal funds would have to be fewer and fewer for families because inflation would cut into the families' ability to participate, as inflation eats away at the value of the dollar.

Second, using median State income is an additional problem because the program is directed at helping families who make just a little more than Medicaid levels but not enough to afford private insurance.

The Federal poverty level for a family of four is just a little more than $21,000. In many States, the median State income is less than twice the Federal poverty level—less than twice,

less than 200 percent of the Federal poverty level. Thus, the Roberts amendment would constrain Children's Health Insurance Program funding severely in those States compared with other States.

For example, in Mississippi, the median household income is $35,900. That is 170 percent of the Federal poverty level—not 200 percent; it is 170 percent. That means we would have to cap the match rates in Mississippi at lower than 200 percent of poverty; that is, at the 170 percent level.

In 10 States, the median household income is less than 200 percent of poverty. Those States include New Mexico, Montana, Tennessee, Oklahoma, Alabama, West Virginia, Kentucky, Louisiana, Arkansas, and Mississippi.

So the effect of the Roberts amendment would be to further constrain States to take kids off CHIP—those kids who are in families at less than 200 percent of poverty. I do not think that is what we want to do, but that is the effect of the Roberts amendment.

The policy on low-income kids in the bill is the same policy that was in this first Children's Health Insurance bill. The Senate passed that bill with 69 votes, including Senator ROBERTS, I might say, and Senator HATCH. They both voted for the underlying bill and without these amendments that have been on the floor. True, that bill was vetoed by President Bush, and the House was unable to override the veto. But 69 Senators voted for these policies that are in this bill, without the amendments that have been suggested on the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senator from North Carolina be recognized for 1 minute and that then I be recognized for 1 minute following that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Carolina.

Mr. BURR. Mr. President, I thank my colleague.

The chairman alluded to the fact that some States need more flexibility because the income in their States is higher. One of those States that is grandfathered is the State of New Jersey. It is allowed to include up to 350 percent of poverty for SCHIP participants.

Now, it is important to understand that when you increase flexibility, you decrease the likelihood of people under 200 percent of poverty being enrolled. New Jersey ranks 47th out of 50 States in the enrollment of kids 100 percent above poverty to 200 percent above poverty. Twenty-eight percent of the kids in that category in New Jersey are uninsured.

Increase flexibility, decrease the number of enrollees targeted in the 100 to 200 percent of poverty—the uninsured, at-risk, low-income children. It is very simple.

I yield.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 67

Mr. CORNYN. Mr. President, the question I think the American people want to know every time we come to the floor with some legislation is, Will it work? Will it work? Well, SCHIP, as laudable as it is, is not working the way Congress intended when we passed it.

I came to the floor and mentioned the fact that with 850,000 Medicaid and SCHIP-eligible children in Texas, that now the money that will be spent on this program will be spent to insure much higher level income families as well as adults without focusing on those low-income kids first. My amendment would redirect those funds to make sure they are reserved for covering low-income children or for outreach and enrollment activities. I think it is important we put some money into that, to let people know, to educate them that this is available for their children and then sign them up, rather than the use of those funds to cover children from higher income families.

This amendment sends a message that Congress will meet its responsibility of putting first things first by taking care of low-income children.

I yield the floor and urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana has 1½ minutes remaining.

Mr. BAUCUS. I thank the Chair.

Mr. President, this is very simple. The real question is, Do we want to kick kids off of the Children's Health Insurance Program—kids who are currently qualified, and qualified because that was a State decision, that was the State option. Most States made that decision for those kids to be included. The Federal poverty level is a national figure, so we cannot apply the Federal poverty level fairly to New York or Mississippi or other States because it is not relevant because the income levels of States are different. It is not fair to take kids, in my judgment, off SCHIP. There are also provisions in the States that eliminate childless adults. We do not allow waivers. There was a waiver by President Bush that allowed New Jersey to have that higher level.

The bottom line is let's keep the program. It is good. Sixty-nine Senators voted for the underlying bill last time. We did it for the right reasons. Let's do it again.

Mr. President, I move to table the Cornyn amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. CHAMBLISS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—64

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Bayh	Harkin	Reed
Begich	Inouye	Reid
Bennet	Isakson	Rockefeller
Bingaman	Johnson	Sanders
Bond	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown	Klobuchar	Snowe
Burris	Kohl	Specter
Byrd	Landrieu	Stabenow
Cantwell	Lautenberg	Tester
Cardin	Leahy	Udall (CO)
Carper	Levin	Udall (NM)
Casey	Lieberman	Vitter
Collins	Lincoln	Voinovich
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murkowski	
Feinstein	Murray	

NAYS—33

Alexander	DeMint	Lugar
Barrasso	Ensign	Martinez
Bennett	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Nelson (NE)
Burr	Gregg	Risch
Coburn	Hatch	Roberts
Cochran	Hutchison	Sessions
Corker	Inhofe	Shelby
Cornyn	Johanns	Thune
Crapo	Kyl	Wicker

NOT VOTING—2

Chambliss	Kennedy

The motion was agreed to.

Mr. LEAHY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 75

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on Roberts amendment No. 75.

Mr. ROBERTS. Mr. President, my amendment is very simple, I say to all those milling about. My amendment strikes section 114 of H.R. 2 and replaces it with language that prevents any State from receiving Federal SCHIP funds to cover kids from families with incomes which are the lower of $65,000 or the State median income for a family of four.

It also addresses the Medicaid-SCHIP sandwich by preventing States from receiving SCHIP funding or bonus payments for any higher income Medicaid kids.

We now have States that can cover kids with family incomes up to $128,000. I do not think that is right.

Let me tell the chairman he is absolutely wrong if he says median income is too low. It is median family income, as determined by the Secretary, look at page 2 of my amendment. But how on Earth can we explain to people that we are giving money to a $128,000 income family of four when this is supposed to be for low-income kids? You are ruining SCHIP.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana is recognized for 1 minute.

Mr. BAUCUS. Mr. President, there are at least 10 States with median incomes at such a level that the effect of this amendment would take kids off the rolls, even when the parents' incomes are lower than 200 percent of poverty. That is because in those States, the median family income is lower than what is prescribed in this amendment. I can list the States. It makes no sense for kids of families who are at lower than 200 percent of poverty to be taken off the Children's Health Insurance Program. That is the effect of this amendment.

In addition, the amendment denies States the opportunity to set the levels they want. Some States are much more wealthy than other States. It is also an optional program. We also cut the reimbursement rate. That is the match rate for States that are wealthier States.

The main point I want to say is, already 91 percent of the kids are in families under 200 percent of poverty. The effect of this amendment would take the kids lower than 200 percent of poverty in 10 States off the rolls, and that is not the right thing to do.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to Roberts amendment No. 75.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—36

Alexander	Burr	Crapo
Barrasso	Coburn	DeMint
Bennett	Cochran	Ensign
Brownback	Corker	Enzi
Bunning	Cornyn	Graham
Grassley	Kyl	Roberts
Gregg	Lugar	Sessions
Hatch	Martinez	Shelby
Hutchison	McCain	Thune
Inhofe	McConnell	Vitter
Isakson	Nelson (NE)	Voinovich
Johanns	Risch	Wicker

NAYS—60

Akaka	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Lincoln	Udall (NM)
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden

NOT VOTING—3

Chambliss	Kennedy	Landrieu

The amendment (No. 75) was rejected.

Ms. STABENOW. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 46

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Arizona, amendment No. 46.

Mr. KYL. Mr. President, this amendment which I laid down before the last two votes deals with the problem of crowdout, the problem CBO identified, that for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private insurance coverage of between 25 and 50 percent. In fact, CBO's number, their estimate, as a result of people leaving private coverage and going into the Government program as a result of this bill, is nearly 2.5 million individuals. That is what this amendment seeks to address.

The amendment is the identical language in the bill that was written by the House majority last year, passed when that bill then came back over to the Senate, passed this body, was sent to the President, and he vetoed the language. It was not written by Republicans, it was written by Democrats, and it attempted to deal with the problem of crowdout. I will describe that after a while. It is not the language I would have preferred, but at least it recognizes the problem.

As a result, I ask my colleagues, what is wrong with the language? Why do we not want to address this problem of crowdout? Since I borrowed your language, didn't change a period or a comma, what is wrong with including that in this bill?

The chairman of the committee noted that 69 percent of the Senators voted for the original bill that did not have the language in it. True. But also, whatever similar number voted for the bill after it passed the House, that did have the language in it.

But that is not the important point. The important point is that, recognizing there was a problem, the House, along with the chairman of the committee here in the Senate, wrote the language, put it in the bill, yet did not include it in the legislation that is pending before us. That is why I have offered this amendment—the same language—to try to deal with this problem.

I was told the Senator from Kansas had a question he wanted to ask, and I yield for the purpose of a question.

Mr. ROBERTS. Mr. President, I ask whether the distinguished Senator from Arizona will respond to a question?

Mr. KYL. Mr. President, I will be happy to.

Mr. ROBERTS. I am trying to figure out the practical effect of this. You have already described the fact that this is exactly the same legislation, the same language in the legislation that was passed by this body and the House last year—CHIP I, CHIP II—and then it was deleted. They were talking about crowding out, and that is what happens when public subsidies encourage people to give up their private insurance.

So I am sitting here trying to figure this out. The CBO analysis says that 400,000 children will be covered in higher income families, but another 400,000 children will drop their existing private coverage as a result.

I think you had another figure that you just said.

Mr. KYL. Mr. President, the reason for the disparity is this: CBO says 2.5—2.4, to be exact, 2.4 million people will lose coverage from their private health insurance as a result of this legislation. For the higher income, it is almost a 1-for-1, and that is the 400,000 number the Senator from Kansas is talking about. Literally, for every person who is added, a person is dropped.

Mr. ROBERTS. So the SCHIP legislation ensures one new child for the cost of two. That doesn't seem like a very good deal.

But here is what I want to get to. Is this correct, in the view of the Senator from Arizona. You are an insurance company—BlueCross BlueShield in Kansas, for that matter, Arizona, or John Deere from Iowa—I know they provide this kind of insurance for low-income families. What happens to them when SCHIP expands and crowds them out? And another thing, I'm assuming that providers get less in terms of reimbursement from SCHIP than they do from private insurance. So if I am a provider—and this story has been told in Medicaid, it has been told in Medicare, and now it is going to be told in SCHIP—and I get paid less, some providers are going to say: Adios. I am sorry, I am not going to see you.

Basically, we had that with Medicare Part D and pharmacists, where they were only reimbursed up to 70 percent, and some of them say: I am not going to do this anymore.

Now we are doing it with SCHIP because we are crowding out the private insurance companies. If you are a private insurance company, if you are John Deere of Iowa, and all of a sudden somebody comes along and takes away this number of youngsters from the coverage, how are you going to exist?

Mr. KYL. Mr. President, the Senator from Kansas makes a very good point. There are cascading effects of this, first, on private insurers, who will not have the people to cover; second, the Senator mentioned providers. Physicians, for example, will get paid a lot less under this program than they would otherwise. We have seen what happens with Medicare when they reduce their reimbursement to physicians. You have a lot fewer physicians available to treat the patients, as a result of which, probably not only will you have the problems I discussed, but you will have a problem with access and quality of care as a result. That is something that had not occurred to me, and I appreciate the Senator from Kansas making that additional point.

Mr. ROBERTS. I thank the Senator.

Mr. KYL. Mr. President, I had promised the Senator from Michigan I would go no more than 5 minutes, and I would appreciate being advised when I am at the 5-minute mark.

The PRESIDING OFFICER. The Senator will be advised.

Mr. KYL. I appreciate that. My presentation is now going to have to be interrupted yet a third time here.

I will describe what the amendment does in precise terms. It calls for various reports and studies and efforts by States to ensure they have a plan for making sure there is a minimum amount of crowdout and calling for the Secretary to determine if a State is doing a good job of covering these low-income kids. We can go into more detail about that. Again, it is not language I wrote; it was written by the House and Senate Democrats.

Why is this important? One of the reasons is that as we keep expanding the people who are entitled to coverage here, why are not the lower income kids being covered? There is a very simple explanation. The Senator from North Carolina brought it out earlier: It is easier to identify a higher income cohort of families and cover their kids than it is to find the low-income kids.

This is the problem with a State such as New Jersey. It is why we cover up to 350 percent of poverty there. What they are doing is taking the higher income people. They can find them, they can get them covered, they already have insurance. And as the Senator from Kansas pointed out, on the higher income families, there is almost a one-to-one ratio. You add a person on, one person drops off of private health insurance coverage. It is much easier to do that and build up your numbers than it is to do the tough work of finding those low-income kids, and that is who this program is supposed to be all about. I regret we did not adopt the amendment of the Senator from Kentucky, because the thrust of his amendment was to find the low-income kids, the kids at 200 percent of poverty or below, and get them into this coverage. That is where we are failing.

Instead, under the bill we are considering, we keep adding more and more people at higher incomes. Sure, you can find them, we are covering more kids, but are we covering the kids who need the help? The answer is no. That is why this is so important. That is why this crowdout issue, in addition to the points the Senator from Kansas pointed out, is so important for us to try to resolve.

Again, I do not understand why it is not appropriate to include the same language that was in the legislation last year that went to the President of the United States, because at least it is a modest effort to address the problem of crowdout.

One more point here. What has happened since this effect has become apparent to us. Since 1997, 11 States expanded their programs to make families at 300 percent of the poverty level or higher eligible for SCHIP. That is the problem, that we are going up, rather than finding those kids in the lower income bracket.

When Secretary Leavitt tried to do something about that, and on August 17 of last year issued his crowdout directive to try to cover the low-income kids first, Members of this body objected. I will predict that what will happen is that it is likely Secretary Leavitt's directives are going to be rescinded because what they try to focus on are the low-income kids, rather than simply allowing more higher income kids to be covered.

If that happens, then the entire crowdout issue falls directly in our lap. If we do not have language to deal with it, such as that which I am proposing in my amendment, then not only will the bill become far more expensive, not only will fewer families be covered by private insurance with the attendant consequences there, but we will still have the problem of the low-income kids who are not covered and who have not been found.

We will be speaking more on this amendment before we have the vote on it a little bit later on this afternoon. I will at that time deal with a couple of other points that I want to make.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today in strong support of the Children's Health Insurance Program, and the fact that we will be adding 4 million children for a total of 10 million American children from families predominately who are low income, who have parents who are working but do not have insurance, and have a very difficult time going into the private sector and paying very high premiums to try to be able to cover their children.

We do not want families choosing between keeping the lights on and keeping the heat on, food on the table, and whether their children can get health care. And for too many families in America right now, that is what is happening.

So I am pleased to be a part of this, to know we have a President who will enthusiastically and quickly sign this bill as one of his first actions. I think it will be very exciting to see that, after having worked so hard on a bipartisanship basis with colleagues to pass not once but twice children's health insurance, and to have it vetoed by the former President.

This is a real opportunity for us. I certainly thank Chairman BAUCUS and his staff for all of the work, and also the work of Senator ROCKEFELLER and Senator GRASSLEY and Senator HATCH, who are expressing concerns, but there has been a tremendous amount of bipartisan work that has gone on.

Frankly, the bill we have in front of us is very much the bill that we worked on together in a bipartisan way and brought to the floor in the past. It was a compromise. There are things that, frankly, if I were doing this by myself, I would want to go back and change if we were not keeping to the bipartisan agreement. We were originally talking about adding more children, a larger pricetag of $50 billion. I would have been very happy to go back to that number.

But, again, in agreeing to work within the confines of the bipartisan agreement from last session to be able to move it quickly, we did not do that. Also, there are certainly elements relating to low-income adults that I would like, coming from Michigan, to revisit. But we have not done that.

So I think there has been a tremendous good-faith effort to operate within the framework of the bill that was passed, worked on by leaders on both sides of the aisle. We have a wonderful opportunity right now to do something very important for the children of Michigan, the children of Oregon, the children all across this country.

There are very important changes from the current program that we are adding in this bill, making improvements in outreach and enrollment. Our colleagues on the other side of the aisle have talked about concerns about not having enough outreach to low-income children. Dollars are placed in this bill that would allow more of that to occur. I think that is very important.

Dental coverage. Mental health coverage. We have all heard the horror stories of children who had tooth problems or an abscess turning into a situation that in certain cases has caused death, tremendous tragedies. It is inexcusable that in the United States of America we would have children who could not get the dental care they needed or the mental health care they needed.

I am very pleased to have worked on the areas of health information technology where we are adding the ability to pilot a pediatric electronic medical record to make it easier to track children and to be able to have a more efficient way to gather the information about children's health records and to have it available for providers.

This bill is a huge step forward in so many areas. The Children's Health Insurance Program has been a success story since its beginning. I was pleased as a new House Member from Michigan in 1997 to have voted to pass the original Children's Health Insurance Program, and the companion program with it under Medicaid, which has reduced the number of uninsured children by over one-third. I think that is something we should feel very proud about.

These gains have occurred even as health care costs have risen, skyrocketing in many places, and employer-based coverage has, unfortunately, been declining because of the cost. I know in my home State of Michigan, the Children's Health Insurance Program and the partner program of Medicaid have made a huge difference in people's lives, a huge difference in a family's ability to care for their children, to be able to sleep at night and not worry about what happens if their children get sick.

Working families in Michigan have been losing their employer-sponsored coverage for over a decade now, unfortunately, increasing the need for an expansion of affordable health insurance options for children. A report recently released from the University of Michigan and Blue Cross-Blue Shield of Michigan found that between 2000 and the year 2006, employer-sponsored insurance decreased over 10 percent, meaning that we are talking about families who otherwise had insurance through their employer and now they do not. They then turned to the private individual marketplace. It is extremely expensive. And for many families, that is not an option. So they have turned to this wonderful public-private program called the Children's Health Insurance Program. In Michigan it is known as MIChild. This is a wonderful partnership that has helped families of working parents, folks who are working hard, but who are not poor enough to be able to qualify for health care under Medicaid for low-income individuals. They are not in a job or wealthy enough to be able to purchase health care themselves in the private sector, but they are working. They are working hard every day, maybe one job, maybe two jobs, maybe three jobs. But they do not have health insurance.

That is who we are focused on when we talk about the Children's Health Insurance Program. It is not about rich kids, as we have heard some discussion about. In Michigan, a family of four cannot make more than $40,000 a year to qualify for MIChild. Those families are working very hard, and that is not a lot of money to try to hold together a family of four and pay the mortgage, put food on the table, and then find some way to pay big insurance premiums.

Let me share a few stories from families in Michigan who have contacted me. Five-year-old Ryland has a heart condition that causes his heart to race. He had two unsuccessful surgeries for his condition when the family lived in Canada. When they returned to Michigan, there was no insurance company that would cover Ryland because he had a preexisting condition—a very common story for families.

Michigan used a portion of its funding to expand what we call Healthy Kids. Through that program, Ryland was able to receive a successful surgery.

Six-year-old Ethan has a serious heart condition called long QT syndrome, which causes seizures and blackouts and makes the heart race until it stops completely. Ethan had received insurance through his father's employer, but when his father died, his mother did not know what to do. Luckily, Ethan's mother was able to enroll him in the Michigan program MIChild. He was then able to get the care he needed to get help for his heart condition early on. It has made a tremendous difference in his life and in his mother's life.

This is not only the right thing to do, the moral thing to do; treating illnesses and chronic conditions early also is the economical thing to do. I do not want to put it in dollar terms because what is most important is the ability for children to be able to be healthy and live long lives and have opportunities for the future of this great country. But we all know that if a parent is forced to wait until it is an emergency situation and use the emergency room, or worse, in terms of waiting until a child is in a very serious illness, we are talking about huge costs. So this is the one time where we save money and save lives. We save money and we improve the quality of life for 10 million children in America through this program.

Sharing another story: Chad and his wife have two young children. He works for a small landscaping business with an off-season of 3 to 4 months. Sometimes the winter can be pretty long in Michigan. If they, Chad and his wife, purchased insurance through their employer, it would be an additional $300 a month which, unfortunately, was not affordable for them. But through MIChild children's health insurance, both of their sons were able to get the inhalers they needed for their asthma. That significantly changed their life, their qualify of life.

Pam is a full-time preschool teacher and mother. Her monthly premiums of $384 a month would have taken up over 20 percent of her pay. She was not able to do that. Through MIChild she was able to get the specialized care she needed for her youngest daughter, who suffers from a rare seizure disorder.

Pam's story, in particular, illustrates the problems facing working families. According to the Commonwealth Fund, nearly three-quarters of people living below 200 percent of poverty found it difficult or impossible to afford coverage. That is what is happening to families all across the country.

The situation is even worse for individuals with chronic conditions such as asthma or diabetes. If they are able to purchase coverage in the private individual market—if—then costs are much higher.

I would like to remind my colleagues that reauthorizing the Children's Health Insurance Program is about all children—no matter where they live, whether they live in the city, the suburbs, or in rural Michigan or rural America.

The nonpartisan Carsey Institute found that in the vast majority of States a higher percentage of rural children live in poverty today than they did 5 years ago. This fact has translated into a higher need for health care like children's health insurance in rural areas. In fact, 32 percent of all rural children rely on the Children's Health Insurance Program and Medicaid compared to 26 percent of urban children. So this is something that certainly affects every part of my State—from the cities, to northern Michigan, to southwest Michigan, and every part of this great country.

Because of the importance of the children's health program, I urge my colleagues to put aside negative attacks and join to support a bill that is basically the same bill we worked on together in a bipartisan way that we brought to the floor in the last Congress that, unfortunately, was vetoed. But we now are in a position, using this document that was worked on with leaders across the aisle, to do something about which we can all be very proud. This bill will make a real difference in the lives of children and families across America, and it is a great way to start the new year.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Thank you, Mr. President.

I rise today in support of the Children's Health Insurance Program, more commonly known as CHIP. I believe the expansion we are considering right now is long overdue. But I also must express my dismay at the way in which we are paying for the expansion in this program.

Since 1997, the Children's Health Insurance Program has been helping low-income and disadvantaged children access medical services to treat or prevent conditions that can affect their ability to lead a healthy and productive life. If this bill is not passed, we will be jeopardizing coverage for the roughly 10 million young children whom this bill helps, over 4 million of whom are currently without health care. With our economy in dire straits, job losses increasing and job opportunities decreasing, and with the rising cost of health care, the staggering thought of 10 million young children without the health care coverage they need is unacceptable to me and to many of my colleagues.

For every 1 point rise in our national unemployment—which we have seen a lot of to date—700,000 more children join the ranks of the uninsured. Importantly, 91 percent of all children covered under CHIP live in families with incomes at or below 200 percent of the Federal poverty level. In North Carolina, this would represent $42,000 for a family of four, with which they would then have to purchase their own insurance without the program.

Not passing this bill is simply not an option. But it is important to note, too, that the original CHIP legislation passed almost 12 years ago by a Republican Congress with the support of a Democratic President, and it was an extremely bipartisan measure. So, too, was an almost identical bill last year which was passed by two-thirds of the Senate and vetoed by the President. This program has widespread bipartisan support, and we should not allow differences over particular provisions of this bill to obscure that fact.

I commend Chairman BAUCUS and Senator ROCKEFELLER for the inclusion of several important provisions, including providing financial incentives for States, including my home State of North Carolina, to lower the number of uninsured children by enrolling eligible children in CHIP and Medicaid; creating an initiative within the U.S. Department of Health and Human Services charged with developing and implementing quality measures and improving State reporting of quality data—I think over time this data will improve healthy outcomes in our children; implementing initiatives to reduce racial and ethnic health care disparities by improving outreach to our minority populations; and prioritizing the coverage of children under this program, not the adults without children and others who in the past have been given waivers to participate.

But my vigorous support of this program itself does not mean I approve of the way this expansion is being funded. I vehemently believe the increase in the tax on cigarettes this bill includes is regressive and patently unfair to States such as North Carolina, which employs more than 65,000 people in jobs related directly to the tobacco industry.

While 30 percent of the adults earning less than $15,000 are smokers, only 15 percent of adults earning more than $50,000 are smokers. Through the funding mechanism we are putting in place in this bill, the result is this: We are asking for the lowest income households to pay for the health care for children in homes that make more than they do.

Under this bill as written, in my home State of North Carolina a package of cigarettes will ultimately cost $4.27, of which more than half—51 percent—of the price represents Government taxes. Furthermore, taxing cigarettes now is shortsighted and an unreliable source of funding for this program.

Since fiscal year 1999, the average price of a package of cigarettes has increased by 80.5 percent.

If we are going to include this provision on the assumption that taxing cigarettes reduces youth smoking and therefore increases the number of healthy, productive, and successful children in our country, why aren't we also taxing sugary soft drinks, junk food, and sweets? The obesity epidemic is so strong in children, yet the only funding mechanism right now is cigarettes. All of the above lead to an increase in conditions such as diabetes, heart disease, and high blood pressure in our children, which in turn we know leads to an increase in health care costs.

This is a matter of fairness. Taxing only tobacco could cost the State of North Carolina up to 3,000 jobs and $32 million to $36 million in revenue shortfalls for our State budget. While I applaud the desire to pay for the increased spending under this bill, which I think we should be doing, I believe singling out just one industry concentrates the impact in a few States, such as North Carolina, in a way that is fundamentally unfair. In 2009 alone, the 61-cent increase we are proposing in this bill—61-cent increase in taxes on cigarettes—adds up to $3.69 billion, and in 2010 that number increases to $7 billion from one industry alone.

I am a cosponsor of and I would like to voice my support for the amendment of my colleague, Senator JIM WEBB, which would reduce the proposed tax on cigarettes by 24 cents. As I have said before, the way in which this bill taxes only cigarettes is unfair, and I believe the proposed 61-cent increase per package is outrageous. It is my hope this amendment represents a compromise palatable to all sides in this debate.

I have outlined my complete support for this vital program but also my dismay in the way in which it is funded. But this is the bill in front of us, and this is what we are being asked to vote on. When I was a State senator, I worked hard to protect and expand North Carolina's SCHIP. As the mother of three children, I know what it is like when one of your kids wakes up in the middle of the night with an earache or a stomachache or worse. I have seen firsthand how important this program is and the unmet need for its services.

With the health and vitality of 10 million of our Nation's children on our hands, I cannot in good faith vote against this bill. Less than a month into my service here in the Senate, I am faced with a situation in which the health of millions of my State's children is at odds with a key industry in North Carolina. But, ultimately, I have to vote on behalf of the 10 million low-income and disadvantaged children whom this bill helps. In this economy, when families are being forced to choose between paying their bills and putting food on their tables, I cannot make it harder for them to keep their children healthy, safe, and cared for.

I cast this vote in the affirmative as a mother and as a former budget chairman for the State of North Carolina who knows how difficult it is for the State to close the gap in funding for this critical program when the Federal Government drops the ball and as a Senator who sees in this bill a chance for our neediest families and our most disadvantaged kids to get ahead in the face of the daunting odds they will no doubt face in their future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I compliment the Senator from North Carolina. She is doing what a good Senator should do. First, she is defending the interests of her State. She is here representing the State of North Carolina, and she is doing an excellent job, pointing out some of the problems this bill contains for constituents in her State of North Carolina. But she also is looking at the larger picture, too, and the status of low-income children. It is a classic case that many of us face in the Senate. It is balancing interests and what is most important. It is not an easy decision. But I highly compliment the Senator from North Carolina for such articulation in expressing the views of constituents in her State and the interests of her State but also recognizing it is probably not right to deprive 10 million uninsured, lower income children of health insurance. So I compliment the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, if it is OK with my colleagues, I would like to give a short statement as in morning business and then give a longer one on the Kyl amendment. Is that OK?

Mr. BAUCUS. Mr. President, yes, that would be fine.

Mr. GRASSLEY. I thank the Senator.

Mr. President, first of all, I ask unanimous consent to speak as in morning business for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY are printed in today's RECORD under ''Morning Business.'')

AMENDMENT NO. 46

Mr. GRASSLEY. Mr. President, I wish to speak on Kyl amendment No. 46, named after Senator KYL from Arizona.

I strongly support the amendment that has been offered by Senator KYL. This is to the children's health insurance bill. This amendment would reinstate the crowdout policies that were agreed to by both sides in the bipartisan children's health insurance bills that we debated in the Senate in 2007. For reasons that I cannot fathom, this important section of the bill was dropped this year.

A high incidence of crowdout is problematic for many reasons. Before we go any further, I wish to make sure it is clear what the term ''crowdout'' means. Crowdout can have many meanings, in fact, so let me elaborate.

The crowdout we are referring to is when a family already has health coverage for their child and they cancel that policy to put them on a government program. This is referred to as crowdout with the idea that when the government comes in and offers taxpayers subsidized health coverage, it crowds out the coverage that was already there in the first place. This is a bad thing when it happens for a number of reasons, so I will go into those reasons.

First of all, crowdout makes it more difficult for employers to offer health insurance coverage. It especially impacts small employers who may be unable to meet health plan participation requirements. It has implications for the cost of coverage for those who have private plans because it removes a large number of young and healthy individuals from the risk pool, thus spreading the cost of high-risk individuals across smaller and, in most cases, older pools.

The second reason crowdout is bad is it inappropriately uses taxpayers' dollars to fund coverage that could have been provided by an employer. Individuals either leave coverage that had been funded in part by their employer or do not enroll in plans offered and subsidized by their employer to enroll in a private plan. When this occurs, the employer contribution to those plans is replaced by taxpayer dollars.

So crowdout is bad because it crowds out health coverage that was already there. It means taxpayer-subsidized coverage is gradually creeping in and taking over the market. But it is also bad because it is a waste of taxpayers' money. That is what we ought to emphasize because even though this bill meets a good goal of millions of more kids being covered, the question is, are we making the best use of taxpayers' dollars because there are another several million out there we ought to be covering. So when we are incentivizing people leaving private coverage for taxpayer support, then that money isn't available for the millions of people who aren't being covered.

When crowdout happens, it means the Federal taxpayers are being told to pay for coverage for someone who already had coverage. If that child already had coverage, then it goes without saying this child was not uninsured.

Remember the whole problem is when the taxpayers end up paying for coverage that was already there. So the more the children's health insurance programs are allowed to expand to high incomes, the bigger the problem of crowdout becomes.

The focus of this bill should be covering the millions of uninsured kids we have in America with emphasis on the lower the income, the more rationale there probably is for covering kids.

Crowdout is also a bigger problem when the children's health insurance programs try to cover higher income kids. It is easy to see why. Children who live in families with higher incomes are much more likely to have access to private coverage. It means more taxpayer dollars being spent on kids who already have coverage, and it means fewer dollars to cover the lower income kids who are still uninsured. So it is backwards when this happens.

When scarce taxpayer dollars are used to pay for coverage for someone who wasn't uninsured in the first place, this is a complete waste and a mismanagement of scarce resources, and it is a waste of scarce Federal dollars at a time when we cannot afford to do that. It also means one less dollar that could have been used to cover a child who doesn't have any health insurance whatsoever.

The policies that Members on both sides of the aisle agreed to in both of the bipartisan children's health insurance bills we debated in 2007 had a very good policy to minimize crowdout. First of all, those bills—the similar children's health insurance bills that were debated and passed in 2007—had very good policies to minimize this problem we refer to as crowdout. First of all, those bills set out a process in place to study the issue of crowdout. It asked the Government Accountability Office to do a report for Congress describing the best practices that each of the 50 States are using to address the issue of crowdout and whether things such as geographic variation or family income affects crowdout. The provision eliminated in the bill before the Senate—and this is this year, in 2009—also would require the Institute of Medicine to report on the most accurate, reliable, and timely way to measure the coverage of low-income children and the best way to measure crowdout. That provision was eliminated in this bill.

Based on these recommendations, the Secretary of Health and Human Services was required to develop and publish recommendations regarding best practices for States to address crowdout. The Secretary was also required to implement a uniform standard for data collection by States to measure and report on health coverage for low-income children and crowdout.

The bipartisan crowdout policy of 2 years ago would also require States, having received the recommendations from the Secretary, to describe how the State was addressing the children's health insurance program crowdout issue and how the State was incorporating the best practices developed by the Secretary. The crowdout policy in both bipartisan bills 2 years ago included an enforcement mechanism to hold States accountable for minimizing crowdout when they expand to higher income levels.

This is a very important issue because as we learned from the 2007 report from the Congressional Budget Office, crowdout is a particularly acute problem in children's health insurance programs because crowdout occurs more frequently at higher income levels.

The Congressional Budget Office report also concludes that:

> In general, expanding the program to children in higher income families is likely to generate more of an offsetting reduction in private coverage than expanding the program to more children in low-income families.

I wish to emphasize for the public at large—my colleagues know this—the Congressional Budget Office is a nonpartisan, fiscal expert. So this is not a partisan issue of that Congressional Budget Office report.

Going on to refer to the Congressional Budget Office, that office estimates that:

> The reduction in private coverage among children is between a quarter and a half of the increase in public coverage resulting from SCHIP. In other words, for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children.

That is the end of the quote from CBO.

Therefore, under both bipartisan bills, the Secretary, using the improved data mechanism, would determine if a State that was covering children over 300 percent of poverty was doing a good job of covering low-income children. That is to emphasize the point: What was the purpose of SCHIP in 1997? To cover low-income kids who never had any coverage. So you spend a lot of time covering higher income families, and you have less money then to cover low-income kids, and then you have the crowdout that exacerbates that problem.

If it was determined that a State was not doing a good job covering low-income children, then the State will not be able to receive Federal payments for children over 300 percent of poverty. So here there is kind of a sense that we are not arguing if you want to cover people above 300 percent, but, by golly, as a State, you aren't doing a good job of taking care of the low-income kids—where the problem was and why we passed the bill in the first place. You shouldn't be covering people over 300 percent of poverty.

This crowdout policy in both bipartisan bills of 2007 would have worked to minimize crowdout by making sure the States are staying focused on covering low-income kids. So it is a very important issue, and it is one on which we worked together on a bipartisan basis.

There was a lot of debate about crowdout in 2007 when we had extensive discussions about the Children's Health Insurance Program. Everybody recognized this to be a very big problem. So this is why I am so entirely baffled as to why my Democratic colleagues would abandon a provision they helped develop in a bipartisan bill 2 years ago. I don't know why they would want to strike such an important part of the bill and one that also helps blunt sharp criticism of the bill when it allowed States to expand eligibility to 300 percent of poverty.

The bill before us now allows expansion to even higher and higher income kids.

As the Congressional Budget Office says, the crowdout problem is going to be even worse under this bill than it is already.

According to the Congressional Budget Office table detailing estimates of enrollment based on this bill, 2.4 million children will forgo private coverage for public coverage. This is a very troubling number. The fact that the Senate bill does not address this problem and goes back on policies that were worked out on a bipartisan basis is problematic.

I hope Members will reevaluate their opposition to policies to reduce crowdout and to vote in support of the amendment I have been talking about that my colleague, Senator KYL from Arizona, has offered.

We need to do the right thing here. We need to keep the Children's Health Insurance Program focused where it first started out in 1997 on lower income kids, for sure, in the case of a handful of States covering more adults than they do even kids.

We need to prevent scarce taxpayer funds from being used to pay for kids who already have health coverage. We need to put this bipartisan policy that we had in two bills in 2007 back in this bill.

I urge my colleagues to support the Kyl amendment and do just that.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The senior Senator from Montana.

Mr. BAUCUS. Madam President, the Children's Health Insurance Program Reauthorization Act of 2009 will extend the Children's Health Insurance Program to cover more than 4 million additional children whose parents work but cannot afford insurance on their own.

These low-income working families make too much to qualify for Medicaid, but they cannot afford private insurance. Ninety-one percent of the children covered by the State Children's Health Insurance Program live in families making less than twice the poverty level.

Let me repeat that. Ninety-one percent of the children covered by this program live in families making less than twice the poverty level. That is not very much. These are the working poor. Ninety-one percent of the kids covered by this program live in families who are working poor. Let's not make perfect the enemy of good. Ninety-one percent is pretty good. It is not 100 percent. It is 91 percent. That is pretty good.

I know some of my colleagues are concerned that this bill will cause individuals to drop their private coverage in order to join the Children's Health Insurance Program. Around here that is called crowdout; that is, leaving private health insurance coverage to move over to the Children's Health Insurance Program.

The fact is that any attempt to reduce the number of uninsured will inevitably result in some level of substitution of existing coverage. It just happens. The Medicaid Program—not many, but some families who may have had private insurance, as expensive as it is, decided Medicaid is a little bit better, and they chose Medicaid. As with every public program, it happens.

The next question is, what do we do to minimize too much of it? What is the right policy? Where do we draw the line?

Clearly, we want kids to have health insurance. We want it done in an efficient way, a way that makes sense that is good public policy but not do it in a way that disrupts the private health insurance market. But there is going to be some reduction in private coverage when kids leave the private health insurance market to go to CHIP.

Why would a family want to do that? I can think of several. One is the private coverage is not very good. The premiums are very high. The benefits are pretty low. It is not good. It costs a lot, particularly when we are talking about low-income families. It may not cost quite as much, it may not be quite as much of a burden on someone making $45,000, but it is going to be a big burden on somebody making $20,000 $30,000, $40,000, $50,000. They have to pay the food bills, make the mortgage payments. They have a car payment. You name it. It is expensive to also pay for private health insurance on top of all that.

I can very much understand some people—we are talking about low-income families now—think it makes more sense to maybe try not to pay those health insurance premiums but, rather, go on the Children's Health Insurance Program.

Let's remember, SCHIP is optional. It is up to the States. States can set the levels they want. That is their privilege. That is their option. This is not an entitlement program. Some people think this is an entitlement program. It is not. It is a block grant program. What does that mean? That means every several years, Congress reauthorizes the program, allocates a certain amount of dollars, and distributes them through a formula to the States, and it ends after a certain period of time. This is a 4½-year authorization. If you want to participate in this program, you have to set up your own match rates. Uncle Sam will give you more than half of it, but you have to come up with your own match rates. If they want to set income eligibility levels a little higher because they are a State with higher income than other States, that is their privilege, that is what they should do, that is the State's option. It makes sense to me that we should formulate policy to try to draw a line that is fair—fair to States, fair to kids.

This legislation also recognizes the problem—if it is a problem—of kids leaving private coverage to go to the Children's Health Insurance Program. What do we do? A couple things. One, we make bonus payments to States that focus more on low-income kids. If you have a program in your State and you show you are putting out an extra effort to help low-income kids, you get a bonus. That is very good because that means with lower income people, there is less likely going to be this so-called crowdout.

We also give premium assistance. What is that? We tell States, you can take some of your money and help people pay their private health insurance

premiums so they stay on private insurance instead of moving over to the Children's Health Insurance Program. So this bill recognizes the issue that some say is extremely important, namely, we give States the option to provide dollars for premium assistance, that is dollars to families to help them pay their health insurance premiums. That is only fair.

This is complicated. We are a big country. We have different States with different income levels. And we are a Federal system. We have Uncle Sam and we have States. It is very complicated. It is our job to try to find a way to put it all together in a way that is fair and makes sense.

The bottom line is what is fair and makes sense is give a little priority to the kids. Let's find some way to help low-income kids in the country, as we are still trying to be sensitive to concerns of States and concerns of the private health insurance industry.

I believe it makes eminent sense for us to not adopt the amendment offered by the good Senator from Arizona. What does that do? That amendment basically tells States to try to affirmatively find ways to restrict coverage which will have the effect of kids not getting off private health insurance. Do all the things you can to prevent kids from getting off private health insurance. That tilts the balance way too far. It tilts away from the kids. The goal here is kids. We want kids to get the best health insurance possible.

What this comes down to is the need for health reform in this country. We need to reform our health system. When we do, when we address the 46 million, 47 million Americans who do not have health insurance and find ways to make health insurance work for people, then this so-called issue will not be such because people will have the ability to go to the Children's Health Insurance Program or private health insurance that works.

Our legislation, if we pass it, will include health reform so the individual market makes sense, so there is no discrimination in the individual market, so the insurance company cannot discriminate on the basis of health, history, age, and other bases which health insurance companies now utilize to drive up premium costs for people trying to buy into the individual market. That was a guaranteed issue. That is the goal we are striving for, and the insurance companies know that makes sense.

I have talked with many of their CEOs. They want to move down that road. They know it is right. Even though it will change their business model, a model from cherry-picking to one of guaranteed issue, they will have more volume, they will make it up because everybody will have health insurance. They will sell more health insurance policies and give subsidies to people who cannot afford health insurance. That is part of the plan. We are not quite there yet. We have a ways to go. Then this will not be the issue that is raised today, and even today I think it is a bit of a red herring. I don't think that is what is going on here. What is going on here is some people do not want—I hate to put it this way—do not want to use Government funds to give low-income kids health insurance. That is basically what is going on here. I do not want to overstate that point, but I think it is obvious.

Bottom line, I think the amendment should be defeated. Sixty-nine Senators have already voted for this legislation, which did not include this amendment. Sixty-nine Senators in 2007 voted for this very same Children's Health Insurance Program which did not include this amendment. If they could vote for it and it did not include this amendment, I would think those who are here could vote for it again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I don't know if we are going back and forth. I know Senator MURKOWSKI is here. I have about 5 or 6 minutes.

I rise in support of the legislation before us to renew and improve the Children's Health Insurance Program. I begin by commending Chairman BAUCUS for his work on this legislation, not just this year, but so many years before. We brought this bill to the floor in 2007. We have had successful votes, a tribute to the chairman's leadership. I know at the same time he is working on the stimulus package, which is critically important to our economy. I personally thank him and commend him for all his efforts.

This bill is virtually identical to the legislation that I previously voted for on two occasions. Indeed, I voted, along with a large bipartisan majority, for this legislation in 2007. So I am hopeful Congress will act swiftly in a bipartisan manner to present this bill to President Obama for his signature. Uninsured children have already waited for that moment for far too long.

This bill invests $32.8 billion to extend and expand CHIP through fiscal year 2013. According to the Congressional Budget Office, it will preserve coverage for 6.7 million children and expand coverage to an additional 4.1 million uninsured children. In addition, the bill facilitates enrollment and improves benefits by requiring dental coverage and mental health parity.

For my State of Rhode Island, this bill is absolutely critical because it would end the persistent funding shortfalls that have required 11th hour stopgap measures. Over the years, I have been able to secure $77 million in additional funding to cover these shortfalls, but these efforts at the very last minute are not something that can be sustained indefinitely.

This bill allocates funding based on actual spending and provides a contingency fund for shortfalls. As a result, Rhode Island's allotment, the amount of Federal funding available for the State to draw down, will increase from $13.2 million to $69.5 million. This is the highest percentage increase of any State. This will preserve coverage for about 12,500 children enrolled in RIte Care, which is our Children's Health Insurance Program, and allow the State to expand SCHIP coverage.

With the current economic crisis, this bill could not be more timely. As parents lose their jobs, they and their children will lose their health coverage. Nationwide, the rise in unemployment has caused 1.6 million children to lose employer-based health insurance. In Rhode Island, the unemployment rate is now in double digits at 10 percent. Behind this number are real families who are struggling to pay their medical bills and whose children may be forced to forgo doctor visits, medicines, and immunizations they need to lead healthy, productive lives.

Recently, Rhode Island was forced to make the very difficult choice of dropping coverage for 1,300 children who are legally here because there was no Federal match. For many years, the State had provided coverage for these children using State funds alone. This bill could result in expanded coverage by providing Federal funds for these children who are legally here within the United States.

It also includes important provisions to increase enrollment of people who are eligible for both the CHIP funding and Medicaid funding. The bill allows States to use Social Security numbers to verify citizenship, provides grants to States for outreach activities, and provides bonus payments for the cost of increased enrollment in Medicaid.

However, I must point out, Rhode Island may not be able to fully benefit from these latest provisions as they relate to Medicaid. In the waning hours of the Bush administration, the State agreed to an unprecedented cap on total spending. The cap is based on projections that do not factor in potential increases in Medicaid enrollment resulting from this legislation. As a result, the cap could prevent the State from taking up the option to cover legal immigrant children and pregnant women and could discourage the State from renewing its outreach efforts, even though these were longstanding policies in the State prior to the economic downturn. I have strong concerns about the cap because there are too many unknowns about how it would interact with both this bill and other efforts to expand Medicaid coverage.

States are struggling to grapple with rising health care costs, enrollment is increasing, and indeed the Federal Government, businesses, and families are

also burdened by rising costs and the absence of any discernible health care system. It is clear there can be no economic recovery in the long term unless we at last confront the critical challenge of comprehensive health reform. The time has come to guarantee affordable, quality health care to all Americans. This bill is an important step forward and a downpayment on this effort.

Let me finally emphasize how critical this bill is to the children's health care program. It will dramatically increase the share that Rhode Island is entitled to and it will prevent the eleventh-hour scramble to fund shortfalls in the State. On the Medicaid side, I hope the State is able to use these additional authorities to enroll more children who could, in fact, receive help from this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Madam President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 46, offered by Senator KYL, is the pending amendment.

AMENDMENT NO. 77

Ms. MURKOWSKI. Madam President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 77.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI], for herself, Mr. SPECTER, and Mr. JOHANNS, proposes an amendment numbered 77.

Ms. MURKOWSKI. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the development of best practice recommendations and to ensure coverage of low income children)

At the appropriate place, insert the following:

SEC. ____. DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS AND COVERAGE OF LOW INCOME CHILDREN.

(a) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(b) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601(a), is further amended by adding at the end the following new paragraph:

''(12) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of October 1 of 2010 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, no payment shall be made as of April 30 of the following year, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the Secretary establishes that the State is in compliance with such requirement, but in no case more than 12 months.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a p=0.05 level) less than 80 percent of the low-income children who reside in the State and are eligible for child health assistance under the State child health plan.

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary of Health and Human Services to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(12)(B) of such Act, as added by paragraph (1)).

Ms. MURKOWSKI. Madam President, I am speaking on the floor about this very important issue of how we provide for the best coverage, the maximum coverage, for the rising number of Americans without health insurance because we all recognize this is a problem. According to the most recent data, 47 million Americans today are not receiving proper medical care, so CHIP comes in—the Children's Health Insurance Program.

This program has been an exceptionally important means of providing the most vulnerable of our population—our children—with health care. And we all know that when our children are sick, it is not just the child who is impacted, it is the whole family—it is the parent who misses time from work to care for their child because they don't want to take their child to school for fear that the bug will spread. So the social and economic impact of a sick child goes well beyond the need for cough syrups and bandaids, and the impact in my State of Alaska is felt even greater within our Native communities.

I think it is fair to say SCHIP has always been a bipartisan bill. Since its inception back in 1977, with the then Republican-controlled Senate, working with Democrats in Congress and a Democratic administration, we were able to ensure that the poorest of our children have access to health insurance. Since then, we have seen continued success with this program, with Republicans, Democrats, and Independents alike rejoicing in a health care bill that has broad bipartisan support and that has been able to effectively cover our poorest children.

I supported both of the CHIP bills that passed in 2007. It expanded the SCHIP eligibility to 300 percent of the Federal poverty level—the FPL—which is $66,600 for a family of four. But I will tell you I think the bill we have in front of us is not even close to what we passed in 2007. And quite frankly, I am not sure why a bill that enjoyed such broad bipartisan support was gutted and filled with provisions which, as we have seen on the floor today and yesterday, have been pretty controversial. I am perplexed that the decision has been made to go in a different direction than the direction we took when we overwhelmingly passed this legislation before.

There are some provisions, particularly with regard to ensuring that our lowest income children are covered first, that have made this bill difficult for some to support, even for some of those Senators who spearheaded the SCHIP bills in the past. So I would like to offer an amendment that I believe will improve this bill in a significant way and will reassure many of us who are concerned about how we ensure that the lowest income children will be covered.

I am offering an amendment to the CHIP bill that has been cosponsored by

Senator SPECTER, Senator JOHANNS, and Senator COLLINS. Senator SPECTER, Senator COLLINS and myself were all on the previous SCHIP bills. Senator JOHANNS, of course, is new to the Senate but a former Governor.

Let me describe it quickly, briefly, because this is a pretty simple amendment. You might say it sounds pretty similar to what we had before us in the past, and you would be correct. The amendment includes three basic principles that I believe are essential to the continued success of the CHIP program.

First of all, it says we need to know and we need to have published information on how States are addressing the best practices for insuring low-income children—those children from families who are earning less than 200 percent of the Federal poverty level.

So let's figure it out. We want to know, we need to publish it, we need to accumulate the data, as to what States are doing to make sure they are covering the poorest children. When we know what it is that other States are doing to be successful, let's share that with other States so they, too, can use similar types of approaches to make sure we are not losing any of these children through the cracks; that we are not overlooking them. Let's share these best practices.

The second piece of this amendment says we also need to know and have published information on what factors are attributing to kids over 200 percent of FPL that are enrolling in their State CHIP. Of course, this goes back to the crowdout issue that has been discussed a great deal on the floor this afternoon. What is it? What are the factors? Let's know and understand what it is that would be causing those families who may have private insurance—what is causing the push then to enroll in their State's CHIP. Again, let's try to understand better what is going on.

I can't imagine there is anything controversial with either the first or second part of this amendment.

The third part of the amendment says that if a State wants to exceed 300 percent of the Federal poverty level for CHIP, they will have the flexibility in working with the Secretary of Health and Human Services to ensure that the State first demonstrates an enrollment of at least 80 percent of the children below 200 percent of FPL. So we are saying: OK, if you want to go above 300 percent, you are certainly able to do so, but please first demonstrate to us that you have covered 80 percent of your children who are below 200 percent of the Federal poverty level.

Now, we had some target language out here earlier, and there was actually target language in both CHIP I and CHIP II. This standard, if you will, of 80 percent, is a much less rigorous and, quite honestly, a much more obtainable standard. If you look through the list of States, there are various FPLs for each State and then what their percentages are in terms of how many of their children they are enrolling. I think, if you look to the State of Michigan, you are at 200 percent of FPL. In your State, you are doing actually very well in terms of enrolling your children. You are about 90 percent. So you are in pretty good shape.

So for purposes of what I am laying out here, the State of Michigan is absolutely unaffected. You can move forward. You don't have any concern because you have done the job of insuring at least 80 percent. In fact, you have gone to 90 percent.

So this is a target we are setting that I believe is reasonable and achievable and workable. So what we are asking, again, is if you are going to exceed 300 percent of FPL—if Michigan wanted to go above 300 percent, you could because you have demonstrated that you have covered at least 80 percent of your children below the 200-percent Federal poverty level. If you haven't, then no Federal payment match will be made for those individuals over 300 percent FPL, unless and until the Secretary establishes that the State is in compliance with these regulations in an amount of time not to exceed 12 months. Again, if you are a State that has already established you have covered that target rate of 80 percent of your kids, you could go above the 300 percent level.

My amendment is pretty straightforward. It allows the Secretary to ensure that what we have is a built-in safeguard—a safeguard measure—for at least 80 percent of the poorest of our children to be enrolled in SCHIP or a Medicaid expansion program before children from higher income families—those earning above 300 percent—are enrolled. This amendment provides flexibility to the States in working with the Secretary of Health and Human Services to ensure that we are protecting our poorest kids by insuring them before we expand to higher income populations.

I submit this is a very reasonable provision. Part of the components of this amendment we have seen in CHIP I and CHIP II, which a broad bipartisan group of Senators voted to back. I think it is reasonable, I think it would be a good improvement to this bill, and I think it would help to allay some of the concerns that we are not working first to address the enrollment of at least 80 percent of our more needy children.

With that, I would certainly encourage my colleagues to look carefully at my amendment, I ask for their support, and I yield the floor.

Mr. BAUCUS. Madam President, there is not a time agreement, so I don't have to yield, but as a courtesy, as chairman, I yield for the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I thank my colleague from Montana and congratulate him for his leadership on this very important piece of legislation.

I come to the floor to offer my strong support for the Children's Health Insurance Program reauthorization. This is legislation that has come out of the Finance Committee which Senator BAUCUS chairs. It will ensure that 13 million American children will either maintain health care coverage or receive that coverage for the first time.

We worked very hard in the committee to develop the best bill we could. It is a major step forward for our Nation. As many Americans face grave economic uncertainty, it is critical we move quickly to pass this legislation and send it to President Obama for his signature.

The State Children's Health Insurance Program, or CHIP, represents a partnership between the States and the Federal Government. It works by providing States with an annual allotment at an enhanced matching rate for health care coverage for low-income residents. Since CHIP was created in 1997, it has been extremely successful. In fact, despite the fact that private coverage has eroded significantly since CHIP was created, many health care experts believe this program is the primary reason the percent of low-income children in the United States without health coverage has fallen by about a third during that same period.

CHIP is particularly important to my home State of New Mexico. The people in New Mexico have a very difficult time acquiring health insurance. We remain the second most uninsured State in the Nation. Currently, more than 30,000 New Mexicans depend on CHIP for their health coverage. Under this legislation, my State would receive $196 million for CHIP this year. This represents a 277-percent increase over the State's current CHIP allotment. This represents the fourth largest percentage increase of any State in the country.

With this additional funding, tens of millions of additional low-income New Mexico children—and adults—would have access to health care for the first time. This legislation also corrects an inequity in the Federal law that, despite our very high uninsurance rate which we have in New Mexico, this inequity has prevented New Mexico from covering many of our children through Medicaid. It has required our State to return more than $180 million to the Federal Government since 1997.

The bill also includes modest improvements to requirements that have made it very difficult for New Mexicans to prove they are in fact American citizens and, therefore, eligible for Medicaid. The State estimates that approximately 10,000 New Mexico children

who are currently U.S. citizens have been denied health insurance because of these requirements. I have offered an amendment to make further improvement in this provision to ensure that U.S. citizens are not inappropriately denied the health insurance to which they are entitled.

I am glad to report that the legislation also includes a provision I have championed for many years that will allow States to automatically enroll children in CHIP if they have already been deemed eligible for another public program with comparable income standards, such as the National School Lunch Program or the Food Stamp Program. This provision is often referred to as "express lane," and it would help States use technology to cut through the bureaucracy that all too often prevents Americans from receiving health benefits. Health experts tell us that express lane is one of the most important ways we have to reduce the number of uninsured Americans.

I also offered an amendment to clarify several of the express lane provisions in the bill. It is my hope that can be accepted as well.

The bill contains many other provisions that are important to me, such as a mandate to provide dental coverage for children receiving CHIP benefits, as well as a wrap provision, which I proposed during the committee markup, to allow children with private coverage who do not receive dental benefits to receive such benefits through CHIP.

The legislation also includes very significant improvements in the ability of States to perform outreach enrollment to Native American populations, as well as providing outreach funding to Promotoras and other community health workers. These people play a critical role in my State and throughout the country in reaching some of the most isolated populations.

Finally, the bill also protects the provision of mental health services to children.

As I mentioned earlier, I have worked hard on this bill, as have many of my colleagues. It is critical we move swiftly to get this to the President for his signature. Given the urgency we face, I am surprised by some of the opposition that has been expressed by my colleagues on the other side of the aisle. As I read this legislation, it is very similar to the bills that were strongly supported by both Democrats and Republicans in the 110th Congress. These bills passed with a filibuster-proof majority here in the Senate. Provisions in the bill before us today regarding income eligibility, regarding adult coverage, and the other issues being raised, remain more or less the same as in the bills that were strongly supported by Republicans in the last Congress. In fact, the most significant difference between the bill we are now considering and the bill we passed last year is the addition of a State option to remove the current 5-year ban for health care coverage for legal immigrant children and pregnant women. I hope the optional coverage for legal immigrants is not so objectionable to some of my colleagues that they would walk away from the millions upon millions of American children who receive care through this program.

Americans are struggling and our economy is in a very serious situation. The bill before us is urgently needed by many in this country. I hope my colleagues will support this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 58

(Purpose: To amend the Internal Revenue Code of 1986 to provide a revenue source through the treatment of income of partners for performing investment management services as ordinary income received for performance of services and reduce accordingly the tobacco tax increase as a revenue source)

Mr. WEBB. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 58.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] proposes an amendment numbered 58.

Mr. WEBB. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, January 27, 2009, under "Text of Amendments.")

Mr. WEBB. Madam President, I offered this amendment yesterday first by saying, and I would reiterate today, that I firmly support the legislation that is before us. I have a great sense of appreciation for the Senator from Montana for all the work he and his staff have done to bring this legislation to the floor. I offer this amendment in an attempt to resolve what I believe are two issues of fundamental fairness. They go to how this program is going to be paid for.

The first is that the offset being used right now, the 61-cent-per-pack increase on cigarette tax, I believe—as does the Senator from North Carolina, as well as other Members I have discussed this issue with on the floor—that this is unfairly singling out one industry that has already been heavily taxed. Right now, tobacco is federally taxed at 39 cents per pack for this program and all 50 States and the District of Columbia also impose an excise tax on top of that tax. In Virginia that is a 30-cent tax on top of it. Our States, which are also undergoing a lot of difficulty in their economies, are considering raising that tax as well.

My grandmother used to say you can't get blood out of a turnip. I think we are about at the point with this particular industry, that we are getting as much out of it as possible, in a way that is inequitable to the industry—and not just to the industry but, as I mentioned yesterday, according to the Congressional Research Service, cigarette taxes are especially likely to violate horizontal equity. They are among the most burdensome taxes on lower income individuals, and so we have something of an anomaly here where we are levying a tax on a large proportion of people who are economically challenged in order to assist, with this CHIP program, others who are economically challenged. That to me seems a little bit anomalous.

The second issue of fundamental fairness, the "pay for" that I proposed in this amendment, is to tax carried interest, which is compensation based on a percentage of the profits that hedge fund managers make. My legislation would tax their compensation as ordinary earned income rather than the capital gains tax they presently pay.

This idea is not my own. President Obama campaigned in favor of changing the carried interest tax rates during his campaign. Yesterday I read from a variety of editorials of major newspapers. I will not go through those in detail, but the Washington Post in a masthead editorial 2 years ago said:

This is a make or break issue for Democrats. If they can't unite around this issue then they aren't real Democrats.

The New York Times, in a masthead editorial, said:

Congress will achieve a significant victory for fairness and for fiscal responsibility if it ends the breaks that are skewing the Tax Code in favor of our most advantaged Americans.

USA Today and the Philadelphia Inquirer had masthead editorials. Even the Financial Times, which is a conservative newspaper, editorialized:

This repair should be done at once.

That was 2 years ago.

In my view, taking this particular tax break, which characterizes earned income and calls it a capital gains with a much reduced tax, is an imbalance in our system. I am all for people making money. The American system is founded on entrepreneurship. But I am also for people paying their fair share.

I proposed this amendment that would provide partial relief from the cigarette tax. I still believe it would be a good amendment, but I also can count votes and I do not think this amendment has a chance of passing, frankly. I know the Senator from Montana has questions about it. I would appreciate very much if the Senator from Montana could tell me his hesitation on this so we might work it out.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, first, I strongly commend and applaud the Senator from Virginia. He is doing what all good Senators do. He is representing his State. He is quite concerned about the 61-cents-per-pack tobacco tax to be levied, additional tax to be levied on cigarettes. Certainly his State has a big interest, as do several other State. I commend the Senator for what he is doing.

However, I must point out that this same provision passed this body twice before. It passed the House of Representatives twice before—both bodies—with large margins. It is, I think, understood by those who support the Children's Health Insurance Program that this is the proper way to pay for that program.

The alternative method of financing which the Senator recommends is one which I think many Members of this body, including myself, believe should be addressed. Those editorials to which the Senator referred have more than a grain of truth in them. Carried interest is something that must be dealt with and I think it will be dealt with in the context of tax reform later this year or next year. But clearly we will have tax legislation this year. We have to have tax legislation this year because of the expiration of certain very important provisions.

Add it all together, I commend the Senator but say to the Senator I do not think this is the proper time and place to bring up a very important issue, namely carried interest. But there soon will be a time that we will take up that very important issue. The Senator has my assurance that I look at it extremely seriously. I have spoken about this publicly, by the way, as have many others. But like a lot of issues, there is a time and place for everything and this is not the proper time and place but soon it will be. I commend the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 58 WITHDRAWN

Mr. WEBB. I appreciate the Senator's comments. Again, I would like to emphasize my respect for the leadership that he has shown in our caucus on all of these issues. I would also say, in my view, in terms of the tobacco industry, this is a Virginia issue, but in terms of both of these issues I believe they are larger issues of equity.

I have a concern for people across the country on both of those issues, but I do take the Senator's point. There is a time and place for everything. I would like to have seen the pay-for on this bill mitigated in terms of people who use cigarettes. I am a reformed smoker, like a lot of people in this body. I do not encourage people to smoke. But it is a legal activity, and there are certain protections that all businesses deserve.

At the same time, I do take the Senator's point. I appreciate his comments and his earlier remarks about the issue of carried interest. Keeping strongly in mind that we need to bring this legislation to a prompt conclusion, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I want to correct the RECORD. Not long ago I misspoke. I said a moment ago the substance of the Kyl amendment was not in the two previous children's health insurance measures that passed this body.

I was incorrect. The substance of the Kyl amendment was in the two bills to which I was referring. Why was the substance of the Kyl amendment in those two bills? Very simply because they were a response to the directive of President Bush on August 17. What was that, the August 17 directive? It basically was a directive by the President to States to develop policies to make it very difficult for people to leave private health insurance to move into the Children's Health Insurance Program.

That was Draconian. Frankly, it was so Draconian that we in the Congress adopted the substance of the Kyl amendment to moderate that directive because the directive was so Draconian. Well, times have changed. We have a new President now; there is not going to be an August 17 directive. It certainly will not be enforced. So there is no need for the so-called section 116 provision to which the Kyl amendment is referring.

So even though I misspoke; it was in those bills, I still firmly believe because of the new election, a new President, the August 17 directive will not be enforced, that we do not need that moderating language in the prior bill.

Accordingly, I will still vote for the underlying legislation.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. I rise in strong support of the SCHIP legislation. I find it amazing that we have spent so much time debating it. This SCHIP legislation would help more than 4 million children in this country get the health insurance they desperately need. But I should point out it leaves approximately 3 million kids still uninsured.

As you well know, the United States of America remains the only major country in the industrialized world where this debate would take place. We are spending weeks discussing an issue which every other country in the industrialized world has long resolved.

So if we pass this piece of legislation tomorrow, and I hope we will, 3 million kids still remain without health insurance. The common sense of insuring children is apparent to everybody because when kids are insured, when parents are allowed to bring their children to a doctor, when kids have access to medical care in a school, professionals can pick up the medical problems kids have so 10 years later they do not end up in a hospital with a serious illness and we spend hundreds of thousands of dollars trying to cure a child whose problems could have been detected when they were little.

This really is a no-brainer. Clearly, what we must do as a nation is move to a national health care program guaranteeing health care to all of our people, but a step forward will be passing this SCHIP legislation.

I think the American people are more than aware that our health care system is substantially broken. They understand not only do 46 million Americans have no health insurance, they understand even more are underinsured. They understand the absurdity of tying health care to jobs because when we lose our jobs, then we lose our health care.

I hear some of my friends saying: Oh, the American people do not want government health care. Well, you know what. Read the polls.

The American people do believe the U.S. Government should take the responsibility of providing health care to every man, woman, and child, and I hope as soon as possible we, in fact, do that. But not only do we have 46 million Americans, including many children—and that issue we are trying to deal with right now—who have no health insurance, what we are also doing, because of the waste and inefficiency in our current system, is we end up spending far more per capita on health care than the people of any other country.

I know the Presiding Officer is more than aware that General Motors spends more, for example, on health care than they do on steel in building automobiles. What kind of sense is that? So I hope, at a certain point—and I hope soon—we as a nation end up finally saying health care is a right of all people. The absurdity that one child in this country does not have health insurance is an international embarrassment. Let's go forward, and let's develop the most cost-effective way we can provide health care to all our people.

Now, here is the irony: that even if tomorrow we guaranteed health care to all our children, even if the next day we guaranteed health care to all our people, do you know what. That does not mean people are going to be able to find doctors or dentists. Our infrastructure, especially in primary care, is in such a bad condition that we need to

revolutionize primary health care in America.

We just had a hearing, chaired by Senator HARKIN, who has been very active in the whole issue of preventative care in the HELP Committee. This is unbelievable. We had a physician who is a professor of medicine at Harvard Medical School, in a State where presumably they have universal health care, and she cannot find a primary health care physician. A professor of medicine at Harvard Medical School cannot find a primary health care physician. That is how absurd this situation is.

We have over 50 million Americans today who do not have regular access to a physician. We have many more who cannot find a dentist. Meanwhile, if we were not depleting the medical infrastructure of Third World countries, bringing in doctors and dentists from those countries, our entire primary health care system would be in even worse shape than it is right now.

COMMUNITY HEALTH CENTERS

Madam President, I do wish to say a word about legislation we will be introducing next week—I am proud to tell you we have 15 original cosponsors; I hope we will have more in the next few days—which essentially begins to address the crisis in primary health care by significantly expanding a program Senator KENNEDY developed in the 1960s which has widespread support—not just from Democrats but from Republicans, not just from President Obama, who was a cosponsor of similar type legislation last year, but from Senator MCCAIN, who talked about community health centers during his campaign; and President Bush was very supportive of the concept.

So we have widespread support, and now is the time to go forward and say we will have a federally qualified community health center in every underserved area in America. By expanding the number of FQCHCs from about 1,100 to 4,800, at the end of the day, by providing primary health care, dental care, mental health counseling, and low-cost prescription drugs, do you know what we do. We save money. We save substantial sums of money because we keep patients out of the emergency room, we keep patients out of the hospital because we are treating their illnesses at an early stage rather than allowing them to become ill and then spending huge sums of money when they end up in the hospital.

I am very proud we have Senator KENNEDY as a cosponsor, and Senators DURBIN, HARKIN, SCHUMER, KERRY, BOXER, INOUYE, LEAHY, MIKULSKI, CASEY, CARDIN, BROWN, BEGICH, BURRIS, and WYDEN. I hope we will have more cosponsors.

This is legislation we can pass. This is legislation which has historically had bipartisan support because we all know primary health care—giving people access to doctors, dentists, low-cost prescription drugs—is the way to not only keep people healthy, it is the way to save billions and billions of dollars.

Let me conclude by saying I hope very much we support this SCHIP legislation. It will save us money by enabling kids to get to the doctor before their problems become much more acute. It is the right thing to do, and it is the beginning of the United States trying to join the rest of the industrialized world in saying health care must be a right of all people—all people—rather than a privilege of just the few.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

AMENDMENT NO. 79

Mr. BROWN. Mr. President, I ask unanimous consent to set aside the pending amendments and call up amendment No. 79.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN] proposes an amendment numbered 79.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strengthen and protect health care access, and to benefit children in need of cancer care or other acute care services)

After section 622 insert the following:

SEC. 623. ONE-TIME PROCESS FOR HOSPITAL WAGE INDEX RECLASSIFICATION IN ECONOMICALLY-DISTRESSED AREAS.

(a) RECLASSIFICATIONS.—

(1) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009, and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Vincent Mercy Medical Center (provider number 36-0112), such hospital is deemed to be located in the Ann Arbor, MI metropolitan statistical area.

(2) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009 and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Elizabeth Health Center (provider number 36–0064), Northside Medical Center (provider number 36–3307), St. Joseph Health Center (provider number 36–0161), and St. Elizabeth Boardman Health Center (provider number 36–0276), such hospitals are deemed to be located in the Cleveland-Elyria-Mentor metropolitan statistical area.

(b) RULES.—

(1) Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SEC. 624. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—

(1) TREATMENT.—Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)) is amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by striking the semicolon at the end and inserting '', or''; and

(C) by inserting after subclause (III) the following new subclause:

''(IV) a hospital—

''(aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer,

''(bb) that is a free standing hospital, the construction of which had commenced as of December 31, 2008; and

''(cc) whose current or predecessor provider entity is University Hospitals of Cleveland (provider number 36–0137).''.

(2) INITIAL DETERMINATION.—

(A) A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause unless the hospital petitions the Secretary of Health and Human Services for a determination of such qualification on or before December 31, 2011.

(B) The Secretary of Health and Human Services shall, not later than 30 days after the date of a petition under subparagraph (A), determine that the petitioning hospital qualifies as a hospital described in such subclause (IV) if not less than 50 percent of the hospital's total discharges since its commencement of operations have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

(b) APPLICATION.—

(1) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a).

(2) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), such determination shall apply as of the first full 12-month cost reporting period beginning on January 1 immediately following the date of such determination.

(3) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which such a determination has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(4) REQUIREMENT.—A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of

the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

SEC. 625. RECONCILIATION AND RECOVERY OF ALL SERVICE-CONCLUDED MEDICARE FEE-FOR-SERVICE DISEASE MANAGEMENT PROGRAM FUNDING.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for the immediate reconciliation and recovery of all service-concluded Medicare fee-for-service disease management program funding.

Mr. BROWN. Mr. President, this amendment would accomplish two important health care goals. It would correct a mistake in Medicare payments to five hospitals in my State. It would correct mistakes that jeopardize access to critical health care. It would correct mistakes that threaten the jobs of nurses and other hospital personnel in areas of Ohio that absolutely cannot afford more job loss. It would correct mistakes that hamstring hospitals that should and must provide quality health care but are receiving payments that reflect their costs.

My amendment would also enhance the ability of a NIH-designated comprehensive cancer center in my State to offer hope to patients who are fighting the most serious and deadly forms of cancer.

Eleven cancer hospitals across the country already receive reimbursement from Medicare that reflects the costs of treating patients who have exhausted standard treatments and who are battling against steep odds to beat cancer.

These cancer hospitals deliver hope and results. They advance cancer research. They establish protocols for addressing the most aggressive forms of cancer.

The nonprofit University Hospitals system in Cleveland, OH, has invested in establishing a 12th cancer facility of the same caliber of those who today receive special reimbursement from Medicare.

The Ireland Cancer Center is already NIH designated, and, as I said, it is being expanded and enhanced to maximize its ability to contribute to the well-being of cancer patients and to the science of cancer care.

My amendment would ensure that the Ireland Cancer Center can fulfill its mission and promote the public health. I know the amendment I am offering will not only benefit Ohio and Ohioans, it will benefit our Nation's health care system and our Nation's efforts to combat cancer.

My amendment is fully paid for. In fact, it is more than paid for. Let me explain how it would be financed. There have been more than a half a dozen programs testing disease management programming and, to date, there have been very few successful outcomes. The fact that not only have these results not borne fruit but that, amazingly, the program participants are still drawing a benefit from the fees they charged was neither the Congress's nor the agency's intent when promulgating these initiatives.

The Centers for Medicare & Medicaid Services estimates that the Government is owed more than $750 million from these programs—$750 million—and, in fact, the most recently concluded program, the Medicare Health Support Program, has an outstanding price tag of more than $80 million due to the program participants' failure to meet the statutory savings and quality performance targets.

The bottom line is this: There are Medicare contractors who did not meet performance goals. They are holding onto taxpayer dollars instead of returning those dollars to the Federal Government. That is how my amendment is paid for, and it is paid for and then some.

Instead of paying for cancer care, we are letting private contractors earn interest on dollars they should never have had in the first place. That is simply ridiculous. My amendment would recoup these tax dollars to the great benefit of the public health. I ask my colleagues on both sides of the aisle to support it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Montana, the chairman of the committee, is recognized.

Mr. BAUCUS. Mr. President, the amendment of the good Senator from Ohio would do two things. It would allow five hospitals to receive geographic reclassifications for the purpose of receiving higher Medicare reimbursements; and, second, it would provide a prospective payment service exemption to a cancer facility, which would make the hospital eligible for extra Medicare reimbursement.

While I am sympathetic with the problems the Senator alludes to with respect to, as I understand it, six facilities in his State of Ohio, the fact is, these are so-called rifle shots. This is going to affect the reclassification of five hospitals and change the reimbursement system for one other.

I would like to help out, but I must tell my good friend from Ohio, there are over 50 other requests from other Senators for reclassifications in their home States. If we accept this, Katy bar the door. I can tell the Senator from Ohio, I am thinking of one Senator right now who talks to me constantly—constantly—about the reclassification of hospitals in his home State, and there are many others.

The classification issue in this country is nuts. It is how we pay hospitals based upon—GPCI is the common phrase of what it is called in other formulas for hospitals. And it does not make a lot of sense. It is disparate. It is confusing. It is a mixture. It is not a fair way to reimburse hospitals. So we will be taking this up in health care reform legislation later on this year. And we have to. That is the proper time and place to deal with it.

The same is also true for reclassification of cancer hospitals. That, too, must be taken up. This Congress, frankly, is not competent to decide which hospitals receive which reimbursements. There are so many hospitals in this country that it is getting to the point where we are, as Members of the Senate, asked to decide what the proper reimbursement rate should be for individual hospitals. That is just hospitals. Think of all the other individual, separate medical reimbursement questions we are asked to make. We are not competent as Senators to make that decision.

It is too complicated, and it is getting worse every year—worse every year—because Senators and House Members, appropriately representing their States and their congressional districts, come to the committees of jurisdiction and say: Do this for our State, do this for me, and so forth, as they appropriately should. But this has been going on for year after year after year after year, and it is getting more and more and more complicated. It is out of hand, and it is just one reason why our health care system in this country is in such disarray.

We do not have a health care system in this country. It is a conglomeration, it is kind of a hodgepodge of individual providers, patients, different groups, medical equipment manufacturers—kind of a free market atmosphere—just asking for help for themselves, and they come to Congress saying: Do this for me because I am not being treated fairly.

So I say to my good friend from Ohio, there is a proper time and place to do this to address geographic reclassifications. However, this is not the time. Once we start going down this road on this bill, it is Katy bar the door. That is another reason we shouldn't go down this road because we didn't pass this children's health insurance legislation pronto, right away, with the House, and get it to the President's desk. The President very much wants us to get this legislation passed very quickly.

I say to my good friend from Ohio if we start going down this road and adopting amendments to reclassify hospitals in one State, virtually every other Senator is going to come up here and say, What about my State? You have to do it for me too. Then it is going to open up doors even more.

I urge us all to refrain from going down that road right now. Let's not allow any of these—there are no rifleshots at this bill. None. These are rifleshots. There are none in this bill, with the exception of a couple hospitals in Tennessee that were included

in the last children's health insurance bill 3 years ago. It was a commitment I made to those two Senators from that State that they would be in this bill too. That is the only commitment I have made. A deal is a deal. I told them back then we would do it for various reasons, but other than that, there are no rifleshots in this bill and I think it would be wrong to include more and go down this road of reclassification.

I urge the Senator to either withdraw his amendment or I will urge Senators not to vote for it.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I thank the chairman of the Finance Committee and I appreciate his candor. I do plan to ask unanimous consent to withdraw the amendment. We both want to see this children's health insurance program pass quickly. We wish to pass it today; we hope we can pass it tomorrow for sure and get it to the President. It will have strong bipartisan support as it did last time when President Bush vetoed it. We know President Obama will sign it. I want to get it to him as quickly as possible. I ask Senator BAUCUS on the wage index issue and on the cancer hospital, if we could work together in the future.

Mr. BAUCUS. Absolutely. I make that commitment to the Senator, because he makes a good point. There are a lot of hospitals in similar situations.

Mr. BROWN. As I said, this hospital in Cleveland is NIH approved, so it should be near the front of the line when we do fix this in the future.

AMENDMENT NO. 79 WITHDRAWN

Mr. President, I ask unanimous consent to withdraw amendment No. 79.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 5:30 p.m., the Senate resume consideration of the Kyl amendment No. 46; that the Senate then proceed to a vote in relation to the Kyl amendment, with no intervening action or debate; that upon disposition of the Kyl amendment, the Senate proceed to a vote in relation to the Murkowski amendment No. 77; that there be no amendments in order to the Kyl or Murkowski amendments prior to the votes; and that there be 2 minutes of debate equally divided between the two votes.

I amend that to say the balance of the time between now and 5:30 to be equally divided and then 2 minutes for the Murkowski amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 46

Mr. KYL. Mr. President, that leaves about 6 minutes. What I wish to do is speak for about 3 minutes and then reserve the balance of my time and then close out the debate, if that would be all right.

Mr. President, again, to remind my colleagues, this amendment is designed to deal with the problem of crowdout, which the Congressional Budget Office says will affect 25 to 50 percent of the people on SCHIP. In fact, about 2.4 million people would leave private health insurance coverage and go to the public coverage of SCHIP. There are a lot of problems with that, as we have discussed before.

The main argument I have heard is that the amendment I have offered here would affirmatively restrict coverage and get kids off the rolls. There are two answers to that. No, it wouldn't. In fact, it has exactly the opposite effect; it would ensure coverage. Secondly, it is not my language. This is language that was written by House and Senate Democrats. Every single Democrat—in fact, every single Republican who voted for this legislation last year that the President vetoed has already voted for the precise language of my amendment. I didn't change a word. I simply took the language the chairman and others in the House had drafted to deal with the crowdout and put it into this bill.

It is actually very minimal language. The official description we have is as follows: Provisions to prevent crowdout. It removes section 116—the underlying bill removes section 116 from the bill that was passed last year. That section required that all States submit a State plan detailing how each State will implement best practices to limit crowdout. It requires the GAO to issue a report describing the best practices and requires the Secretary of HHS to ensure that States which include higher income populations in their SCHIP programs cover a target rate of low-income children. In other words, as I said, ensuring coverage rather than restricting coverage.

So the bottom line is it is the same language that was developed by the Democrats in the House and the chairman last year. Every person who voted for the bill last year has voted for this. There is nothing wrong with it. I wish it would go further. But I think we have to acknowledge that this is a very real problem. One of the reasons it is a real problem is because, unfortunately, some of the States are adding more and more higher income kids. Now, we understand why: because it is easier to find them and cover them, and that is why the State of the Presiding Officer, for example, covers kids up to 400 percent of poverty. It is easier to find those populations. The tough kids to find and get involved in the program are the very low income, at the poverty level, or 200 percent of poverty. That is what we should be striving to cover.

What our amendment does is to simply ensure that as many of the kids who have private insurance as possible aren't going to lose their private insurance, thus encouraging coverage of higher and higher income kids.

Let me reserve the last 3 minutes of my time to see if there is anything else I think I need to respond to.

I urge my colleagues to support this amendment. It is the same language they have all already voted for. It certainly is not going to do any harm, and I think it could do a lot of good.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I oppose the Kyl amendment. Senator KYL has mentioned that the provision which includes the substance of his amendment was in the prior two bills, in the 2007 bills, and he is correct. The Senator is correct. I voted for those, as did many other Senators. However, the circumstances were different back then. That was in response to what is called President Bush's August 17 directive. That August 17 directive, in my judgment, was a Draconian effort by States to essentially, in effect, not let children leave private health insurance for the Children's Health Insurance Program. So Congress, as a response to that directive, enacted this section we are talking about here, section 116. However, that directive was never put in place. We have a new President who is certainly not going to issue a similar directive, which makes the legislation we put in earlier—legislation to moderate the August 17 directive—not necessary.

So that is why I think it makes sense to vote for the bill, but not put this unnecessary language back in. It is unnecessary because the August 17 directive is no longer operable.

Let me also say a few words about the Murkowski amendment, which is the second amendment we will be voting on. The Murkowski amendment would take Federal funding away for kids above 300 percent of the Federal poverty level if the State cannot prove that at least 80 percent of the kids below 200 percent of poverty are covered. States cannot be held accountable for things beyond their control.

This amendment would make States responsible for things such as the private insurance market, the percent of employers offering health coverage, and the overall economy—matters which are beyond the control of States. These factors and others contribute to the level of uninsured kids. States should be encouraged to cover as many low-income kids as possible, not penalized for doing so. This amendment draws an arbitrary line between 200 percent and 300 percent of poverty. I don't think that makes sense.

The Children's Health Insurance Program was started as a joint partnership between States and the Federal Government—a joint partnership. We want to continue this partnership, not limit State flexibility, as was the intent of

the original CHIP legislation. That is the hallmark of the Children's Health Insurance Program.

The Murkowski amendment might sound reasonable, but the truth is that it jeopardizes health care for kids. Setting arbitrary targets for States to meet is unfair, it is inappropriate, in a program designed to help kids—not discourage kids but to help kids—and to get them to the doctor visits and the medicines they need.

I urge Members to vote against both the Kyl amendment, which will be the next vote, and the Murkowski amendment, which will be the subsequent vote.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I wonder if the chairman would respond to a question. I am not certain I understood the point with regard to Secretary Leavitt's August 17 directive.

Do I understand that the chairman supports the policy directive of August 17 dealing with crowdout?

Mr. BAUCUS. On the contrary, just the opposite. I do not support it. I did not support it.

Mr. KYL. That is what I assumed was the case. Of course, the August 17 directive was designed to try to deal with the problem we are talking about. It is quite likely that directive is not going to exist, which is precisely the reason for the kind of language that we need to have in this bill that is the Kyl amendment.

The whole point is that without something, either the directive such as Secretary Leavitt issued, or the language that is in the Kyl amendment, you are not going to have any Federal directive with respect to States ensuring that the crowdout effect is kept to an absolute limit. That is exactly why we need to do it. Circumstances are no different than they were 6 months or so ago with respect to the problem of crowdout, except that the problem is getting much worse because we keep adding more and more higher income kids.

As the CBO said, and as the Senator from Kansas noted before, CBO estimates that with regard to the higher income kids, it is about a one-for-one ratio. For every one that you add, you take one away from private health care. That is not something we should be fostering. I don't think any of us intends that result. The only people who would intend that result are those who want to wipe out private health insurance coverage and get everybody on government health care. That is where this is taking us. If that is the real motivation of people, well, at least I can understand it, and this legislation certainly would carry us in that direction. But I haven't heard too many people who are willing to admit that that is what they are trying to do, and I don't think that is what the chairman of the committee is trying to do.

So there needs to be something to deal with the problem of crowdout. If it is not going to be the directive of Secretary Leavitt, then it has to be the language prepared by the House and Senate Democrats when they passed the bill last year that President Bush vetoed. That language is not strong enough, in my view, but at least it does require a study of best practices and it requires the States to show whether they are putting those best practices into effect.

The final provision with respect to that is that with respect to two States and two States only, were they not to do that, they would—there would be a limit on the States of New York and New Jersey as a result of the requirement of the best State practice. The higher income States—and there are two—

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that an additional 15 minutes equally divided be allocated on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I appreciate that. I certainly wouldn't need the half of 15 minutes, but I certainly appreciate that, at least to finish my thought, if not another couple of minutes.

The language that was written last year and that would be in my amendment is that in the higher income States, the low-income kids must be covered at a rate equal to the top 10 States, and if a higher income State fails the test, then it wouldn't receive the payment only for those higher income kids.

So there is no difference between all of the other States and even New York and New Jersey with respect to the lower income kids, but the incentive here is obviously not just to cherry pick the higher income kids but to try to make sure you are covering the lower income kids too.

To conclude my comment, either you go with something such as Secretary Leavitt proposed—and I don't think that with the new administration that is going to remain on the books—or you are going to have to have something such as the language that was prepared by my Democratic colleagues last year which at least minimally deals with the problem of crowdout by identifying the best practices and ensuring that the States at least have some kind of a plan to apply those best practices to prevent this huge problem of crowdout.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, without prolonging this debate, very simply this comes down to whether you support the policy of President Bush's so-called August 17 directive.

The amendment in question is kind of a watered-down version of that August 17 directive. That directive basically discouraged States from providing children's health insurance availability to kids of moderate income. That is what the August 17 directive did. It discouraged States from, at their own discretion, a State option, providing children's health insurance coverage for kids who are above 200 percent poverty and a little higher, which has a tendency to mean those families would not have private health insurance but would have insurance under CHIP.

It is simple: If you are for discouraging kids going to the CHIP, middle-income people—actually, lower than middle income—vote for the Kyl amendment because that basically is a watered-down version of the August 17 directive. If you are for the August 17 directive, you are probably for the amendment. If you are not for the August 17 directive, you are not for the Kyl amendment.

I oppose the amendment. I think most are opposed to it. We should not vote for it. I don't mean to disparage the Senator, but it is a watered-down version of the August 17 directive.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I find this argument curious because the chairman of the committee made the point that the language he and others drafted was in response to the August 17 directive of Secretary Leavitt. This was their answer to it. They did not like it, so they said: We don't like that directive, we are going to propose some language that is going to solve the problem. It is going to solve it his way, not our way. That is the Kyl language. It is the identical language they wrote last year in response to the Leavitt directive. That is the point. They did not like the Leavitt directive, so they wrote this language.

The Leavitt directive is going to be history, I suspect, in short order. They wrote this language because they knew there had to be something to deal with the problem of crowdout. They could not support the Leavitt directive, so they wrote their language.

I am the one who called it watered down. I will take authorship of that phrase. It is watered down from what I would have done is what I meant by that phrase. I am not speaking of it in pejorative terms. I would have done much more. But my Democratic colleagues, in response to the Leavitt directive, said: We don't like that; we are going to write something that is better. And that is what they wrote.

They knew there had to be something in here dealing with crowdout. All I am saying, since the Leavitt directive is

likely to be history soon, No. 1, and No. 2, we do need to do something about crowdout, and No. 3, there isn't any other language they have been willing to adopt, surely language they already voted for that they wrote would be OK.

So anybody who voted for the bill last year, you are flipping. By not voting for this amendment, you are saying: I guess I was wrong then, but I don't see how that could be, given the fact this was specifically designed for the purpose the chairman identified.

I will close with this point. Everybody knows it is a problem. It is real. CBO has identified it. I don't think anybody doubts the problem of crowdout. You either do something about it or not, and I am doing the least thing about it by taking the language proposed by Democrats last year, passed by Democrats last year, and I don't know why the language now, this year, all of a sudden is not any good. What is wrong with the language? That question has never been answered. What is wrong with the crowdout language that was written last year and passed last year? We have to address the problem somehow. This is the least way to do it, in my view.

I urge my colleagues, think about this and think about what you will be voting against if you fail to support the Kyl amendment. I urge my colleagues to support the Kyl amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, very simply, what is wrong with this amendment? What is wrong is we don't know the consequences, what it will do to States. It may have consequences we have not anticipated. Therefore, I think it is not proper.

Second, without belaboring the point, the provision we discussed here was placed in legislation to counteract the August 17 directive. The August 17 directive is now going to be withdrawn; therefore, there is no need for this amendment. That is another reason this amendment is not needed. The August 17 directive is going to be withdrawn totally. That legislation was put in place to moderate the August 17 directive. If there is no August 17 directive, there is no need to moderate; therefore, we don't need the amendment.

I ask unanimous consent—unless the Senator wants to say something—that a quorum call be placed until a quarter of the hour.

Mr. KYL. If I can conclude with a quick point, to the extent we do not use time, we can have it run equally. If that would be part of the unanimous consent request, I would support that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, this is a useful exchange because the chairman has now made the point that the language of the Kyl amendment was written in response to Secretary Leavitt's attempt to deal with the problem of crowdout.

Again, everybody realizes the problem is real. Something should be done about it. Secretary Leavitt did something about it. Most of my Democratic colleagues did not like that, so they wrote the language of the Kyl amendment to respond to that directive.

The Leavitt language is probably soon going to be history because of the new administration. So the chairman of the committee is, in effect, saying now that because that no longer exists, the Kyl language, the language he supported before is not needed because we do not have to top the Leavitt language. But, of course, what that means is there would be no language dealing with crowdout.

I thought almost everybody agreed that it is a real problem and needs to be dealt with and that States should be engaging in the best practices to deal with it. That is all this amendment does, is to require that the best practices be identified and that they apply those best practices to deal with it. It is not much, but it is something, and if the Kyl amendment is not adopted and nothing is done in conference, then there is nothing. There is no Leavitt directive, there is no crowdout language in this legislation. There is nothing to deal with the problem that everybody acknowledges exists. The mere fact that it was written in response to the Leavitt language and that the Leavitt language is no longer going to be extant is an argument for the language, not against it.

Perhaps the amendment would have done better if I had identified the Democratic leadership in the House who actually drafted it, and instead of calling it the Kyl amendment, I would call it the amendment of the Democratic colleague in the House who drafted the language. Don't take the fact that it now has that name to mean it cannot be any good.

I say to my colleagues on the Democratic side of the aisle, this is something they supported before. It was a good idea then and a better idea now given there is not going to be an administration directive to deal with the problem and something has to be done to deal with the problem.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the answer to this is to deal with it in health care reform. Nobody knows the degree to which this is an issue. There is a lot of talk about this issue, especially from the other side. We don't know for sure what the dynamics are that cause or do not cause. We don't know what the consequences are. We don't know how much this really is a problem, frankly. That is why we should have health care reform legislation.

This country does not have a health care system really, just a hodgepodge of different people doing different things. Clearly, we want a solution that is a combination of private insurance as well as public insurance, a uniquely American solution that is a combination of public insurance and private insurance.

There is a very strong role for private health insurance in this country. In fact, the private health insurance industry wants health care reform. When they start to insure 46 million, 47 million Americans who do not have health insurance, it is an opportunity for them. They also want to engage us in insurance reform. They will have to change their business model, but they do agree the time has come to guarantee issue. That is a fancy word saying anybody who applies for health insurance is guaranteed to get it, and there is no discrimination on preexisting conditions, no discrimination based on medical history, no discrimination based on age.

There is a lot we need to do in this country to get meaningful health care reform so everybody has health insurance, all Americans have health insurance, and also so costs are brought down.

I remind my colleagues, we pay twice as much per capita on health care in this country than the next most expensive country. If we keep going down the road we have been going down—that is, not addressing comprehensively health care in this country—then that trend will continue to get worse and worse. That is a cost not just to families and individuals who pay so much more, but it is also a cost to our companies that have to pay so much more for health care than companies in other countries. Third, it is a big cost to our State and Federal budgets. Their budgets are so high because health care costs in this country are so high.

Although this is more than an interesting question, we really do not know the answer to it. We are addressing it by this amendment in a piecemeal way. That is what is the whole problem with what we have been doing for the last 15, 23 years in this country.

I do not mean to be critical of the Senator from Arizona and disparage what he is doing. If we come back with different Senators and different amendments to address another health care issue, it is like a big balloon: push it here and it pops up someplace else. We don't look at it comprehensively. I think the proper place to look, the place to draw the line between public coverage and private coverage is in the context of national health care reform.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, that is a good point. I certainly concur with the chairman that we need to do national health care reform. But that is not an

argument not to deal with crowdout in the very bill that is going to deal with crowdout and in the very bill that we dealt with crowdout last year. In other words, the language of the Kyl amendment is the language that was put in the bill last year. It was not put in comprehensive health care reform. It was put in the SCHIP bill because it is in the SCHIP bill that the problem of crowdout occurs.

The chairman notes that we do not know exactly how big the problem is, but CBO has given a good estimate. It provides that an Institute of Medicine study would describe the best way to measure crowdout. That has to be submitted 18 months after enactment. This is not exactly warp speed. We have 18 months to figure out the magnitude of the problem. GAO would submit a report to analyze the best way to address the crowdout. And then within 6 months of receiving the reports, the Secretary of Health and Human Services would develop recommendations on how to deal with it. We are now 2 years from now, or when the bill passes, and then 6 months after that the Secretary would publish the recommendations, and eventually we get to the point, after the studies, to figure out how big the problem is and what to do about it. The Secretary publishes it, and then the States have the obligation to look at these options and best practices and to institute them, probably 2½ years after this bill becomes law.

So we are not exactly jumping the gun here, and it is far more appropriate to put the language in this bill, the SCHIP bill, as we did last year, than it is to wait for some future health care legislation. I don't buy that argument.

Again, I urge my colleagues to support the Kyl amendment. It is the same thing everybody who will be voting for this legislation voted for last year.

The PRESIDING OFFICER. Senator BAUCUS has 2 minutes remaining.

Mr. BAUCUS. I am ready to vote.

They want us to wait 2 minutes, Mr. President. I suggest the absence of a quorum to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the Kyl amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 46. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—42

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Voinovich
Crapo	Martinez	Wicker

NAYS—56

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NOT VOTING—1

Kennedy

The amendment (No. 46) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, this will be the last vote tonight. If there are other amendments people wish to offer, we will deal with those.

We hope tomorrow we can start again early. We can come in probably about 9:30 in the morning and start working on these amendments. We have had a lot of votes.

I just had a conversation with the distinguished manager of the bill on our side and he is looking at these amendments. He has indicated for some of them—there are several of them he might look at favorably. But what amendments we have, let's get to them and see if we can finish this tomorrow at a reasonable hour.

I have spoken with the Republican leader. We have had a good conversation. What we wish to consider, subject to the will of the body, is to finish this tomorrow at a good time. We would come in at a relatively decent time on Monday. We would be allowed to move to the economic recovery package. We would complete the 2 or 3 hours on Holder starting at 1 or so in the afternoon. We will have a vote that evening and then spend the rest of the day on the economic stimulus bill—start offering amendments on that on Tuesday or if somebody wanted to offer some Monday night. I think we would save the time Monday night for statements on that legislation and then work toward completing the legislation on the stimulus as quickly as we can.

Remember, our goal is to finish the legislation so that on Monday of the following week we can start doing the conference so we can complete that before the Presidents Day recess.

The Republican leader and I have talked about another issue or two that we might try to complete before the recess while the conference is taking place. We will talk about that at a subsequent time. But I think I have given a general overview of what we think will take place the next week or so.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield for a question?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I understood from my earlier conversation with the distinguished majority leader, and also a conversation with the distinguished ranking member on the Judiciary Committee, that once we finish this tomorrow—because of the real need to get somebody in our top law enforcement office, which is a privileged matter—that we would go to the nomination of Eric Holder tomorrow, even if it requires tomorrow evening, and go for a vote. I note he passed after a lengthy time. He has been waiting much longer than the past three Attorneys General did, from the time he was announced to the time he got out of the committee. He passed the committee by 17 to 2 today.

I had understood and actually told Mr. Holder and others, based on my conversation with the distinguished leader, that we would go to Mr. Holder tomorrow once this bill was finished.

Mr. REID. Mr. President, through the Chair to the distinguished chairman of the Judiciary Committee, that was the conversation. It is true it is a privileged motion but it is debatable. I think we should quit while we are ahead.

If the minority will allow us to go to this at a set time on Sunday, the fastest we could get to it anyway would be sometime—on Monday, I am sorry—the quickest we could get to it likely anyway would be on Sunday and I don't think we need to do that if we are going to have the permission of the minority to allow us to do it sometime early in the day on Monday.

I know there is some urgency in this, but the Senate, being as it is, we only need one person on the other side to say to do it at a later time and we are obligated to do that.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, if I might respond to the distinguished majority leader, my friend from Nevada, if somebody wants to vote against Mr. Holder, let him speak and vote against him. But I do not know, if there are only one or two people who want to hold him up, why should we have to hold it up? We do not have an Attorney General now. We aren't able to put in all the other spots. It is the premier law enforcement office in this country. I would hate to think, over the weekend, we had some major law enforcement crisis. I hope that with a person who has been endorsed by every single law enforcement agency across the spectrum in this country, we could go to him sooner. I am happy to be here Friday. I am happy to be here Saturday if that is what it takes to vote.

Mr. BYRD. Me, too.

Mr. LEAHY. I hear the distinguished Senator from West Virginia. I was supposed to lead a delegation to Davos, the World Economic Summit. I have canceled that. I am prepared to go. Obviously, the leader is the one who could bring up a privileged matter. I find it very frustrating we are not going to go forward.

Mr. REID. I understand how my friend from Vermont feels. I have to say I think we should accept ''yes'' for an answer. It may not be the exact time we want, but I think it is a pretty good package.

We would go to work on this at a reasonable hour early in the afternoon on Monday. The Attorney General will be approved sometime early in the afternoon on Monday—probably about 5 o'clock. And we would be able to go at that time to the economic recovery package. We would not have to file on that.

I think we are doing pretty well here. Everyone seems to be getting along well. I don't think we need to have a long debate that is unnecessary over the weekend when we would only save, at most, 24 hours anyway.

I know how much the chairman has worked on this, but I think it is better that we go as I have outlined.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, obviously the leader could bring it up any time. If he wants to do it differently than we had discussed earlier, that is his option. I am disappointed.

AMENDMENT NO. 77

The PRESIDING OFFICER. There will now be 2 minutes of debate prior to a vote on the amendment offered by the Senator from Alaska, Ms. MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I ask that all Members listen for 1 minute. I would like to think I have earned the reputation of being a relatively reasonable Senator in my approach. What I have before you today is a pretty reasonable amendment.

What I am proposing in this amendment we have before us is if a State wants to exceed the 300 percent FPL for CHIP, if they want to go above that level, what my amendment says is, we are going to give the flexibility for the States to be working with the Secretary to ensure that before they do that, if they can ensure that 80 percent of the children within their State are covered, those children below 200 percent of the Federal poverty level, if 80 percent of those are covered, then you have the flexibility to go above that 300 percent.

What we are allowing for is to guarantee, if you will, that we are covering those children we set out to do when we passed SCHIP in the first place. So, 80 percent, look at your State's level. Just about all States can meet this. We want to provide a level of flexibility, but we want to ensure that the children from the neediest families are going to be taken care of first. I ask for my colleagues' support.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, this is frankly a cleverly designed amendment which has dire consequences. Essentially it takes away Federal funding under the Children's Health Insurance Program where States cover children above 300 percent of poverty where the State cannot prove at least 80 percent of all the children in the State are below 200 percent of poverty, as covered either under the CHIP program or privately.

The problem is this: States cannot control their economies. Let's say there is a recession. Let's say there is high unemployment. Let's say people lose their private health insurance coverage. States cannot control that. They cannot control what the total coverage in their State will be, public and private.

If a State cannot guarantee that 80 percent, it cannot control it, then that State loses its Federal funds. So I think that even though it sounds pretty good on the surface, the trouble is States cannot control the dynamics that are going to determine whether the States get those Federal dollars.

Therefore, I urge that the amendment not be adopted.

I ask for the yeas and nays.

The PRESIDING OFFICER (Ms. CANTWELL). Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—47

Alexander	Crapo	McCain
Barrasso	DeMint	McCaskill
Begich	Ensign	McConnell
Bennett	Enzi	Murkowski
Bingaman	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Carper	Inhofe	Snowe
Chambliss	Isakson	Specter
Coburn	Johanns	Thune
Cochran	Klobuchar	Vitter
Collins	Kyl	Voinovich
Corker	Lugar	Wicker
Cornyn	Martinez	

NAYS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Bennet	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kaufman	Rockefeller
Burris	Kerry	Sanders
Byrd	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 77) was rejected.

Mr. DURBIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 49

Mr. COBURN. Madam President, I call up amendment No. 49.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 49.

Mr. COBURN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prevent fraud and restore fiscal accountability to the Medicaid and SCHIP programs)

Strike section 602 and insert the following:

SEC. 602. LIMITATION ON EXPANSION.

Section 2105(c)(8) (42 U.S.C. 1397ee(c)(8)), as added by section 114(a), is amended by adding at the end the following:

''(C) REQUIREMENT.—Notwithstanding subparagraphs (A) and (B), on or after the date of enactment of this subparagraph, the Secretary may not approve a State plan amendment or waiver for child health assistance or health benefits to children whose family income exceeds 300 percent of the poverty line unless the improper payment rate for Medicaid and CHIP (as measured by the payment error rate measurement (PERM)) is equal to or is less than 3.5 percent.''.

Mr. COBURN. Madam President, this is a pretty straightforward amendment. I am having trouble understanding what we are doing. The average improper payment rate, as published by GAO and OMB, is around 3.5 percent for the programs. We, just now, after 7 years, are starting to see the improper payment rates for Medicaid and SCHIP reported.

What is interesting is that the payment Medicaid error rate for fiscal 2008 is 10.5 percent. Madam President, $32 billion was improperly paid out of Medicaid this last year; $18.6 billion of that is the Federal share. The SCHIP rate was a 14.7-percent improper payment rate.

This is the first time we have seen that SCHIP has reported its improper payment numbers for a full year, and it is important in this regard: The worst offender in the country is the State of New York, with an estimated 40-percent improper payment rate. The purpose of this amendment is to restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient and to limit earmark expansions until the programs are working at least within the range of what other Government programs work.

Now, we have an earmark in this SCHIP bill for the State of New York that allows citizens in the State of New York an elevated level of access to the SCHIP program that is some $30,000 above the rest of the country. We can decide to do that. That is fine. But what we should not do is allow the worst State in terms of offense in fraud in Medicaid to be able to expend additional moneys up to 400 percent of the poverty level until, in fact, they bring their improper payment levels down.

Let me refer to a 2005 New York Times article where the former State investigator of Medicaid abuse estimated that questionable claims totaled 40 percent of all Medicaid spending in New York—nearly $18 billion a year in New York alone.

One dentist somehow built the State's biggest Medicaid dental practice. This dentist—she—claimed to have performed 991 procedures a day in 2003. Get that again: 991 procedures a day. Van services intended as medical transportation for patients who cannot walk were regularly found to be picking up scores of people who walked quite easily when a reporter was watching nearby. These rides cost taxpayers $50 a round trip, adding up to $200 million a year, of which a large portion of that was fraud.

So what this amendment does—it does not affect existing SCHIP programs or States that wish to expand eligibility for families making up to 300 percent of the Federal poverty level. What it says is, until Medicaid and SCHIP payments reach the improved level of 3.5 percent—the average of other Federal agencies—we should not give New York a special earmark for people making 400 percent of the Federal poverty level.

First of all, it is a matter of common sense. Why would we allow the State with the worst fraud rate on Medicaid to have an additional exception over everybody else in the country, when they are the least efficient with spending their money on the people whom they are covering today?

Now, I do not know if 40 percent is accurate. It may not be. But the fact is, the whole Medicaid Program and SCHIP program are three to four times what the rest of the Federal Government is in terms of fraud and abuse. I think it is important we condition the expansion and the earmark for New York State on them coming into alignment with the rest of the Federal Government in terms of its abuse.

So with that, I yield the floor to the chairman.

He has no comments. I will move on to another amendment.

AMENDMENT NO. 50

Madam President, I call up amendment No. 50.

The PRESIDING OFFICER. Is there objection to setting the pending amendment aside?

Mr. BAUCUS. Madam President, reserving the right to object, let me get a sense of the lay of the land here. Let me see what this amendment is first.

Madam President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 50.

Mr. COBURN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient)

At the end of section 601, add the following:

(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act.

Mr. COBURN. Madam President, this is another amendment. It is about being prudent with the taxpayers' money. It is about us doing what we are expected to do. It is about us controlling improper payments. This amendment would require that the final rule implementing the payment error rate measurement requirements under section 601(b) shall not be made later than 6 months after the date of enactment of this act.

Now, the problem that we have is, the legislation, in its current form, would effectively erase this long overdue progress by placing an unnecessary moratorium on the reporting requirements for Medicaid improper payment numbers. Let me say that again. In its current form, this legislation erases this long overdue progress by placing a moratorium on the reporting requirements for Medicaid improper payment numbers.

Section 601 of the bill states:

The provision would prohibit the Secretary from calculating or publishing national or state-specific error rates based on PERM—

The ''payment error rate measurement''—

for CHIP until six months after the date on which a final PERM rule, issued after the date of enactment of this Act, is in effect for all states.

However, there is no deadline for the final rule.

So all we are saying with this is, if we really want improper payment information released to the American public and released to Members of the Senate, we ought to be able to get the PERM done within 6 months of the enactment of this bill. It is a fair compromise between those seeking clarification guidance on PERM while ensuring there will eventually be progress and movement to guarantee the continuation of the measuring of improper payments. For the life of me, I don't know why we don't want to measure improper payments with the Medicaid Program. Maybe it is because we know what we are going to see, as with the first 17 States where we have a 10.3 percent error rate, of which over 90 percent is payment out in error.

Six months is more than enough time for CMS to write the PERM guidelines, especially since it took our Founding Fathers only 4 months to write the Constitution.

The Medicaid composite error rate for 2008 is 10.5 percent. That is $32 billion of Medicaid money that could have been redirected in a more proper manner. This marks the first time the SCHIP has reported its improper payment rate, and it was at 14.7 percent. To put that in perspective, the Congressional Research Service notes the average for each of the other Federal agencies is 3.5 percent. This bill, as it is currently written, ignores a law that has been on the books and for which CMS has 7 years to prepare. All we are saying is, after we pass this bill, make them do it within 6 months. They can do it. They know they can do it, and we have said no. I don't understand that. I am willing to learn why we would not want improper payments reported to both us and the American people. CMS itself has advocated for more transparency on improper payment.

CMS is aware of the challenges and noted the lack of information about payment error rates. We have actually had hearings in the Financial Management Subcommittee on improper payment rates in both Medicare, SCHIP,

and Medicaid. Kerry Weems, the former Director of the CMS stated: There is a substantial vulnerability in preventing and detecting fraud, waste, and abuse in the Medicaid Program. Measuring performance, publicly reporting the results, and providing payment incentives that encourage high quality and efficient care are paramount to keeping CMS accountable to the beneficiaries and the American taxpayers.

What this bill does is strip the transparency and the information CMS needs to detect and prevent waste, fraud, and abuse. Supporting this amendment is consistent with what our new President has said in terms of his pledge to make sure government works, that government is transparent, and that we actually know where we are spending our money and whether it is working and effective. We have a duty to make sure taxpayers are only paying for the services and the people who are entitled to benefits. This is a simple amendment to just shed transparency on a government bureaucracy.

Madam President, I ask unanimous consent to set aside that amendment and call up amendment No. 47.

Mr. BAUCUS. Madam President, reserving the right to object, I would like to see the amendment.

Madam President, might I ask if the Senator from Oklahoma could right now begin talking about his amendment while we have a chance to look at it, and then we could bring it up as soon as we have a chance to look at it. It saves some time.

Mr. COBURN. The Senator does not want to move on this amendment?

Mr. BAUCUS. I am just saying speak on the amendment. Then we will make a decision to move it after we have had a chance to look at it.

Mr. COBURN. OK. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 47

Mr. COBURN. Madam President, the purpose of this amendment is to make sure children don't lose their private insurance and uninsured children can get access to private health insurance.

This amendment would require a premium assistance approach for new Medicaid or SCHIP expansions under this act. It would cut bureaucratic redtape for States to use a premium assistance approach.

I will be the first to say SCHIP was created for targeted low-income children, those families making less than 200 percent of the Federal poverty level, and I believe that is where the program should stay focused. The Department of Health and Human Services just released new numbers on the Federal poverty level. For a family of four, it is $22,050 a year. That means the current SCHIP without expansions is available to children whose families are making $44,000 a year. That is close to the national median income of $50,000.

The underlying bill will expand the SCHIP program up to families making $66,000 a year or $88,000 if you are fortunate enough to live in the State of New York. I am concerned about this for a number of reasons, but there is little question the majority has the votes to pass the underlying bill and President Obama will pass it. Therefore, my amendment is not about whether to expand SCHIP; my amendment is about how to expand SCHIP.

Are we going to put the majority of American kids on a government-run program? If that is our goal, then we should totally reject this amendment. Or are we going to use an approach that ensures children in America have access to market-based insurance?

Let me tell my colleagues why this is important. Today, only 40 percent of the physicians will take an SCHIP or a Medicaid patient. Sixty percent would not even let them darken their door. So what we have in essence done is put a stamp on the foreheads of people in these programs that says: You get the doctors who are not busy enough so they have to take SCHIP and Medicaid.

What this amendment is designed to do is, if they have an opportunity for insurance, we give them that opportunity, which takes that stamp off their foreheads. In other words, we don't relegate them to lower class health care.

My amendment would require States to use a premium assistance approach to keep kids in private coverage if they want to expand their Medicaid or SCHIP under this bill. The American people know the market generally does a better job of controlling costs and improving the quality than government can. We know that because when we look at outcomes of Medicare versus private insurance, we see it. When we look at outcomes of private insurance versus Medicaid, we see it. When we look at outcomes of private insurance versus SCHIP, we see it. We know that is true. If they need a little extra help to get the private insurance, this amendment would make sure they have it. I believe parents—not government bureaucrats—should be able to make the decisions about the health care of their kids. This amendment will reduce crowdout of private insurance.

Anytime the government offers to give something away for free, it is common sense that an employer or an individual will take them up on the offer. As we offer free health care to higher income children, many of whom already have coverage, we are going to see a resulting drop or crowdout in the number of employers willing to pay for private coverage.

The Massachusetts Institute of Technology economist Jonathan Gruber has estimated the crowdout rate of expanding SCHIP to new eligibility groups at 60 percent. The Congressional Budget Office shows that 400,000 children will be newly covered in higher income families, and there will be a reduction in existing private insurance for another 400,000 children. That is our own Congressional Budget Office. If we send the bill as it is written to President Obama, it is going to break one of his campaign promises when he stated last fall:

> If you already have insurance, the only thing that will change under my plan is that we will lower your premiums.

Voting in support of this amendment ensures that President Obama can keep his promise. Not only does crowdout take away the private coverage higher income children have now, it is a bad deal for taxpayers. For those new populations covered by CHIPRA 2009, the SCHIP legislation, one new child for the cost of two. CBO says the bill will cover 1.9 million SCHIP kids in 2013 at a cost of $2,160. However, because of crowdout, taxpayers will actually pay $4,430 for every newly insured kid because we are picking up the tab for those kids who already had insurance. The purpose of this amendment is to minimize that crowdout. Rather than encourage government dependence, it is to help people stay in a private insurance plan. It is also cost effective because the State will only have to subsidize the employee's share of the health insurance benefit rather than having taxpayers pay the entire benefit.

This amendment also cuts bureaucratic redtape to make it easier for States to use a premium assistance approach. Current laws allow premium assistance, but the administrative requirements are so cumbersome that only a handful of States have premium assisted programs. I will note that the underlying bill permits premium assistance but would also note that the administrative burdens would once again discourage States from using this approach.

According to the Kaiser Family Foundation, 55 percent of the 78.6 million children in America have employer-sponsored insurance. If that coverage is working for the majority of American kids, why can't it work for kids who are eligible for SCHIP? The answer is, it can and we have a duty to make sure it does.

The premium assistance language in the underlying bill also denies parents the right to choose certain types of coverage for their children. This language gives parents the right to choose from more coverage options. Parents, not bureaucrats, know best about what fits the needs of their children. A parent should be able to use premium assistance for their share of the employer-sponsored insurance, to buy insurance in the nongroup market, or to buy a consumer-directed product. All

this does is give parents that right to make individual decisions about what is best for their children, about what doctor they will have for their children.

Don't forget most people in SCHIP don't get a real choice about who is going to take care of their children. They have a very limited choice. What this amendment does is ensures that a large portion of them can actually choose the doctor they want for their child.

It is not about—this amendment isn't about whether we should cover American kids; it is about the best way to cover those kids. I believe keeping kids with their parents and market-based coverage is going to be better for American kids, better for our country in the long run, and I will guarantee it will give us better outcomes for the children who are covered.

With that, I yield the floor.

Mr. BAUCUS. Madam President, I listened carefully to the Senator from Oklahoma, and I might say he has some interesting thoughts and interesting ideas. Let me think about them and maybe there is something we can do about them, and I thank the Senator.

Mr. COBURN. I thank the chairman for his consideration.

Mr. BAUCUS. Madam Chairman, I yield the floor.

Mrs. SHAHEEN. Madam President, I do not wish to speak to the amendments on the floor but to the underlying bill, and I rise today to express my strong support for H.R. 2, the Children's Health Insurance Program Improvements Act.

Providing children access to doctors and medicine is absolutely critical to a good start in life, but there are many children in New Hampshire and across this country whose families can't afford private health insurance but who are also not eligible to receive help such as Medicaid. It is the future of these children that we are considering this week on the floor of the Senate.

This is an issue that is near and dear to me. After children's health insurance was first passed—and I appreciate the efforts of so many people in this body to get that done—I was the Governor of New Hampshire, and I tried to start a children's health insurance program in New Hampshire, but the State legislature was unwilling to fund New Hampshire's share of the cost. I believed the program was important enough to keep working on it, and so we secured a waiver to allow private foundations to put up what would be the State's share. The program was successful and the State's share was funded in the next budget because there were so many families in New Hampshire who had received health insurance for their children, they came to the legislature and the legislature agreed to support it.

After enacting New Hampshire's children's health insurance program, tens of thousands of New Hampshire children have obtained affordable coverage through this program. I have seen firsthand what a difference the program can make for middle-class working families.

Consider the case of Quint Stires from Keene, NH. I had the pleasure of meeting Quint on the campaign trail last year. Quint had advanced thyroid cancer, and he had to quit his job after becoming too sick to work. Then his wife also lost her job. Of course, they lost their health insurance. But, fortunately, in this instance, in the toughest of circumstances, Quint and his wife didn't have to worry about how they were going to provide health care for their two sons. They had New Hampshire's children's health insurance.

Unfortunately, Quint has since passed away, and my thoughts go out to his family. But I think it is important to share his story as we talk about this children's health insurance legislation on the floor of the Senate because sometimes we lose sight of the individuals the legislation we enact is really going to help. The Children's Health Insurance Program offered help to the Stires family when they needed it the most, and we have the opportunity to make sure other families have the same safety net available to them.

Due to the uncertain economy we face today, there are going to be many more parents and children in tough circumstances. Families and businesses are being forced to cut back on just about everything. People are losing their jobs, and employers are struggling to offer health care, leaving a rising number of Americans in need of affordable coverage options for their kids.

The legislation we are considering reauthorizes children's health insurance through September 2013 and provides enough funding to cover an additional 4 million uninsured children across the country. In New Hampshire, the estimate is that over two-thirds of our uninsured children are eligible for either Medicaid or children's health insurance, what we call New Hampshire Healthy Kids Silver. The Senate legislation increases funding for outreach so we can identify eligible children and enroll them, it streamlines the signup process, it provides incentives to States that achieve enrollment benchmarks, and it provides enough funding to cover every eligible child in New Hampshire.

For those who are as concerned about our mounting national debt as I am, the costs of this bill are fully offset through an increase in the Federal tobacco tax. Moreover, it is simply more cost-effective to get preventive health care for children than to have them treated in emergency rooms or to suffer from permanent conditions due to lack of care.

Today, more than 76,000 children in New Hampshire have health coverage, either through Medicaid or through our Children's Health Insurance Program. But I know we can do better because all children need regular checkups, all children need access to medicine, all children deserve a shot at preventing disease later in life, and all families need to know they can provide for their kids without going into insurmountable debt.

I am pleased that the Senate is considering this very important legislation so early in the 111th Congress. I believe it reflects our commitment to the children of this country. I urge my colleagues to support the legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Montana is recognized.

GETTING AMERICA WORKING AGAIN

Mr. TESTER. Mr. President, I rise today to urge the Senate and the Congress to act now to put people back to work and begin taking the steps necessary to restore economic growth in the near term and opportunity over the long haul.

The House passed a jobs bill yesterday, and the Senate Appropriations Committee passed its jobs bill out of committee on Tuesday. As a new member of that committee, I look forward to working with my colleagues from both sides of the aisle to pass a good jobs bill and get it to the President so we can start to get people back to work now and lay the foundation for broad-based economic growth and opportunity.

The need for this jobs bill is as plain as day. Each day, news brings fresh evidence that America's economy is on the wrong track. According to the experts, unemployment last month rose by 632,000 workers to 7.2 percent. Those are the highest levels in nearly 16 years, and the trendline is downright scary. Even so-called growth companies, such as Microsoft, are announcing layoffs, while retail companies such as Circuit City go belly-up in the wake of the meltdown of the financial markets. Just this week, Home Depot, Caterpillar, General Motors, United Airlines, Pfizer, and Sprint Nextel have announced massive job cuts, some 75,000 in 1 day, and the numbers continue to go higher and higher.

In Montana, we unfortunately are not immune to the economic gloom. Mining companies are experiencing significant layoffs. Car dealers are struggling. And the timber industry in our State is on the verge of collapse. The Montana Contractors Association said last month that the construction sector in our State has fallen more than 7.5 percent in the last year and a half.

And the wild volatility of the worldwide energy markets has left both consumers and producers in the Treasure State feeling the effects of the boom-and-bust roller coaster ride.

Let me tell you, when you take away a worker's job, you take away the family's hope for the future. Montanans do not want an unemployment check. What they want is a job and a paycheck.

A recent picture in the Whitefish Pilot explained it well. A lone man stood on a street corner with a cardboard sign that said, ''Work needed.'' In the caption, he is quoted as saying:

> It's humbling, but I'm a workaholic. I do whatever it takes to pay my bills.

A woman from Kalispell wrote me about herself and her husband, both of whom are out of work. She said:

> I would be happy to clean your office, answer phones or do office work for you . . . or I will sweep streets with a broom if you can recommend me to the right person.

The unemployment rate hit 8.7 percent in Flathead County last month. These are proud working folks, and they are not looking for a handout. They are looking for a job, an opportunity to make a living, to provide for their families.

I come to my job in the Senate from our family farm in Montana. Although we might not register much more than a blip on the radar screen of national statistics, let me tell you, folks in rural America and our frontier communities feel the effects when the big picture is out of whack. We feel the effects of a national turndown in a big way.

Virtually every economic recession in American history started in farm country. This one is no different. Input costs are high and commodity prices are low. This is a recipe for financial failure.

So what do we do? The first thing we need to do is pass a good jobs bill, and we need to do it now. Rather than continuing to lurch from bailout to bailout, we need a good jobs bill that will put people to work right now and begin to rebuild our economy from the ground up by investing in infrastructure.

Yesterday, the American Society of Civil Engineers gave efforts to repair our Nation's infrastructure a grade of D. They said the repair costs have grown more than $500 billion in the last 4 years. Specifically, more than 26 percent—that is more than one in four—of our Nation's bridges are either structurally deficient or functionally obsolete. One-third of America's major roads are either poor or in mediocre condition.

In Montana, water is a huge infrastructure. I will give a few examples. The town of Stevensville's water supply dates to 1909, and there have been no significant or substantial improvements to that water system in 30 years. That town alone needs 150,000 bucks to upgrade the system to bring it into compliance with Federal drinking water standards and to ensure good public health. The town of Dutton, MT, needs half a million dollars to rehabilitate wastewater lagoons built back in 1946 to avert possible catastrophic dike failure and to serve the citizens of the town in compliance with current standards. These are just two examples of the need for infrastructure funding that will get people working now, enhance quality of life, and set the groundwork for vigorous economic growth.

Some may criticize the need to upgrade infrastructure as nothing more than filling potholes. But I can tell you that after many years of failure at the national level to fund infrastructure, our national ''front end'' is a little more than a little out of alignment.

If we do it right, investing in infrastructure will be a win-win. Smart long-term infrastructure projects will put people to work right now and will also build for the future, for future generations, for our kids and our grandkids.

We know that every billion dollars in infrastructure investment produces 30,000 good jobs in our communities. When these infrastructure dollars are spent correctly, they will result in good-paying jobs and improvements that will allow our communities and businesses to grow and prosper.

We have sound local projects in process right now. All they need is an infusion of capital. These local projects will put people to work building roads, bridges, water systems, modernizing schools, bringing new sources of energy online, and the list goes on and on.

These Federal dollars will produce results that will benefit our communities for generations to come. We need an effective partnership on the Federal, State, and local levels to identify these priority projects with rock-solid merit, and we will work as public servants to get worthy projects the money they need to make them happen.

The jobs bill must have first-rate accountability. We have seen enough bridges to nowhere to know a boondoggle when we see one. We need full transparency so the American people can judge for themselves the worthiness of individual projects through a process that is more open than ever.

We need to pass this jobs bill in the Senate for one reason: We need to get America working again. Beyond the bricks and mortar and asphalt and concrete, we need to invest in our people. That is human infrastructure. A good first step would be to pass the children's health insurance bill that is on the floor right now to ensure the youngest and most vulnerable Americans have access to quality, affordable health care. I hope the Senate can get that goal done tomorrow. We need to focus on education and training to equip middle-class families to succeed over the long haul. We need to modernize our schools with new technology and build new ones where necessary.

Unfortunately, we have seen some folks playing politics with our country's future. They even criticize a proposal to increase Pell grants for working families to send their kids to college. Anyone who does not get how important college financial aid is to Middle America is out of touch with the tough decisions that are made around kitchen tables every day in this country.

It is also important to consider how we got here. Years of trickle-down economics, massive tax breaks for the well-to-do and the well connected, and a complete lack of regulation in the marketplace—that is the legacy of greed and abuse we need to correct. Just like the referees on the football field for Super Bowl Sunday, we need to put the referees back on the field on Wall Street. We need to make sure the crooks never again swindle honest people.

Our Founding Fathers said:

> If men were angels, no government would be necessary.

Thomas Jefferson noted in his first inaugural address that among the elements of good government is the need to ''restrain men from injuring one another.''

We have our marching orders. We need to get to work. I serve on the Senate Banking Committee, and I want to make sure the Treasury Department, the Justice Department, and the Securities and Exchange Commission all have the tools they need in their toolbox. If they need more tools, we need to go out there and get them for them.

Over the long haul, we need balanced priorities to rebuild this economy from the ground up. We need jobs. We need to put people first.

I am proud to give a voice to family farmers and ranchers. I want Washington, DC, to start seeing the world through the eyes of rural America. The wealthy special interests have had the run of this place for all too long and have run this economy into the ditch.

I was pleased to hear the Senate minority leader state last week that he intends to cooperate to pass a jobs bill and other vital legislation. Working together always results in a better work product.

I am disappointed, though, that others have decided to play politics at a time when so many American workers are struggling and families are worried about how to make ends meet. We have financial markets melting down, an economy that is cratered, and a future that is bleaker than any we have faced in generations. We need a new plan. We need a new direction. We need change.

I applaud President Obama for his leadership in proposing this new jobs bill, and I stand ready to work with

him and all my colleagues to rebuild this economy from the ground up. We don't need bailouts. We need jobs.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARP

Mr. GRASSLEY. Mr. President, it is no secret that I have worked for decades to bring greater transparency and accountability to all facets of Government operations. If there is one thing I have learned over those years, it is that you cannot achieve the goal of greater transparency and accountability without the access to information.

Today, we are experiencing the greatest financial crisis of our Nation's history. Daily we hear of more companies failing and the need for many more billions of Federal funds to save this bank or that investment company. In response to this crisis, the Treasury Department unveiled an initial plan to buy stakes in banks and other financial firms. That program is known as the Troubled Asset Relief Program known to all of us around here by the acronym TARP, T–A–R–P, and it is costing the American taxpayers nearly three-quarters of $1 trillion.

In an effort to bring maximum accountability to the people for the TARP funds, Congress created a strong Inspector General with the broad powers to investigate and oversee the program, including access to the records of TARP fund recipients. Similarly, in an effort to provide maximum transparency, Congress required the Government Accountability Office, known around here as GAO, to monitor and oversee the TARP program as well. The Government Accountability Office's mission is to look at the overall performance of the initiative and its impact on the financial system.

The Government Accountability Office is also required to prepare regular reports for Congress. However, the Government Accountability Office cannot do its job without access to information, and I have learned that it does not have all the access it needs. Although the Government Accountability Office can examine the records of the Treasury itself and of any of its agents or representatives, the Government Accountability Office does not have access to the books and records of private entities that receive TARP funds. The connection there is public dollars. The public ought to have the right to know.

Believe it or not, the Government Accountability Office can't have access to information from the banks and investment companies that receive billions of taxpayers' dollars; that is the problem. This legislation I am introducing is intended to fix that as well. The Government Accountability Office is supposed to be the eyes and ears of the Congress of the United States. Well, it can't do that job wearing blinders and ear plugs.

HONORING OUR ARMED FORCES

CORPORAL JOSEPH M. HERNANDEZ

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of CPL Joseph M. Hernandez from Hammond, IN. Joseph was 24 years old when he lost his life on January 9, 2009, from injuries sustained from a roadside bomb attack in Jaldak, Afghanistan. He was a member of the 1st Battalion, 4th Infantry Regiment of Hohenfels, Germany.

Today, I join Joseph's family and friends in mourning his death. Joseph will forever be remembered as a loving husband, father, brother, son, and friend to many. Joseph is survived by his wife, Alison; his sons, Jacob and Noah; his brothers, Jesse and Jason; his parents, Elva and Jessie; and a host of other friends and relatives.

Joseph joined the Army in 2005 and had been stationed in Afghanistan for 1 month. Prior to entering the service, Joseph graduated from Mount Carmel High School in Chicago, attended the College of the Holy Cross and had entered the mechanical engineering and biology programs at Purdue University in West Lafayette, IN. Joseph was a man of great faith and an active member of Our Lady of Perpetual Help Church of Hammond, where he served as an altar boy and was a member of the choir. Joseph had many passions in life: he was a volunteer at the local animal humane society, and his interests ranged from boxing to model airplanes and vintage cars. Above all, Joseph's greatest passion was his family, who he hoped to take to a Chicago Cubs game at the end of his deployment.

While we struggle to express our sorrow over this loss, we can take pride in the example Joseph set as both a soldier and a father. Today and always, he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

It is my sad duty to enter the name of Joseph M. Hernandez in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. I pray that Joseph's family can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Joseph.

RURAL LAW ENFORCEMENT ASSISTANCE ACT OF 2009

Mr. HATCH. Mr. President, I rise today to express my support as a cosponsor of S. 150, the Rural Law Enforcement Assistance Act of 2009, introduced by my colleague on the Senate Judiciary Committee, Senator LEAHY. As our Nation copes with economic turbulence, we here in Washington are faced with tough decisions regarding the Federal budget. Back in our home States, State and local legislators are facing their own tough decisions and are examining drastic cuts to budgets that could impact law enforcement services provided to citizens. These cuts are leaving law enforcement administrators wrestling to do more with less. Unfortunately, we are finding out that these administrators are forced with the only choice of serving their public with fewer officers, less money for training and less money for tools and resources for the more than 800,000 men and women who keep our citizens safe from crime. I fear we have only seen the tip of the iceberg that is our present economic state. Large cities and small towns are seeing the possibility of not filling vacant law enforcement officer positions due to the recent budget crisis. In my home State of Utah, with the exception of a few law enforcement agencies, most of the departments patrol rural jurisdictions. Some of the hardest hit areas by this economic downturn are rural communities. Police agencies in these communities often lose out to larger metropolitan areas for consideration of justice assistance grants. Under the present form of the Department of Justice's Byrne Memorial Justice Assistance Grant Program, the sheriff's departments and police departments in Utah have seen a 65-percent decrease in justice assistance grant funding received from this program. These areas have their own challenges—issues such as illicit drug use that are not just unique to cities but transcend city limits and have manifested themselves in rural communities in much the same way they do in urban settings.

Press reports in the preceding weeks have been very grim to say the least. Joblessness is on the rise. The combination of revenue losses and budget shortfalls will see an increased demand for services on the part of these rural agencies. These issues will make it

challenging to continue to meet the demands of normal calls for service. According to the chiefs and sheriffs in Utah, because of this economic downturn, the cost of everything is going up, including crime.

If passed, the Rural Law Enforcement Assistance Act would level the playing field by reauthorizing the rural law enforcement assistance grant under the Byrne Memorial Justice Assistance Grant Program. This reauthorization will make agencies located in rural States and populous States with rural areas candidates for this grant assistance. These grants can be used to hire officers, pay for officer training, crime prevention programs, and victim assistance programs. For example, in the coming fiscal year some Utah agencies may not be able to purchase essential items and tools like rape-investigation kits which are critical in the gathering of physical evidence after a victim has been assaulted. Grants awarded under the Rural Law Enforcement Assistance Act could be used to purchase these kits and other critical tools needed for investigations. As a longtime advocate for victims' rights, I find this troubling that there might be agencies in this country that may not have the necessary budget to purchase essential tools needed to investigate these heinous crimes.

For decades criminologists and economists have debated the link between crime and the economy. Some researchers have concluded that there is a ripple effect from the economy and it radiates out and displays itself in the form of increased calls for service, increased domestic violence, and increased property crimes. Presently, we do not have current crime statistics for 2008, but I will use a less scientific method: it is called listening to the professionals who each and every day answer the calls for police services in these rural areas. They tell me that they are seeing an increase in burglaries, domestic violence, emergency mental health committals, and more calls for service. Some agencies are down in personnel numbers. However, these law enforcement professionals are forging ahead doing the very best they can with whatever means they have. They are not looking at these grants as a free pass to purchase frivolous big-ticket items that have little to do with their agency's mission. These administrators tell me they are hopeful this act will pass so that they can continue to serve the rural communities who have come to expect the most basic of police services as a right guaranteed by the Constitution in ''ensuring domestic tranquility.''

My colleagues in this Chamber have taken great pains to examine and discuss a way to lead our country out of this crisis and get our economy moving again. We should be scrutinizing Government spending in this tight economy. But I cannot think of a better form of economic stimulus than making justice assistance grants available to rural communities and metropolitan areas alike. However, rural agencies currently find themselves on the outside looking in under the present JAG formula. The reauthorization of the Rural Law Enforcement Assistance Act would give rural agencies a better opportunity at receiving this grant assistance.

In closing, I quote the Greek philosopher Plato who said the following about communities: ''The community which has neither poverty nor riches will always have the noblest principles.''

This Nation is one large framework of communities and was founded on some of the noblest principles ever recorded in history. Some of our citizens choose a city lifestyle, and some have selected a rural small town life. Crime does not distinguish between urban and rural. The more than 800,000 men and women who make up the law enforcement community that keep our streets safe in metropolitan cities and Main Street USA know this firsthand. One of the viscous subplots of this economic turmoil is that crime and the need for police services undoubtedly will increase. The small town rural police department may be the only Government entity that answers the phone in the middle of the night when a citizen has just lost a job and is contemplating suicide. A sheriff's deputy or police officer dispatched to the scene might be the only direct intervention that this citizen has with a government service. If there are not enough deputies or officers to go around, the response to this cry for help may be delayed or, worse yet, might not get there in time. When you reframe this issue relative to the scenario that I just laid out, it troubles me deeply and impresses upon me just how much our rural law enforcement community needs this reauthorization.

REMEMBERING HARRY ROBERTS

Mr. BARRASSO. Mr. President, today I wish to honor the life of a true Wyoming gentleman, a public servant, a veteran, a father to five girls, and—I am privileged to say—a friend.

Kearsley Harrison Roberts, better known to us as Harry Roberts of Kaycee, WY, died today, January 28, 2009, in Vero Beach, FL.

Harry Roberts was really a renaissance man, the kind of which are the lore of Western legends.

He was a Yale-educated sheep rancher, a Navy veteran of ''the greatest generation,'' an expert in public education—successfully elected statewide as Superintendent of Wyoming's public schools, a leader in Wyoming economic policy, and most of all he was a caring father.

I think we can imagine what brought him the most joy his family and of course, his five spirited daughters Mandy, Joan, Sheila, Ginny, and Susan.

Harry led quite a ranch crew. Picture five girls growing up on the Wyoming wildlands in the same area where Butch Cassidy and the Hole in the Wall Gang stowed rustled livestock and outran the law.

This was north central Wyoming, Barnum, a small community near Kaycee where to this day more rodeo cowboys than any one town in the West call home.

They call this part of Johnson County, WY, Outlaw Country, and after an eastern education, it inspired one western soul to work a sheep ranch for the love of the Wyoming way of life.

Harry Roberts found home and heart on this ranch, and today, I like to think of him back on his range, with the great western sky warming his big, signature smile.

Wyoming's Harry Roberts was the genuine Wyoming gentleman.

He was also the proud father-in-law to this body's beloved former colleague, U.S. Senator Craig Thomas. Harry's daughter Susan Roberts Thomas married Craig Thomas and the two were inseparable in life.

Susan, I speak for so many here in this Chamber and for all of Wyoming when I say our thoughts and prayers are with you today and with your entire family.

We grieve, as we did for Craig, the natural end of a purposeful life.

We recall a man who served his State, his country, and his family selflessly.

And we say, we remember Harry, as we do Craig, because of what he did and how he did it always with distinction and with honor.

Harry is and always will be a proud and patriotic member of the ''greatest generation.''

In fact he was what sailors call a ''plank owner.''

At that time, a ''plank owner'' referred to an individual who was a member of the crew of a ship when that ship was placed in commission. As part of the vessel decommissioning and disposal process, the Navy formerly removed a small portion of the deck as a traditional reminder of the time when ''wooden walls and iron men'' were a key part of the Navy.

In Harry's case, it was a boat—a submarine in fact.

After his military service Harry worked and lived in Wyoming, eventually running for superintendent of Public Instruction in 1967. Harry was known as a reformer of course and someone who cared deeply for Wyoming children.

In 1970, in one of the closest races in Wyoming's history, Harry lost a race for Wyoming's lone U.S. House race

losing by only 608 votes to Teno Roncalio.

Harry was a leader in our State on issues that went well beyond education. He served as director of the Wyoming Heritage Foundation and counted many successes during an especially exciting and challenging time in our State's history.

It was at the Heritage Foundation that my wife, then Bobbi Brown, first met Harry and learned so much under his guidance for several years.

Harry personified the Wyoming Heritage Foundation's mission for a strong, prosperous, diverse and sustained economy for the citizens of Wyoming. His goals and initiative are felt to this day.

More recently after his retirement, he returned to Washington often to visit his daughter Susan and to see his son-in-law Craig Thomas.

Susan became a teacher of course, following in the footsteps of her father who held the profession so highly.

It was in May of 2004 that Senator Thomas hosted a very special reception along with Vice President Cheney here in Washington.

Craig invited Harry and his fellow ''plank owners'' to be recognized along with the dedication of the National World War II Memorial on the National Mall.

It was a special occasion to acknowledge and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II.

And it was also for Harry and his fellow sailors.

I have talked to several folks who were there that day. I know the pride that Susan and Craig felt for their father, for his service, and for his example.

I will end now with the Navy Hymn, a song and a benediction that Harry would have heard often at sea in service to our country. I will recite the first and last verse.

Eternal Father, Strong to save,
Whose arm hath bound the restless wave,
Who bid'st the mighty Ocean deep
Its own appointed limits keep;
O hear us when we cry to thee,
for those in peril on the sea.

O Trinity of love and power!
Our brethren shield in danger's hour;
From rock and tempest, fire and foe,
Protect them where-so-ever they go;
Thus evermore shall rise to Thee,
Glad hymns of praise from land and sea.

REMEMBERING THE SHURRAB FAMILY

Mr. LEAHY. Mr. President, we have all seen the photographs of houses, schools and other civilian infrastructure destroyed in Gaza, and the reports of civilian deaths, including over 400 children, and many thousands more injured. Behind each of these statistics is a story of a family tragedy. I want to take this opportunity to talk about one that has touched the lives of Vermonters, and which should cause each of us deep concern.

Amer Shurrab is a recent graduate of Middlebury College, which is located not very far from my home in Vermont. Amer is also a Palestinian, whose family was living in Gaza during the recent Israeli invasion. His father, Muhammed Kassab Shurrah, is a farmer who grows fruits and vegetables on a small plot of land.

On January 16, Amer's father and brothers were returning home with provisions from their farm during the 3-hour humanitarian cease-fire that was in effect that day. Although there was apparently no indication that the route was unsafe for a civilian vehicle carrying civilian passengers, Israeli soldiers fired from a civilian house at their car as it passed for reasons that remain unknown. In a panic, Amer's brother, Kassab, already wounded, got out of the vehicle and was shot a total of 18 times and died a short distance away. Israeli bullets also hit Amer's father and younger brother Ibrahim, who were unable to leave the car to get medical attention because Israeli soldiers refused to allow movement in or out of the area.

Muhammed tried everything he could to save his son Ibrahim, who was bleeding to death before his eyes. He phoned a hospital with his cell phone, but the hospital told him the Israeli Army was preventing an ambulance from reaching them. He called relatives, who contacted the Red Cross on his behalf to ask for assistance, but the Red Cross had to wait for assurance from Israeli authorities that an ambulance would get through unscathed, assurance which was not forthcoming. He spoke with several members of the press, including the BBC, who even broadcast his plea for help. But an ambulance could not reach them until 22 hours after the incident, even though the hospital was located less than a mile away. By this time, Ibrahim had died in his father's arms. Israeli troops reportedly looked on and ignored Muhammed's pleas for help.

This case cries out for an immediate, thorough, credible and transparent investigation by the Israeli Government. Any individuals determined to have violated the laws of war should be prosecuted and appropriately punished. In addition, it is important that the U.S. Embassy determine whether any Israeli soldiers who were equipped by the U.S. violated U.S. laws or agreements governing the use of U.S. equipment, both in relation to this incident and others involving civilian casualties. This should include the use of white phosphorous in heavily populated areas, which is alleged to have caused serious injuries to civilians.

Mr. President, this is a heartbreaking story. My thoughts and prayers go out to Amer Shurrab and his family and friends, and to the families of other civilians, Palestinian and Israeli, who died or suffered other grievous losses in this latest escalation of violence.

ADDITIONAL STATEMENTS

TRIBUTE TO CAROLYN E. ''BETSY'' FLYNN

● Mr. BUNNING. Mr. President, today I pay tribute to Carolyn E. ''Betsy'' Flynn of Benton, KY, for her recent appointment to the Federal Reserve Board's Consumer Advisory Council.

Mrs. Flynn currently serves as president and vice chairman of Community Financial Services Bank in Benton, KY, which manages around $400 million in assets. This institution has served the Benton community for almost 120 years and Mrs. Flynn has contributed to its success since 1976. For 24 years, Betsy Flynn has also instructed at the Barret School of Banking in Memphis, TN. Her public service record is extensive as well. She has served on several economic development boards, the city council, the chamber of commerce, the tourist commission, and has recently been appointed to the Kentucky Investment Commission.

The Consumer Advisory Council serves a vital role in advising the Federal Reserve Board on guidelines under the Consumer Credit Protection Act and issues regarding consumer financial services. Mrs. Flynn's impressive resume provides a solid foundation for her new role on the council. Her expertise in the banking and financial industry will serve her and the advisory council well.

I now ask my fellow colleagues to join me in congratulating Mrs. Flynn for her remarkable achievement. Kentucky and the entire country should be proud to have such a distinguished individual serving them.●

HONORING GEORGE FOREMAN

● Mr. BUNNING. Mr. President, today I wish to congratulate and recognize a distinguished citizen of Kentucky, Mr. George Foreman of Danville, who was recently named Danville Art Citizen of the Year by the Arts Commission of Danville/Boyle County.

This prestigious award is meant to identify an individual in the community who has made it possible for the arts to become an integral part in other people's lives. The Arts Commission of Danville/Boyle County issued the first Art Citizen of the Year award in 2004.

As managing director of the Norton Center for the Arts and Associate Professor at Centre College, Mr. Foreman has accomplished impressive things, including forming and directing

Danville's own Advocate Brass Band, receiving the 1996 Bruce Montgomery Leadership Award, and also founding the Great American Brass Band Festival. There is no doubt that Mr. Foreman's service has made his community a better place because of his dedication to the arts and the citizens of his town.

During his years of service, Mr. Foreman has played host to all the major U.S. military bands, who presented their concerts free to the public. He also partnered with Stage One, a children's theatre in Louisville, to bring the Norton Center a children's theatre. Mr. Foreman has made the arts a central focus in his life, and I look forward to his future projects.

Once again, I congratulate Mr. Foreman on this award. He is truly an inspiration to all of Kentucky, and I wish him luck on all of his future endeavors.●

HONORING EAST RESTAURANT & LOUNGE

● Ms. SNOWE. Mr. President, I wish to recognize a small business in my home State of Maine that has risen to the top during its very short existence. East Restaurant & Lounge, located in Wells, was recently named one of the top Chinese restaurants in America—the first time a Maine restaurant has been recognized with such a distinction.

Opened in June 2008 by owner Ri Teng Li, East Restaurant & Lounge has quickly impressed its clients with delicious Chinese, Thai, and Japanese cuisine. Mr. Li previously owned and operated the popular Yum Mee Restaurant in Wells, and East Restaurant allows him to keep long-loved classic dishes from the prior establishment while greatly expanding his menu. With more than 400 items, ranging from Peking duck to sushi to Pad Thai, as well as an expansive and impressive buffet on Sundays, East has something for everyone. The restaurant also has a spacious lounge, where guests can relax after work and enjoy a specialty cocktail. And East offers catering services for a variety of events.

Perhaps most notable about East Restaurant is the building. It is housed in a striking and eye-catching structure, with a stunning interior full of beautiful decor, from ornate chandeliers and staircases to gorgeous glass doors. There is also a gift shop on the restaurant's upper level, with unique and rare gifts that include charming jewelry.

Despite its youth, East Restaurant has rapidly accumulated regular customers and well-deserved accolades. Most recently, Chinese Restaurant News, a San Francisco-based monthly publication dedicated to the more than 45,695 Chinese restaurant owners and operators across America, named East Restaurant as one of the top 10 Chinese restaurants for overall excellence in the United States, a truly remarkable feat. Restaurants were evaluated for eight categories, including decor and atmosphere, food quality, and sanitation. And because of its astonishing appearance, East Restaurant was recognized as the No. 1 establishment in the best decor category. Mr. Li was recently presented with the awards at a ceremony in Las Vegas earlier this month.

Mr. Li is an entrepreneur who has consistently aimed to improve each of his new ventures. He came to the United States in the mid-1980s with minimal knowledge of English and knowing hardly anyone. He began working at the restaurant of a friend of his in New York City, and through hard work, determination, and perseverance, Mr. Li realized his dream and opened his own restaurant. After moving to Maine, he established several other restaurants and now operates one in the neighboring town of Kennebunk, as well as a gift shop in Portland.

A civic-minded restaurateur, Mr. Li has constantly found ways to give back to the community. An avid contributor to the local Rotary Club and the Wells & Ogunquit Senior Center, Mr. Li has also donated to scholarship funds at Wells High School, where his daughter attends.

Mr. Li's marvelous story is a reminder of the benefits and rewards of commitment and resolve. His dedication to providing quality food in an inviting and distinctive atmosphere is commendable, and the results have been astounding. Congratulations to Mr. Li and everyone at East Restaurant & Lounge on their well-deserved acknowledgement, and I wish them many more years of success to come.●

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 4:50 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 181. A bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, January 28, 2009, she had presented to the President of the United States the following enrolled bill:

S. 181. An act to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC–553. A communication from the Chair of the Board of Directors, Office of Compliance, transmitting, pursuant to Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), a report relative to the adoption of Uniformed Services Employment and Reemployment Rights Act regulations; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Eric H. Holder, Jr., of the District of Columbia, to be Attorney General.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Dennis Cutler Blair, of Pennsylvania, to be Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON (for himself, Mr. ENZI, Mr. TESTER, Mr. THUNE, Mrs. MCCASKILL, Mr. DORGAN, Mr. NELSON of Nebraska, Mr. BARRASSO, and Mr. CONRAD):

S. 337. A bill to prohibit the importation of ruminants and swine, and fresh and frozen meat and products of ruminants and swine, from Argentina until the Secretary of Agriculture certifies to Congress that every region of Argentina is free of foot and mouth disease without vaccination; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:

S. 338. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held

in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 339. A bill to provide financial aid to local law enforcement officials along the Nation's borders, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 340. A bill to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW:

S. 341. A bill to amend the Economic Adjustment Assistance grant program to improve assistance for areas affected by long-term economic deterioration and severe economic dislocation relating to the manufacturing industry sector, to amend the Workforce Investment Act of 1998 to expand the national emergency grants program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself, Mr. BEGICH, and Mr. INOUYE):

S. 342. A bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY (for himself and Mr. BROWNBACK):

S. Res. 24. A resolution commending China's Charter 08 movement and related efforts for upholding the universality of human rights and advancing democratic reforms in China; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. KERRY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. WICKER, and Mrs. BOXER):

S. Res. 25. A resolution expressing support for designation of January 28, 2009, as ''National Data Privacy Day''; considered and agreed to.

By Mr. DODD (for himself, Mr. REID, Mr. LEAHY, Mr. LEVIN, Mr. CARDIN, Mr. HARKIN, Mr. MENENDEZ, Ms. LANDRIEU, Mr. KENNEDY, Mr. BENNET of Colorado, Mr. KERRY, Mr. BROWN, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. LUGAR, Mr. BAYH, Mr. WYDEN, Mr. CRAPO, Mrs. BOXER, Mr. VOINOVICH, Mr. REED, and Ms. MIKULSKI):

S. Con. Res. 3. A concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 96

At the request of Mr. VITTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 102

At the request of Mr. VITTER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 102, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 205

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 205, a bill to authorize additional resources to identify and eliminate illicit sources of firearms smuggled into Mexico for use by violent drug trafficking organizations, and for other purposes.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 306

At the request of Mr. NELSON of Nebraska, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 306, a bill to promote biogas production, and for other purposes.

S. 313

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 313, a bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes.

S. 321

At the request of Mr. VOINOVICH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 321, a bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at airports of entry and for other purposes.

S. 324

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 324, a bill to provide for research on, and services for individuals with, postpartum depression and psychosis.

S. 331

At the request of Mr. SCHUMER, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 331, a bill to increase the number of Federal law enforcement officials investigating and prosecuting financial fraud.

AMENDMENT NO. 46

At the request of Mr. KYL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 46 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 65

At the request of Mr. MARTINEZ, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 65 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 65 proposed to H.R. 2, supra.

At the request of Mr. CORKER, his name was added as a cosponsor of amendment No. 65 proposed to H.R. 2, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON (for himself, Mr. ENZI, Mr. TESTER, Mr. THUNE, Mrs. MCCASKILL, Mr. DORGAN, Mr. NELSON of Nebraska, Mr. BARRASSO, and Mr. CONRAD):

S. 337. A bill to prohibit the importation of ruminants and swine, and fresh and frozen meat and products of ruminants and swine, from Argentina until the Secretary of Agriculture certifies to Congress that every region of Argentina is free of foot and mouth disease without vaccination; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JOHNSON. Mr. President, today I introduce the Foot and Mouth Disease Prevention Act of 2009 with my colleague from Wyoming, Senator MIKE ENZI, and with broad organizational support. I drafted this bill with one goal in mind: to keep America Foot and Mouth Disease, FMD, free.

The United States Department of Agriculture, USDA, under the Bush administration proposed throwing open our borders to Argentine livestock, fresh meat and fresh product. While the United States of America has been free of FMD without vaccination since 1929, Argentina has consistently struggled with the disease, experiencing outbreaks as recently as 2006. Argentina has failed to remain FMD free for any length of time and arguably lacks the infrastructure necessary for this proposal to fly. In fact, a 2001 outbreak in Argentina went unreported and was hidden by the Argentine government, raising serious questions regarding their communication on this front.

The Foot and Mouth Disease Prevention Act of 2009 doesn't interrupt the status quo. Argentina can import product that is dried or cooked, for example, that doesn't pose a risk for disease transmission. And we're not saying that increased trade is permanently prohibited. We are simply asking for Argentina to comply with certain acceptable standards for trade that would

ensure the country as a whole is FMD free, and FMD free without vaccination. Additionally, our requirement that the Secretary of Agriculture ''certifies to Congress'' that Argentina as a country is free of FMD is merely a reporting process regarding Argentina's disease status.

Senator ENZI and I consulted extensively with nationally recognized livestock health experts on USDA's proposal. These livestock health experts resoundingly voiced their concern for USDA's plan, which fails to put American farmers and ranchers first. Dr. Sam Holland, South Dakota State Veterinarian and Past President of the National Assembly of State Animal Health Officials, NASAHO, has been instrumental with offering his guidance and expertise. A poll was taken within NASAHO and the majority of state veterinarians oppose regionalizing for FMD. While regionalization may be an appropriate approach in various other circumstances, it is unequivocally unacceptable in responding to Foot and Mouth Disease. An FMD outbreak in the United States is projected to cost our agricultural economy billions of dollars, and it is with good reason that the American Veterinary Medical Association, AVMA, has deemed FMD to be the most devastating of all livestock diseases.

USDA Animal and Plant Health Inspection Services, APHIS, arguably violated its own World Organization for Animal Health–complaint regionalization plan in proposing increased meat trade with Argentina. APHIS must address eleven points when initiating the regionalization process, including points six and seven which speak to the degree of separation of the region and the extent to which movement can be determined and controlled. Nationally recognized livestock health experts believe that in the case of regionalizing for FMD, sound scientific evidence argues against USDA's proposal.

This past fall, USDA APHIS Chief Veterinarian Dr. Clifford discussed with my staff his intention not to proceed with the Argentina plan until a review of the 2005 risk assessment was completed. It is my understanding that a team will be sent to Argentina to conduct this review in late February. Additionally, the new Administration is reviewing proposed rules, of which the Argentina plan is included. While both of these developments are encouraging, it is essential that we continue to communicate the potentially disastrous consequences of this plan.

Organizations across the agricultural industry support this legislation, including the American Sheep Industry Association, United States Cattlemen's Association, R–CALF, National Farmers Union, South Dakota Stockgrowers Association, South Dakota Cattlemen's Association, Wyoming Stock Growers Association, South Dakota Farmers Union, Women Involved in Farm Economics, and Dakota Rural Action.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the material was ordered to be placed in the RECORD, as follows:

SOUTH DAKOTA ANIMAL INDUSTRY BOARD,
Pierre, SD, January 27, 2009.

Hon. TIM JOHNSON,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR JOHNSON: As a follow-up to our conversation on Regionalization of Argentina for FMD:

As you recall NASAHO was overwhelmingly opposed to such regionalization during the last session of congress.

As I understand a more current review and risk assessment is planned regarding such regionalization. While a recent review will provide useful risk information, concerns remain.

Personally, the issues I stated in the past appear still valid.

(1) Economic benefits do not justify the risk of embarking on a regionalization for this disease.

(2) Inability to effectively monitor risk on an ongoing basis.

(3) Resources, Biosecurity, and experience in monitoring FMD freedom are inadequate.

(4) Regionalization for one of the world's most highly contagious virus disease(s) (FMD) is much more complicated than regionalization for tuberculosis, brucellosis and many other diseases. FMD virus is not only arguably the most contagious virus known for animals, but also is particularly resilient in the environment and may persist in fomites and be transmitted by such through aerosol or contact.

While I certainly support trade based on science, prioritization must occur. Regionalization efforts should start at home and resources should be spent on enhancing animal health in the United States, along with efforts to increase our exports, prior to spending precious resources in foreign countries in attempts to increase food imports.

Sincerely,

SAM D. HOLLAND,
State Veterinarian and Executive Secretary.

U.S. CATTLEMEN'S ASSOCIATION,
San Lucas, CA, January 28, 2009.

Hon. TIM JOHNSON,
Hon. MIKE ENZI,
U.S. Senate,
Washington, DC.

DEAR SIRS: The U.S. Cattlemen's Association (USCA) applauds your leadership in introducing the Foot and Mouth Disease Prevention Act. This bill would prohibit the importation of ruminants and swine and fresh or frozen ruminant and pork products from any region of Argentina until the United States Department of Agriculture (USDA) can certify to Congress that Argentina is free of Foot and Mouth Disease (FMD).

This bill is extremely important as it protects the U.S. cattle herd from FMD. If FMD infiltrates our borders, entire herds would be destroyed leaving ranchers in financial ruin. Furthermore, the scare would immediately shut global markets to U.S. beef products, a move that would have a disastrous economic effect on rural economies.

The American Veterinary Medical Association has deemed FMD the most economically devastating of all livestock disease. A recent study by Kansas State University found that an outbreak of FMD would cost the State of Kansas alone nearly $1 billion.

Despite the risks, the Department of Agriculture continues to consider the implementation of a regionalized beef trade plan with Argentina. FMD is an airborne disease that will not stop at an imaginary border controlled by a foreign nation. Argentina has proven time and time again that it does not have America's best interests at heart. This is a country that has attacked U.S. agriculture in the World Trade Organization (WTO) and has intentionally turned its back on, and still refuses to pay, billions in U.S. loans despite U.S. court judgments mandating it do so.

USCA is committed to working with you and moving this bill forward by garnering support both on Capitol Hill and in the country. USCA is firmly resolved to ensuring the U.S. cattle industry is protected by the highest import standards possible, and to seeing that this bill becomes law.

Sincerely,

JON WOOSTER,
President.

NATIONAL FARMERS UNION,
Washington, DC, January 27, 2009.

Hon. TIM JOHNSON,
U.S. Senate,
Washington D.C.

DEAR SENATOR JOHNSON: On behalf of the family farmers, ranchers and rural residents of National Farmers Union (NFU), I write in strong support of your legislation to prohibit the importation of Argentine ruminants, swine, fresh and frozen meat, and fresh and frozen products from ruminants and swine until the U.S. Department of Agriculture (USDA) Secretary certifies the country Foot and Mouth Disease (FMD) free without vaccination. I applaud your leadership to ensure all measures are employed to protect the American livestock industry and consumer confidence in our meat supply.

The ban proposed in your legislation is necessary in order to prevent jeopardizing our own efforts to eradicate livestock diseases, and thereby protecting the food supply. Your legislation enhances food safety through requiring every region of Argentina to be FMD-free without vaccination before exporting ruminants, swine and meat products to the United States.

FMD is a highly infectious virus that, if introduced into the United States, could contaminate entire herds and leave producers in financial ruin, as infected herds must be culled to prevent the spread of the disease. FMD is so devastating the American Veterinary Medical Association considers it to be the most economically destructive of all livestock diseases. The United States suffered nine outbreaks of FMD in the early twentieth century, but has been FMD-free since 1929. According to USDA's Animal and Plant Health Inspection Service, the economic impacts of a re-occurrence of FMD in the United States could cost the economy billions of dollars in the first year alone.

America's family farmers and ranchers produce the safest, most abundant food supply in the world. FMD presents a very real threat to American agriculture and its introduction into the United States can and must be prevented. Requiring a country like Argentina, with such an apparent problem with this devastating disease, to prove FMD-free status is an acceptable standard to trade. Opening our borders to Argentine ruminant products is a risk that American producers simply cannot afford. Your legislation is

needed to ensure harmful products are not allowed into the United States and that Argentina is not an exception to the rule.

I thank you for introducing this important legislation, and look forward to working with you to ensure its passage.

Sincerely,

TOM BUIS,
President, National Farmers Union.

R-CALF
UNITED STOCKGROWERS OF AMERICA,
Billings, MT, January 26, 2009.

Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.
Hon. MIKE ENZI,
U.S. Senate,
Washington, DC.

DEAR SENATORS JOHNSON AND ENZI: On behalf of the thousands of cattle-producing members of R-CALF USA located throughout the United States, we greatly appreciate and strongly support the reintroduction in the 111th Congress of your joint legislation to prohibit the importation of certain animals and animal products from Argentina until every region of Argentina is free of foot-and-mouth disease (FMD) without vaccination.

Foot-and-mouth disease is recognized internationally as one of the most contagious diseases of cloven-hoofed animals and it bears the potential to cause severe economic losses to U.S. cattle producers. Your legislation recognizes that the most effective prevention measure against this highly contagious disease is to ensure that it is not imported into the United States from countries where FMD is known to exist or was recently detected.

R-CALF USA stands ready to assist you in building both industry and congressional support for this important disease-prevention measure. Thank you for reintroducing this needed legislation in the 111th Congress to protect the U.S. cattle industry from the unnecessary and dangerous exposure to FMD from Argentinean imports.

Sincerely,

R.M. THORNSBERRY,
President,

SOUTH DAKOTA
CATTLEMEN'S ASSOCIATION,
January 26, 2009.

Senator TIM JOHNSON,
Hart Senate Office Building,
Washington, DC.
Senator MIKE ENZI,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS JOHNSON AND ENZI: I'm writing on behalf of the 1,000 beef producer members of the South Dakota Cattlemen's Association (SDCA) to express support for the Foot and Mouth Disease Prevention Act of 2009. In light of numerous unanswered questions regarding the status of Foot and Mouth Disease in Argentina, we believe passage of the Foot and Mouth Disease Prevention Act is critical to ensure this devastating disease doesn't enter the U.S. cattle herd through the importation of Argentine cattle and beef products.

SDCA supports free and fair trade based on OIE standards that will protect the health of our cattle herd and the economic livelihood of our cattlemen. Our top trade priority is to regain market access for U.S. beef in order to recapture the lost value of exports that occurred after the occurrence of BSE in 2003. To that end, we've worked closely with elected and regulatory officials to ensure adequate measures are taken to protect our herd health and maintain consumer confidence in U.S. beef.

We commend your willingness to stand up for South Dakota's beef producers and look forward to working with you on this important issue.

Regards,

JODIE HICKMAN,
Executive Director.

By Mrs. FEINSTEIN:

S. 338. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to reintroduce the Lytton Gaming Oversight Act, a bill that will ensure federal law is followed when a Native American tribe seeks to operate any new gaming facilities.

This legislation is simple, straightforward, and fair. It would amend language inserted in the Omnibus Indian Advancement Act of 2000 that required the Secretary of the Interior to take a card club and adjacent parking lot in the San Francisco Bay Area into trust for the Lytton tribe as their reservation. That legislation also required that the acquisition be backdated to October 17, 1988, before the passage of the Indian Gaming Regulatory Act, IGRA.

The ''two-part'' determination process in the Indian Gaming Regulatory Act is a critical component to tribal land acquisition for gaming purposes and should not be circumvented. Specifically, it requires the Governor's consent and the Secretary of the Interior to consult with nearby tribes and the local community and its representatives.

The legislation that I am introducing would require the Lytton Band of Pomo Indians to follow these same critical oversight guidelines laid out in Section 20 of the Indian Gaming Regulatory Act before engaging in Class III, or Nevada-style, gaming on land acquired after the passage of IGRA in 1988.

The bill allows the tribe to continue operating a Class II facility at the current site provided the tribe follows IGRA regulations for gaming on newly-acquired lands in the future. The bill also precludes any expansion of the tribe's current Class II facility.

The bill would not modify or eliminate the tribe's federal recognition status, alter the trust status of the new reservation, or take away the tribe's ability to conduct gaming through the standard process prescribed by the Indian Gaming Regulatory Act. The bill serves only to restore the jurisdiction of IGRA over the gaming process, as originally intended by Congress.

Section 20 of the Indian Gaming Regulatory Act provides an established and clear process for gaming on newly-acquired lands taken into trust after the enactment of IGRA in 1988. The ''two-part determination'' process allows for federal and state approval, and for input from nearby tribes and local communities.

Circumventing this process can have negative and severe impacts on local citizens and deprive local and tribal governments of their ability to represent their communities on an incredibly important and contentious issue.

If this bill is not approved, the Lytton tribe could take the former card club that serves as their reservation and turn it into a large gaming complex operating outside the regulations set up by the Indian Gaming Regulatory Act. In fact, this is exactly what was proposed in the summer of 2004.

I am pleased that the tribe has abandoned a plan seeking a sizable Class III casino, but without this legislation the tribe could reverse these plans at any time. Allowing this to happen would set a dangerous precedent in California and any state where tribal gaming is permitted.

Instead, Congress should reaffirm its intent that all new gaming facilities should be subject to IGRA without preference or prejudice.

Ms. MURKOWSKI (for herself, Mr. BEGICH, and Mr. INOUYE):

S. 342. A bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces; to the Committee on Armed Services.

Ms. MURKOWSKI. Last Thursday evening I came to the floor to speak to a decision by the United States Army, I understand at the urging of the Department of Defense, to reverse its position on whether service in the Alaska Territorial Guard during World War II is creditable toward military retirement. I have asked repeatedly for a copy of the legal opinion supporting this decision. I am still waiting.

One of the most troubling aspects of the decision was that it was to come into effect on February 1, 2009, in the dead of Alaska winter, and without any advance warning to those affected. The decision reduces the retirement pay received by 25 or 26 former members of the Territorial Guard by as much as $557 a month for one individual. The reduction in retirement pay to several others exceeds $500 a month. That is a substantial loss of income at any time of the year but it is especially difficult during the winter.

This afternoon, Pete Geren, the Secretary of the Army, announced that the Army would make a onetime gratuitous payment from funds appropriated to cover emergency and extraordinary

expenses to these individuals, representing 2 months of the difference between what each would receive if service in the Alaska Territorial Guard were included in the retirement pay calculation and what each will receive as a retirement check beginning on February 1, 2009. I deeply appreciate Secretary Geren's compassionate decision. Increases in the cost of food and heat are making it very difficult for our Native people in rural Alaska to make ends meet this winter. I understand that the vast majority, if not the entire list of people who will receive this additional payment live in the villages of rural Alaska.

However, I remain disappointed that the Army cannot continue its policy of paying retirement benefits on account of Alaska Territorial Guard service. Today I join with my colleagues in introducing legislation that clarifies that service in the Alaska Territorial Guard during World War II is creditable toward military retirement.

Since I raised this issue on the floor last Thursday evening the response I have received from around the country has been nothing but overwhelming. I deeply appreciate all of those who have called and written to express their support for our efforts to protect the benefits that the members of our Alaska Territorial Guard earned through their legendary service.

Mr. President, I ask unanimous consent that the text of the bill and supporting material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS A MEMBER OF THE ALASKA TERRITORIAL GUARD DURING WORLD WAR II.

(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 71, 371, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after August 9, 2000. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term ''World War II'' has the meaning given that term in section 101(8) of title 38, United States Code.

[From the Anchorage Daily News, Jan. 25, 2009]

FIX THIS NOW—CUT IS NO WAY TO TREAT OLD VETS

The Army has decided that some veterans of the World War II Alaska Territorial Guard have been mistakenly drawing retirement pay. So they've cut off some men in their 80s who worked for nothing to defend Alaska during the war. The argument is that a law that recognized their service was only intended to provide benefits like health care, not retirement pay. The Army says the law was misinterpreted. Then the Army should stand by its misinterpretation and pay these men. They're in their 80s. They served their country at a time when neither their country nor their territory fully recognized their rights because they were Natives. Their guard service should count toward retirement pay out of sheer decency. Sens. Lisa Murkowski and Mark Begich are working on legislation to make the misinterpretation stand by making it the law. Good. We don't care if the means is legislation, executive order, administrative waiver or papal dispensation. Just fix this so that some old men who did honorable service get their due. Now. These soldiers earned their retirement pay. They should receive it.

[From the Fairbanks Daily News-Miner, Jan. 25, 2009]

CREDIT FOR SERVICE: RESTORE RETIREMENT PAY TO THE ESKIMO SCOUTS

The wheels of bureaucracy turn slowly, but they grind no less thoroughly for their lack of speed. Unless the federal administration and Alaska's congressional delegation can reverse a recent decision, retirement pensions for a few dozen old soldiers from Alaska's Territorial Guard will fall victim to those wheels. The question of whether service in the Territorial Guard—better known as the Eskimo Scouts—counted as active-duty service for purposes of calculating military retirement pay was answered years ago. In 2001, Congress said yes, it counts. At least that's what most people thought Congress said. The Department of Defense, for example, concluded as much and began sending retirement checks to elderly Alaskans based on their service as Eskimo Scouts. Recently, the Department of Defense reversed its decision. It now asserts that the law requires credit when calculating military benefits such as health care—but not when calculating retirement pay. So, as of Feb. 1, according to the congressional delegation, retirement benefits will be cut by more than $500 per month in some cases. An Army spokesman said the decision simply reinterprets the 2001 law as it should have been all along. If that's the case, the law should be clarified. That could take some time for the congressional delegation to accomplish, though. In the meantime, the Defense Department needs to find a better solution than simply cutting the pay to a group of elderly military pensioners. The issue arises because the Eskimo Scouts from 1942 to 1947 were volunteers. Their service was no less real than others in the military, especially since they worked in Alaska, the only place in the country where enemy forces successfully occupied territory during World War II. The Japanese held several islands in the Aleutian chain and bombed Dutch Harbor. It was real military service; those who signed up deserve full credit for it, as Congress intended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 24—COMMENDING CHINA'S CHARTER 08 MOVEMENT AND RELATED EFFORTS FOR UPHOLDING THE UNIVERSALITY OF HUMAN RIGHTS AND ADVANCING DEMOCRATIC REFORMS IN CHINA

Mr. CASEY (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 24

Whereas the People's Republic of China adopted in 1971 the Universal Declaration of Human Rights, and has signed or ratified numerous international covenants and conventions protecting human rights, including the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976, the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976, and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, and entered into force June 26, 1987, among others;

Whereas the Constitution of the People's Republic of China ''protects and guarantees human rights'' by providing citizens with equality under the law, freedom of speech, press, assembly, association, procession, and demonstration, the right to own and inherit private property, freedom of religion, equality for women, and numerous other rights consistent with the Universal Declaration of Human Rights and other international human rights conventions and covenants;

Whereas, since 1991, the Governments of the United States and China have held 13 Human Rights Dialogues, the most recent of which took place in May 2008 in Beijing;

Whereas, in January 1977, more than 200 citizens of Czechoslovakia, representing different professions, faiths, and beliefs, formed a ''loose, informal, and open association of people... united by the will to strive individually and collectively for respect for human and civil rights'' and issued a document called Charter 77, which called on their government to protect basic civic and human rights as enshrined under national laws;

Whereas, inspired by the Charter 77 movement, on December 10, 2008, an informal group of more than 300 citizens of China from a wide array of backgrounds, professions, faiths, and beliefs issued a public statement entitled ''Charter 08'', a 19-point plan calling for greater rights and political reform in China, increased liberties, democracy, religious freedom, and rule of law;

Whereas authorities in China have detained several affiliates of that Charter 08 effort, including Liu Xiaobo, who remains in custody;

Whereas the Department of State has called on the Government of China to release Liu Xiaobo and cease harassment of all Chinese citizens who peacefully express their desire for internationally-recognized fundamental freedoms; and

Whereas thousands of individuals have added their names to the Charter 08 petition, and the document has been referenced in over 300,000 websites and blogs: Now, therefore, be it

Resolved, That the Senate—

(1) notes the numerous commitments the China has made to the international community as a signatory to the United Nations Universal Declaration of Human Rights and other international conventions;

(2) commends the citizens of China who have signed onto Charter 08 and are upholding principles consistent with China's international commitments on human rights and its own constitution;

(3) calls on the Government of China to release all people detained because of their involvement or affiliation with the Charter 08 effort, including Liu Xiaobo, in addition to all prisoners of conscience detained in violation of the domestic law and international commitments of China; and

(4) calls on President Barack Obama and Secretary of State Hillary Clinton to engage with the Government of China on human rights issues at every reasonable opportunity and using all diplomatic means available, including the U.S.-China Human Rights Dialogue, and resist pressure to replace this dialogue with a weaker alternative.

SENATE RESOLUTION 25—EXPRESSING SUPPORT FOR DESIGNATION OF JANUARY 28, 2009, AS ''NATIONAL DATA PRIVACY DAY''

Mr. DORGAN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. KERRY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. WICKER, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 25

Whereas the Internet and the capabilities of modern technology cause data privacy issues to figure prominently in the lives of many people in the United States at work, in their interaction with government and public authorities, in the health field, in e-commerce transactions, and online generally;

Whereas many individuals are unaware of data protection and privacy laws generally and of specific steps that can be taken to help protect the privacy of personal information online;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide and statewide effort to raise awareness about data privacy and the protection of personal information on the Internet;

Whereas government officials from the United States and Europe, privacy professionals, academics, legal scholars, representatives of international businesses, and others with an interest in data privacy issues are working together on this date to further the discussion about data privacy and protection;

Whereas privacy professionals and educators are being encouraged to take the time to discuss data privacy and protection issues with teens in high schools across the country;

Whereas privacy is a central element of the mission of the Federal Trade Commission and the Commission will need to continue to educate consumers about protecting their personal information, and their consumer education campaigns should be part of a National effort;

Whereas the recognition of ''National Data Privacy Day'' will encourage more people nationwide to be aware of data privacy concerns and to take steps to protect their personal information online; and

Whereas January 28, 2009, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of a ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote awareness of data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and protection issues with teens in high schools across the United States; and

(4) encourages individuals across the Nation to be aware of data privacy concerns and to take steps to protect their personal information online.

SENATE CONCURRENT RESOLUTION 3—HONORING AND PRAISING THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. DODD (for himself, Mr. REID, Mr. LEAHY, Mr. LEVIN, Mr. CARDIN, Mr. HARKIN, Mr. MENENDEZ, Ms. LANDRIEU, Mr. KENNEDY, Mr. BENNET of Colorado, Mr. KERRY, Mr. BROWN, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. LUGAR, Mr. BAYH, Mr. WYDEN, Mr. CRAPO, Mrs. BOXER, Mr. VOINOVICH, Mr. REED, and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 3

Whereas the National Association for the Advancement of Colored People (referred to in this resolution as the ''NAACP''), originally known as the National Negro Committee, was founded in New York City on February 12, 1909, the centennial of Abraham Lincoln's birth, by a multiracial group of activists who met in a national conference to discuss the civil and political rights of African-Americans;

Whereas the NAACP was founded by a distinguished group of leaders in the struggle for civil and political liberty, including Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villard, and William English Walling;

Whereas the NAACP is the oldest and largest civil rights organization in the United States;

Whereas the mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination;

Whereas the NAACP is committed to achieving its goals through nonviolence;

Whereas the NAACP advances its mission through reliance upon the press, the petition, the ballot, and the courts, and has been persistent in the use of legal and moral persuasion, even in the face of overt and violent racial hostility;

Whereas the NAACP has used political pressure, marches, demonstrations, and effective lobbying to serve as the voice, as well as the shield, for minority Americans;

Whereas after years of fighting segregation in public schools, the NAACP, under the leadership of Special Counsel Thurgood Marshall, won one of its greatest legal victories in the Supreme Court's decision in Brown v. Board of Education, 347 U.S. 483 (1954);

Whereas in 1955, NAACP member Rosa Parks was arrested and fined for refusing to give up her seat on a segregated bus in Montgomery, Alabama—an act of courage that would serve as the catalyst for the largest grassroots civil rights movement in the history of the United States;

Whereas the NAACP was prominent in lobbying for the passage of the Civil Rights Acts of 1957, 1960, and 1964, the Voting Rights Act of 1965, the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006, and the Fair Housing Act, laws that ensured Government protection for legal victories achieved;

Whereas in 2005, the NAACP launched the Disaster Relief Fund to help survivors in Louisiana, Mississippi, Texas, Florida, and Alabama to rebuild their lives;

Whereas in the 110th Congress, the NAACP was prominent in lobbying for the passage of H. Res. 826, whose resolved clause expresses that: (1) the hanging of nooses is a horrible act when used for the purpose of intimidation and which under certain circumstances can be criminal; (2) this conduct should be investigated thoroughly by Federal authorities; and (3) any criminal violations should be vigorously prosecuted; and

Whereas in 2008 the NAACP vigorously supported the passage of the Emmett Till Unsolved Civil Rights Crime Act of 2007 (28 U.S.C. 509 note), a law that puts additional Federal resources into solving the heinous crimes that occurred in the early days of the civil rights struggle that remain unsolved and bringing those who perpetrated such crimes to justice: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 100th anniversary of the historic founding of the National Association for the Advancement of Colored People; and

(2) honors and praises the National Association for the Advancement of Colored People on the occasion of its anniversary for its work to ensure the political, educational, social, and economic equality of all persons.

AMENDMENTS SUBMITTED AND PROPOSED

SA 74. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 75. Mr. ROBERTS (for himself, Mr. HATCH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 76. Mr. ROBERTS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 77. Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. JOHANNS, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra.

SA 78. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 79. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 80. Mr. HATCH (for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, Mr. BENNETT, Mr. JOHANNS, Mr. DEMINT, Mr.

ROBERTS, Mr. RISCH, Mr. INHOFE, Mr. BARRASSO, Mr. GREGG, Mr. ENSIGN, Mr. GRASSLEY, Mr. MARTINEZ, Mr. MCCAIN, Mr. ENZI, Mr. CRAPO, Mr. CORKER, Mr. KYL, Mr. GRAHAM, Mr. COBURN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 81. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 74. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 75, strike line 18 and all that follows through page 76, line 2, and insert the following:

''(B) INCREASED FUNDING FOR OUTREACH AND ENROLLMENT GRANTS.—

''(i) APPROPRIATION.—In addition to amounts appropriated under subsection (g) of section 2113 for the period of fiscal years 2009 through 2013, there is appropriated, out of any money in the Treasury not otherwise appropriated, the amount described in clause (ii), for the purpose of the Secretary awarding grants under that section.

''(ii) AMOUNT DESCRIBED.—The amount described in this clause is the amount equal to the amount of additional Federal funds that the Director of the Congressional Budget Office certifies would have been expended for the period beginning April 1, 2009, and ending September 30, 2013, if subparagraph (A) did not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

SA 75. Mr. ROBERTS (for himself, Mr. HATCH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike section 114 and insert the following:

SEC. 114. LIMITATION ON FEDERAL MATCHING PAYMENTS.

(a) DENIAL OF FEDERAL MATCHING PAYMENTS FOR COVERAGE OF HIGHER INCOME CHILDREN.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR HIGHER INCOME CHILDREN.—

''(A) IN GENERAL.—No payment may be made under this section for any expenditures for providing child health assistance or health benefits coverage under a State child health plan under this title, including under a waiver under section 1115, with respect to any child whose gross family income (as defined by the Secretary) exceeds the lower of—

''(i) $65,000; or

''(ii) the median State income (as determined by the Secretary).

''(B) NO PAYMENTS FROM ALLOTMENTS UNDER THIS TITLE IF MEDICAID INCOME ELIGIBILITY LEVEL FOR CHILDREN IS GREATER.—No payment may be made under this section from an allotment of a State for any expenditures for a fiscal year quarter for providing child health assistance or health benefits coverage under the State child health plan under this title to any individual if the income eligibility level (expressed as a percentage of the poverty line) for children who are eligible for medical assistance under the State plan under title XIX under any category specified in subparagraph (A) or (C) of section 1902(a)(10) in effect during such quarter is greater than the income eligibility level (as so expressed) for children in effect during such quarter under the State child health plan under this title.''.

SA 76. Mr. ROBERTS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 (CHIPRA II).

The text of the Children's Health Insurance Program Reauthorization Act of 2007 (H.R. 3963, 110th Congress) as passed by the Senate on November 1, 2007, is hereby incorporated by reference.

SA 77. Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. JOHANNS, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS AND COVERAGE OF LOW INCOME CHILDREN.

(a) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(b) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601(a), is further amended by adding at the end the following new paragraph:

''(12) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of October 1 of 2010 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, no payment shall be made as of April 30 of the following year, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the Secretary establishes that the State is in compliance with such requirement, but in no case more than 12 months.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a p=0.05 level) less than 80 percent of the low-income children who reside in the State and are eligible for child health assistance under the State child health plan.

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary of Health and Human Services to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(12)(B) of such Act, as added by paragraph (1)).

SA 78. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health

Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, between lines 11 and 12, and insert the following:

''(3) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (1)(B), if a State submits, by not later than 18 months after the date of enactment of this paragraph, a plan to the Secretary that the Secretary determines is likely to reduce the levels of improper payments for the State under the Medicaid program under title XIX and the program under this title, such paragraph shall be applied with respect to such State by substituting 'second succeeding fiscal year' for 'succeeding fiscal year'.

''(B) DETERMINATION.—In making the determination under subparagraph (A), the Secretary shall take into account the results of the study conducted under paragraph (4).

''(4) GAO STUDY AND REPORT ON IMPROPER PAYMENTS UNDER THE MEDICAID AND CHIP PROGRAMS AND WAYS TO REDUCE SUCH IMPROPER PAYMENTS.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study on—

''(i) the mechanisms that States are currently using to reduce improper payments under the Medicaid program under title XIX the program under this title;

''(ii) the levels of such improper payments for each State; and

''(iii) the mechanisms that States should implement in order to reduce such improper payments.

''(B) REPORT.—Not later than 12 months after the date of enactment of this paragraph, the Comptroller General of the United States shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations as the Comptroller General determines appropriate.''.

SA 79. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. ONE-TIME PROCESS FOR HOSPITAL WAGE INDEX RECLASSIFICATION IN ECONOMICALLY-DISTRESSED AREAS.

(a) RECLASSIFICATIONS.—

(1) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009, and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Vincent Mercy Medical Center (provider number 36-0112), such hospital is deemed to be located in the Ann Arbor, MI metropolitan statistical area.

(2) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009 and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Elizabeth Health Center (provider number 36-0064), Northside Medical Center (provider number 36-3307), St. Joseph Health Center (provider number 36-0161), and St. Elizabeth Boardman Health Center (provider number 36-0276), such hospitals are deemed to be located in the Cleveland-Elyria-Mentor metropolitan statistical area.

(b) RULES.—

(1) Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SEC. 624. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—

(1) TREATMENT.—Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)) is amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by striking the semicolon at the end and inserting '', or''; and

(C) by inserting after subclause (III) the following new subclause:

''(IV) a hospital—

''(aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer,

''(bb) that is a free standing hospital, the construction of which had commenced as of December 31, 2008; and

''(cc) whose current or predecessor provider entity is University Hospitals of Cleveland (provider number 36-0137).''.

(2) INITIAL DETERMINATION.—

(A) A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause unless the hospital petitions the Secretary of Health and Human Services for a determination of such qualification on or before December 31, 2011.

(B) The Secretary of Health and Human Services shall, not later than 30 days after the date of a petition under subparagraph (A), determine that the petitioning hospital qualifies as a hospital described in such subclause (IV) if not less than 50 percent of the hospital's total discharges since its commencement of operations have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

(b) APPLICATION.—

(1) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a).

(2) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), such determination shall apply as of the first full 12-month cost reporting period beginning on January 1 immediately following the date of such determination.

(3) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which such a determination has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(4) REQUIREMENT.—A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

SEC. 625. RECONCILIATION AND RECOVERY OF ALL SERVICE-CONCLUDED MEDICARE FEE-FOR-SERVICE DISEASE MANAGEMENT PROGRAM FUNDING.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for the immediate reconciliation and recovery of all service-concluded Medicare fee-for-service disease management program funding.

SA 80. HATCH (for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, Mr. BENNETT of Utah, Mr. JOHANNS, Mr. DEMINT, Mr. ROBERTS, Mr. RISCH, Mr. INHOFE, Mr. BARRASSO, Mr. GREGG, Mr. ENSIGN, Mr. GRASSLEY, Mr. MARTINEZ, Mr. MCCAIN, Mr. ENZI, Mr. CRAPO, Mr. CORKER, Mr. KYL, Mr. GRAHAM, Mr. COBURN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, after line 23, add the following:

SEC. 116. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SA 81. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 273, line 8, strike ''inserting ''$24.78''.'' and all that follows through page 276, line 9, and insert ''inserting ''$2.8311 cents''.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 10 a.m., to hold a hearing entitled ''Addressing Global Climate Change: The Road to Copenhagen.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 10 a.m. to conduct a hearing entitled ''Lessons from the Mumbai Terrorist Attacks, Part II.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Wednesday, January 28, 2009, at 10 a.m. in room SH–216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, January 28, 2009.

The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICE, AND INTERNATIONAL SECURITY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 2:30 p.m. to conduct a hearing entitled, ''The Impact of the Economic Crisis on the U.S. Postal Service''.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 28, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Madam President, I ask unanimous consent that Terri Postma and Rachel Miller, members of my staff, be granted the privilege of the floor during the debate of H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 6, 7, 8, 10, and all nominations on the Secretary's Desk in the Air Force, Army, Marine Corps, and Navy; that the nominations be confirmed, and the motions to reconsider be laid upon the table, en bloc; that no further motions be in order, and any statements relating to the nominations be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General Donald A. Haught
Brigadier General Thomas J. Haynes
Brigadier General Craig D. McCord
Brigadier General Robert M. Stonestreet
Brigadier General Edward W. Tonini
Brigadier General Francis A. Turley

To be brigadier general

Colonel Margaret H. Bair
Colonel James H. Bartlett
Colonel Jorge R. Cantres
Colonel Sandra L. Carlson
Colonel Stephen D. Cotter
Colonel James T. Daugherty
Colonel Gretchen S. Dunkelberger
Colonel Robert A. Hamrick
Colonel Chris R. Helstad
Colonel Cecil J. Hensel, Jr.
Colonel Frank D. Landes
Colonel Robert L. Leeker
Colonel Rickie B. Mattson
Colonel Maureen McCarthy
Colonel John E. McCoy
Colonel John W. Merritt
Colonel Thomas R. Schiess
Colonel Rodger F. Seidel
Colonel Glenn K. Thompson
Colonel Dean L. Winslow
Colonel William M. Ziegler

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. John M. Croley
Brig. Gen. Tracy L. Garrett

IN THE ARMY

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Peter M. Aylward
Brigadier General Grant L. Hayden
Brigadier General David L. Jennette, Jr.
Brigadier General Robert E. Livingston, Jr.
Brigadier General William M. Maloan
Brigadier General Randy E. Manner
Brigadier General Randall R. Marchi
Brigadier General Stuart C. Pike
Brigadier General Eddy M. Spurgin
Brigadier General Charles L. Yriarte

To be brigadier general

Colonel Dennis J. Adams
Colonel Robbie L. Asher
Colonel Christopher D. Bishop
Colonel Glenn A. Bramhall
Colonel Dominic A. Cariello
Colonel Robert C. Clouse, Jr.
Colonel Robert W. Enzenauer
Colonel Peter J. Fagan
Colonel Jack R. Fox
Colonel Wilton S. Gorske
Colonel Louis H. Guernsey, Jr.
Colonel Stephen L. Huxtable
Colonel Timothy J. Kadavy
Colonel James E. Keighley
Colonel Gerald W. Ketchum
Colonel Leonard H. Kiser
Colonel Timothy L. Lake
Colonel Gregory A. Lusk
Colonel David V. Matakas
Colonel Owen W. Monconduit
Colonel Timothy E. Orr
Colonel William R. Phillips, II
Colonel Renaldo Rivera
Colonel Kenneth C. Roberts
Colonel Stephen G. Sanders
Colonel William L. Smith
Colonel Michael A. Stone
Colonel Scott L. Thoele
Colonel Robert L. Tucker, Jr.
Colonel Charles R. Veit
Colonel Roy S. Webb
Colonel Michael T. White

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Dennis Cutler Blair, of Pennsylvania, to be Director of National Intelligence.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN2 AIR FORCE nomination of Edmund P. Zynda II, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN3 AIR FORCE nomination of Daniel C. Gibson, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN4 AIR FORCE nominations (2) beginning DONALD L. MARSHALL, and ending CHARLES E. PETERSON, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN5 AIR FORCE nominations (3) beginning PAUL J. CUSHMAN, and ending LUIS F. SAMBOLIN, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN6 AIR FORCE nominations (4) beginning CHRISTOPHER S. ALLEN, and ending DEEPA HARIPRASAD, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN7 AIR FORCE nomination of Ryan R. Pendleton, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN8 AIR FORCE nomination of Howard L. Duncan, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN9 AIR FORCE nominations (5) beginning JEFFREY R. GRUNOW, and ending PAMELA T. SCOTT, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN10 AIR FORCE nomination of Eugene M. Gaspard, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN11 AIR FORCE nominations (2) beginning MICHAEL R. POWELL, and ending VALERIE R. TAYLOR, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN12 AIR FORCE nominations (2) beginning MARY ELIZABETH BROWN, and ending GERALD J. LAURSEN, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN13 AIR FORCE nominations (3) beginning GARY R. CALIFF, and ending C. MICHAEL PADAZINSKI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN14 AIR FORCE nominations (5) beginning STEPHEN SCOTT BAKER, and ending PHILLIP E. PARKER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN15 AIR FORCE nominations (9) beginning JOSEPH ALLEN BANNA, and ending JOSEPH TOCK, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN16 AIR FORCE nominations (69) beginning KEITH A. ACREE, and ending STEVEN L. YOUSSI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE ARMY

PN17 ARMY nomination of Scott A. Gronewold, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN18 ARMY nominations (2) beginning ROBERT L. KASPAR JR., and ending DAVID K. SCALES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN19 ARMY nomination of Emmett W. Mosley, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN20 ARMY nominations (2) beginning ANDREW C. MEVERDEN, and ending APRIL M. SNYDER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN21 ARMY nominations (6) beginning DOUGLAS M. COLDWELL, and ending STEPHEN MONTALDI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN22 ARMY nomination of Thomas S. Carey, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN23 ARMY nomination of Scottie M. Eppler, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN24 ARMY nomination of Pierre R. Pierce, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN25 ARMY nominations (2) beginning CHERYL A. CREAMER, and ending AGA E. KIRBY, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN26 ARMY nominations (24) beginning KATHRYN A. BELILL, and ending SUZANNE R. TODD, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN27 ARMY nominations (73) beginning CHRISTOPHER ALLEN, and ending D060522, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN28 ARMY nominations (137) beginning JOHN L. AMENT, and ending WENDY G. WOODALL, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN29 ARMY nominations (143) beginning TERRYL L. AITKEN, and ending SARAHTYAH T. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE MARINE CORPS

PN30 MARINE CORPS nomination of Matthew E. Sutton, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN31 MARINE CORPS nomination of Andrew N. Sullivan, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN32 MARINE CORPS nomination of Tracy G. Brooks, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN33 MARINE CORPS nominations (2) beginning PETER M. BARACK JR., and ending JACOB D. LEIGHTY III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN34 MARINE CORPS nominations (2) beginning DAVID G. BOONE, and ending JAMES A. JONES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN35 MARINE CORPS nominations (2) beginning WILLIAM A. BURWELL, and ending BALWINDAR K. RAWALAYVANDEVOORT, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN36 MARINE CORPS nominations (2) beginning KURT J. HASTINGS, and ending CALVIN W. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN37 MARINE CORPS nominations (3) beginning JAMES P. MILLER JR., and ending MARC TARTER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN38 MARINE CORPS nomination of David S. Pummell, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN39 MARINE CORPS nomination of Robert M. Manning, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN40 MARINE CORPS nomination of Michael A. Symes, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN41 MARINE CORPS nomination of Paul A. Shirley, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN42 MARINE CORPS nomination of Richard D. Kohler, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN43 MARINE CORPS nominations (2) beginning JULIE C. HENDRIX, and ending MAURO MORALES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN44 MARINE CORPS nominations (4) beginning CHRISTOPHER N. NORRIS, and ending SAMUEL W. SPENCER III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN45 MARINE CORPS nominations (3) beginning ANTHONY M. NESBIT, and ending PAUL ZACHARZUK, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN46 MARINE CORPS nominations (3) beginning GREGORY R. BIEHL, and ending BRYAN S. TEET, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN47 MARINE CORPS nominations (2) beginning TRAVIS R. AVENT, and ending GREGG R. EDWARDS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN48 MARINE CORPS nominations (4) beginning JOSE A. FALCHE, and ending CLENNON ROE III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN49 MARINE CORPS nominations (6) beginning KEITH D. BURGESS, and ending BRIAN J. SPOONER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN50 MARINE CORPS nominations (3) beginning MARK L. HOBIN, and ending TERRY G. NORRIS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN51 MARINE CORPS nominations (26) beginning KEVIN J. ANDERSON, and ending EDWARD P. WOJNAROSKI JR., which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE NAVY

PN53 NAVY nomination of Steven J. Shauberger, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN54 NAVY nomination of Karen M. Stokes, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN56 NAVY nominations (7) beginning CRAIG W. AIMONE, and ending MATTHEW M. WILLS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

NOMINATION OF DENNIS C. BLAIR

Mrs. FEINSTEIN. Mr. President, I rise today as chairman of the Select Committee on Intelligence to urge the Senate to confirm Admiral Dennis C. Blair to be the next Director of National Intelligence.

Admiral Blair is well known to many of us from his years of service as the Commander in Chief of the U.S. Pacific Command. He has served with distinction in the national security field all his adult life, entering the Naval Academy in 1964 and serving for 34 years.

During his naval career, Admiral Blair was involved in the intelligence field and in policymaking. He worked twice in the White House, first as a fellow and then on the National Security Council staff. He worked for 2 years at

the CIA as the Associate Director for Military Support. And he was named to be the Director of the Joint Staff in 1996.

He has been a consumer and a manager of intelligence through his career, and he has a strong understanding of the importance of providing the President, the Congress, and other policymakers with accurate, actionable, and timely intelligence.

Admiral Blair will be the Nation's third Director of National Intelligence, a position that was left vacant by the resignation of ADM Mike McConnell earlier this week. It is critical that Admiral Blair be confirmed so that the intelligence community has the leadership it needs.

I hope that the Senate will confirm Admiral Blair on a strong bipartisan basis, sending the signal that we are united in our support for the nominee and in our interest in strong leadership of the intelligence community.

The position of the Director of National Intelligence was created so that there would be a single leader of the 16 intelligence agencies who could bring greater integration to the work of U.S. intelligence. The job of the Director is to break down the stovepipes and put intelligence agencies back on the right track when they go astray.

Progress has been made by the previous Directors, Ambassador Negroponte and Admiral McConnell, but they would agree much work is ahead. As Admiral Blair said to the committee, it will be his job as the DNI to see that "the whole of the national intelligence enterprise is always more than the sum of its parts."

Admiral Blair has pledged, however, to take forceful action when there are disagreements or when he believes an agency is not performing as it should.

He has a keen appreciation both for the many smart, dedicated and brave professionals in the intelligence community workforce and for the role of the DNI to give these professionals the right missions, and the right tools, to collect the intelligence we need and conduct professional and accurate analysis.

President-elect Obama announced his intention to nominate Admiral Blair on January 9, 2009, and then President Obama submitted the nomination to the Senate on his first afternoon in office. The Intelligence Committee carefully reviewed Admiral Blair's record and his views on the role of the Director of National Intelligence, the threats facing the United States, and the appropriate way for the intelligence community to handle its missions.

The committee held a public hearing with Admiral Blair on January 22, at which he was introduced and supported by our distinguished colleague and very first chairman of the Senate Intelligence Committee, Senator INOUYE.

Before and after the hearing, Admiral Blair answered numerous questions for the record. His answers can be found on the committee's Web site, and I commend them to all Members and the public for a better understanding of his views about the important office to which he has been nominated, and the challenges he will face on behalf of the American people.

I have been especially pleased with the commitment of Admiral Blair to address the issue of congressional oversight. In our prehearing questions, we asked Admiral Blair about his views on keeping the intelligence committees fully and currently informed of intelligence activities.

We asked him to address in particular the failure to brief the entire membership of the intelligence committees on the CIA's interrogation, detention, and rendition program, and the NSA's electronic surveillance program. His direct answer recognized a fundamental truth: "These programs were less effective and did not have sufficient legal and constitutional foundations because the intelligence committees were prevented from carrying out their oversight responsibilities."

Admiral Blair has pledged that he will work closely with the committee and the Congress to build a relationship of trust and candor. He has said that the leadership of the intelligence community must earn the support and trust of the intelligence oversight committees if it is to earn the trust and support of the American people. I wholeheartedly agree.

I am confident that Admiral Blair will ensure that the membership of the select committee is given access to the information it needs to perform its oversight role, and U.S. intelligence programs will have a stronger foundation because of it.

He has also agreed to come before the committee on a monthly basis to have candid discussions with all members on the major issues he sees and the challenges he faces. These sessions are enormously important for the committee to truly understand the workings of the intelligence community and to carry out our oversight responsibilities.

In addition, Admiral Blair will have a pivotal role in the implementation of the recent presidential Executive orders to close the detention center in Guantanamo and ensure there is a single standard for the humane and lawful treatment of detainees by U.S. military and intelligence services.

These executive orders represent an extraordinarily important turning point for our Nation. Admiral Blair has made strong statements to the committee that torture is not moral, legal, or effective, and that the U.S. Government must have a single clear standard for the treatment and interrogation of detainees. I am convinced he will help ensure we are once more true to our ideals and protecting our national security.

Having been an early advocate of the creation of the position, it is for me a distinct honor that my very first floor responsibility as the new chairman of the Intelligence Committee is to report this nomination.

I am pleased to relay to my colleagues that the Intelligence Committee met today, on January 28, and voted to report favorably the nomination of Admiral Blair to be the Director of National Intelligence.

The Senate has moved quickly to act on this recommendation. It is a testament to the importance of the position and the qualifications of the nominee. I thank the vice chairman for working with me to move the nomination quickly but with the due diligence appropriate for this position.

Admiral Blair has my strong support to lead the intelligence community and I look forward to working with him closely in the days to come.

Mr. ROCKEFELLER. Mr. President, I rise to congratulate Admiral Denny Blair on his unanimous confirmation as the Director of National Intelligence, one of the most important and demanding jobs in our government. This position requires a leader with tremendous management skills—someone capable of bringing the 16 disparate agencies of the intelligence community into a cohesive organization that provides timely, accurate intelligence to our government.

This intelligence is necessary to keep our Nation and our people safe, so Admiral Blair undertakes a sober, solemn responsibility today. He will take on this task at a time when we are fighting two wars as well as a global fight against terrorist networks, not to mention enormous long-term strategic challenges—including those that have arisen in recent months in the wake of the global financial and economic crisis.

These are perilous times, but I am confident he is up to the task. Admiral Blair brings a wealth of valuable experience to the job. As a senior military commander he was a high level consumer of intelligence and familiar with the systems used to collect and produce intelligence. He also knows the Central Intelligence Agency having spent time as the first Associate Director for Military Affairs.

Perhaps his greatest attribute, however, is his experience directing a large, sprawling organization, made up of disparate agencies and cultures, to achieve a common mission. That is what he accomplished successfully as the commander of all U.S. military forces in the Pacific, and that is exactly what his mission will be as the DNI.

I think this is a very promising time for our intelligence community and our

national security, and Admiral Blair's confirmation is a big part of that. I want to underscore what he told us in his confirmation hearing—that we are entering a ''new era in the relationship'' between Congress and the executive branch on matters of intelligence.

Specifically, Admiral Blair said that he will place great importance on keeping Congress informed—not just formally notified, but fully informed—on intelligence activities. He said that he will work to ensure that classification is not used as a way to, in his words, ''hide things'' from Members of Congress who need to know about them.

He stated clearly and I quote, ''We need to have processes which don't just check a block on telling somebody but actually get the information across to the right people.''

These are very important commitments, and they portend good things for our intelligence community and for our national security. I have had the opportunity to speak with Admiral in great depth over the past several months, and these discussions have given me confidence in his sincerity with these commitments.

And I expect that, likewise, he and the Obama administration have confidence that Congress will hold them to it. In fact this cooperation has already begun.

With this new era of cooperation in mind, I want to state for the record that we have an opportunity to make a sharp turn toward new intelligence policies that will bolster our counterterrorism efforts and strengthen our national security in general.

To be accurate and valuable, intelligence must be politically neutral information, not spin. And it must be collected with methods that enjoy bipartisan support as both legal and effective.

To ensure this, secret intelligence activities must be subject to rigorous congressional oversight. We are the only independent reviewers of secret intelligence activities, and we are the only outside check on activities that are not legal or not effective.

Oversight should not be adversarial—it is a necessary partnership between the executive branch and the Congress.

I have fought to remove politics from intelligence and to restore Congress's vital oversight role since I joined the committee in 2001, and I will keep fighting for it now.

I don't want to get into who is at fault for the cycle we were caught in over the past several years. Instead I want to look ahead to what is possible now.

I think there is a real chance that in this new year, we can have a new start.

We can and should debate how we go about collecting and analyzing intelligence—for instance on interrogation policies—but we can do that without the stain of political considerations.

Between the executive and legislative branches, we can and should engage and debate these policies, but we can do that in partnership, with the knowledge that more information exchanges and deliberations give rise to better intelligence collection and analysis.

In short, we can recognize that we are all on the same team when it comes to finding out the sensitive information we need to protect this great Nation.

If we play on that same team, I know we can have accurate, reliable intelligence that is collected in a way that makes this country proud, and is analyzed without the taint of political influence.

I congratulate Admiral Denny Blair on his confirmation.

Mr. BOND. Mr. President, I wish to express my support for the nomination of ADM Dennis Blair to be the next Director of National Intelligence.

Over the past several weeks, Admiral Blair and I have spoken at length about the role of the DNI and the expectations that we in Congress will have of him.

First and foremost, we expect that the DNI will direct the intelligence community and not be a coordinator or consensus-seeker or govern by majority.

Second, the DNI must be a strong leader, standing on equal footing with the Secretary of Defense and other Cabinet officials.

Third, the DNI must assert appropriate authority over the CIA—it is the DNI, and the DNI alone, who should speak and act as the President's intelligence adviser.

I am pleased that Admiral Blair has pledged that he will come back to Congress to ask for any additional authorities if he determines that such authorities are needed to direct the intelligence community.

The intelligence community needs a strong leader right now. As we know, last week the President signed a number of Executive orders that not only will have a lasting impact on how we fight this war on terror but have created immediate and serious legal and practical problems in handling terrorist detainees.

Admiral Blair will play a key role in the implementation of these Executive orders.

I believe that the sooner he learns all the facts about the CIA's interrogation and detention program and the ramifications of closing Guantanamo Bay, the better he will be able to guide that process in a manner that will not jeopardize American lives.

Admiral Blair has had a long and distinguished career in Government service. He brings a lifetime of sound judgment and strong character to this difficult job.

I believe Admiral Blair is up to the task of leading the intelligence community and I would urge my colleagues to support his nomination.

NOMINATIONS DISCHARGED

Mr. TESTER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged of PN65–15 and 65–9; the Budget and Homeland Security Committee be discharged of PN65–12; and the Banking Committee be discharged of PN64–15; and the Senate then proceed, en bloc, to the nominations; that the Senate then proceed to vote on confirmation of the nominations, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nominations of James Steinberg to be Deputy Secretary of State; Jacob Lew to be Deputy Secretary of State, Management and Resources; Robert Nabors to be Deputy Director, OMB; and Christina Romer to be a member of the Council of Economic Advisors?

The nominations were confirmed.

Mr. TESTER. I move to reconsider and table; and I ask unanimous consent that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's actions and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Jacob J. Lew, of New York, to be Deputy Secretary of State for Management and Resources.

James Braidy Steinberg, of Texas, to be Deputy Secretary of State.

OFFICE OF MANAGEMENT AND BUDGET

Robert L. Nabors II, of New Jersey, to be Deputy Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Christina Duckworth Romer, of California, to be a Member of the Council of Economic Advisers.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 26, the House adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 26) providing for an adjournment of the House.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. TESTER. I ask unanimous consent the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 26) was agreed to.

NATIONAL DATA PRIVACY DAY

Mr. TESTER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 25, submitted earlier today by Senator DORGAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 25) expressing support for designation of January 28, 2009, as ''National Data Privacy Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. TESTER. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 25) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 25

Whereas the Internet and the capabilities of modern technology cause data privacy issues to figure prominently in the lives of many people in the United States at work, in their interaction with government and public authorities, in the health field, in e-commerce transactions, and online generally;

Whereas many individuals are unaware of data protection and privacy laws generally and of specific steps that can be taken to help protect the privacy of personal information online;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide and statewide effort to raise awareness about data privacy and the protection of personal information on the Internet;

Whereas government officials from the United States and Europe, privacy professionals, academics, legal scholars, representatives of international businesses, and others with an interest in data privacy issues are working together on this date to further the discussion about data privacy and protection;

Whereas privacy professionals and educators are being encouraged to take the time to discuss data privacy and protection issues with teens in high schools across the country;

Whereas privacy is a central element of the mission of the Federal Trade Commission and the Commission will need to continue to educate consumers about protecting their personal information, and their consumer education campaigns should be part of a National effort;

Whereas the recognition of ''National Data Privacy Day'' will encourage more people nationwide to be aware of data privacy concerns and to take steps to protect their personal information online; and

Whereas January 28, 2009, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of a ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote awareness of data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and protection issues with teens in high schools across the United States; and

(4) encourages individuals across the Nation to be aware of data privacy concerns and to take steps to protect their personal information online.

ORDERS FOR THURSDAY, JANUARY 29, 2009

Mr. TESTER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, January 29; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2, the Children's Health Insurance Program Reauthorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. TESTER. Mr. President, tomorrow Senators should expect rollcall votes throughout the day as we continue to work through the remaining amendments to the children's health care bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. TESTER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:32 p.m., adjourned until Thursday, January 29, 2009, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

James Braidy Steinberg, of Texas, to be Deputy Secretary of State.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

Jacob J. Lew, of New York, to be Deputy Secretary of State for Management and Resources.

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

Robert L. Nabors II, of New Jersey, to be Deputy Director of the Office of Management and Budget.

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

Christina Duckworth Romer, of California, to be a Member of the Council of Economic Advisers.

CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, January 28, 2009:

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

DENNIS CUTLER BLAIR, OF PENNSYLVANIA, TO BE DIRECTOR OF NATIONAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

JACOB J. LEW, OF NEW YORK, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES.

JAMES BRAIDY STEINBERG, OF TEXAS, TO BE DEPUTY SECRETARY OF STATE.

EXECUTIVE OFFICE OF THE PRESIDENT

CHRISTINA DUCKWORTH ROMER, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

ROBERT L. NABORS II, OF NEW JERSEY, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL DONALD A. HAUGHT
BRIGADIER GENERAL THOMAS J. HAYNES
BRIGADIER GENERAL CRAIG D. MCCORD
BRIGADIER GENERAL ROBERT M. STONESTREET
BRIGADIER GENERAL EDWARD W. TONINI
BRIGADIER GENERAL FRANCIS A. TURLEY

To be brigadier general

COLONEL MARGARET H. BAIR
COLONEL JAMES H. BARTLETT
COLONEL JORGE R. CANTRES
COLONEL SANDRA L. CARLSON
COLONEL STEPHEN D. COTTER
COLONEL JAMES T. DAUGHERTY
COLONEL GRETCHEN S. DUNKELBERGER
COLONEL ROBERT A. HAMRICK
COLONEL CHRIS R. HELSTAD
COLONEL CECIL J. HENSEL, JR.
COLONEL FRANK D. LANDES
COLONEL ROBERT L. LEEKER
COLONEL RICKIE B. MATTSON
COLONEL MAUREEN MCCARTHY
COLONEL JOHN E. MCCOY
COLONEL JOHN W. MERRITT
COLONEL THOMAS R. SCHIESS
COLONEL RODGER F. SEIDEL
COLONEL GLENN K. THOMPSON
COLONEL DEAN L. WINSLOW
COLONEL WILLIAM M. ZIEGLER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JOHN M. CROLEY
BRIG. GEN. TRACY L. GARRETT

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL PETER M. AYLWARD
BRIGADIER GENERAL GRANT L. HAYDEN
BRIGADIER GENERAL DAVID L. JENNETTE, JR.
BRIGADIER GENERAL ROBERT E. LIVINGSTON, JR.
BRIGADIER GENERAL WILLIAM M. MALOAN
BRIGADIER GENERAL RANDY E. MANNER
BRIGADIER GENERAL RANDALL R. MARCHI
BRIGADIER GENERAL STUART C. PIKE
BRIGADIER GENERAL EDDY M. SPURGIN
BRIGADIER GENERAL CHARLES L. YRIARTE

To be brigadier general

COLONEL DENNIS J. ADAMS
COLONEL ROBBIE L. ASHER
COLONEL CHRISTOPHER D. BISHOP
COLONEL GLENN A. BRAMHALL
COLONEL DOMINIC A. CARIELLO
COLONEL ROBERT C. CLOUSE, JR.
COLONEL ROBERT W. ENZENAUER
COLONEL PETER J. FAGAN
COLONEL JACK R. FOX
COLONEL WILTON S. GORSKE
COLONEL LOUIS H. GUERNSEY, JR.
COLONEL STEPHEN L. HUXTABLE
COLONEL TIMOTHY J. KADAVY
COLONEL JAMES E. KEIGHLEY
COLONEL GERALD W. KETCHUM
COLONEL LEONARD H. KISER
COLONEL TIMOTHY L. LAKE
COLONEL GREGORY A. LUSK
COLONEL DAVID V. MATAKAS
COLONEL OWEN W. MONCONDUIT
COLONEL TIMOTHY E. ORR
COLONEL WILLIAM R. PHILLIPS II
COLONEL RENALDO RIVERA
COLONEL KENNETH C. ROBERTS
COLONEL STEPHEN G. SANDERS
COLONEL WILLIAM L. SMITH
COLONEL MICHAEL A. STONE
COLONEL SCOTT L. THOELE
COLONEL ROBERT L. TUCKER, JR.
COLONEL CHARLES R. VEIT
COLONEL ROY S. WEBB
COLONEL MICHAEL T. WHITE

IN THE AIR FORCE

AIR FORCE NOMINATION OF EDMUND P. ZYNDA II, TO BE MAJOR.

AIR FORCE NOMINATION OF DANIEL C. GIBSON, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH DONALD L. MARSHALL AND ENDING WITH CHARLES E. PETERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH PAUL J. CUSHMAN AND ENDING WITH LUIS F. SAMBOLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTOPHER S. ALLEN AND ENDING WITH DEEPA HARIPRASAD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATION OF RYAN R. PENDLETON, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF HOWARD L. DUNCAN, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH JEFFREY R. GRUNOW AND ENDING WITH PAMELA T. SCOTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATION OF EUGENE M. GASPARD, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH MICHAEL R. POWELL AND ENDING WITH VALERIE R. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH MARY ELIZABETH BROWN AND ENDING WITH GERALD J. LAURSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH GARY R. CALIFF AND ENDING WITH C. MICHAEL PADAZINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH STEPHEN SCOTT BAKER AND ENDING WITH PHILLIP E. PARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH JOSEPH ALLEN BANNA AND ENDING WITH JOSEPH TOCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH KEITH A. ACREE AND ENDING WITH STEVEN L. YOUSSI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE ARMY

ARMY NOMINATION OF SCOTT A. GRONEWOLD, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH ROBERT L. KASPAR, JR. AND ENDING WITH DAVID K. SCALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATION OF EMMETT W. MOSLEY, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH ANDREW C. MEVERDEN AND ENDING WITH APRIL M. SNYDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH DOUGLAS M. COLDWELL AND ENDING WITH STEPHEN MONTALDI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATION OF THOMAS S. CAREY, TO BE MAJOR.

ARMY NOMINATION OF SCOTTIE M. EPPLER, TO BE MAJOR.

ARMY NOMINATION OF PIERRE R. PIERCE, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH CHERYL A. CREAMER AND ENDING WITH AGA E. KIRBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH KATHRYN A. BELILL AND ENDING WITH SUZANNE R. TODD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER ALLEN AND ENDING WITH D060522, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH JOHN L. AMENT AND ENDING WITH WENDY G. WOODALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH TERRYL L. AITKEN AND ENDING WITH SARAHTYAH T. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF MATTHEW E. SUTTON, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF ANDREW N. SULLIVAN, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF TRACY G. BROOKS, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH PETER M. BARACK, JR. AND ENDING WITH JACOB D. LEIGHTY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH DAVID G. BOONE AND ENDING WITH JAMES A. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH WILLIAM A. BURWELL AND ENDING WITH BALWINDAR K. RAWALAYVANDEVOORT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KURT J. HASTINGS AND ENDING WITH CALVIN W. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JAMES P. MILLER, JR. AND ENDING WITH MARC TARTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATION OF DAVID S. PUMMELL, TO BE MAJOR.

MARINE CORPS NOMINATION OF ROBERT M. MANNING, TO BE MAJOR.

MARINE CORPS NOMINATION OF MICHAEL A. SYMES, TO BE MAJOR.

MARINE CORPS NOMINATION OF PAUL A. SHIRLEY, TO BE MAJOR.

MARINE CORPS NOMINATION OF RICHARD D. KOHLER, TO BE MAJOR.

MARINE CORPS NOMINATIONS BEGINNING WITH JULIE C. HENDRIX AND ENDING WITH MAURO MORALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH CHRISTOPHER N. NORRIS AND ENDING WITH SAMUEL W. SPENCER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH ANTHONY M. NESBIT AND ENDING WITH PAUL ZACHARZUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH GREGORY R. BIEHL AND ENDING WITH BRYAN S. TEET, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH TRAVIS R. AVENT AND ENDING WITH GREGG R. EDWARDS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JOSE A. FALCHE AND ENDING WITH CLENNON ROE III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KEITH D. BURGESS AND ENDING WITH BRIAN J. SPOONER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH MARK L. HOBIN AND ENDING WITH TERRY G. NORRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KEVIN J. ANDERSON AND ENDING WITH EDWARD P. WOJNAROSKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE NAVY

NAVY NOMINATION OF STEVEN J. SHAUBERGER, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF KAREN M. STOKES, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH CRAIG W. AIMONE AND ENDING WITH MATTHEW M. WILLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

HOUSE OF REPRESENTATIVES—*Wednesday, January 28, 2009*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. TAUSCHER).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 28, 2009.

I hereby appoint the Honorable ELLEN O. TAUSCHER to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, architect of the universe and advocate for us all, each day is a blessing.

When we rise from sleep, activities of the day stir the mind. Having a job to fulfill sets us into routine as a people with purpose.

Daily work, O Lord, invites us to demonstrate responsibility and manifests our participation in Your creative power. Mind and body together become engaged in productivity, sustenance, or service beyond ourselves.

Because we believe human work bestows a special dignity upon a person and is a way to achieve a just society, we know how important it is for us to pray for the unemployed and their families.

Bless the work of Congress today. May this chosen labor be creative, prove responsible, have lasting results, and give You glory now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio (Mr. DRIEHAUS) come forward and lead the House in the Pledge of Allegiance.

Mr. DRIEHAUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches from each side of the aisle.

IT'S TIME TO START LOOKING OUT FOR THE AMERICAN PEOPLE AND PASS H.R. 1

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. A 93-year-old man freezes to death in his home because he can't pay the electric bill. A family of seven perishes in a murder-suicide over financial- and job-related matters. A 90-year-old woman tries to kill herself when the sheriff arrives to take her house. And a 75-year-old woman is buried today after predatory lenders drove her to suicide.

More and more Americans are being driven to desperation over losing their jobs and their homes. This economy is literally killing people. The banks get a $700 billion bailout as they continue to kick people out of their homes. We must get help directly to the American people.

There are good reasons to question the $825 billion stimulus, but there's no good reason to oppose it. Not when every crooked interest in this country has been in a long parade at the public trough while factories are shut, jobs are lost, and homes are foreclosed. Congress must act today for the people. We must come back again and again with more comprehensive jobs programs to rebuild infrastructure, fund education including preschool, and create universal health care. We must gain control of our money system and stop taxpayers from being robbed by the banks. The banks already have $700 billion and are looking for another trillion.

It's time we started to look out for number one, the American people, and pass H.R. 1 for the American people and get the American people back some of their money.

JUST PLANE STUPID—CITIGROUP IS ENJOYING SPENDING TAXPAYER MONEY

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, the big fat cat executives of Citigroup are busy spending taxpayer bailout money on a brand new luxury jet.

That's right, Madam Speaker. Citigroup claimed it was on the brink of financial disaster, then demanded and took $45 billion from the taxpayers through government giveaways. Now they're buying a new $50 million jet. And did I mention this swanky jet is made in France?

Madam Speaker, the arrogance and ignorance of the "Big Banking Boys Gang" is astonishing. While average Americans are hunkering down worried about their jobs, food, clothes, and mortgage payments, these irresponsible executives are blowing millions on high-dollar toys.

It's about time the elites in the financial industry quit acting like they're entitled to special perks. Americans shouldn't be forced to pay for CEO bonuses and luxury corporate jets for the rich and famous robber barons.

But you see, Madam Speaker, they must need that jet to fly to New York Mets games because Citigroup is spending $400 million to plaster its name on its new stadium, Citi Field.

And that's just the way it is.

CITIGROUP AND THEIR $50 MILLION FRENCH-BUILT CORPORATE JET

(Mr. HALL of New York asked and was given permission to address the House for 1 minute.)

Mr. HALL of New York. Madam Speaker, Citigroup did take more than $45 billion in taxpayer-funded rescue money. And imagine the shock and outrage that I and many other Americans felt when we heard this week that Citigroup was buying a $50 million French-built corporate jet.

Is there no shame? America is in the midst of a recession, with the highest unemployment in 16 years and the highest foreclosure rate in more than three decades. People all over the country are losing their jobs, their homes, their small businesses. And in the midst of all this, a company that the taxpayers are bailing out with our tax dollars is buying a plush corporate jet.

I voted to rescue the banks, reluctantly, for one reason and one reason only: to free up credit so that small businesses and individuals could have access to loans for essentials such as college tuition and home mortgages and the economy could keep running. A new private jet is not what I voted for.

Thankfully, pressure from Congress and the White House has forced Citigroup to cancel the purchase of this plane. But the incident is a glaring example of the blatant lack of accountability from banks seeking rescue money. It needs to stop. And I look forward to working with the new Treasury Secretary to correct this oversight and make it clear that explicit restrictions are placed on any rescue money used by the banks.

ECONOMIC STIMULUS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, there are 11 million unemployed Americans receiving a notice that says they owe taxes on their unemployment benefits and they'll have a huge bill due on April 15. After this scary realization, these folks will get on their phones or their computers to ask us where we think they are going to get the money to pay the additional tax.

As this Congress works to find ways to kick-start the economy, I propose we not kick these folks when they're down and we eliminate the tax on unemployment insurance benefits for 2008 and 2009.

This economic stimulus ought to do this. The 1099 statements that are showing up in mailboxes to notify my constituents that they owe Federal taxes on their unemployment is just ridiculous. I'd want to be able to tell my constituents we're going to do something about this problem.

Let's go back to the drawing board and come together to really help the unemployed.

At this time I'd also want to say thank you and God bless to Kathleen Black, who is going from my staff to the Senate, one of the best tax persons in the Congress.

CATHOLIC SCHOOLS WEEK

(Mr. DRIEHAUS asked and was given permission to address the House for 1 minute.)

Mr. DRIEHAUS. Madam Speaker, I rise today to join students and families and educators across the country to mark this very important week, Catholic Schools Week.

For thousands of children in the United States, including my own, Catholic schools are laying the foundation for bright and successful futures while calling young people to service and fostering values that strengthen our families and our communities.

I want to congratulate three people in particular: Father Andrew Umberg, pastor of St. William Parish in Cincinnati; Lisa Driggers, a teacher at St. James School in Green Township; and Tim Otten, principal of Elder High School, my alma mater, who have all been honored this year by the National Catholic Education Association. This week we recognize them and other Catholic educators for their important contributions not only to education but to their community and to their country.

THE AMERICAN RECOVERY AND REINVESTMENT ACT: A MASSIVE GOVERNMENT-SPENDING BILL THAT WILL PLUNGE THE NATION DEEPER INTO DEBT

(Mr. COFFMAN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COFFMAN of Colorado. Madam Speaker, the American people are hurting and our economy is in recession.

Congress is right to take action to stimulate the economy, but the American people know that we cannot borrow and spend our way back to prosperity. The American Recovery and Reinvestment Act of 2009 is a massive and wasteful government spending bill that will not stimulate our economy but will recklessly plunge our Nation deeper and deeper into debt.

The deficit for the next 2 years is already projected to be $2 trillion. If deficit spending were an effective economic stimulus, then the economy would be on the verge of a recovery. But it isn't.

Congress can accelerate the process of economic recovery by passing legislation that will improve the incentives that drive economic activity. Lowering tax rates will create the incentives for individuals and businesses to save, to work, to invest their money.

Madam Speaker, the American people are hurting and they deserve a better proposal than this.

THE AMERICAN RECOVERY AND REINVESTMENT ACT WILL REVITALIZE THE ECONOMY

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Madam Speaker, I just listened to my friend from Colorado expound upon the problems of deficit spending. Well, he's absolutely right about the deficit spending from the Republican administration and Congress. They piled up debt with tax cuts for people who didn't need it, a reckless war in Iraq on a credit card.

This package that's coming before us today is actually doing something for the American people, investing in infrastructure and energy. It is looking to a plan for the recovery of the economy, using new technology and new ways of doing business, getting more value out of our investment.

I am pleased that the President reached out to the other side of the aisle even as their leaders were saying before the meeting they were against his package. But I am pleased, while he reached out, he was unwavering in his commitment that our package is going to focus on the people who need help the most, revitalizing the economy, and moving us forward.

I look forward to the passage today of this legislation and further refinement as we move it through Congress with our new administration.

DTV TRANSITION

(Mr. RADANOVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RADANOVICH. Madam Speaker, I rise today in opposition to the digital television delay bill that the House will be voting on under suspension today.

The bill needlessly delays the DTV transition date of February 17 and undermines the government's credibility with consumers and broadcasters who have prepared for the transition, as well as the private industry that is relying on the spectrum that they purchased to be available.

The bill also facilitates the need for $650 million in the stimulus to be spent on the converter box coupon program but ironically does not get a single person off the coupon waiting list.

Finally, the bill prevents spectrum from being cleared for first responders and emergency communications.

Delaying the transition is confusing to our consumers, expensive for our broadcasters, will slow down deployment of broadband services, and has potentially dangerous implications for public safety. Therefore, I urge my colleagues to keep the digital transition on the right path and oppose Senate bill 238.

REMEMBERING THE 1969 SANTA BARBARA OIL SPILL

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Madam Speaker, 40 years ago today, on January 28, 1969, a "blowout" erupted below Union Oil's Platform A 6 miles off the Santa Barbara coast. Before it was capped, more than 3 million gallons of oil spewed into the sea.

For weeks national attention was focused on the spill's disturbing, dramatic images: oil-soaked birds, unable to fly, slowly dying on the sand; 35 miles of sandy beaches coated with thick sludge; over 800 square miles of ocean covered with an oily black sheen.

I lived in Santa Barbara in 1969. I recall how our community came together to save wildlife and clean up our beaches. But the spill's impact went far beyond the ecological and economic damage to our community.

The disaster was considered to be a major factor in the birth of the modern-day environmental movement. There followed a wave of national environmental legislation, including the Clean Air and Water Acts, and laws to protect coastal areas and endangered species.

Now, after 40 years, as we still face the responsibility to protect and preserve our environment, we must never forget this important moment in our Nation's history and commit ourselves to speeding the transition to a clean energy economy.

☐ 1015

AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY IN HONOR OF THE BICENTENNIAL OF THE BIRTH OF PRESIDENT ABRAHAM LINCOLN

Mr. CAPUANO. Madam Speaker, I ask unanimous consent to discharge the Committee on House Administration from further consideration of House Concurrent Resolution 27 and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the concurrent resolution is as follows:

H. CON. RES. 27

Resolved by the House of Representatives (the Senate concurring), That rotunda of the United States Capitol is authorized to be used on February 12, 2009, for a ceremony in honor of the bicentennial of the birth of President Abraham Lincoln. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Ms. SLAUGHTER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 92 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 92

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes. Further general debate shall be confined to the bill and amendments specified in this resolution and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each such further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived except those arising under clause 9 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The chair of the Committee on Appropriations shall insert in the Congressional Record not later than February 4, 2009, such material as he may deem explanatory of appropriations measures for the fiscal year 2009.

SEC. 3. The chair of the Committee on Ways and Means may file, on behalf of the Committee, a supplemental report to accompany H.R. 598.

POINT OF ORDER

Mr. STEARNS. Madam Speaker, I rise to make a point of order against consideration of the rule.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. STEARNS. Madam Speaker, I raise a point of order against consideration of the rule because the rule contains a waiver of all points of order against the provisions in the bill and amendments made in order by the rule and, therefore, it is in violation of section 426 of the Congressional Budget Act.

The SPEAKER pro tempore. The gentleman from Florida makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

The gentleman has met the threshold burden to identify the specific language consisting of the waiver against amendments in the resolution on which the point of order is predicated. Such a point of order shall be disposed of by the question of consideration.

The gentleman from Florida and a Member opposed, the gentlewoman from New York (Ms. SLAUGHTER), each will control 10 minutes of debate on the question of consideration.

After that debate, the Chair will put the question of consideration, to wit: Will the House now consider the resolution?

The Chair recognizes the gentleman from Florida.

Mr. STEARNS. Madam Speaker, thank you very much.

I will be using most of my arguments from the Congressional Budget Office cost estimate dated January 26, 2009. The CBO and the Joint Committee on Taxation estimated that enacting the provisions in division B would reduce revenues by $76 billion in fiscal year 2009, by $131 billion in fiscal year 2010, and by a net of $212 billion over the 2009–2010 period.

So combining the spending and revenue effects of H.R. 1, the CBO estimates that enacting the bill would increase the Federal budget deficit by over $170 billion over the remaining months of the fiscal year 2009, by $356 billion in the year 2010 and $174 billion in 2011, and it continues on, $816 billion over the period 2009 to 2019.

There is a wide range of Federal programs here which increase the benefits payable under the Medicaid unemployment compensation nutrition assistance program, and the legislation would also reduce individual and corporate income tax collections and make a variety of other changes to tax laws. This is basically an unfunded mandate.

CBO anticipates that this bill would have a noticeable impact on economic growth and employment in the next few years. Following long-standing congressional budget procedures, this estimate does not address the potential budget effects of such changes in economic outlook. But the point that the CBO is making is that this is a huge unfunded mandate, particularly in the Medicaid and unemployment compensation and nutrition assistance program.

So with that, Madam Speaker, in light of the provisions in the bill and the amendments made in order by the rule, are, therefore, in violation of section 426 of the Congressional Budget Act, I do, Madam Speaker, raise this point of order.

I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

Technically this point of order is about whether or not to consider this rule and ultimately the underlying bill. In reality, it's about trying to block this bill without any opportunity for debate and without any opportunity

for an up-or-down vote on the legislation itself. I think that is wrong and hope my colleagues will vote ''yes'' so we consider this important legislation on its merits and not kill it on a procedural motion.

We have a long day ahead. Let's not waste more time on dilatory measures. Those who oppose this bill can vote against it on final passage. We must consider this rule, and we must pass H.R. 1 today.

I have the right to close, and, in the end, I will urge my colleagues to vote ''yes'' to consider the rule.

Madam Speaker, I reserve the balance of my time.

Mr. STEARNS. Madam Speaker, I yield such time as he may consume to the distinguished ranking member of the Rules Committee, the gentleman from California (Mr. DREIER).

Mr. DREIER. Madam Speaker, I thank my friend for yielding and let me say that I rise in strong support of this effort to raise this point of order. And I will say to the distinguished Chair of the Committee on Rules, this 10-minute period of time is when we can debate whether or not this is, in fact, an unfunded mandate that is going to dramatically increase costs. That's what this debate is all about.

It's not about simply killing the bill, it's about utilizing a procedure that exists here in this institution, and I hope very much that our colleagues will join with our friend from Florida and ensure that we do address this very, very important issue.

Mr. STEARNS. Madam Speaker, if I may continue, the distinguished chairwoman of the Rules Committee has indicated that this point of order would eliminate debate and not offer the opportunity to Members to really discuss the rule at all. But I would like to say to her, and she was in the Rules Committee when I came out to present my amendment, when the Energy and Commerce Committee marked up that portion of the stimulus package, we were in session for 12 hours. During that time we had six amendments accepted on the Republican minority side.

It turns out that all six of these amendments were agreed to unanimously by the majority. When the bill went to print and when I went to the Rules Committee, I found my amendment was not included, and neither was the gentleman from Pennsylvania, Mr. MURPHY's or Mr. BLUNT's. Three of the amendments were not included, and we questioned how could this be that out of a full markup of Energy and Commerce Committee, we passed six amendments and only three were put in. Yet the Speaker's office had a sheet, a fact sheet, which indicated that all six amendments were put in the bill and all six of these amendments show the bipartisan-ness of this stimulus package.

Now I think what happened on the Energy and Commerce Committee happened in the Ways and Means Committee and it happened in Appropriations Committee. So this, in fact, stimulus package is not bipartisan.

Reading from the Office of Speaker NANCY PELOSI, her fact sheet of January 27, 2009, she says this is a bipartisan, open and transparent legislative process. It is not, Madam Speaker. The amendments that came out of Energy and Commerce, 50 percent were dropped arbitrarily, capriciously, without any comment from the minority.

Now one of those amendments, which was mine, indicated if you are going to give federal subsidies for COBRA, which is unemployment compensation for individuals in America, why give them to people who have a net worth of $1 million or $100 million?

□ 1030

There was no threshold in this bill. So, I basically said, if you're going to give COBRA subsidies, that is you're asking to have the taxpayers pay 65 percent of the COBRA for anybody unemployed, including a man who, for example, left Lehman Brothers or Bernie Madoff; all those people who, under the Democrats' position in the stimulus package, would be able to apply for COBRA subsidies and have the taxpayers in my home county have to pay for their health benefits.

They are asking the taxpayers to pay 65 percent almost indefinitely. And I basically said this should not apply to people that are making $100 million, $10 million, or have a net worth of that amount. And, Mr. WAXMAN, who is the chairman of the Energy and Commerce, was kind enough to say, I agree with you, and that should be part of the bill. So my amendment was agreed to.

Mr. DREIER. Would the gentleman yield?

Mr. STEARNS. Yes, I'll be glad to yield.

Mr. DREIER. I thank my friend for yielding. I'd simply like to inquire of him again about this procedure through which this committee went. It's my understanding that these amendments were all adopted in a bipartisan way, with a unanimous vote in support of these amendments that were later just dropped from the bill that was introduced. And then, we have this statement from the Speaker's press office, a fact sheet stating, In the Energy and Commerce Committee, 57 amendments were dropped, and 43 by Republicans, 6 of which were adopted and incorporated into the bill.

Is that correct?

Mr. STEARNS. I thank the distinguished Member. That is absolutely true. And I think, as he clearly points out, I think we should really ask the distinguished chairwoman of the Rules Committee, why were, in this case, three amendments that were agreed upon in Energy and Commerce, why were they dropped from the print?

And, perhaps if she can't, then I think really the Speaker, whose office this fact sheet came from, should clearly tell us why she dropped amendments that were passed through the democratic process here in the House of Representatives of the United States of America. Yet, they have a fact sheet saying they are still in here. She uses the word ''bipartisan'' when you can't say it's bipartisan if, in my case, my amendment is not in there. It was agreed upon. And others in the Energy and Commerce, their amendments are not here as well.

So I would be glad to yield time to the distinguished chairwoman of the Rules Committee to find out why these amendments, after they were passed overwhelmingly in the Energy and Commerce Committee, are not in the print.

The distinguished chairwoman of the Rules Committee, does she wish to answer?

Ms. SLAUGHTER. We had a thorough airing of this last night, Madam Speaker. Everybody knows what happened here. It had nothing at all to do with the Rules Committee.

Mr. DREIER. Madam Speaker, would the gentleman yield?

Mr. STEARNS. I'd be glad to yield.

Mr. DREIER. With all due respect, for the Chair of the Committee on Rules to stand up and say we had an hour discussion on this last night, and everybody knows what happened. Madam Speaker, I don't think the author of the amendment, Mr. STEARNS, was there when last night in the Rules Committee discussed this and this came forward. I just don't see that as any kind of answer.

I thank my friend for yielding.

Mr. STEARNS. Madam Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman has 2 minutes remaining.

Mr. STEARNS. I reserve the balance of my time, Madam Speaker.

Ms. SLAUGHTER. I reserve the balance of my time.

Mr. STEARNS. Madam Speaker, it's clear she has no response to the rhetorical question: Why were amendments that were agreed upon in the Energy and Commerce dropped capriciously and arbitrarily from the print. And I think we will just let that as a question remain in the House of Representatives and point out to all the Members that when the Speaker puts out a sheet, a fact sheet, in which she says it's a bipartisan bill, it's open and transparent, well, that obviously is not true.

There's no one on the Democrat side here this morning to explain how amendments that were agreed upon in Energy and Commerce were dropped, and perhaps the same was true of the Ways and Means, and also the Appropriations Committee.

And, for those Members, like myself, who came up and asked why my amendment that was accepted was not included as an amendment to the stimulus package, and the distinguished chairwoman of the Rules Committee cannot even answer the simple question of why were amendments not included, when in fact they were passed overwhelmingly in Energy and Commerce.

With that, Madam Speaker, I yield back the balance of my time.

Ms. SLAUGHTER. Madam Speaker, let me correct what Mr. DREIER thinks I said. I said we had a thorough airing of this issue last night at Rules. Although it is not our job to explain why the Speaker's press office—

Mr. DREIER. Will the gentlewoman yield?

Ms. SLAUGHTER. I will not.

Certainly, by now, we know a red-herring when we see one. This is one of the reddest I have seen in such time that I have been here. And I urge my colleagues to vote ''yes'' on a motion to consider so that we can get about the business of the United States, debate, and pass this important piece of legislation that over 80 percent of the people want us to do.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired. The question is, Will the House now consider the resolution?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STEARNS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 174, not voting 18, as follows:

[Roll No. 39]

YEAS—240

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Hill
Himes
Hinchey
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—174

Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sanchez, Loretta
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Wilson (SC)
Wittman
Wolf

NOT VOTING—18

Aderholt
Brown-Waite, Ginny
Clay
Cooper
Crenshaw
Culberson
Dingell
Higgins
Hinojosa
Platts
Ruppersberger
Simpson
Solis (CA)
Space
Wexler
Whitfield
Young (AK)
Young (FL)

□ 1105

Mr. TIERNEY and Ms. DEGETTE changed their vote from ''nay'' to ''yea.''

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(By unanimous consent, Mr. LATOURETTE was allowed to speak out of order.)

WELCOMING TIBERI TRIPLETS

Mr. LaTOURETTE. Madam Speaker, I just for a minute ask the membership to pause for an announcement, and I will be very brief. I do see the dean of our Ohio delegation over there, Ms. KAPTUR, and I know she will want to share in this news as well.

By luck of retirements and defeats and everything else, I now have the pleasant responsibility of being the Republican dean of the Ohio delegation. And some of you may have noticed that our colleague, Mr. TIBERI of Columbus, has not been with us for votes. Some were concerned that he was ill, something was going on.

I have the happy duty to inform the House that he and his wife Denice a week ago Sunday, are now the proud parents of triplets. Daniela, Gabriela, and Cristina are all doing well. Cristina is scheduled to be released from the hospital soon.

So if Congressman TIBERI looks a little tired and a little more worn-out than he has in the past, that is the reason. I know that the House will want to congratulate him and Denice and their three daughters.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. SLAUGHTER. I ask unanimous consent that all Members have 5 legislative days within which to revise and

extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Madam Speaker, nothing is on the minds of Americans more than the sad state of our economy. At dinner tables and water coolers across this great Nation, Americans are concerned not only about our economy, but their own well-being. Will they have a job next week, will they be able to retire when they plan to, will they be able to afford the mortgage, the rent, and their child's education.

Madam Speaker, the Bush administration left us with the worse economy we have faced since World War II. The economic downturn is no longer subject to debate. In the last 4 months, this country has lost 2 million jobs. And, unfortunately, is expected to lose another 3 to 5 million in the next year alone. In fact, 2008 was the worst year for job loss since 1945 while unemployment has skyrocketed to the highest level in 15 years.

This week, major corporations from Caterpillar to Sprint, Nextel to Home Depot announced that they were cutting 62,000 jobs.

Fortunately, it is not too late to turn things around, but the time is almost gone. We must act now. If nothing is done, our economy will continue this downward spiral, and we must take action to boost this economy and to start putting America back to work.

The American Recovery and Reinvestment Act is a critical and necessary investment that will create and save 3 to 4 million jobs, will jump start our economy and begin the process of transforming it for the 21st century with $550 billion in carefully targeted priority investments.

Madam Speaker, this plan helps to strengthen Main Street and the middle class, not Wall Street. In order to improve the plight of hardworking Americans, we will provide immediate, direct tax relief to over 95 percent of Americans.

Not only will the American Recovery and Reinvestment Plan create jobs and grow the economy, it makes a significant investment in our future.

By doubling clean, renewable energy production, we will put people to work in the short term while freeing us from our dependence on foreign oil in the long run.

By renovating public buildings and homes to make them more energy efficient, we will create jobs that can't be exported while curbing global warming at the same time.

By rebuilding our crumbling infrastructure and improving our roads, bridges, and schools, we will strengthen our path forward.

And by investing in our health care system, we will cut red tape, prevent mistakes, and save countless dollars and lives.

I am particularly proud that this bill contains funding for AmeriCorps, which will provide recent college graduates with jobs, sending them into struggling communities to help turn them around, much like the Civilian Conservation Corps did after the Great Depression.

Finally, we will assist those who have been impacted most by the crisis by increasing food stamp and unemployment benefits, and making it easier for those who have lost their jobs to keep their health insurance. And these are just a few highlights of this comprehensive bill.

Madam Speaker, the American people are hurting. They are also justifiably concerned whether government spending in such difficult times is correct. I want them to know that this bill contains strict accountability measures to ensure the maximum return for every tax dollar invested. Americans will be able to go on the web to see how their tax dollars are being spent and to provide public comment.

The bill contains no earmarks and ensures that funds to help small businesses will not go to entities that already receive money from the financial rescue package.

Furthermore, the legislation doesn't waste any time. It will immediately help to put people to work and begin to stabilize our economy.

According to the Office of Management and Budget, three-quarters of the overall package will be spent in the first 18 months. And in an independent analysis, economist and former McCain adviser Mark Zandi found that 41 percent of the funding in this bill will be spent this year alone to jump start our economy and result in 4 million new jobs by 2010.

Madam Speaker, our economic woes will not be solved overnight, but we did not get into this mess overnight. This bill alone will not solve all of our economic challenges. We know that the road back to economic stability and prosperity will require hard work over time to truly turn things around. But America has faced great challenges before and turned crises into opportunity. This legislation is critical to build a foundation for long-term prosperity.

I urge my colleagues on both sides of the aisle to support the American Recovery and Reinvestment Act; and by doing so, to restore confidence, to strengthen our economy, and lift up our hardworking citizens from coast to coast.

I reserve the balance of my time.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to begin by not only thanking the distinguished Chair on the Committee on Rules for yielding me the customary 30 minutes, I would like to associate myself with the first three sentences of her presentation.

It was in the opening remarks that the distinguished Chair of the Committee on Rules presented that she talked about the pain that the American people are feeling as we go through one of the most serious economic downturns in our Nation's history. It is a very, very difficult time. And on that, Democrats and Republicans are in total agreement and it is absolutely imperative that we take action in this institution and that we take action that will provide the best jump start for our economy that we possibly can.

□ 1115

The Republican Conference, Madam Speaker, was very privileged to welcome the President of the United States yesterday afternoon. We had lunch downstairs and a freewheeling discussion on the issue that we are here addressing at this moment. And that issue is how do we get this economy growing again. And we are in the midst of a raging debate on it. It is true that we are very concerned. And most Republicans have, since we saw this $825 billion package introduced, been opposed. But yesterday we did listen to President Obama. A number of questions were posed to the President in this freewheeling discussion.

The thing that I came away with from that meeting yesterday was we need to focus on the merits of this issue that is before us and not on politics. Pointing the finger of blame is useless. What we need to do is figure out how we can come together and put into place the very best fiscal policy that we can to be sure that we grow our economy. I agree totally with President Obama. We need to set politics aside and focus on the merits. And I think that he left us with a good feeling about his commitment to do just that.

Unfortunately, Madam Speaker, what we have seen with the development of this package, the way it was handled in the House Rules Committee, and the way that we are considering this measure on the floor, it appears that there is very little focus on the merits and that most of the attention is focused on politics. I will say that when we focus on merits, it seems to me that the wisest thing for us to do is not to listen to the words of a partisan Republican or the words of a partisan Democrat or even the words of a bipartisan Republican or bipartisan Democrat. What I believe we need to do, Madam Speaker, is to look at the message that has come to us from the professional, nonpartisan Congressional Budget Office.

Now, the Congressional Budget Office had a preliminary study which the distinguished Chair of the Committee on

Appropriations dismissed. And I understand that. He made some very compelling arguments before the Rules Committee the day before yesterday on that. And frankly, I couldn't dispute them. But they did come forward yesterday with a very, very exhaustive study in which they say, and I quote, Madam Speaker, ''CBO expects that Federal agencies along with States and other recipients of the funding would find it difficult to properly manage and oversee a rapid expansion of existing programs so as to expend the added funds as quickly as they expend the resources provided for their ongoing programs.'' It goes on, Madam Speaker, to talk about the challenges of dealing with the regulatory structure that is in place. And we looked at the issue of budget authority versus outlays. And I would focus my colleagues' attention on the third-to-the-last graph on the Congressional Budget Office study in which it makes it very clear that $2.3 billion, $2.3 billion, of this package will, in fact, not be expended until after 2019. That is 2–0–1–9. That is not 2009, not 2010, not 2011. That is more than 10 years from now.

So, Madam Speaker, if we are, in fact, coming together in a bipartisan way to figure out how we can jump-start our economy immediately, this is obviously not the answer.

This is a copy of H.R. 1 that has just been given to me. It is 627 pages long. And that totals $1.18 billion for every single page in this bill, H.R. 1.

What we need to focus on, Madam Speaker, is the issue of getting the economy growing with what most economists believe and what history has shown to be stimulative: Tax relief. Growth-oriented tax relief. Now this morning I picked up the US News and World Report issue that has a ''Capital Commerce'' column from James Pethokoukis who quoted a wide range of economists making 10 points that very, very seriously raise concerns. And I would like to point to just one of them. Christina Romer, who is the new head of the Council of Economic Advisers for President Obama, said that tax increases appear to have a very large, sustained and highly significant negative impact on output. The more intuitive way to express this result is that tax cuts have very large and persistent positive output effects.

Now, Madam Speaker, it's obvious that the kinds of tax cuts that we are talking about are those that generate economic growth, relief on job creators, making sure that we have marginal rate reduction that will benefit 100 percent of American taxpayers. These are the kinds of things that we are offering in our Republican substitute. And I hope very much that our colleagues will support it.

This package that is before us is badly flawed, as we are going to hear throughout this debate and as was pointed out yesterday. And I'm going to urge my colleagues to vote ''no'' on this rule. This rule is very unfair. There were 206 amendments submitted to the Rules Committee. Eleven have been made in order of 206 amendments. A majority of those amendments were offered by Democrats. So obviously there is a desire to make major modifications in this legislation. And for that reason, this rule is badly flawed. I'm going to urge my colleagues to reject it.

With that, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 4 minutes to the gentlewoman from California, a member of the Committee on Rules, Ms. MATSUI.

Ms. MATSUI. I want to thank the gentlelady from New York for yielding me time, our leader on the Rules Committee.

Madam Speaker, everyone here knows the dire state of our economy. I have talked with and listened to many of my constituents in Sacramento who are struggling to make ends meet. They are facing layoffs, furloughs, foreclosure, unpaid medical bills and a lack of support to help them in this crucial time.

Last month, the Greater Sacramento unemployment rate rose six-tenths of a point to 8.7 percent, the highest monthly job loss since 1993. Approximately 4,700 jobs were cut in the region just that month. And also last month, the State of California suffered the third biggest monthly job loss since the end of World War II.

That is why my colleagues and I have been working to develop this economic recovery package. This package includes historic investment in clean technology, transportation infrastructure, flood protection and our children's education. It also goes to great lengths to assist our States in these difficult times with unemployment, Medicaid and COPS funding.

These investments will help important priorities in my city and region as well as across the State. Sacramento needs urgent funding to strengthen levees on the Sacramento and American Rivers, make renovations at Sacramento State University and our local schools, invest in Sacramento Regional Transit's light rail and bus, improve the terminal at Sacramento International and work to improve Sacramento Municipal Utility District's electric grid. We also have progress to be made on the downtown intermodal station and the accompanying relocation of the downtown rail lines.

I am glad that all of these important projects will be eligible for funding under this package. Each project will improve our city and create jobs that will stimulate the economy. This legislation will go to great lengths to help Sacramento's 8.7 percent unemployment rate. I also understand that Sacramento will receive, actually California will receive about $4 billion in education funding, something our State desperately needs.

Another key investment in this package is our Nation's broadband. It is unacceptable that our country has progressively fallen behind in broadband deployment. This new investment will ensure that every American can access information so they can achieve the American Dream.

Of significant importance to Sacramento is flood protection. The constant threat of flooding makes it more urgent than ever that the Federal Government commit to flood protection infrastructure. I am encouraged that this bill includes $2 billion to fund the U.S. Army Corps of Engineers Construction account. This money will help restore levees in my district and other flood control infrastructure across the country.

I know that there needs more to be done especially in the Natomas area of Sacramento. And I look forward to working with Chairman OBEY and Chairman VISCLOSKY to continue their commitment to the Corps and ensure that adequate resources are dedicated to flood protection and public safety.

Madam Speaker, we need to address this economic crisis head-on. This package is a substantial step forward. As we have heard from experts on both sides of the aisle, on both sides of the political spectrum, this will not cure our economy's problems. But it will begin to ensure that hardworking Americans get back to work and back on track.

Mr. DREIER. Madam Speaker, at this time, I am happy to yield 2 minutes to our very hardworking new member of the Committee on Rules, the gentlewoman from Grandfather Community, North Carolina (Ms. FOXX).

Ms. FOXX. Madam Speaker, I thank my colleague, the ranking member of the Rules Committee, for giving me this time.

I want to say that our colleagues on the other side of the aisle practice revisionist history. President Bush inherited a recession. But the tax cuts that were put in place in 2001 and 2003 helped revive our economy and put it on the path to having 54 straight months of excellent job growth. When things started going poorly in the economy was when the Democrats took control of the Congress in 2007. That is when we started having problems. And I think it's important that we point that out.

They have a real hard time, I think, dealing with the facts. Yesterday we got what was called a ''fact sheet'' from the Speaker's Office saying that this was a bipartisan, open and transparent legislative process. And yet we learned during the process of the committee meeting that information on

here was not accurate. And I think it is important, again, that we see there is a pattern of trying to change the facts to suit themselves.

Now I want to talk a little bit about what else is wrong with this rule and the bill that it supports. I have a strong background in education. I was a school board member, a university administrator and a community college president. And I want to say that putting money into education in the way it's being done in this bill is not going to help stimulate the economy. We know, again, from research that more spending K–12 does not significantly improve educational performance. So this is not going to stimulate the economy. We also know that Federal early education programs don't have lasting benefits for disadvantaged children. Much as we would like to rewrite the facts, it doesn't happen.

Ms. SLAUGHTER. Madam Speaker, I yield 2 minutes to the gentleman from Colorado, a member of the Rules Committee, Mr. POLIS.

Mr. POLIS of Colorado. Madam Speaker, I rise in support of the rule and the American Recovery and Reinvestment Bill of 2009 and want to thank Speaker PELOSI, Chairman OBEY, Chairwoman SLAUGHTER and all of my colleagues for their timely and decisive leadership on this issue.

Like most Americans, I am distressed about the state of our economy and the impact of our recession on hardworking families.

My home State of Colorado and many of our school districts, faced with draconian budget cuts, are seeing reductions in critical services when they are needed most, workers are being laid off left and right, and there is a massive scaling back of statewide investment. Tens of thousands of Coloradans lost their jobs in October and November alone.

The time has come to set aside partisanship and ideology and to forcefully tackle these underlying conditions and factors that have frozen economic activity in our Nation.

□ 1130

That's why we must ensure that this legislation passes the House and Senate and reaches President Obama's desk as soon as possible.

I urge my colleagues on both sides of the aisle to be part of the solution and be part of supporting this measure to rebuild our Nation's infrastructure, both physical and human infrastructure, and renew confidence in our economy.

As some of you may know, before joining Congress I served as chairman of our State Board of Education in Colorado and superintendent of the New America Charter School. As an educator, I can tell you that education is the most meaningful medium and long-term investment that we can make to stimulate the American economy. This bill lays the foundation of an education system and green economy for the 21st century by investing in our future. It builds high-tech green schools, reaches out to at-risk kids and children with disabilities, and increases Pell Grants and Work Study aid to help students afford college. Without it, we risk losing precious ground in our fight to close the gap in education.

In my district, Adams County has suffered enormously from the economic downturn, experiencing the 10th highest unemployment rate out of Colorado's 64 counties with over 16,000 unemployed workers. This historic bill will immediately prevent further job loss in hard-hit places like Adams County. I urge support of this bill on behalf of American families.

Mr. DREIER. Madam Speaker, at this time, I'm happy to yield 1 minute to our distinguished former Republican whip, my friend from Springfield, Missouri (Mr. BLUNT).

Mr. BLUNT. Madam Speaker, last year, I worked with the Speaker to help pass a stimulus bill that the Speaker at that time said had to be, first of all, timely and targeted. And, Madam Speaker, I would argue that this bill is neither. It's certainly not targeted; it's a broad brush of everything that the majority has wanted to do for the last decade even before they were in the majority. And it's not timely. In fact, the estimates are that 7 percent of the money that would be spent in this bill could be spent in the next year.

Alice Rivlin, President Clinton's budget director, said yesterday before the House Budget Committee, we would be a lot better off if we were debating that 7 percent, and we were taking the other 93 percent and having hearings and trying to do what the Speaker said in her fact sheet we had done here. Ms. FOXX just mentioned this fact sheet—which, frankly, Madam Speaker, wasn't even factual when it was printed. It says in my committee, the Energy and Commerce Committee, that six Republican amendments were adopted and incorporated into the bill. Three of them were already taken out of the bill before the fact sheet was printed, Madam Speaker.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. Madam Speaker, I would like to yield my friend an additional 30 seconds to continue his very important argument about the issue that Ms. FOXX raised.

Mr. BLUNT. I thank the gentleman for yielding. Three of these were already out of the bill when this was printed. The amendment I had just simply said nothing in this legislation would prevent pharmacists from talking to their patients. That wasn't quite good enough. So in the 12-hour markup—that really did nothing to change the bill as it turns out—we spent 3 hours of that 12 hours agreeing on language so pharmacists could talk to their patients, and that language was taken out before this fact sheet was even printed. The fact sheet is not factual. The stimulus isn't stimulating. I urge that we defeat this rule and defeat this bill.

The SPEAKER pro tempore. Without objection, the gentleman from Colorado will manage the time of the gentlewoman from New York.

There was no objection.

Mr. POLIS of Colorado. Madam Speaker, I yield 2 minutes to the gentlewoman from California, a member of the Appropriations Committee, Ms. LEE.

Ms. LEE of California. Thank you for yielding. And let me just say I, today, rise in support of the rule and also, of course, the bill.

First let me just say the economic policies of the previous administration we all recognize has left our Nation in shambles. The huge tax cuts for the wealthy, the war in Iraq—$10 billion a month—and the greed in this unregulatory environment of the previous administration has brought us to this point. And so I think it's incumbent upon the Republicans, especially, in this body to work together to try to help this country dig itself out of what has transpired in the last 8 years.

Today, more people are living in poverty, more people are living without health insurance, and more people are unemployed than they were 8 years ago, and it's only getting worse. That's why the bill we're debating today is so important.

I applaud President Obama and Speaker PELOSI, our leadership, Majority Whip CLYBURN and Chairman OBEY, for crafting this robust economic stimulus package and their efforts to ensure bipartisanship in this. I'm pleased that it includes funding for a number of important initiatives that many of us have fought for, including extended unemployment benefits, expanding the food stamp program, and providing increased Medicaid funding to the States to help people just get through this crisis. It also funds a range of transportation and infrastructure projects to rebuild our roads, modernize our schools, rehab our housing stock and prevent foreclosures. It creates jobs. It puts our Nation's path to recovery in a very strong position by including $4 billion in job training, including $500 million in green jobs and $1.2 billion in youth training programs.

I'm pleased that State and local governments will be able to tap into the $2.7 billion of these job training funds to fund innovative programs to provide reemployment services, job training, summer jobs, and year-round employment for youth.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. POLIS of Colorado. I yield an additional 30 seconds.

Ms. LEE of California. Taken together, this bill will help put our Nation back on the right track.

But frankly, I think—and many of us think—it could and should have been much bigger, at least $1 trillion, but we're working together to try to reach some type of consensus so that we can move forward in a bipartisan fashion. It should have been enacted, I think, a year ago, when some of us first called for a new stimulus package to jump-start our economy. Instead, the previous administration just refused to take action, letting our economy collapse before choosing to bail out their friends. So let's move this bill forward. Let's move this bill forward for Main Street.

Mr. DREIER. Madam Speaker, I tell my friend from California that her dream has come true, this bill, according to CBO, is $1.1 trillion.

With that, I would like to yield 2 minutes to my very good friend from Westminster, South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. I thank the gentleman for yielding.

Madam Speaker, I rise today in opposition to the rule of H.R. 1. And it's surprising that out of the 206 amendments submitted to the Rules Committee only 11 were accepted and going to be debated here today.

Today, we will spend about 8 hours on a bill that cost about $825 billion and could potentially put our country in much more debt than we can handle.

Without a doubt, Madam Speaker, the American people are suffering. In my home State of South Carolina, the unemployment rate was about 9.5 percent in December, the highest in 25 years. Our national debt is increasing. And on Monday alone, 70,000 Americans lost their jobs.

Unfortunately, rather than focusing on job-creating measures like infrastructure and tax cuts—like I think should be in there—the Democrats have put forth legislation with billions in unwarranted and unrelated spending. I believe the government's responsibility is to ensure the actions taken are aimed at providing immediate and meaningful economic stimulus while at the same time trying to offer long-term solutions.

The Democrat plan fails to provide a swift and substantial positive impact on the economy. The Congressional Budget Office alone has estimated that much less than half of this money would be spent over the next 2 years. American families, Madam Speaker, are struggling to make ends meet and cannot afford that long to see an improvement in this economy.

In addition to having reservations regarding the effectiveness of the proposed stimulus package in the short term, I'm concerned that my Democrat colleagues have filled this bill with non-stimulative spending. The Democrat plan provides, for example, $50 million for the National Endowment of the Arts, $250 million for NASA to study climate change, and $1 billion for the 2010 census package.

If Congress truly wants to stimulate the economy without damaging our future by increasing the debt, we should make real choices and cut programs in order to pay for other initiatives that truly stimulate the economy. In these challenging financial times, we cannot afford to open the door to more spending.

I urge my colleagues to vote against this rule.

Mr. POLIS of Colorado. Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin, the chairman of the Appropriations Committee, Mr. OBEY.

Mr. OBEY. Madam Speaker, the constant refrain of Republican critics on this bill is that it spends too much money and spends it too slowly. That shows, in my judgment, a failure to appreciate the depth and the duration of our economic crisis.

In testimony before the House Budget Committee yesterday, the CBO Director, Doug Elmendorf, explained that if nothing is done, our economic output will fall below its potential by $1 trillion in 2009, by $900 billion in 2010, and by at least $600 billion in 2011. That would represent a loss in Americans' income and output of $2.5 trillion, or about $8,000 per person that would be lost forever. Director Elmendorf noted that this would be the largest gap relative to the size of potential output since the Great Depression.

When put in that perspective, this $825 billion package is not too large, even with a sizeable multiplier—in fact, it's probably smaller than it ought to be, but it's well worth doing.

In addition, the fact that some infrastructure efforts will take more than 18 months to complete, and thus outlays will continue into 2011 is also justified despite the criticism.

As economist Alan Blinder recently told the Wall Street Journal, because we face a deep and prolonged gap in output, we could certainly use some time release capsules in the form of infrastructure spending to continue to provide a boost to the economy. It ought also to be worth noting that what matters after all is what employers decide about employment, not when the Federal Government outlay takes place.

State and local governments, as well as private construction companies, are making decisions now about whether to fire their staff or how many to fire. Federal reimbursements to governments for education or infrastructure may not occur for a year, but the jobs are preserved today. I would hope that we would remember that.

Much is also made of the fact that this bill will cause an increase in the deficit; absolutely, without question. But the proper question to ask them is how much more would that deficit increase if we do nothing? How much deeper would our employment numbers fall if we do not do something? How many more Americans will lose their health insurance as well as their jobs, as well as their retirement security if we continue to talk about business as usual?

The fact is that we need to compare the cost of this package with the cost of doing nothing. The cost of doing nothing would be catastrophic. The cost of this package is well worth the risk considering the alternative.

Mr. DREIER. Madam Speaker, at this time, I'm happy to yield 1 minute to a hardworking member of our Economic Stimulus Working Group, the gentlewoman from Hinsdale, Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Madam Speaker, I rise today in opposition to the rule for H.R. 1, the so-called ''economic stimulus package.''

At a time of record unemployment, deficits and foreclosures, I believe that we can't do nothing. I believe it is our duty to act swiftly and responsibly to jump-start our ailing economy, and that is why we should be enabling families, entrepreneurs, small businesses and job seekers to keep more of what they earn through fast-acting tax relief, not new wasteful government spending on numerous programs that hold little potential for economic stimulus.

Today, Congress should be considering increased deductions for individuals and small businesses, and tax-free unemployment benefits to help individuals get back on their feet and provide for their families.

Unfortunately, Madam Speaker, the bill before us today misses the mark. It contains at least $132 billion in new programs and spending that will not create jobs in the immediate future. In fact, a report issued on Monday by the Congressional Budget Office and the Joint Committee on Taxation estimated that enacting H.R. 1 would increase budget deficits by $816 billion.

I would urge my colleagues to oppose this rule and the bill before us today.

The SPEAKER pro tempore. Without objection, the gentlewoman from New York (Ms. SLAUGHTER) now controls the time.

There was no objection.

Ms. SLAUGHTER. Madam Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the gentlelady for yielding.

And as I sat on the floor today and listened to some of the dialogue, let me very quickly, before I make comment, share with you. I had to go home last

night to the wake of a very dear friend of mine. As I stood in the receiving line, every single person, irregardless of their party background, came up to me and said, ''You need to go back to Washington and vote for that recovery package. We're hurting, and we need it passed quickly.''

Madam Speaker, I rise in support of the rule for H.R. 1, the American Recovery and Reinvestment Act of 2009, and for the underlying bill. This bill provides urgently needed relief for struggling individuals and businesses and will create or retain three to four million jobs in this country.

H.R. 1 includes America's Better Classroom Act, which will provide tax credits to enable up to $25 billion in school construction and modernization, an initiative that I've been working on for over 12 years, along with my colleagues. Together, with $20 billion in grant funding, these tax credits will enable local communities to address overcrowding and deteriorating classrooms and make sure that students have facilities that prepare them to enter the workforce of the 21st century. School construction projects will create over 10,000 jobs in North Carolina alone.

While investments are also in this bill for improving roads, bridges, alternative energy, environmentally friendly energy sources, and modernizing public buildings, it will create even more jobs while helping to bring our infrastructure into the 21st century.

We need this legislation to address the urgent and dire economic conditions in my home State of North Carolina and across this country. The tax credits and job creation provisions of H.R. 1 are a bold step that will put our economy back on track quickly. It will invest in the people here in America. And it will do so with accountability and with transparency.

□ 1145

I urge my colleagues to join me in supporting this rule and the underlying bill.

The people I talked with last night in Rocky Mount, they weren't interested in arguments. They want results from this Congress, and they want us to act quickly.

Mr. DREIER. Madam Speaker, I yield myself 15 seconds to respond to the distinguished Chair of the Committee on Appropriations and to respond to his questions by saying again I would commend to him and his colleagues today's U.S. News and World Report that has just come out with an analysis from Democratic- and Republican-leaning economists, all of whom point to the fact that increasing spending dramatically, as this measure would do, in fact, will undermine the potential for what it is we're trying to do and tax cuts are the answer to get the economy growing.

With that, Madam Speaker, I would like to yield 1 minute to our very good friend, my junior colleague from Indianapolis, Indiana (Mr. BURTON).

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Madam Speaker, instead of tax cuts, we've given Wall Street and the bankers $700 billion in the bailout; $14 billion to the auto industry; and this bill is $850 billion, an ''economic stimulus'' package. No tax cuts really, just more and more spending. And this is going to cause a severe inflationary problem down the road.

And what have the President, the Vice President, and chief economic adviser to the President said? They said this is a good down payment on the problem. So today on television some of the news commentators said, well, is the money we're spending so far going to be enough? And I will just say to them right now if they're paying any attention, according to the administration and the chief economic advisers, this is just a down payment. We're going to spend trillions and trillions more, wasteful spending into a black hole, in my opinion, and it's going to cause severe inflationary problems and economic problems down the road that nobody really anticipates.

We have got to cut spending and we need to cut taxes. That's the solution to the problem.

Ms. SLAUGHTER. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. I thank the gentlewoman for yielding time.

This bill contains aid to States, which is important because the worst thing for us to do in a recession is to fire cops and teachers. This bill includes $114 billion of business tax incentives, which are well crafted because we do not cut tax rates. What we simply do in this bill is allow businesses to take deductions in 2009 that they would otherwise be taking early next decade. And, in fact, of that $114 billion listed as going to business, well more than 80 percent comes back to the Treasury early next decade.

But what can we tell markets today about what is likely to happen to the national debt over the next decade? We are saddled with an $11 trillion national debt. The Fed has quietly issued $7 trillion of guarantees and loans. We've sent nearly a trillion to Wall Street, all on top of a trillion dollar deficit.

Before we do more, we should put into statute the tax increases and expenditure cuts, painful as they will be, that will go into effect in the year after unemployment drops below 4 percent. Sure, we would have to modify such provisions before they go into effect. But we need to adopt both halves of Keynesian economics, both stimulus now and austerity later, and we need to put both halves in statute. Otherwise, those of us who will be advocating fiscal restraint in the future may well lose, and our only recourse will be to prevent the full measure of stimulus that this economy needs now because we are fearful that we will not be able to reverse it later. And, in fact, that is what has happened.

This bill provides inadequate stimulus today and inadequate recapture of that stimulus, actually virtually no recapture of that stimulus, early next decade.

If we're going to use Keynesian economics, let's put into statute both halves. Otherwise, we can provide only empty promises to our children and empty promises to Wall Street and to the world economic community that we will do something about this deficit next decade.

Mr. DREIER. Madam Speaker, I yield myself 15 seconds to respond to my good friend from California, our new father from California, to simply say that if one looks at many analyses that have been provided, it is very apparent that juxtaposing growth-oriented tax cuts to spending, those growth-oriented tax cuts can provide the immediate jump-start that is necessary for the economy, and that's why I think we should come together in support of our package.

With that, Madam Speaker, I am happy to yield 1 minute to our very good friend from Omaha, Nebraska (Mr. TERRY).

Mr. TERRY. Madam Speaker, I rise today to voice my objection and disappointment to this massive spending bill, perhaps a trillion dollars by the time it's all done. And that is being sold as the only way to jump-start the American economy.

Portions of this bill may lead to financial relief for some individuals and some small businesses, but most of the new spending will simply increase the size of the Federal Government, creating a new baseline which is not sustainable. Now, that concerns me greatly because this trillion dollars goes to the national debt, which is, to me, a drag on the economy now.

Economists tell us, and I believe them, that this will cause an increase in the inflation rate, create stagflation, and increase interest rates over the next several years. This is not the right way to go at this point of time.

If the bill contained tax cuts, incentives, as well as the infrastructure that is much needed in America, I could support that.

Ms. SLAUGHTER. Madam Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. SCHWARTZ).

Ms. SCHWARTZ. Madam Speaker, the people of my district, like all Americans, are deeply worried about the economic challenges facing our Nation and optimistic about the future under our new President. They know that swift and meaningful action is

needed to restore confidence in our markets, save jobs, and rebuild our economy.

This rule allows the House to take an important step to address the needs of people and industries most affected by the current economic downturn and to stimulate the innovation that is essential to drive our economy in the future. Action is necessary now towards energy independence, educational advancement, infrastructure, and improvements in quality and efficiency in health care to better enable us to meet the economic challenges ahead.

I am particularly proud of the major new investment in health information technology. By increasing the use of health IT to 90 percent of physicians in this country within 10 years, we can assure that vital medical information is available at the point of service, we can improve quality and reduce unnecessary interventions, better coordinate care, save lives, and save costs for patients, employers, and taxpayers, all leading to a healthier, more economically competitive America. It is a smart, timely investment to meet today's challenges and fulfill America's promise.

I encourage my colleagues to vote ''yes'' on the rule, to vote ''yes'' on final passage, and by doing so vote ''yes'' for relief for American families, to vote to stimulate job growth here in America, to vote ''yes'' for the essential investments we need now for the future.

Mr. DREIER. Madam Speaker, at this time I am happy to yield 2 minutes to our friend from Mesa, Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

Madam Speaker, I'm glad that this stimulus, and I think all of us are glad, most of us are glad, that this stimulus contains no earmarks from Congress. There's a lot of pork in it certainly, but not earmarks from Congress.

What most people don't realize, however, is that next week we're slated to consider a huge omnibus bill to pass spending bills that didn't get passed in last year's session. That bill, that massive, massive, massive bill, is going to come to the floor with at least, and we have no idea how many, but at least 4,000 earmarks, 4,000 earmarks that have not been vetted by the whole House. Most of them have not even been vetted by the full Appropriations Committee. Some were passed by the subcommittees, but few of them, like the Labor-HHS bill with about, I think, 1,200 earmarks, wasn't even vetted by the full committee; yet it's going to be considered on the floor without the ability to challenge these individual earmarks. Nobody can stand and challenge individuals earmarks. There may be questions about campaign contributions that coincide with earmarks being put out. We can't challenge that. We can't do it because it simply wasn't allowed.

Now, the other side will likely blame our side, well, you guys held up appropriations. We have not been in charge of this body for 2 years; yet we're going to be asked to consider legislation with thousands of earmarks that have not been vetted by the full House and where there is no ability by anyone in this Chamber to actually strike an individual earmark or to question spending.

Now, the reason I bring it up now, this rule, section 2 reads: ''The Chair of the Committee on Appropriations shall insert in the CONGRESSIONAL RECORD not later than February 4, 2009, such material as he may deem explanatory of appropriations measures for the fiscal year 2009.''

What that is to do is to finally get the report of actually what earmarks will be in the bill. Well, guess what.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. Madam Speaker, I am happy to yield my friend an additional 30 seconds.

Mr. FLAKE. February 4 is the same day we will actually be considering this bill on the floor.

I would yield to the chairman of the Rules Committee to see if she would consider amending the rule to allow the report to be filed on February 2. That is what our own rules say we should have, that space of time, at least 2 days for people to actually consider these earmarks.

I yield to the gentlewoman of the Rules Committee.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. DREIER. Madam Speaker, I would like to yield my friend from Mesa an additional 30 seconds.

Mr. FLAKE. I thank the gentleman.

I yield to the gentlewoman.

Ms. SLAUGHTER. I thank the gentleman for yielding.

We appreciate your thoughtfulness, Mr. FLAKE, and the good work that you do in the House. But we don't have the capacity to change the date for that report. Otherwise, we would have been happy to consider it.

Mr. DREIER. Madam Speaker, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from California.

Mr. DREIER. Madam Speaker, the majority has the ability to modify that date as they see fit, and it's a very easy procedure that can be done.

I thank my friend for yielding.

Mr. FLAKE. Keep in mind, Madam Speaker, that unless the date is changed, we are likely to get a report on the same day that we vote. More than 4,000 earmarks stuffed into an omnibus bill that we've had no ability to see.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Wisconsin, the chairman of the Appropriations Committee (Mr. OBEY).

Mr. OBEY. Madam Speaker, I would offer a proposition to the gentleman from Mesa.

He continually raises the question of the nexus between earmarks and campaign contributions. I think there's a terrific way to eliminate that nexus. Would he care to join me in cosponsoring the legislation which I introduced in the first day of the Congress to create 100 percent total public financing and to forbid a single private dollar from being contributed to any Member of the House's campaign? That certainly would eliminate totally any potential nexus between campaign contributions and earmarks and allow the Congress to use its judgment legislatively without bringing into question the integrity of the political process.

□ 1200

Mr. FLAKE. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Arizona.

Mr. FLAKE. I see no reason to put the taxpayers on the hook to fund our campaigns. We shouldn't——

Mr. OBEY. Taking back my time, it's obvious the gentleman, I guess, is more comfortable complaining about earmarks than doing something about campaign financing.

Mr. DREIER. Madam Speaker, at this time I am happy to yield 1½ minutes to our new colleague from Peoria, Illinois, the home of Caterpillar, Mr. SCHOCK.

Mr. SCHOCK. Madam Speaker, I rise in strong opposition to the amendment process for H.R. 1.

A couple of points. First of all, I rise in opposition as a Member who has submitted a thoughtful, bipartisan amendment to the Rules Committee, one of the over 200 that was submitted, one of the few that had bipartisan support. I worked with my good Democratic colleague from the State of Washington.

Simply put, it would have required the Federal Government, State government and local governments receiving this stimulus money to spell out who is getting this money, what contractors were awarded the money and its intended use. Just shortly, a few months ago, we awarded nearly $700 billion to financial institutions; $350 billion has been spent, and many taxpayers in my district and around the country are asking where it went. This simply would have required that this money moving forward would clearly spell out who is getting it for what purposes.

I can tell you, coming from the State of Illinois, where we have a Governor on trial right now for giving pay-to-play contracts for campaign contributions, I and many of my colleagues from our State wish to know where this money is going to go given the great latitude given to local governments and States.

The second point. This bill flies in the face of the American public's wishes. Frank Luntz just released a survey that over 84 percent of the American people wish for more spending on infrastructure as a means to stimulus, yet $800 billion in this bill, less than 8 percent is going to go for infrastructure. A similar super majority of Americans oppose giving tax incentives, tax credits, tax cuts to people in this country who do not pay income tax, yet this bill does just that.

So we have heard a lot of talk about bipartisanship, we had a great meeting yesterday with the President, his willingness to work with us, but bipartisanship is not ''you write the bill, we vote for it.''

I urge a ''no'' vote.

Ms. SLAUGHTER. Madam Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Madam Speaker, bipartisanship is important, and we are reaching out for it. There is no President in history that has reached out and has done more to reach out and to show them than President Barack Obama. He has done so.

On our side, the amendments that you wanted, many of those were included by Chairman OBEY, Chairman RANGEL and the other chairmen in this. There were some objectionable items.

Mr. DREIER. Will the gentleman yield?

Madam Speaker, I would like to yield my friend an additional minute.

Mr. SCOTT of Georgia. Well, thank you very much, I can certainly use it.

Because of this, this country is looking for us to provide the kind of leadership that is needed. They don't want us to hang around the docks like little boats. They are looking for us to go way out where the big ships go. We must think big and bold. Our economy is crumbling around us.

Let me speak for a moment about what we need in Georgia. I don't know about your States, but Georgia's economy is crumbling and is in need. We will get just more than $6 billion in construction, and these are ready-made construction projects. Let me read what we have in the law.

It says these new starts and priority projects would be under construction, and, we would be able to award contracts at least within 120 days so that we are moving forward and making sure that these jobs are created in the areas that are needed most.

Now, we don't have a choice in this. The wrong thing for us to do is to do nothing. We have got to act big, we have got to act bold, and the American people are looking to us. We have got to move with confidence.

Mr. DREIER. Madam Speaker, would the gentleman yield?

Mr. SCOTT of Georgia. I would yield.

Mr. DREIER. I thank my friend for yielding and let me say I completely concur with several points that he has made which I think are very important. His first point that President Obama has reached out in a bipartisan way, it is nearly unprecedented, very unprecedented that he came and met, as he and the gentleman and I discussed yesterday privately, right here in this Capitol with Republican members.

The second, the fact you said we have, in fact, seen bipartisanship from the other side, there were 94 amendments submitted by Republicans and 104 amendments submitted by Democrats. A grand total of 11 amendments have been made in order. When you have so many Democrats and so many Republicans who have been cut out of the process, it's very unfortunate.

The third point that the gentleman makes, which I think is a very valid one, we need to have a bold, strong package here rather than doing nothing. That's why I believe passionately that growth-oriented tax rates, as has been stated by economist after economist, are the way to the future, and I thank my friend for yielding.

Mr. SCOTT of Georgia. Well, tax cuts are good, but they are not the only thing. Every economist that we have talked with has said it is spending, because when you spend, you are putting money directly into the economy, creating jobs, and those jobs will yield back tax receipts as well.

When you have tax cuts, it's discretionary. A person can use it to save, they can use it to do whatever. But when you inject money directly into the economy, you are, in fact, stimulating that economy.

Mr. DREIER. Madam Speaker, I would like to yield myself an additional 30 seconds and engage in a discussion with my colleague on this.

Madam Speaker, let me just say that economist after economist has pointed to the fact that if we focus on spending, which the gentleman has talked about, there is a lag time. In fact, the nonpartisan Congressional Budget Office analysis has indicated that spending will go as far as beyond the 10 years from now.

So the gentleman is absolutely right, Madam Speaker, we need to immediately stimulate the economy. And more than a few of these economists, including the President's Chairman of the Council of Economic Advisers, Christina Romer, pointed to the fact that tax cuts are, in fact, the way to provide that immediate stimulus.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of Georgia. Does the gentleman have more time to yield?

Mr. DREIER. We have got a limited time. I have already yielded my friend an additional minute. Maybe Ms. SLAUGHTER might yield the gentleman a minute so that he could respond.

Ms. SLAUGHTER. I can yield the gentleman 30 additional seconds but no more.

Mr. SCOTT of Georgia. I am so glad you pointed that out, because let me show you, let me just illustrate to you, everything is different, every State is different.

My State has over 6 billion shovel-ready projects ready to go. In one county alone, in Clayton County, we have got $43 million ready to go; in Cobb County, $50 million; Henry County, $12 billion; in Douglas County, $11 million and in Fulton County, $62 million. These are shovel-ready projects ready to go that will create jobs.

Mr. DREIER. Madam Speaker, let me yield myself 15 seconds to simply say to my colleague that yesterday we had a great discussion about Clayton County. I appreciate the fact that he has several shovel-ready projects.

I still point to the fact that the CBO analysis points out that getting those dollars immediately is, in fact, not going to happen in fact as fast as the gentleman from Clayton County and I would like to see happen.

At this point I would like to yield, Madam Speaker, 1½ minutes to our very hardworking friend, the former chairman of the Committee on Small Business, the gentleman from Egan, Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Speaker, I rise in opposition to this rule. The problem today is nobody is talking about restarting manufacturing. That's what we need to do in order to re-stimulate the economy.

We need to help businesses create orders and make sales, and the place to start is by offering a voucher, so that if you buy a brand-new automobile you get a $5,000 voucher. This is the way to jump-start the economy without continuing to spend trillions of dollars.

In 2007, 17 million new cars were sold, a year later, only 10 million. That sucked $175 billion out of the economy. If we can get back to selling 15 million cars, we can add $125 billion to the economy, and if you multiplied that times three or seven, which is economic growth, easily over $1 trillion.

When cars and trucks start selling, people go back to work. It refurbishes local and State tax funds. It restarts the manufacturing and supply chains. People, instead of receiving unemployment compensation, start paying Federal and State income tax.

This is so easy. Get the people back to work to manufacture the automobiles, have a $5,000 voucher. The total cost is only $75 billion for 15 million new automobiles. This is what it takes. This is called trickle-up economy. You aim the focus of the stimulus at the problem, and that's the lack of sales of automobiles and trucks in this country.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the chairman and rise in support of the rule and the stimulus bill.

In 2008, more than 2.6 million Americans lost their jobs, the highest yearly job loss total since 1945. In my home State of California, the unemployment rate soared to 9.3 percent last month, its the highest in 15 years.

It's clear that Congress must take aggressive action to stave off a long and deep recession. This legislation will help create jobs quickly, restore purchasing power and help those in need.

With such a large stimulus under consideration, we also have an opportunity to build infrastructure that will promote long-term prosperity. While we have to place a premium on dispensing funds quickly, we must also make a large significant and lasting investment in our country's future. When this recession is far behind us, I hope we can look back and see that something positive came out of it.

By investing in renewable energy, we can achieve both short-term and long-term goals. We can fund many shovel-ready projects that will give the economy a quick boost, but we can also make an investment in America's future, creating high-paying jobs and changing the energy paradigm of this country.

Let's make sure we produce a foundation for the Nation's long-term health and prosperity and a lasting improvement in our standard of living.

In 2008, more than 2.6 million Americans lost their jobs, the highest yearly job-loss total since 1945. In my home state of California, the unemployment rate soared to 9.3 percent last month—its highest point in 15 years. It is clear that Congress must take aggressive action to stave off a long and deep recession and that we must do more to ensure that appropriated money is spent efficiently and effectively to ensure America's future success.

This legislation will create jobs quickly, help restore purchasing power, assist those in need and begin to reignite our flagging economy. With such a large stimulus package under consideration, we also have a unique opportunity to build infrastructure that will promote long-term prosperity. While we must place a premium on dispersing these funds quickly, we must also make a large, significant and lasting investment in our country's future. I hope to be able to look back on this period, when the recession is far behind us and see that something positive came out of this crisis.

By investing in renewable energy, we can achieve both short-term and long-term goals. The green energy sector has many shovel-ready projects that would give the economy a quick boost. But renewable energy is also vital to our continued economic health—it creates high-paying American jobs in a fast-growing industry and protects our nation's natural resources. In passing this bill, we take the first step on the path toward a clean sustainable high-tech economy.

I believe that the stimulus will help revive our economy both by helping American families who are struggling to make ends meet and by making critical investments in our future. It will help establish the foundation for the nation's long-term economic health and prosperity and ensure a lasting improvement in the standard of living for our children and their children.

Mr. DREIER. Madam Speaker, at this time I am happy to yield 1 minute to our very thoughtful and hard-working colleague from Knoxville, Tennessee (Mr. DUNCAN).

Mr. DUNCAN. I thank the gentleman.

Madam Speaker, I rise in opposition to the rule and the bill that it brings to the floor. The bill has some good things in it, but we simply can't afford them.

When a family falls deeply head over heels into debt, it doesn't go out and immediately and greatly increase its spending. If it does, it gets in even worse trouble.

The majority voted to increase our national debt to an incomprehensible $11.315 trillion in the last big bailout bill. Now we are told we face trillion-dollar deficits for several years to come.

We simply cannot afford this so-called stimulus package. All it is really a short-term fix for our addiction to spending. And it's false to say if we don't pass this package, we are voting to do nothing. We haven't given enough time to see what effect all the trillions of dollars of actions taken by the Federal Reserve and the Treasury over the last few months have had and will have.

Most Americans support more spending on our infrastructure, but this is less than 8 percent of this bill, and highway spending is only 3 percent. We could do far more, Madam Speaker, for our economy at far less cost if we would give significant tax credits to anyone who would buy or build a new home and people who would buy new or used cars and trucks.

Ms. SLAUGHTER. Madam Speaker, may I inquire from my colleague how many speakers he has remaining?

Mr. DREIER. I think at this juncture we have a couple of speakers remaining.

May I inquire of the Chair how much time is remaining on each side, Madam Speaker.

The SPEAKER pro tempore. The gentleman from California has 4¾ minutes remaining and the gentlewoman from New York has 1 minute remaining.

Ms. SLAUGHTER. I reserve the balance of my time.

Mr. DREIER. At this time I am happy to yield 1 minute to our very, very good friend from Highland Park, Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I have now successfully amended this bill twice. The first Kirk amendment blocked stimulus funds from going through Governor Blagojevich's hand.

The second Kirk amendment deleted funding for $200 million to resod the National Mall. Now the Mall plan collapsed last year after the Park Service received 13,000 objections, including the ACLU, that objected to the plan's restrictions on protest space.

I also objected to the need to turn the reflecting pool into an ice-skating rink, for an expensive contemplation area and new water-taxi service the taxpayers would pay for but no one would use.

It's surprising the Appropriations Committee even approved this funding. Unfortunately, congressional leaders have rejected my amendment allowing bipartisan oversight over the $825 billion of spending in this bill.

This bill claims to set up a transparency board and an advisory committee, but all of the members will work for the White House. Congressional leaders rejected any oversight by anyone who does not report directly to the President.

Mr. DREIER. Madam Speaker, at this time I would like to yield 1 minute to another member of our Economic Stimulus Working Group, our new colleague from Buffalo, New York (Mr. LEE).

Mr. LEE of New York. I thank our esteemed ranking member for yielding.

I rise in opposition to the rule, but more importantly to the underlying bill. The stimulus bill is fraught with spending that truly misses the mark, and what we need to turn around is our struggling economy. The stimulus should spark job creation and ease the strain on middle class America.

□ 1215

We can't spend our way to prosperity and continue to add to an already bloated Federal Government. The bill does not provide adequate tax relief to small business and middle-class Americans who are on the front line of this crisis. For every dollar this plan devotes to small business, $6 are used to create new Federal programs, programs which never seem to end.

Creating new Federal programs for every American is not a responsible blueprint for creating jobs in our country and in western New York. Western New Yorkers are no strangers to doing more with less. It's time the Federal Government follow that same pattern. Now Washington needs to do something quickly and responsibly.

Mr. DREIER. Madam Speaker, may I inquire of the Speaker again how much time is remaining on each side?

The SPEAKER pro tempore. The gentleman from California has 2¾ remaining, the gentlewoman from New York has 1 minute remaining.

Mr. DREIER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, on the 9th of January, then President-elect Obama made it very clear. He said, There is no disagreement. That we need action by our government; a recovery plan that will jump-start our economy. And there is total agreement on that. Total agreement on that.

We all know, both sides of the aisle, that in our districts, whether it's Georgia, New York, California, our constituents are hurting. We are all feeling the pain of this economic downturn. The question is: What action will we take? Are we going to put into place a bill that is 627 pages long, $1.18 billion for every single page of that bill, with spending that will go beyond the next 10 years as we seek to immediate immediately jump-start our economy, or are we going to do what so many economists from both sides of the aisle have indicated we need to do—put into place strong growth-oriented tax cuts that can provide the fast-acting jump-start that we all seek. That is the choice that we have here.

Now, Madam Speaker, unfortunately, this rule, this rule does not allow the kind of debate the Democrats and Republicans deserve: 206 amendments offered to the Rules Committee, most of them amendments from Democrats. Ninety-four of those 206 came from Republicans. Yet, only 11 were made in order.

That is why this rule is unfair, and it's unfair to the American people. We need to have a growth-oriented package, and we are going to come forward with that, but we also need to have a number of these other creative, thoughtful proposals that so many of our colleagues have offered come before us.

This bill, according to the Congressional Budget Office, will exceed $1.1 trillion if you take into consideration the interest payments. That is going to impose a tremendous burden on future generations, and it is not going to provide the jump-start that President Obama has talked about.

Madam Speaker, I urge my colleagues to vote ''no'' on this rule, ''no'' on the underlying legislation. But when we do have our opportunity to provide a balanced, growth-oriented package, I hope the Democrats and Republicans can come together to provide that immediate jump-start that we need.

With that, I yield back the balance of my time.

Ms. SLAUGHTER. Madam Speaker, not anyone in the Rules Committee last night would ever have guessed that I was importuned more than once to make sure there weren't too many amendments out here today; that there were pending trips, things that people had to go to.

The hypocrisy of it sometimes gets the better of me, and I must admit that even mentioning it is somewhat petty on my part. But, nonetheless, I think it needs to be said.

I would be happy to stay here tomorrow and continue to debate this. Frankly, I don't know how anyone can go home this weekend and look in the faces of our constituents and look at the young people, as one of my neighbors said, who had to be pulled from college because he couldn't afford it; for people who don't know if they are going to be working next week; for people who absolutely don't know if they have any future, how do we continue this cold and bitter winter in upstate New York, where the heating prices go up every single day, and where absolutely too many people don't know where the next meal is coming from at the same time as the community kitchens are running out of food.

We are in a very serious condition here, Madam Speaker. This is no time for politics. Everybody says it, but so few people mean it. I mean it. I urge a ''yes'' vote on the previous question and on the rule, and hope that we can do one today that will begin to rebuild the country we love, America.

Mr. LARSON of Connecticut. Madam Speaker, I rise today to highlight an amendment included in the legislation before us today that will not only put Americans to work, but will also improve the safety of our communities. This amendment will go a long way to help put firefighters back in our neighborhoods.

President Obama clearly understands the value of firefighters in our communities, as in his inaugural address he spoke of the firefighters' "courage to storm a stairway filled with smoke" in describing the faith and determination of the American people.

By waiving the matching requirement under the Staffing for Adequate Fire and Emergency Response (SAFER) program, this amendment will ensure that thousands of firefighters are either hired or retained nationwide without adding a single penny to the federal deficit.

All across our Nation, State and local governments are struggling. My State of Connecticut is currently facing a one billion dollar budget deficit this year alone. As a result, our governors, mayors and selectmen are being forced to make deep and at times dangerous budgetary cuts that are unfortunately resulting in many localities not being able to participate in the SAFER program, which is meant to assist departments in hiring additional firefighters.

Congress has funded the SAFER program in the past, and it would be irresponsible for the House to allow this funding to go unused. For this reason, I am extremely pleased that we adopted the aforementioned amendment and ensured that this funding gets to the local fire departments during this time of need.

Madam Speaker, this is just one more example of the responsible, beneficial provisions included in the American Economic Recovery and Reinvestment Act that will lead our country back to economic stability. I thank all of my colleagues for their support.

Ms. SLAUGHTER. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of House Resolution 92 will be followed by a 5-minute vote on the motion to suspend the rules on S. 328.

The vote was taken by electronic device, and there were—yeas 243, nays 185, not voting 4, as follows:

[Roll No. 40]

YEAS—243

Abercrombie
Ackerman
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson

Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—185

Aderholt
Adler (NJ)
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Boyd
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
DeGette
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sanchez, Loretta
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Brown-Waite, Ginny
Cassidy
Delahunt
Solis (CA)

□ 1243

Mr. MINNICK changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DTV DELAY ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the Senate bill, S. 328, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the Senate bill, S. 328, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 258, nays 168, not voting 6, as follows:

[Roll No. 41]

YEAS—258

Abercrombie
Ackerman
Aderholt
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Buchanan
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly (IN)
Doyle
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larson (CT)
LaTourette
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McClintock
McCollum
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Perriello
Peters
Petri
Pingree (ME)
Polis (CO)
Pomeroy
Posey
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Turner
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Woolsey
Wu
Yarmuth

NAYS—168

Adler (NJ)
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berkley
Biggert
Bilbray
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Doggett
Dreier
Ehlers
Fallin
Flake
Fleming
Forbes
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Larsen (WA)
Latham
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McCotter
McHenry
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Perlmutter
Peterson
Pitts
Platts
Poe (TX)
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (CA)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Upton
Walden
Walz
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Brown-Waite, Ginny
Delahunt
Payne
Solis (CA)
Towns
Wilson (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain on this vote.

□ 1253

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

ELECTING MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. LARSON of Connecticut. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 96

Resolved, That the following named Members be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON HOMELAND SECURITY.—Ms. Loretta Sanchez of California, Ms. Harman, Mr. DeFazio, Ms. Norton, Ms. Zoe Lofgren of California, Ms. Jackson-Lee of Texas, Mr. Cuellar, Mr. Carney, Ms. Clarke, Ms. Richardson, Ms. Kirkpatrick of Arizona, Mr. Luján, Mr. Pascrell, Mr. Cleaver, Mr. Al Green of Texas, Mr. Himes, Ms. Kilroy, Mr. Massa, Ms. Titus.

(2) COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM.—Mr. Kanjorski, Mrs. Maloney, Mr. Cummings, Mr. Kucinich, Mr. Tierney, Mr. Clay, Ms. Watson, Mr. Lynch, Mr. Cooper, Mr. Connolly of Virginia, Ms. Norton, Mr. Kennedy, Mr. Davis of Illinois, Mr. Van Hollen, Mr. Cuellar, Mr. Hodes, Mr. Murphy of Connecticut, Mr. Welch, Mr. Foster, Ms. Speier, Mr. Driehaus.

Mr. LARSON of Connecticut (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. PRICE of Georgia. Madam Speaker, reserving the right to object, we weren't able to hear on this side what the gentleman asked unanimous consent for.

The SPEAKER pro tempore. The Clerk will continue to read.

The Clerk continued to read.

The SPEAKER pro tempore. Does the gentleman from Georgia withdraw his objection?

Mr. PRICE of Georgia. Further reserving, Madam Speaker, I would just point out that the ratio on the floor of the House is approximately 59 percent majority party, 41 percent minority party. However, in committees, many committees, that ratio is not adhered to.

We on the minority side have asked the Speaker to make certain that the committees reflect the percentages on the floor of the House. It was impossible to discern from the names read, but we would reiterate our concern to the Speaker regarding the percentages on committees reflecting majority and minority party.

The SPEAKER pro tempore. Does the gentleman from Georgia withdraw his objection?

Mr. PRICE of Georgia. I withdraw my objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 92 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 1.

□ 1256

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes, with Mr. TIERNEY in the chair.

The Clerk read the title of the bill.

The CHAIR. When the Committee of the Whole rose on Tuesday, January 27, 2009, all time for general debate pursuant to House Resolution 88 had expired.

Pursuant to House Resolution 92, further general debate shall be confined to the bill and amendments specified in that resolution and shall not exceed 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I yield to the gentlewoman from New York for a unanimous consent request.

Mrs. MALONEY. I thank the gentleman for yielding and for his leadership on this tremendously important bill, and I place in the RECORD my statement in strong support of the American Recovery and Reinvestment Act.

Mr. Chair, the current economic crisis requires bold solutions that address the enormity of our economic woes, and the American Recovery and Reinvestment Plan will do just that.

The $825 billion recovery package that we are voting on will create or save an estimated 4 million jobs and will make key investments in our future.

But first and foremost, the economic recovery package focuses on blunting the effects of the recession and helping families in need.

In addition to increasing food stamp benefits and expanding unemployment benefits, our plan protects health care coverage for roughly 20 million Americans during this recession by increasing the Federal Medicaid Assistance Percentage (FMAP) so that no state has to cut eligibility for Medicaid and SCHIP, the children's health insurance program, because of budget shortfalls.

For my home state of New York it more than doubles the FMAP match resulting in roughly $10.42 billion over 9 quarters. This is critical funding for our state which is seeing an increase in caseloads as a result of the recession.

The recovery plan also invests in important needs that have been neglected over the past eight years. America's school, roads, bridges, and water systems are in disrepair and this is creating a drag on economic growth.

Our plan will spread job creation out over the next two years, which will soften the downturn and foster a solid economic recovery.

We have an historic opportunity to make the investments necessary to modernize our public infrastructure, transition to a clean energy economy, and make us more competitive in the 21st century.

It's time to get our economy back on track. I urge my colleagues to support the American Recovery and Reinvestment Plan.

Mr. OBEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this economy is in crisis. The financial system of the country is in crisis. Retirement plans of millions of Americans have been destroyed. Families are angered and terrified. They see layoffs happening all around them. They and their friends are not only losing their jobs, they are losing health coverage. They are losing their ability to help their kids pay for college education.

President Bush, when he saw the initial stages of the problem, got Congress to give him $750 billion to try to calm the chaos on Wall Street.

□ 1300

President Obama is now looking for action to help Main Street. This package is designed to create jobs through construction and through changing the way we do business in the field of energy. It attempts to try to help victims of the recession by providing unemployment insurance, by increasing their ability to get Medicaid coverage if they lose their health care coverage and by increasing their ability to be able to afford COBRA payments if they lose their health insurance. This proposal is also aimed at rebuilding the economy, especially by changing the way this economy works in the energy area, in the science area and in the technology area. And I think we need to be about getting that done.

This bill is hugely expensive. But it is not nearly so costly as continuing business as usual. It has a big price tag because we are dealing with a big problem.

Unfortunately, the debate has been incredibly trivialized. Last night, for instance, we heard speaker after speaker discuss the need to act. But then they would say, ''Well, I can't vote for this package because it contains money for the arts or money for the Mall.'' I would like to put those two items in perspective.

The arts funding in this bill is a tiny fraction of this entire bill. The arts expenditure in this bill represents about 6

cents out of every $1,000 contained in this legislation. People ask, well, what does funding for the arts have to do with jobs? It is very simple. People in the arts field are losing their jobs just like anybody else. You have local arts agencies, you have local orchestras, local symphonies and local arts groups of all kinds who are shutting down, laying people off, and in a number of instances going bankrupt. This is a small, tiny effort to keep some of those people employed over the next 2 years. I make no apology for it. We have an obligation to salvage as many jobs as we can regardless of the fields in which people work.

The second issue is the Mall. People say, ''Well, goodness gracious, what on Earth does spending for the Mall have to do with creating jobs?'' Well, Mr. Chairman, I would point out that, again, the funding for the Mall represents about 25 cents of every $1,000 in this bill, a tiny, tiny fraction. Three-quarters of that amount was directed at trying to preserve the Jefferson Memorial which is slowly sinking into the Tidal Basin and needs to be salvaged. But because these items have become such distractions, we've decided to take several items out. So the Mall is gone. We don't have to worry about refurbishing the Mall any more. That will have to wait for another time.

My point in discussing these two items is to simply express my regret at the way this debate has been trivialized. But I also think that it is revealing because I think it tells us what is really going on. And in my view, what is going on is this. At least one of the leaders in the Republican Caucus advised his caucus members that the way for the Republican minority to behave was to behave ''like a thousand mosquitoes'' to harass the majority. That may suit somebody's legislative style. It would not suit mine.

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 3 additional minutes.

But I think that comment is revelatory because that, for all practical purposes, is what we saw last night, many Members behaving like mosquitoes, focusing on trivia and ignoring the big picture. Some people will say, ''Oh, you're moving too fast.'' I would point out, this work should have been done 3 and 4 months ago. Some of us tried in September to pass a very small economic recovery package. The then-Bush White House would have no part of it. They were not interested. So we've had to wait until now. But it is now essential for us to move. We've got to get this job on the road. Every week that we delay is another 100,000 or more people unemployed. I don't think we want that on any of our consciences.

This package is aimed at creating jobs. It's aimed at helping people who are most impacted by the recession. And it is aimed at trying to modernize and freshen parts of the economy so that we can rebuild the ability of middle-income families to actually increase their income over time.

Mr. Chairman, the main reason we're in this fix today is because over the last almost 20 years or more, we have had very little wage growth and very little income growth on the part of average working families in this country. In fact, if you go back to the year 2001, 95 percent of the income growth in this country has gone into the pockets of the wealthiest 10 percent of American families. That means that the other 90 percent, the great middle American family swath, those families have been trying to keep their heads above water. And how have they been doing it? By borrowing. So they borrowed for housing. They borrowed for tuition. They borrowed for health care. They borrowed for a lot of other things. And now the rubber band has finally snapped. The markets are in chaos, people are panicked, and we've got to try to do something to stabilize the situation. We have to try to reinflate the purchasing power of consumers, and we have to do it in such a way that we build an opportunity for average working families to raise their income again so that they aren't beset by the same economic problems that they were beset by the last 10 years.

With that, Mr. Chairman, I would urge an ''aye'' vote for this package.

I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I very much appreciate your recognizing this mosquito who is rising to urge people to look very, very carefully at this package before they decide to vote ''yes'' or ''no,'' but specifically for those who really want to see our new President have a chance at success over these next couple of years. Indeed we are going to need as many people positively addressing this huge package as we possibly can.

The CHAIR. Does the gentleman from California wish to yield himself such time as he may consume?

Mr. LEWIS of California. I very much appreciate the Chairman asking that question, and since you did, I will yield myself such time as I may consume.

I am very, very intrigued by my colleague suggesting that this bill really shouldn't bother too many people because it's long overdue and certainly desperately needed. And indeed, he was almost mocking some of those questions raised yesterday about programs, people suggesting that the money that we're talking about for the arts in some way is not stimulus, that the money that we might put in the National Mall in some ways isn't really meaningful stimulus. I have the bill here on my desk. Someone wrote earlier that the cost of this bill is approximately $1.18 billion per page.

It's about time we began to recognize that the money we're talking about is not just huge in terms of numbers of dollars, but potentially a very huge burden on future generations of Americans. As we debate this stimulus package, we're throwing around an awful lot of big numbers. But let's be very clear that these big numbers are real dollars and that real families are involved. In my own family, we have seven children, my wife and I, and from that some 11 grandchildren. Those grandchildren are going to be paying for this all their lifetime, long after the chairman and I are angels. If every American family were asked equally to shoulder the burden of this $816 billion stimulus package, it would be like asking to take on an additional $10,247 for each family.

Our constituents are already facing unprecedented economic challenges. They want credible economic stimulus.

I remember the chairman suggesting throughout this discussion that he spent an awful lot of time with us in consultation looking for input as to what ought to be in this package. I remember the first session that he and I had in his office. It wasn't a long session, but it was a stimulating one in which he suggested that the package that was going to come forth would likely be designed to stimulate the economy to create jobs. And he talked about infrastructure as being one of the major items. My goodness. The infrastructure in this bill, the infrastructure spending is something less than 10 percent of the whole package. And for shovel-ready projects, it is smaller than that. I also remember the second session I had with my chairman regarding this matter. We spent almost a whole hour together in that discussion. He asked if I had a pencil so I could write down some of the numbers. He was going to describe what might be a part of the package. I was really thrilled he was going to be that personal with his ranking member on the committee and actually get involved so we would have a chance to evaluate it. And my chairman, as he was watching me make notes and my staff making notes, decided probably not to tell me that a day and a half later he was issuing a 15-page press release before the bill had been filed that went into a considerable amount of detail, considerably more than he shared with either his ranking member or any of the rest of the members, at least on my side of the aisle, in the Appropriations Committee.

It is my understanding that many a subcommittee chairman, or at least their staff, were told very specifically that there was an embargo relative to their communicating and sharing information with our subcommittee staff people as well as subcommittee members. The minority was not included in

developing this package. And it has become a horrendous package that is going to place a burden on the American people for a lifetime.

While Members are proceeding with nothing but good intentions in this package, let us be mindful of the fact that this additional burden will be placed squarely on the backs of our children. But also let us be mindful of the fact that next week we are going to be considering an omnibus package that involves over 410 billion additional dollars. And we didn't get the work done. Indeed, that package is going to come to us with all kinds of funding that should have been done and should be available already. But the chairman chose to put that spending on the shelf in order to develop this stimulus package with others in his leadership.

I presume what that really means is that within this bill is all kinds of funding that had its beginning within those nine other bills that now we are going to eventually get to next week. You combine TARP with this package, you take a look at that 400 plus billion dollars, people have been talking about additional interest costs—we are talking about in a very short period of time over $1.5 trillion that the majority is running forward with, with very little concern about the impact that this might very well have on our grandchildren.

□ 1315

I must say that many of us feel a little sorry for what this work will do to our families.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the minority continually spouts the myth that the minority was not allowed to be involved in the development of this legislation. Here are the facts:

In September, when we developed our first recovery package, I specifically asked the ranking minority member of this committee to please let us know what he felt ought to be in that package and what shouldn't.

In December, we held a hearing with a number of governors and other witnesses on the issue of a stimulus or recovery package. The ranking minority member urged Republican members of the committee not to show up at that hearing, and only three did.

In December again, I sent a letter to every member of the Appropriations Committee, Republican and Democratic alike, asking them for their input. We got a lot of suggestions from both sides of the aisle, although obviously a number of the Republican members preferred to provide their information on a confidential basis because they evidently felt——

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself an additional minute. They evidently felt they were being discouraged from participating so that it would be easier for them to vote ''no'' on the final package.

On January 11, I sat down with the ranking member of this committee and discussed in general terms where I thought the bill was going and again urged that we be given any information about what program levels they thought were appropriate; got no real indication of interest.

On January 13, I met and went over what we were thinking about doing in detail with the ranking member of this committee. And again, we got very little indication that there was any real interest at the top of the power ladder in the Republican Caucus in having the Republicans participate in this process.

So if someone says, ''I'm sorry I was shut out,'' but it is they who turned the key in the lock that kept them on the outside, that certainly isn't our fault. We have tried to welcome any advice, any suggestions from any source—not just Members of Congress, but others in this society—and this product reflects that.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I normally would not proceed in this fashion, but I could have guessed that the chairman might react to some of those remarks that I made—especially remarks about his falling over backwards to cooperate with the minority—so I would like to take a little time to be very specific about this.

I appreciate Chairman OBEY making the point that he reached out to the minority on the stimulus package. He did reach out to me, as the ranking member of the Appropriations Committee, and I made three suggestions relating to how the bill could become a bill that many Republicans could support.

I suggested that Chairman OBEY consider less spending, and especially removing spending for those items that are not stimulus and should be funded through the regular appropriations process. What happened? Spending on programs that don't create jobs actually increased, particularly those in the Labor, Health and Human Services Subcommittee that Chairman OBEY chairs himself.

I suggested that Chairman OBEY consider lowering the top line of spending on this package. What happened? The top line on spending actually increased.

I suggested a greater emphasis on targeted tax cuts for low-income families and small businesses. What happened? The tax relief portion of this stimulus bill got smaller as the top line on spending increased.

It's one thing to seek constructive input in the hopes of building bipartisan consensus on a bill as important as this package, but that clearly has not happened. Judging from the legislation as presently written, it's quite clear that the majority's desire is less about creating jobs and stimulating the economy and more about spending the public's money.

Do not for one minute believe that this bill reflects the input of House Republicans or even many House Democrats. This bill was largely written by two people. Any suggested negotiations on this legislation occurred between the Speaker and my chairman, Mr. OBEY. That's not a negotiation, that is a travesty, a mockery, a sham. Wow! What a shame to waste a historic opportunity to bring Republicans and Democrats together to roll up our sleeves and work in a bipartisan fashion.

It's not too late to make this a better bill, a bipartisan bill. As I said in my opening remarks, I sincerely want the President to be successful. The challenges we face do transcend politics. If the President or his staff are listening, I ask them to pursue bipartisanship so this can be a package both Democrats and Republicans will support.

I say one more time, travesty begins when there's a flat embargo at a subcommittee level when our majority staff is told they shouldn't be communicating with the minority staff. Bipartisanship is the best of our committee, and if this pattern continues, our committee is not going to be able to continue to produce products worthy of its name.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished majority whip.

Mr. CLYBURN. I thank the gentleman for yielding time and thank him so much for all that he's done to put together this great package.

Mr. Chairman, I rise in strong support of this balanced, responsible recovery package that will put America back to work. I want to thank—in addition to Chairman OBEY—Speaker PELOSI, Chairman RANGEL, Chairman OBERSTAR, Chairman MILLER, Chairwoman SLAUGHTER, and all the other chairmen who have made sure that the bill reflected the pressing needs of our economy.

I also would like to thank the staffs who worked so diligently in constructing this bill, particularly Amy Rosenbaum in the Speaker's office, Beverly Pheto of the Appropriations Committee, Janice Mayes of Ways and Means, and David Hensfelt of Transportation and Infrastructure.

I have listened intently to the opponents of this legislation, and per their usual prescription, they tell us that only tax cuts can cure this recession. But Mr. Chairman, what good is a tax cut when you don't have a job? America works when Americans work.

In South Carolina, my home State, the unemployment rate is 9.5 percent, the third highest in the Nation. More than 26,000 South Carolinians joined the jobless ranks last month, raising the total number of unemployed in the State to a record 210,000.

Our package is balanced. It has middle class tax cuts, it has business tax cuts, it has investments in our physical infrastructure. It is the right mix of spending and tax breaks to get America working again.

This legislation is pro-growth and pro-business. Allow me to quote from the letter that the National Association of Manufacturers sent yesterday. ''We strongly support a number of provisions in the American Recovery and Reinvestment Act. This legislation—which combines targeted tax incentives and increased investments in areas critical to our competitiveness—will help get our Nation's economy back on track and ensure job creation and sustainable economic growth.''

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield 1 additional minute.

Mr. CLYBURN. I also have a stack of letters from business organizations, all endorsing this package, including the National Black Chamber of Commerce, the Community Bankers, and the National Association of Realtors.

President Obama was joined by a dozen CEOs this morning who have endorsed this package. We have a letter from 120 high-tech CEOs endorsing the investments we make in our digital infrastructure.

So in closing, Mr. Chairman, Fortune 100 CEOs from all sectors are telling us that this is the right course of action. I urge my colleagues to choose progress over partisanship. Vote ''yes'' on this recovery package. And let's put Americans back to work.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, January 27, 2009.

Hon. NANCY PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

Hon. JOHN BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

Hon. STENY HOYER,
Majority Leader, House of Representatives, Washington, DC.

Hon. ERIC CANTOR,
Minority Whip, House of Representatives, Washington, DC.

Hon. JAMES CLYBURN,
Majority Whip, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER, LEADER HOYER, LEADER BOEHNER, CONGRESSMAN CLYBURN, AND CONGRESSMAN CANTOR: The National Association of Manufacturers (NAM) is gratified by the commitment of the bipartisan, bicameral Congressional leadership and the Obama Administration to move quickly on a legislative package to help get America working again. Manufacturers recognize that immediate action is needed to address the unprecedented challenges faced by all sectors of the economy.

NAM members believe a balanced tax and investment package designed to have an immediate impact on job providers and the people who depend on them, will go a long way to spur economic revitalization. To this end, we strongly support a number of provisions in the American Recovery and Reinvestment Act scheduled for debate this week. This legislation—which combines targeted tax incentives and increased investment in areas critical to our competitiveness—will help get our nation's economy back on track and ensure job creation and sustainable economic growth.

In particular, the NAM supports the following measures:

Tax Relief for Struggling Companies: Net operating loss (NOL) relief has a proven track record of helping companies through tough times. Extending the carry back period to five years will provide an immediate infusion of cash for struggling companies of all sizes, in a broad, cross-section of industries. The loss carry back extension will help companies retain jobs, make critical investments and, in some cases, simply keep their doors open.

Broad Investment Incentives: Capital investment is key to sustainable economic growth and job creation. Extending the 2008 ''enhanced'' expensing and ''bonus depreciation'' provisions that allow all companies to take a current 50 percent write-off will help spur needed investment.

Housing: The housing market collapse remains at the core of our nation's economic crisis and it is critical that any economic recovery plan include proposals to stabilize and revitalize the housing industry. The proposed enhancements to the home buyers' tax credit will encourage people to reenter the housing market, helping to retain and create job opportunities in numerous housing-related industry sectors.

Energy Efficiency and Renewable Energy: Energy efficiency upgrades can reduce energy costs. Proposed new incentives and extensions and enhancements of existing provisions will encourage investment in energy efficient equipment and sources of renewable energy. While we support an investment strategy to achieve energy efficiency, the NAM would oppose mandates that lock in higher energy costs for manufacturers. We continue to believe that the adequacy of domestic energy supply remains one of the biggest challenges impacting manufacturers and their decisions on where to locate.

Highway, Aviation and Waterways: Providing additional funding to states and localities struggling to make progress on the growing backlog of transportation infrastructure projects will go a long way to strengthen our nation's transportation infrastructure, a critical priority for manufacturers. Similarly, funding a 21st century satellite-based air traffic control system will significantly enhance safety and energy efficiency while relieving congestion at our nation's crowded airports. Likewise, fully funding the Army Corps of Engineers water resources program will address millions of dollars of unmet needs related to high priority operations and maintenance along the inland waterway system.

Water and Sewer Facilities: Funding to update and modernize our nation's drinking and wastewater infrastructure will help promote sound environmental policy and manufacturing competitiveness, while providing manufacturing and construction jobs.

Health Information Technology: Rising health care costs are a significant concern because they limit manufacturers' ability to create new jobs or invest in new technologies, ideas, or products. New funding and incentives to promote the widespread adoption of a uniform, interoperable system of health information technology (HIT) will increase transparency, reduce medical costs and improve the quality of patient care.

Workforce Development: Many unemployed workers are not trained in the techniques and technologies necessary to fill a number of the jobs existing today and those that would be created by the stimulus package. These technical jobs require either post-secondary training or specific skills, which is why this must be an important component of any economic stimulus.

Broadband: Initiatives to promote the deployment of high-speed broadband infrastructure in unserved and underserved areas will help ensure that high-speed Internet service is available everywhere in America. Benefits will be felt immediately in business, education and healthcare.

Basic R&D: Federal funding for basic research and development by the Department of Energy's Office of Science, the Department of Commerce's National Institute of Standards and Technology (NIST) and the National Science Foundation will support our nation's ability to strengthen innovation in industries, foster a green economy and create new jobs in cutting-edge technologies.

The NAM recognizes that action by the House of Representatives will be a significant step. We urge you to move expeditiously to address our economic crisis. Throughout the debate in the House and Senate, we are committed to working with you to strengthen the American Recovery and Reinvestment Act with additional provisions that will also create jobs and have a highly beneficial impact on our economy, including needed pension changes, additional tax relief to accelerate clean coal technologies, incentives to bring foreign earnings back to the United States, expansion of domestic energy resources, such as offshore exploration, and expansion of our nuclear energy infrastructure.

If the National Association of Manufacturers can provide any information on these or any other issues, please do not hesitate to call me at (202) 637–3000.

Thank you for your leadership.

Sincerely,

JOHN ENGLER,
President and CEO.

BUSINESS ROUNDTABLE,
Washington, DC, January 27, 2009.

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: Business Roundtable supports the Administration and Congress' goal to develop an economic package to put our economy back on the path of long-term growth and urges swift action.

In working with the Congress and Administration to put together this critically important economic package, Business Roundtable relied on several key principles that we believe are necessary to ensure growth and which are being incorporated into both the House and Senate bills: provide middle class tax relief, which will increase American families' net incomes and bolster consumer confidence; repair and modernize our infrastructure, which will help put Americans back to work and enhance American competitiveness; stabilize the deteriorating housing market; enhance access to education and training so American workers can develop the skills needed to take on new jobs and more effectively compete in the global economy; and stimulate business investment.

We are facing one of the most difficult periods in the history of the U.S. economy. Business Roundtable believes that a stimulus package that targets projects that can be rapidly deployed in the economy is the quickest way to stabilize the economy and create new jobs. With more than two million jobs lost in 2008—and accelerating job losses in the past three months—decisive action is needed if we are to return our economy to a path for growth and full employment and provide American workers and families with the opportunity to enhance their standards of living.

To be effective quickly, the stimulus package needs to focus on areas of the economy that provide maximum effects in terms of new jobs and investments that will enhance our nation's ability to compete in the global economy. At the same time, it must reject policies, such as ''Buy American'' and other restrictions, which would lead to further net job loss or cause additional economic deterioration. It is also important that the economy's response to any stimulus initiatives be carefully measured to ensure we are on a path to long-term, sustainable growth before the initiatives are withdrawn. As the Congress moves forward in shaping the stimulus package, it must ensure that these objectives are met.

We recognize that the stimulus package will increase an already significant deficit in 2009. Business Roundtable always has placed a high priority on deficit reduction as a means to achieving sustained economic growth. However, an increase in the deficit is an unavoidable outcome at this critical time if we are to avert a prolonged and potentially deep recession. Nevertheless, high deficits are unacceptable over the long term. Once we return to solid economic footing, the Congress, the Administration and private sector need to work together quickly to implement measures to control future spending, including a comprehensive ''top down'' review of all federal spending.

Business Roundtable's highest priority is to drive sustained growth in the U.S. economy in order to achieve higher living standards for all Americans. Our membership includes the CEOs of leading U.S. corporations. With a combined workforce of nearly 10 million employees and $5 trillion in annual revenues we are on the front-lines of the battle to prevent a prolonged and deep recession and to return the economy to strong growth with new jobs.

We look forward to working further with the House and Senate to finalize an emergency economic package that will work for all Americans—our workers, families, communities and companies.

Sincerely,

JOHN J. CASTELLANI,
President.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, I rise in opposition to this so-called stimulus bill which seems only to stimulate one sector of our economy—the government.

As a person who was a small business person—a realtor and restauranteur and a member of small business organizations—I can tell you that most small businesses out there are in opposition to this legislation.

There is no doubt that our country is going through some difficult economic times. There are many steps Congress can and should take to get our economy back on a path to prosperity. Unfortunately, it appears that the majority party is using our current economic woes to grow government spending to epic and historic proportions.

By way of comparison, in 1934, government spending reached about 11 percent of GDP in response to the Great Depression, and if passed, this stimulus bill will increase government spending to 23 percent of GDP. The question remains, what will all this spending get the American people? Will it truly provide more middle class jobs or improve infrastructure? The answer, sadly, is no. The bill provides a mind-boggling $365 billion for Labor, Health and Human Services programs.

The strategy under this bill is to throw billions of dollars in every bureaucratic direction, cross our fingers, and hope for the best. Not only are we wagering our future with this bill, but we're crossing a point of no return. This bill moves us dramatically closer to a welfare state. It is forcing people who are the backbone of our economy, the middle class, into a troubling kind of public dependency.

Mr. Chairman, let us take time to truly do what is right for the American people and provide targeted and limited stimulus through tax cuts and spending on ready-to-build infrastructure that will really put Americans back to work immediately. That's what my constituents want, that's what they deserve.

Let's not exploit this economic crisis to push legislation that will increase the size and scope of the Federal Government above and beyond anything our country has seen in its 233 years.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished majority leader.

Mr. HOYER. I thank the chairman of Appropriations for yielding, and I want to thank him for the extraordinary work he has done to put this package together. I want to thank Mr. LEWIS for the work that he has done as well, even though he may not agree with the final product.

I want to start by remarks—and I may take a little bit of time—I want to start my remarks talking about bipartisanship, and how we got here and why we're here.

Over a year ago, it appeared to us that the economic program adopted in 2001 and 2003 was not working. It also appeared to the administration that it was not working. It appeared to Mr. BOEHNER that it was not working, that we were in real trouble, and that we weren't producing jobs. We had the worst 8 years of job production that we've had in any administration since Herbert Hoover. And as a result of the failure to produce jobs, our country was in great distress and our people were challenged and at risk.

And so the administration and the Democratic leadership of the Congress and the Republican leadership of the Congress sat down at the table together and came up with a program to stimulate the economy, about $160 billion. And we worked together in a bipartisan fashion. It was a Republican President, but a Democratic-led Congress—in fact, agreed to the administration's increase in that program, as you recall, because we had suggested $100 billion—and we worked in a bipartisan fashion.

And then in September, some months later, Secretary Paulson, the Republican Secretary of the Treasury, came to us, met with the leadership, and said we have a crisis. Indeed, we had invited him down because we thought that there was real trouble. He said we have a crisis, we need to act, and we need to act immediately. A Democratic-led Congress responded to Secretary Paulson and said, we'll work with you. We'll work with you because our country needs a joint response. And we did that.

And when that legislation came to the floor, very frankly, a majority of Democrats supported the Republican administration's request; a majority of his party in this House did not. We now have a Democratic administration and a Democratic-led Congress, and I'm hopeful that we'll have bipartisan work continuing to meet this crisis caused, from my perspective, by the failure of policies that we've been pursuing economically over the last 8 years.

□ 1330

I do not say that for the purposes of being partisan. I say that for the purposes of our being instructed on what has worked and what has not worked.

As you know, we're dealing with one of the worst economic climates in memory: 2.6 million jobs last year; the worst housing market since the Great Depression; financial turmoil that has threatened the savings and retirement of millions. That's the context in which this administration is taking office.

As we move to confront this crisis, we welcome the criticism of our Republican friends and others. But let's put that criticism in some context, again, not for a partisan sense but for a sense of instruction of the perception of what worked and what did not. I would suggest that, frankly, much of what I have heard from my Republican colleagues over the last 20 years in terms of what would work and what would not work was inaccurate.

Let's remember President Bush's saying, ''My administration remains focused on economic growth that will create more jobs.'' Let's remember how the minority party reacted to the Clinton economic plan in 1993. Newt Gingrich said of that plan that it would lead to ''a job-killing recession.'' A leader of

the Republican Party made that observation. He was dead, flat, 100 percent wrong. In fact, we created 22 point some odd million jobs in those 8 years, an average of 256,000 per month. This administration has averaged less than 40. You need 100 to stay even.

JOHN BOEHNER, the Republican leader, said at that point in time, ''The message is loud and clear, cut spending first and shrink the size of this Federal Government,'' in opposing the economic program.

In reality, the Democratic plan led to unprecedented economic growth. We all know that. The 1990s were the best economic period of time statistically that we have had in this country in the service of anybody in this Congress including the Reagan years.

Let's remember how Republicans reacted to Budget Reconciliation Act in 1990 when George Bush the first was President of the United States. Tom DeLay said, ''The Democratic package will destroy our economy.'' Now, the Democratic package was, of course, an accommodation made between President Bush; Dick Darman, head of OMB; and ourselves. In reality, that program, opposed overwhelmingly by Republicans, reduced the budget deficit by approximately $482 billion.

What we have seen from our Republican colleagues is history, frankly, of overstatement of what their program would do and a great understatement of what the programs and policies that we pursued would do. I would suggest that we consider the representations being made today in that context. Today, I hope that our Republican colleagues will put that history aside and join with us to pass this bill and try to help restore our prosperity.

None of us have served in this Congress at a lower ebb of the economy than today. Nobody in this Congress including JOHN DINGELL, the Dean of the Congress of the United States.

The American Recovery and Reinvestment Act is projected to create or save 3 to 4 million jobs. What does it do? I know Mr. OBEY has said this, but let me repeat it. Tax relief, $275 billion to working Americans and to small businesses. States will be helped. Policemen, teachers won't have to be laid off so that we can keep our communities safe and our children educated. Core investments in infrastructure. I know we'd like to do more in infrastructure. The sad news is it's tough to spend it quickly in the infrastructure field. We need to do more. We will do more.

Protecting vulnerable populations. People are in food lines historically long. People are unemployed in historic numbers. States are stretched with their Medicaid assistance to people who need health care.

In energy, we have all talked about energy independence. We had a big debate last year about energy independence and how to get there. This bill deals with energy independence and creating jobs in the course of getting to energy independence.

Health care, we all know JOHN MCCAIN talked about it in his campaign. Barack Obama talked about it in his campaign. Everybody knows that if we don't get soon to health care reform and health care progress, we won't be able to afford the kind of health care that Americans need and want accessible to them and their families.

Education, training, we're not going to be competitive in this world if we don't make sure our children are well educated. We're pricing young people and their families out of an education. We can't afford to do that or we won't compete with the Japanese, the Chinese, the Germans, the Indians, and others.

Mark Zandi, a former economic adviser to Senator MCCAIN's presidential election, found that ''the jobless rate will be more than 2 percentage points lower by the end of 2010 than without the fiscal stimulus.''

I'm sure almost every Member of the House could find something that he or she thinks should not be in here. I know I could. I know others could. Some people want more in, some people want less in. But, frankly, most of the economists I have talked to think this is about the right mix. It may not be specifically what each wants but about the right mix between tax cuts and spending.

This legislation is a result of an honest, urgent effort to include the best ideas from economic experts from across the spectrum as well as both sides of the aisle. It's an effort that cannot become weighed down by bipartisanship or parochial interests. There are no earmarks in this bill. Overall, this plan contains what is widely viewed as the right mix of spending and tax cuts to spur our economy. It will include tax relief for 95 percent of working families; tax cuts for job-creating small businesses; projects to put Americans to work renewing our crumbling roads and bridges; and nutrition, unemployment, and health care assistance to those families who are being hit hardest by this recession.

This administration inherited the situation in which we find ourselves. The Democratic leadership tried to work with the Bush administration to get us out of it. Hopefully, we will continue to do that in a bipartisan fashion.

The Congressional Budget Office estimates that two-thirds of the recovery funds will be spent in the first 18 months, which means an immediate jolt to our economy. And we will continue working with President Obama to increase that number.

The CBO also estimates that if we pass this bill, by the end of next year, America will have up to 3.6 million more jobs, 3.6 million more Americans working and being able to support their families.

Besides creating jobs immediately, we will invest in new energy technology, upgrade our schools with 21 Century classrooms, and computerize health records to reduce costs and improve care.

All of those are investments that promise growth and savings in the years to come to ensure that our Nation does not slip back after bringing us out of recession, which is what this is designed to do. We don't want it to slip back. So we have medium-term investment as well as short-term investment.

Finally, we have included in the recovery plan unprecedented levels of accountability and transparency so we and our constituents will know that their tax dollars are being spent on getting us out of a rescission, not siphoned off to the politically connected. So there will be no earmarks or pet projects in this bill. The new Accountability and Transparency Board will be working to keep waste and fraud far away from this bill. And all of the plan's details, all, will be published online so that we and our constituents can track the success of these efforts to turn our economy back into the productive engine that it's been in the past.

I close the way I started. We worked in a bipartisan fashion with the Bush administration. When they saw a crisis, we responded. The majority of our Members supported the programs suggested, promoted by the Bush administration. We did so because we believed it was in the best interest of our country. We move on this bill because we believe it's in the best interest of our country.

So I ask all of us, Democrats and Republicans, but people who care about their country, their constituents, our families and our children, to join together. Lyndon Johnson said once, ''It's not difficult to do the right thing; it's difficult to know what the right thing is.'' We have worked together over the last months to try to come up with as close to the right thing as we can.

We urge all of the Members on this floor to vote for America, its people, its economic health. Support this legislation.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Chairman, this magnificent Capitol Building houses the greatest legislative bodies ever created in the history of humanity, which were created because of a terrible abuse of power in this Nation's history. And this legislation we are being asked to vote on today, this 647-page bill, represents one of the worst

abuses of power I think that we've probably ever seen in the history of the Congress.

The legislative process has been terribly abused in the creation of this bill because in a short 15-day legislative period, a short 21 days, the new ruling majority of Congress has in a single bill spent more money than the entire annual budget of the United States. In a short 21-day period, with virtually no committee hearings and a hearing in the Appropriations Committee which lasted a matter of hours and a hearing in Ways and Means which lasted a matter of hours, they've created a bill which spends over $800 billion. In a period of 21 days, the new majority, this new President has spent about $1.5 trillion, in the first 21 days. That's the change America, unfortunately, has to look forward to.

We already face, Mr. Chairman, in this country an $11 trillion national debt, a $1.5 trillion deficit, about $60 trillion in unfunded liabilities. The most urgent question facing us as a Nation is how do we pay for this massive accumulation of debt? A debt-based economy, as my friend DENNIS KUCINICH said, who often votes on the other end of the spectrum but shares with me the concern I have for the debt we are passing on to our kids.

And it is utterly irresponsible, it is immensely destructive to the financial health of our Nation to govern in a way that shuts out the American people. Shutting out the minority doesn't mean shutting out a representative. It means shutting out the people we represent.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. Mr. Chairman, I yield the gentleman an additional minute.

Mr. CULBERSON. You're not shutting out JOHN CULBERSON or JERRY LEWIS or JACK KINGSTON. You're shutting out the 651,000 people that I represent. Every one of us has a job description as representative, an obligation to be accountable, open, responsive, transparent to our constituents. This legislative process works best when the American people are truly involved and have an opportunity to be educated and told what we are voting on. And this bill was written in secret by dedicated professional staff people but not with the involvement of the American people.

We have already been notified formally by Moody's that they're considering beginning the process of downgrading the AAA bond rating of the United States. And before you reach the merits of the bill, Mr. Chairman, we must remember the process that we all have a sacred obligation to preserve. The involvement, the advice, the input of the American people is essential.

I urge the majority to stand by their promise to be open, accountable, and transparent. Lay it all out there on the Internet for everyone to see. What are you afraid of? You've got the votes. Give the public a chance to be heard. Let them read the bill.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds.

We are on the Internet. That's all I would say to the gentleman.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. LARSON).

□ 1345

Mr. LARSON of Connecticut. I thank the distinguished chairman for his incredible work bringing this legislation forward.

Last week, 2 million of our fellow citizens stood on our Nation's front lawn and brought their aspirations and hope as they listened to President Barack Obama. His message was clear and realistic and hopeful.

We face, as they do here in this Chamber this day, at this moment, a rendezvous with reality, the crushing reality of what the last 8 years has brought to our American citizens. Our budget deficits, trade deficits and debt have reached record levels.

Unemployment has reached its highest level in 15 years. On Monday of this week alone, 71,000 jobs were lost. Inflation is on the rise. States are facing enormous budget shortfalls and are being forced to cut services. My own home State of Connecticut is facing a $1 billion deficit just this year.

Our economy is in a deep, cavernous hole. Our climb out will be steep, but it will be steady, and it will take hard work and sacrifice that the President called upon, but it will also take innovation by the American people, an investment in this country that we are making in putting forward here today in this package, this package, this effort. This work is for those citizens who are not concerned about 15 days, they are living moment to moment and counting on us as we face this daunting reality to bring recovery, investment and hope by redressing the reality that our constituents, who we are sworn to serve, face every day.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. I thank the chairman, and I wanted to respond to some of the comments that my Democrat friends have been making. Number one, we do want to work with them on this package. We met with President Obama yesterday to pledge our support of turning this economy around. We have offered a lot of good ideas, ideas that the House Democrats have not embraced as of yet, but we hope that they will, because we think President Obama and we made some progress yesterday.

One of the things we talked about is extending tax breaks for small businesses so that they can create more jobs. We think that is very important.

We talked about easing the credit crisis so people can go out and borrow money and make investments in new jobs. We also talked about housing, stabilizing the housing market so that people can become homeowners.

One of the things that's not in this package is also tax credits for small businesses to purchase health care for their employees. We think that would be very, very helpful. And also ending some of the unfunded mandates that are strapping our cities and local governments.

We believe we have a lot of good ideas. We are very disappointed that this committee, Appropriations, only had one hearing and we were shut out of some of the subsequent negotiation and crafting of this bill that we think could have been helpful to do on a bipartisan basis.

Now Mr. HOYER had talked about history and how stimulus bills work. Let's talk about the stimulus bills and let's talk about recent history. I don't need to go back to Ronald Reagan.

Last year, 2008, $29 billion for Bear Stearns, $168 billion for the other stimulus package we just passed in May, $200 billion for Fannie Mae bailout, $85 billion for AIG bailout, $700 billion for the TARP, the Wall Street bailout. If this kind of spending worked, we would be in great shape in our economy right now. But we keep throwing more and more money on the problem to the extent that this country now has a $10.6 trillion national debt.

In fact, the interest on this package alone, Mr. Chairman, will be $347 billion a year. And so this really isn't just an $825 billion package, this is a $1.1 trillion expenditure. Who is going to pay for it? Not people here today but our children and our children's children. We are digging a hole.

And where does this money come from? Three sources. You can tax people, and I can tell you the working man is taxed to death right now. And I am glad there is some tax relief in here for some people, but not tax relief for everybody in the middle-income bracket, which is what we desperately need. The second way we can do that is to print the money. We print money, and it just leads to inflation. Or we can borrow the money. Right now we owe foreign governments $3 trillion, China being the number one lender to us at 22 percent, followed by Japan and followed by Great Britain. We are digging a huge hole.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 1 additional minute.

Mr. KINGSTON. Let me say this. I do think there should be a balance of tax credits and a balance of public works spending in this bill, but it is sad that while the National Endowment For the

Arts gets $50 million—I don't know what kind of job creation that's going to do—but $50 million, we only spend 7 percent on shovel-ready projects in the year 2009, only 7 percent, and total public work spending for roads, highways and bridges is about 13 percent.

We can do better, and I would like to work with the Democrats and the President, as would all the other Republicans, and try to make a better package than what we are looking at today.

Mr. OBEY. Mr. Chairman, I have only one remaining speaker, the Speaker herself.

The CHAIR. The gentleman from Wisconsin has the right to close.

Mr. LEWIS of California. Mr. Chairman, I have many people who want to speak on the bill, but they don't happen to be present, and I am very anxious to hear the close.

I yield back the balance of my time.

Mr. OBEY. I thank the gentleman for his cooperation, and I yield our remaining time to the distinguished Speaker, the gentlewoman from California.

Ms. PELOSI. I thank the gentleman for yielding and I thank him for his tremendous leadership.

Mr. Chairman, one week and one day ago our new President delivered a great inaugural address that offered hope to the American people and a new direction for our Nation. President Obama pledged ''action bold and swift, not only to create new jobs but to lay a new foundation for growth.''

Today we are passing historic legislation that honors the promises our new President made from the steps of the Capitol, promises to make the future better for our children and our grandchildren. Only 8 days after the President's address, this House will act boldly and swiftly—by passing the American Recovery and Reinvestment Act to create and save 3 million jobs by rebuilding America.

That is why the bill has the support of 146 eminent economists, including five Nobel Prize winners who, in a letter to Congress this week stated, and I quote, ''The plan proposes important investments that can start to overcome the Nation's damaging loss of jobs by saving or creating millions of jobs and put the United States back onto a sustainable long-term growth path.''

On the steps of the Capitol, President Obama pledged to ''build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together'' and to ''restore science to its rightful place, and wield technology's wonders to raise health care's quality and lower its cost.''

Today, we are acting swiftly and boldly to do just that. To assert America's role as a world leader in a competitive global economy, we are renewing America's investments in basic research and development, in health care IT and in deploying new technologies into the marketplace.

That is why this legislation has the support of more than 100 high-tech CEOs and business leaders who have endorsed these job-creating investments. As these innovative leaders expressed in their letter to Congress supporting this bill, and I quote, ''Investments in America's digital infrastructure will spur significant job creation in the immediate term. An investment of $40 billion in America's IT network infrastructure in 2009 will create more than 949,000 U.S. jobs, more than half of which will be in small businesses.''

Then President Obama pledged that we ''will harness the sun and the wind and the soil to fuel our cars and run our factories.'' Today we are acting swiftly and boldly to do just that. This act makes a historic, job-creating investment in clean, efficient, American energy. To put people back to work and reduce our dependence on foreign oil, we set the goal of doubling our renewable energy production and renovating public buildings to make them more energy efficient.

That is why the Apollo Alliance, a coalition of many, many groups committed to an energy independent future for our country and reversing climate change, has said that this package is ''big, bold and will serve as a down payment on long-neglected investments in a clean energy, good jobs, made-in-America economy.''

President Obama pledged to ''transform our schools and colleges and universities to meet the demands of a new age.'' The American Recovery and Renewal Act, which we are voting on today, will make bold investments to provide children with a 21st century education, create hundreds of thousands of jobs by investing in school and other infrastructure, make college more affordable and build a top-notch workforce trained for the jobs of the future. It's about the future.

That is why the Committee for Education Funding, another coalition, endorsed this bill saying, ''The package would retrain displaced and unemployed workers, create new jobs by modernizing the country's classrooms, and increase America's competitiveness in the global economy.''

Education groups from across the spectrum and across the country, from the American Association of Community Colleges to the United States Student Association, support this bill.

President Obama pledged that ''those of us who manage the public's dollars will be held to account—to spend wisely, reform bad habits, and do our business in the light of day—because only then can we restore the vital trust between a people and their government.''

This act that we are passing today has unprecedented accountability measures built in, providing strong oversight, a historic degree of public transparency and no earmarks. That is why the National Governors Association strongly supports this legislation and our efforts to ensure that these investments are effective uses of tax dollars.

With the adoption of the bipartisan Platts-Van Hollen amendment today, a broad-ranging coalition of public interest groups say we have set ''a new standard of accountability and transparency by empowering Federal employees to call attention to waste, fraud, and abuse of tax dollars without fear of retaliation.''

As we know, my colleagues, last year 2.6 million Americans lost their jobs. Some say we are moving too quickly with this legislation. I say this legislation is long overdue. For all the time that we do not pass it, each month 500,000 Americans will lose their jobs. We simply cannot wait. And we say to the families of America who are affected by this, or fear to be, by this downturn in this economy, we are all in this together. The success of America is dependent upon the success of America's families. By investing in new jobs, science, innovation, energy and education, and doing so with strict accountability and fiscal responsibility, we are investing in America's families, which is the best guarantee for the success of our Nation.

My colleagues, the ship of state is difficult to turn, but that is what we must do, and that is what President Obama called upon us to do in his inaugural address, which I believe is a great blueprint for the future. With swift and bold action today, we are doing just that. We are moving the ship of state in a new direction in favor of the many, not the few. With this vote today, we are taking America in a new direction.

I thank all of my colleagues who worked so hard to make this legislation the great statement of values, principles and action that it is. I urge a ''yes'' vote from our colleagues. I look forward to working together in a bipartisan way as we go into the future in this new direction under the leadership of our new President, President Barack Obama.

Mr. GENE GREEN of Texas. I want to thank you, the rest of Leadership, and the chairmen of the committees that put this bill together for your work to create a package that will create jobs, invest in America's infrastructure needs, address pressing healthcare needs, and expand opportunities for education and worker training. I strongly support the provisions in the American Recovery and Reinvestment Act and urge my colleagues to join me in supporting it.

Our district and the surrounding areas in southeast Texas were devastated by Hurricane Ike last September. People are getting back on their feet, but there is still a significant need for additional federal funding. I would have liked to seen that included in this package as it is one of the most pressing recovery

needs in our country, but since it was not, I hope it can be included in either in upcoming omnibus or supplemental appropriations bill.

In Texas we've seen the unemployment rate jump from 4.2% a year ago to 6% in December of 2008—the unemployment rate in the Houston-Baytown area is 5.5% and will likely only rise with the significant drop in the price of oil and refined product, and the impact that has on our energy sector jobs. It is important we invest in this sector and this legislation makes valuable contributions to diversify our nation's energy and environmental resources.

It makes critical improvements to the smart grid provisions established in the Energy Independence and Security Act of 2007 by eliminating the cap on the allowable number of smart grid demonstration projects and increasing the grant funding available for these efforts.

My hometown of Houston is a leader in moving toward smart grid solutions. Center Point Energy, a leading energy delivery company in Texas, will invest over $600 million in automatic metering systems, or AMS, over the next five years to support smart grid infrastructure. AMS technology is the first step in moving toward an automatic grid which will allow consumers to manage and monitor the electric use in real-time, reduce energy consumption, and improve grid reliability.

I also support Representative ED MARKEY's (D–MA) amendment to this section that will expand the protocols smart grid projects can use to obtain grants authorized in this bill.

I am also pleased with the increase in funding and changes to the Weatherization Assistance Program which will help low-income families make their homes more energy efficient, as well as the additional $1 billion provided for the Low-Income Home Energy Assistance Program (LIHEAP) that will help more Texans heat and cool their homes during these troubled economic times.

While I support the temporary Department of Energy loan guarantee program created under Section 5003 for renewable energy and electric transmission projects, I hope the Committee does not forget about the strategic importance of funding the larger DOE loan guarantee program so that other valuable projects can move forward that reduce carbon emissions and that employ new innovative technologies.

In addition to the extension of the renewable production tax credits, I also believe Congress should provide a long-term extension of the biodiesel blenders tax incentive to help this critical renewable energy industry. Houston is home to several biodiesel producers that directly or indirectly employ hundreds of workers in good-paying jobs, and over 50,000 jobs are currently supported by this industry nationwide. Without a long-term extension of this tax credit, producers are not able to provide the certainty required to bring in much needed capital for renewable energy projects. In addition to creating and sustaining jobs, the biodiesel industry helps our nation reduce greenhouse gas emissions and is developing next generation feedstocks such as algae that will further enhance our energy security.

Finally, I appreciate the inclusion of an additional $100 million for the National Estuary Program, which could help protect the Galveston Bay Estuary Program. Galveston Bay is a critical ecosystem home to an abundance of plant and animal species that are vital to our region's way of life and local economy. These funds can be used for such useful purposes as restoring wetlands or habitat restoration, and can be leveraged with public and private sector funds to generate large returns on investment. The Port of Houston Authority also actively participates and supports this key environmental program.

The legislation also makes significant investments in health care services and coverage in this country during these tough economic times.

Unfortunately, when individuals lose their jobs they often cannot afford medical care or COBRA premiums and often forgo treatment due to the cost.

AARA will provide COBRA premium assistance for 12 months for workers who have been involuntarily terminated and their families. COBRA premium assistance will allow individuals who would typically be unable to afford COBRA maintain coverage and obtain medical treatment.

States like my own have asked Congress for assistance with the States Federal Medical Assistance Percentage to help assist them the rising number of individuals needing Medicaid coverage. In order to avoid state deficits, many states may have to reduce their standards for Medicaid eligibility, which will actually increase the number of uninsured.

A temporary increase in FMAP funding until December 31, 2010 will help avert this potential problem and allow states to continue to provide Medicaid coverage to this uninsured population. The American Recovery and Reinvestment Bill of 2009 contains a 4.9% increase in FMAP for states. Texas, in particular, will benefit from an FMAP increase and the temporary formula and hold harmless provision.

AARA will also place a moratorium on 7 Medicaid regulations. My home state of Texas is affected by all seven of these cuts but most affected will be the payments for graduate education, Targeted Case Management Rule, Cost Limits to Public Providers, Coverage for Rehabilitation Services. These regulations would reduce funding to these valuable programs and leave states in a significant budgetary crisis.

AARA also provides valuable funding for Health Information Technology. We're all aware of the benefits that improved IT would bring the health care sector and the patients it serves. With integrated information technology, patients could manage their electronic health records and avoid having to haul multiple records to their various physicians.

If implemented correctly, Health IT can improve patient safety and garner cost savings. The funds provided in AARA are an investment in the future of health care in this country. Providers will have to pay some up front costs to obtain the technology, but they will receive $40,000 to $60,000 in financial incentives for adopting interoperable health IT systems.

Another key component that this package contains provides an investment of critical funds into our state and local transportation agencies. This is the quickest way to create jobs immediately. The Texas Department of Transportation alone has 853 "shovel-ready" projects. One of these projects in my district will create 1200–1350 new engineering and construction jobs in the Houston area in the next ninety days. This is significant in an economy where thousands of job cuts are announced every day.

It is easy to make the case for an infusion of transportation dollars when our state departments of transportation have run out of money. However, some of my colleagues on the other side of the aisle are asking why we should invest billions of dollars in education around the country. The answer to this question is simple. Investing in our children's education is investing in our economic competitiveness.

When states came across hard fiscal times in the last year, education funding is typically one of the first areas where they cut back. Additionally, with the increase in foreclosures, property tax revenues are down and cities have also cut back on financing critical education services. If we do not invest in our children's education and give them an opportunity at a better economic future, then we are setting ourselves up even more federal spending on social services in the future.

By increasing the amount of the Pell Grant by $500, we give students across the country the financial help they need to get the certification or degree necessary to pursue and keep a job in this economy. By investing in Head Start, we are setting a whole generation of students on a path towards economic viability. Head Start has been proven to help close the achievement gap between students of differing socio-economic status across the country.

Finally, I am encouraged that this bill will lower the child tax credit eligibility level making it available to all working tax filers with children. This will help our constituents put food on the table and pay their essential bills as the cost of living continues to increase.

Mr. Chair, I again state my strong support for this package which will provide an immediate infusion of funding into shovel-ready projects, creating jobs and starting our economy on the road to recovery, and I urge all my colleagues to join me in supporting the American Recovery and Reinvestment Act.

Mrs. LOWEY. Mr. Chair, I rise in support of H.R. 1, the American Recovery and Reinvestment Act of 2009.

In every part of our country, people are hurting from the economic downturn. Our nation lost 2.6 million jobs last year, and just this week major employers announced the elimination of 70,000 more. The need for bold and aggressive federal action is clear.

The American Recovery and Reinvestment Act will quickly stimulate the economy and create and save three to four million jobs in critical sectors of our economy like transportation and infrastructure, health information technology, and green energy. It will provide vital assistance to states like New York facing severe budget shortfalls and tax relief to 95 percent of Americans. In addition, critical support for education and health initiatives will bolster our economy in the short and long term. Unprecedented accountability measures will provide strong oversight and a historic degree of public transparency. I continue my

work to support initiatives critical to New York like water treatment infrastructure and relief from the Alternative Minimum Tax.

I commend President Obama for his leadership through this process. Digging out of this economic hole will take time, and I am hopeful Congress will quickly approve a final economic recovery package for President Obama's signature.

Mr. Chair, I urge all of my colleagues to support this vital legislation.

Ms. ESHOO. Mr. Chair, the legislation before us today is the first step in an effort to pull our country out of an historic economic crisis. Credit markets are frozen, consumer purchasing power is in decline, and in the last four months we've lost nearly 2 million jobs, with another 3 to 5 million likely disappearing in the coming months.

At a 1959 campaign rally in Indianapolis John Kennedy said "the Chinese use two brush strokes to write the word 'crisis'. One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger, but recognize the opportunity."

The opportunity we have today is to make a down payment on research and innovation in our nation. We recognized this need in the Speaker's Innovation Agenda and President Obama's inaugural address noted the inventiveness of the American people and issued a call to "dust ourselves off and begin the work to remake our country." A successful economic recovery plan must tap into the spirit of innovation that has driven our country since its founding.

This legislation does more than create jobs and stimulate the economy. It invests $6 billion in broadband grants to elevate us from 16th in the world in broadband quality, behind countries like Slovenia, Latvia, and Denmark. The country that invented the Internet should be #1. While I'm pleased that broadband funding is included in this package, we must do more and it must be more forward thinking.

The Recovery and Reinvestment bill invests $20 billion in Health Information Technology (HIT) to enhance patient safety, reduce medical errors, improve the quality of care, and importantly, reduce healthcare costs.

We live in the Information Age but healthcare, one of the most information-intensive segments of our economy, remains mired in a pen-and-paper past. We can buy airline tickets from a home computer, we can pay our income taxes online, and we can even buy a car with a few mouse clicks, but our healthcare system remains dangerously disconnected. Patient medical histories are largely disaggregated among various treating physicians and they are often inaccessible to a new doctor or even to the patients themselves.

These inefficiencies in the healthcare information system create unnecessary risks and costs. It's time to use technology to move toward a model of integrated care, focusing on overall health and not simply disease. Health IT promises to revolutionize the health care delivery system and have a powerful effect on enhancing patient safety, reducing medical errors, improving the quality of care, and reducing healthcare costs.

The recovery package also includes important building blocks for our path toward energy independence. I'm pleased the bill makes critical and sensible investments in our country by increasing funding and implementation of Smart Grid projects, promoting renewable energy research, and expanding the number of eligible participants in the Weatherization Assistance Program.

While millions of Americans are losing their jobs, and subsequently their health insurance, we are also helping people maintain coverage for themselves and their families. Subsidies for COBRA payments and increased Medicaid assistance to states will help keep people insured during this tumultuous time.

I'm proud to support the American Recovery and Reinvestment Bill and I urge my colleagues to do the same.

Mr. KANJORSKI. Mr. Chair, I rise today to offer my thoughts about H.R. 1, the American Recovery and Revitalization Act.

I regret that I cannot support the legislation in its current form. While I absolutely agree that we must stimulate our economy to help it recover from its troubled state, I am concerned that this bill does not represent an effective plan to ensure our economic recovery.

We face the most challenging economic crisis since the Great Depression, yet this bill merely throws money at the problem by expanding existing programs. We have not taken the time to fully understand the nature and the full scope of the collapse of our economy, and so we have not taken the time to understand how to target the problems with innovative solutions. While I recognize the urgency of the situation, we would do better to follow the advice of an old civil engineer friend of mine who often cautioned that to do a job correctly, it is better to go slow in the planning to allow you to go fast in the implementation.

Just one example of the difficulty we will have in getting this money spent well was described in today's Washington Post, which quoted a state energy office director lamenting how he was going to have to figure out how to spend 35 times as much money as he normally gets in a year, using new funds allocated in this stimulus. Pennsylvania's own transportation department has indicated that its "shovel-ready" projects are not so ready that they can be started within the ninety days sought by Transportation Chairman OBERSTAR, who rightfully is seeking to expedite these funds to get spent as quickly as possible. Having dealt with publicly-financed projects for more than forty years, I can assure you that numerous federal, state and local regulations will provide numerous obstacles to getting this money spent both quickly and wisely. I sought to offer an amendment which would have allowed a waiver of many of these restrictions because—to the best of my knowledge—there is no provision in this bill to allow federal administrators to waive regulations under these extraordinary circumstances.

My Republican colleagues raise a reasonable objection that they were not fully included as the framework of this legislation was constructed. Perhaps I am one of the few Democrats who will acknowledge publicly that most Democrats were also not included. This is wrong. When undertaking the most significant and certainly most expensive program of my Congressional career and maybe in our Nation's history, it is vitally important that all Members of Congress first understand the problem we are addressing and then fully participate in determining how best to solve that problem. It has been my experience that the most successful policies are those which many minds have constructed.

In addition to Members of Congress fully understanding what we are trying to do and why, it is vitally important in a representative democracy for the American people to understand both the problem and the proposed solution. We rushed through the so-called TARP program without educating the American people, and they are convinced it was a bailout of Wall Street. I helped to draft the TARP program and voted for it because I believed that it was absolutely essential that we act immediately, despite the suspicions voiced by my constituents. The need for an economic stimulus is indeed urgent, but it is not so much of an emergency that we cannot afford to take the time to think so that we can do it right.

No piece of legislation is ever perfect; I recognize that compromise is always necessary to reflect the diverse interests of a country as heterogeneous as ours. Had we reached this bill through a more orderly, bipartisan basis, I very well may have cast my vote for it. I still hope that the Senate will make enough necessary corrections that I will be able to support a final version. Let me now highlight my substantive objections to this bill.

First, infrastructure projects were an initial focus of a recovery package, but that focus has dwindled to just $90 billion out of an $825 billion bill. For every $1 billion we spend in infrastructure, we create upwards of 30,000 jobs. It seems to me that this is a proven method of creating jobs and additional funds should be put towards this area of spending.

In addition, from my perspective, we need to focus more on helping those who are unemployed or retired. While many people are struggling, we must help those without jobs feed their families immediately. One of the major tax provisions of this bill is the $500 tax credit for individuals and $1,000 for couples. While this tax credit may provide relief to working families, it will not help individuals who are unemployed since the credit will be provided through a reduction in payroll taxes for workers.

Moreover, I am concerned about the disproportionate impact this bill will have. Without doubt, much of the funding will go to large urban areas, while areas like my Congressional District which are more rural, will receive much less funding, even though our unemployment rate is higher than the national average. Residents of my Congressional district are struggling just as much as those living in urban areas.

Finally, a recovery bill should include funding for localities. Many counties, cities and municipalities across the country are facing significant funding shortfalls as a result of the ongoing economic downturn. These budget shortfalls have resulted in local officials having to make difficult decisions about cutting jobs, reducing services, or raising taxes on their citizens.

That is why I offered an amendment to H.R. 1 to reinstate a General Revenue Sharing program. More than 30 years ago, as our country experienced another period of prolonged economic stress, we put in place a General Revenue Sharing grant program. Between 1972

and 1986, $83 billion was transferred from the federal government under this program. This funding provided localities with a needed source of revenue for undertaking job-creating infrastructure projects and maintaining public safety networks. I am disappointed that this amendment was not allowed under the rule.

In closing, I support a recovery package that creates jobs and builds our infrastructure. Americans and our economy are struggling and we must act to help them. But, I strongly believe that we can make improvements to this bill so it will be as effective and efficient as possible in restoring our economy and helping Americans.

Mr. Chair, I appreciate the opportunity to share my thoughts.

Ms. HARMAN. Mr. Chair, the American economy is foundering in some very troubled waters.

Business after business—including some of the biggest names in corporate America—is collapsing. Hundreds of thousands of Americans have lost their jobs in the last few months alone—more than 55,000 in just the last few days. The unemployment rate is skyrocketing, approaching levels not seen in generations.

Millions of Americans have lost their homes, and millions more may lose theirs as adjustable rate mortgages reset and the foreclosure crisis spreads. Lending has barely improved since the credit markets froze last fall, despite a $350 million (and soon to be $700 million) infusion of taxpayer funds.

California has been particularly hard hit. 523,624 Californians lost their homes last year—a five-fold increase from 2006 levels. The state is running a $42 billion budget deficit, and may have little alternative but to cut health and education funding to the bone. Los Angeles County alone is looking at a $173 million shortfall in health care funding next year—the amount it takes to keep the Harbor-UCLA Medical Center operating.

My constituents are hurting. Credit unions and small banks, which do much of the day-to-day lending that keeps communities functioning, have laid off hundreds of workers. Car dealerships that have been pillars of the community for decades are closing. Reductions in state funding are forcing school districts to consider drastic staff reductions.

In times like these, the federal government has an obligation to take swift, decisive action. The American Recovery and Reinvestment Act includes the stimulus needed at this perilous moment, and I intend to support it.

A few provisions of the bill stand out as particularly crucial.

This legislation includes nearly $200 billion to help states maintain essential health care and education programs. In California, these funds could be the vital lifeline that keeps hospitals operating, avoids the layoffs of thousands of teachers, and helps the state stave off bankruptcy.

The bill includes a $20 billion investment in the development of health information technology systems. Health IT will not only generate thousands of new high-paying jobs, it will reduce costs of providing care, help reduce errors, and provide a down-payment on the development of a universal health care system.

The bill includes $30 billion to help build a new clean energy infrastructure that will grow green jobs now and lay the foundation for long-term energy independence. The $11 billion investment to upgrade our electric grid is an especially crucial first step toward the deployment of energy efficiency programs, the widespread adoption of electric vehicles, and the transmission of energy produced by renewable sources.

The bill also makes a long-overdue investment in our nation's education system, with more than $150 billion going to Head Start, kindergarten, public elementary and secondary schools, and college programs. This spending—along with a renewed focus on performance standards and new, creative approaches to teaching—will help ensure that our children have the skills to compete in the global economy in the years to come.

This is not a perfect bill. One can question whether some of this spending would be more appropriately considered in an ordinary appropriations bill, and whether a small uptick in paychecks caused by tax cuts will lead to much new spending. I hope that the bill can be improved as it moves through the legislative process.

But the package is, on the whole, worthy of support. It may not be the only step we must take to revitalize our economy, but it is a necessary one. I urge its swift passage.

Mr. REHBERG. Mr. Chair, while I'm going to vote against this particular version of the so-called stimulus package, doing so does not indicate that I don't support a real stimulus package that gives the economy an instantaneous jolt.

Nor does it mean that I am unwilling to work closely with my friends on the other side of the aisle in the spirit of bipartisanship that President Obama has urged us all to take.

We worked together and got Children's Health Insurance done. That issue, like this one, is important to Montana, and today I ask you to come to the table and listen to the ideas that people from Montana have to offer. It's what the President has asked us all to do.

Working separately, we will fail. Working together, we can accomplish more for the American people.

Mr. TANNER. Mr. Chair, our nation faces very grim challenges. Families in Tennessee and across the country are struggling to make ends meet, and thousands of workers are losing their jobs. There have been hundreds of job losses announced just this week in our district in West and Middle Tennessee.

It has become clear to many of us that inaction is not an option, and that we must work to help create jobs and rebuild our economy. The American Recovery and Reinvestment Act addresses the immediate economic concerns of the American people and specifically Tennesseans.

This legislation could create or save more than 63,000 jobs in our state by the end of next year, according to analysis from independent economist Mark Zandi of Moody's Economy.com.

More than 95 percent of Tennessee taxpayers will receive direct tax relief—$500 for single filers and $1000 for joint-filers—in 2009 and 2010 as a result of this bill. Many students and parents will be eligible for additional tax credits to help pay for college so students are prepared to enter the job market. Thousands of Tennesseans have lost their jobs in recent months, and the American Recovery and Reinvestment Act will ensure these hard-working men and women receive assistance while looking for new jobs.

To help create jobs, this legislation provides immediate tax cuts for Tennessee small businesses, including incentives to make the capital investments necessary for job growth. The bill allows employers unable to sustain their profits in today's difficult economic climate to recover some past tax payments to avoid closing their doors and laying off workers.

To further encourage job creation in our area, this legislation includes more than $760 million to invest in infrastructure in Tennessee, which could help us work on dozens of important economic development improvements in West and Middle Tennessee, such as road completions, bridge repairs and other transportation projects that fuel job creation and help us recruit new industry.

As we all know, high fuel prices over the past summer contributed in part to our economic downturn. This legislation includes energy tax credits and other provisions to help reduce our dependence on foreign oil sources—which many of us see as a national security issue—and diversify our country's energy sources to include alternative energy, such as wind, solar, biomass and geothermal energy. This investment in our long-term energy future will also provide immediate and much-needed jobs in construction and engineering.

Tennessee faces one of the largest budget deficits in our state's history, which will lead to drastic reductions in the level of service to state taxpayers, including possible cuts in the important economic development investments that help create jobs. This legislation will help our state meet some of those needs for Tennesseans. The bill also expands local cities' and counties' access to tax credit bonds for investments in schools, infrastructure, conservation and job training.

At the request of those of us in the fiscally conservative Blue Dog Coalition, this bill no longer includes some provisions that many of us felt were unrelated to the immediate needs of our country's economy. In particular, we insisted that the House remove language funding contraceptives and new sod on the National Mall outside the U.S. Capitol Building. These expenditures were clearly not related to short-term economic growth and did not need to be addressed in legislation designed to address immediate needs.

The Blue Dog Coalition also saw this dialogue as an opportunity to talk with the new Administration about our country's fiscal situation. We have been assured that President Obama shares our commitment to long-term fiscal reform and will work with us to weed out waste, fraud, abuse and mismanagement in federal government spending after our country has begun to overcome these most extraordinary challenges.

In a letter to Appropriations Committee Chairman DAVID OBEY and others, White House Office of Management and Budget Director Peter Orszag wrote that "[p]utting the country back on the path of fiscal responsibility will mean tough choices and difficult

trade-offs, but for the long-term health of our economy, the President believes that they must be made.'' I look forward to talking more with President Obama about these shared goals.

I realize that no member of this body—myself included—will be entirely pleased with this bill as we are voting on it today. After some improvements I discussed before and much reflection, however, I have come to the conclusion that this House must take action to help the American people meet the financial challenges facing them. For that reason, I rise to support the American Recovery and Reinvestment Act and am optimistic that it will help save and create Tennessee jobs.

Mr. HONDA. Mr. Chair, I rise today in support of H.R. 1, the American Recovery and Reinvestment Act. I thank my Chairman, Mr. OBEY, for his hard work and the hard work of his staff on the Appropriations Committee's portion of the bill, and I thank the other committee chairs and staff for their work on the other portions of this bill.

This recovery package is the first crucial step in a concerted effort to create and save up to 4 million jobs and jumpstart our economy while transforming it for the 21st century.

As a former teacher and principal, I firmly believe that education is the key to our nation's future. H.R. 1 makes bold investments to provide children with a 21st century education, create hundreds of thousands of education related jobs, and build a top-notch workforce trained for jobs of the future. The bill includes $20 billion for school modernization, $79 billion in state fiscal relief to prevent the layoff of teachers and other cutbacks in education, $13 billion to help disadvantaged students reach high academic standards through Title I grants, and $13 billion to help special needs children succeed through IDEA special education grants.

I had suggested some specific ideas that could provide a significant ''bang for our buck'' and stimulate the economy in the short-term while also making a long-term investment in education, which unfortunately did not make it into the bill. In particular, I think there is value in the idea of prizes for educational innovation in areas of high need such as multimedia video lessons, individualized interactive learning software, rigorous assessments that measure critical thinking and problem solving, longitudinal data systems, and affordable portable computers. Small investments in prizes for achievements in each of these areas, $10 million for each for a total of $50 million, can leverage private contributions immediately and produce teaching tools that will be useful for years to come. I plan to continue to seek support for this and other novel approaches to education funding in the coming year.

As a representative from Silicon Valley, I am pleased that the bill renews America's investment in basic research and development and in deploying new technologies, including broadband internet access, into the marketplace. Internet connectivity is essential to giving everyone in America an equal chance to succeed. One particular area deserving attention as we move forward is the usefulness of broadband access for first responders. President Obama's inauguration was incident free because the Washington region's first responders had access to a dedicated wireless broadband network. Establishing similar systems around the country could generate jobs and enhance public safety.

Silicon Valley has been focusing an ever greater portion of its resources on developing clean, efficient, renewable energy solutions, and so I support the inclusion of investments and incentives for the development and deployment of both renewable energy and energy efficiency technologies. The steps we can take to help reduce our dependence on fossil fuels will both save people much needed money and put people to work. Some are as simple as installing attic insulation in insufficiently efficient homes, others are more technically advanced efforts to research and develop new energy technologies. I am glad this bill includes all of these.

I appreciate the inclusion of $300 million for Diesel Emissions Reduction Act programs. These grants and loans will put people to work retrofitting vehicles and manufacturing the needed equipment. Again, this is both a good government measure, in that it will help achieve clean air goals, and it is a temporary stimulative effort. My only regret is the bill does not include even more funding—my state of California alone can make use of $1.6 billion. If there is an opportunity to increase the funding for DERA during conference, I would support that effort.

In Silicon Valley, we face many of the same transportation challenges as other communities across our nation—deteriorating roads and bridges, traffic congestion, limited transit capacity, and limited state and local funds that are keeping construction workers out of work. H.R. 1 will create more than 800,000 jobs nationwide through investment in transportation, with $30 billion for highway construction and additional funding for transit and rail to reduce traffic congestion.

In these difficult economic times, all Americans are worried about the rising cost of health care. H.R. 1 invests $20 billion in health information technology, which will bring Silicon Valley innovation to the health care field to cut red tape, prevent medical mistakes, and help reduce health care costs. As the saying goes, ''an ounce of prevention is worth a pound of cure,'' and this bill makes a real investment of $3 billion in prevention, which will help reduce health care spending, saving billions of dollars per year. I note that a few diseases are singled out in the bill, and I have some concerns that all of it could be taken up by HIV/AIDS programs, and look forward to working with Chairman OBEY and Secretary Daschle to ensure that some of the funding is available for the Division of Viral Hepatitis in CDC.

I would like to express my thanks to Chairman OBEY for including of $1 billion in sorely needed funding for the decennial census, particularly for the $150 million for expanded communications and outreach programs. Not only is this funding essential for good government, but it will put people to work right away in essential jobs. This funding is by definition temporary because the Census is a periodic effort, so it meets all the criteria for an economic stimulus.

Finally, I would like to highlight an area that is at the core of our current economic crisis, housing affordability and the freeze up of the credit markets. Well meaning efforts to develop affordable housing are currently facing significant challenges in getting started because they cannot find financing in today's credit markets. The Ways and Means Committee has included some provisions related to the Low Income Housing Tax Credit programs in the bill, including a grant program to help fill the capital gap and get construction on these projects started. I support the inclusion of appropriations for this grant program to the level needed so that these tax credits can provide the benefit they were designed to deliver.

Again, I thank Chairman OBEY, Chairman RANGEL, Chairman WAXMAN, and all of the other committee chairs and their staff for their hard work on this legislation and their efforts to help all those across our nation who desperately need the programs included in this bill and who are calling upon us to return our nation's economy return to health.

Mr. YOUNG of Florida. Mr. Chair, I rise to express my concerns about H.R. 1, the American Recovery and Reinvestment Act of 2009. They are concerns about its cost, estimated at more than $1.1 trillion; its ability to really create jobs stimulate our economy; and about the procedure with which it was written and brought before this House.

The Congressional Budget Office estimates the cost of this legislation at $815 billion. But that is before we factor in the cost of the interest payments—totaling $347 billion over the next 10 years—that Americans will incur to finance this, the largest spending bill every brought before Congress.

And what do we get for our ''investment?'' Nobody knows how many jobs, if any, this legislation will create. The Congressional Budget Office estimates that only 15 percent of the spending in this bill will even take place between now and the end of the fiscal year on September 30th. The agency further estimates that by the end of the next fiscal year on September 30, 2010 that just half of the funds provided in this legislation will be expended. One can only wonder how this legislation, with the intended goal of creating sustainable jobs, can do so with such a slow obligation of funds.

Instead, this legislation puts our nation on the hook by creating 32 new programs totaling some $137 billion. This includes a $79 billion State Fiscal Stabilization Fund at the Department of Education which the State of Florida I represent and our public schools and their students will not even qualify for because of the complicated formula under which the funds will be given to the states.

How many jobs will these new programs create? How would the money be spent? Who would receive the money? These are all questions I would have asked if our Appropriations Committee, which has the responsibility of overseeing discretionary spending, had ever held a single hearing on these programs. The truth is, none of our subcommittees ever held a hearing on any of the programs in this bill. This legislation was drafted by a small handful of members with little if any input from Republican members of this House.

President Obama met with the Republican members of the House Tuesday to ask for bipartisan support for this stimulus legislation. Instead, I sense there is bipartisan opposition to the process under which we consider this

legislation. Democrats and Republicans alike are on record as saying we should slow down the process and do it right.

We need only look back four months ago to the way in which the House and Senate handled the $700 billion financial bailout to see what happens when we act in haste, with little deliberation, and virtually no input from the members of Congress. We wind up with wasteful federal programs, managed by government bureaucrats, with little or no oversight, and with few if any positive results.

Last year, we considered legislation to help individual homeowners with their mortgages. I supported that bill, because it tried to help people keep their homes. Last October, we considered legislation to bailout the financial industry and financial executives. I voted against that legislation twice because it was a $700 billion mistake that did not help people. Now we are on the verge of repeating that mistake with a new $815 billion bailout that likewise does little to help people get back on their feet and find work.

Mr. Chair, no one in this chamber would deny that our nation faces unprecedented economic challenges in the days and months ahead. Many of my colleagues in this House who oppose this legislation want to provide help to get Americans back to work. But we want to do it the right way without driving our nation further into the economic doldrums and passing the debt on to our children and our grandchildren.

We also want to do so in a fiscally responsible manner. The Congressional Budget Office, in its analysis of this legislation, concluded that "federal agencies, along with states and other recipients of that funding, would find it difficult to properly manage and oversee a rapid expansion of existing programs so as to expend the added funds as quickly as they expend the resources provided for their ongoing programs."

Let us heed the calling of the American people last November 4th. They asked us to put the elections and politics behind us and start working together to solve America's problems. President Obama came to Congress this week to ask for our help. But we cannot help if we do not have any input. We cannot help if we have no committee hearings. We cannot help if our subcommittees do not have a hand in writing this legislation. And we cannot help if we have little opportunity to amend this bill when it is brought before the House. No legislation is perfect, let alone one that will spend $815 billion and create 32 new programs.

Mr. Chair, let us vote down this legislation to send it back to the committees and signal that the American people demand a thoughtful and deliberative process in deciding how to spend their hard earned dollars. This is their money, not ours, and we have the responsibility to be good stewards of it.

Mr. ETHERIDGE. Mr. Chair, I rise in support of H.R. 1, American Recovery and Reinvestment Act of 2009. This package will stimulate our economy, provide relief to struggling individuals and small businesses, and create 3 to 4 million desperately needed jobs across our country.

As of last week, the unemployment rate in my state of North Carolina had jumped to 8.7 percent, the highest mark in a quarter century. Each week, we hear more bad news about employment, with North Carolina reporting nearly 16,000 new claims in the last week. A record of almost 400,000 North Carolinians are currently unemployed but seeking work. These rates are rising all across our country while Americans continue to face a faltering economy. In addition to the unemployed, there are many who still have jobs but have seen wages or hours cut. I have heard from North Carolinians from across the Second District about the urgent need for action. H.R. 1 addresses the need through strategic investments that will create new jobs and provide tax relief for 95 percent of Americans.

As the former Superintendant of Schools in North Carolina, I am especially pleased that this recovery bill invests in our future by focusing on education. I am pleased that H.R. 1 includes the America's Better Classrooms Act which provides tax credits to enable $25 billion in school construction and modernization, an initiative I have been working on with my colleagues for 12 years now. Along with $20 billion in grant funding, these tax credits will enable local communities to address overcrowding and deteriorating classrooms and make sure that students have facilities that prepare them to enter the 21st Century workforce. The tax credits will create 10,000 jobs in North Carolina alone. In addition, H.R. 1 provides $21 billion for local school districts for IDEA and education technology programs, as well as $79 billion in state fiscal relief to prevent cutbacks to key services including education, a $500 increase to Pell Grants, and a new tax credit to help students pay for higher education costs.

H.R. 1 will put Americans back to work with strategic investments to create 3 to 4 million jobs. This bill primes the economic pump by investing in many of our top priorities. H.R. 1 provides billions of dollars to targeted infrastructure projects like new schools, improved bridges and roads, modernized public buildings, and expanded mass transit. These projects will create thousands of jobs while helping to bring our nation's infrastructure into the 21st Century.

H.R. 1 also helps our economy by investing heavily in alternative and environmentally-friendly energy, like the biofuels we grow and produce in North Carolina. In addition to the expansion of energy tax provisions like the Production Tax Credit and Clean Renewable Energy Bonds, this bill provides over $30 billion for transforming our energy distribution and production systems and focuses on renewable energy and technology. H.R. 1 also provides funds for energy efficient retrofitting of public housing and buildings and weatherizing homes. These initiatives boost a critical sector of our slumping economy and lessen our dependence on foreign oil.

As a Member of the Ways and Means Committee, I am especially proud of the many tax provisions included in H.R. 1 that will provide immediate and much-needed relief to millions of Americans. In fact, 95 percent of Americans will receive tax relief that will show up directly in their weekly paycheck through reduced withholding. The "Making Work Pay" provision in this recovery package will result in a refundable tax credit of up to $500 for working individuals and $1000 for married couples. This bill also extends and expands critical tax breaks like the Earned Income Tax Credit and the child credit that target working Americans. These provisions of provide relief to low and middle income families while also putting dollars back into the economy to support business activity. H.R. 1 also provides tax relief to the many small businesses that form the backbone of our economy. This recovery package extends bonus depreciation for small businesses, allowing them to write-off more capital expenses made through 2009. It also includes 5-year carryback of net operating losses which extends the period of time businesses can use to minimize their tax liability. Finally, H.R. 1 creates new bond initiatives that provide for the recovery of cash-strapped state and local governments and targets new bonds for the economic recovery zones across the country that need the funding the most.

This is a bold package that creates jobs, spurs economic growth, and provides relief to millions of struggling Americans. I support H.R. 1, American Recovery and Reinvestment Act of 2009, and I urge my colleagues to join me in voting for its passage.

Mr. DICKS. Mr. Chair, the arts community in America not only represents a tremendous cultural resource, it also serves to create jobs in local communities all across our nation, an important factor as we consider federal efforts to revive our economy. While some of my colleagues may still not realize the significant number of people who are employed directly and indirectly by the arts community in their congressional districts, I have been encouraged by the vibrant debates we have had in the House in recent years that have helped to broaden the recognition of the arts sector as a major contributor to the economic health of our nation. I have participated in all of those debates regarding the budget for the National Endowment for the Arts, and I am proud that the margin of support for the NEA has been steadily increasing. One of the key factors in increasing that margin has been the activism of the arts community in stressing the economic impact of local arts programming and the jobs created through the growth and development of museums, musical productions, dance, theater and public art projects. In these debates it has been emphasized that each dollar the federal government provides to NEA leverages another seven dollars in private contributions, which in turn generate substantial investment in local communities.

The NEA portion of this economic stimulus legislation will fund small grants to non-profit arts agencies that have been especially hard hit by the economic crisis. The bill specifies that $50 million is "to be distributed to projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support." These funds are distributed either through formula grants to the states or through the established competitive review system at the NEA.

The non-profit arts sector includes local theaters, opera companies, orchestras, and other visual arts and music programs. These programs play a vital role in all of our cities and towns, representing an economic force with annual revenues estimated at more than $166 billion, supporting 5.7 million jobs. This activity results in billions of dollars in tax revenue on

the local, state and federal levels. In the District I represent in the State of Washington, the latest study conducted by Americans for the Arts found that there were 1,626 arts-related businesses which employ 4,646 people.

Unfortunately it is a sector of the economy which has been inordinately impacted by the severe economic downturn we have been experiencing in this past year. Beyond ticket sales and admissions revenues, this sector is heavily dependent on philanthropic contributions and on local government support. The downturn in the stock market during the last year and the large declines in local and state revenues have resulted in large cutbacks in both of these sources of funding, and the result has been disastrous for many of our nation's arts agencies and programs.

We see tragic examples of how the economic crisis has impacted the arts sector on a regular basis. A few examples of this growing problem include:

The Baltimore Opera Company has filed for Chapter 11 bankruptcy and reduced its performance schedule.

State support has been reduced for cultural agencies with Florida reporting a 52 percent reduction, South Carolina 25 percent and New Jersey by 22 percent.

The Pasadena Symphony has curtailed its season due to budget circumstances.

And large businesses such as General Motors have significantly reduced philanthropy for the arts. In Detroit alone this reduction has had a very negative impact on the Michigan Opera Theater, the Detroit Music Hall for Performing Arts and the Detroit Symphony.

The amount in this bill is intended to provide small grants to try to restore some of the jobs which have been lost in the arts communities over the past year. I believe it's the right thing to do . . . it is absolutely critical to maintain these vital programs during times of personal and economic crisis in our nation. In addition to retaining jobs, these funds will support programs which provide entertainment and richness in the lives of our communities at a time when they are badly needed. In the context of this large economic stimulus legislation, I believe this is a prudent investment, and that it will contribute measurably to restoring the fiscal health of our nation.

I also want to insert an article that questions whether the stimulus package includes $300,000 for a sculpture garden.

DOES THE STIMULUS PACKAGE REALLY INCLUDE $300,000 FOR A SCULPTURE GARDEN?

As part of their attack on the Democratic-led $835 billion economic stimulus package, some Republicans have attempted to discredit the plan by singling out examples of what they consider the most outrageous spending.

In an interview with Fox News on Jan. 23, 2009, Rep. Eric Cantor, the House Republican Whip, said that in a meeting with President Obama, Cantor asked if he ''could use his influence on this process to try and get the pork barrel spending out of the bill. I mean, there's $300,000 for a sculpture garden in Miami.''

But do a word search on ''sculpture'' in the 647-page stimulus bill now before the House and you'll come up blank. That's because it's not in there.

So we asked Cantor's office where he came up with it.

Here's how spokesman Neil Bradley explained it: The House stimulus bill includes $50 million for the National Endowment for the Arts. The bill states that the money would be ''distributed in direct grants to fund arts projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support during the current economic downturn.''

It's the lack of detail that particularly bothers Cantor, Bradley said.

''We don't know what they're going to spend it on,'' Bradley said. ''There is no direction to the NEA on how to spend it.''

So to give people an idea of how the NEA spends its money, Cantor's staff looked at some recent grants awarded by the NEA.

And in 2008, the NEA gave $300,000 to the Vizcaya Museum and Gardens in Miami to restore an outdoor statuary. The Vizcaya estate is one of the country's most intact remaining examples from the American Renaissance, a period when the very wealthy built estates to look European. The $300,000 grant was to help restore some of the outdoor sculptures—statues, urns and fountains—that had been severely deteriorating due to South Florida's salty, damp and subtropical climate, not to mention the hurricanes.

But again, this was an NEA grant from last year. It is not in the proposed $835 billion stimulus package that is being pushed by President Obama and congressional Democrats. In fact, because the sculpture garden's money's already been granted, it's probably pretty safe to say that this is one project that specifically won't be part of the spending.

We get the Cantor camp's argument that there are no specific projects tied to the funding in the proposed NEA allotment. When all is said and done, there may very well be plenty of NEA projects that some find objectionable or wasteful. This just isn't one of them.

Kirstin Brost, a spokeswoman for Rep. Dave Obey, (D–Wis.), House Appropriations Committee Chairman, defended the proposed funding to the NEA.

''Artists need jobs just like everyone else,'' Brost said. ''Fifty million out of $825 billion doesn't seem like an extreme amount to support our artists.''

The bottom line here is that Cantor specifically identified the sculpture garden as part of the stimulus package when it just isn't—which his staff acknowledges. And he has made that false claim repeatedly. He was quoted saying something similar in a Richmond newspaper.

That's not just sculpting the facts. That's Pants on Fire wrong.

Ms. KILPATRICK of Michigan. Mr. Chair, the people of the 13th Congressional District of Michigan, the State of Michigan, and our nation voted for change. Perhaps more importantly, they want HOPE. The American Recovery and Reinvestment Act of 2009 is a beginning, a down payment, on turning around eight years worth of mismanagement, misunderstanding, and missed opportunities with the people's purse. This bill, which will soon be signed into law, is a bold, aggressive investment in Americans and American industry. I enthusiastically and emphatically endorse and support this bill and hope that the collective wisdom of Congress ensures its quick passage.

Investing in our nation's infrastructure not only rebuilds the bridges, sewers, railroads, streets, avenues, and buildings of our nation, but it also delivers employment and development opportunities. We must provide help, healing, and hope to America's urban and rural communities, communities that have lost more than 1½ million jobs since November of 2008. Every billion dollars of investment in our nation's infrastructure will create 30,000 jobs. Generating these jobs will provide cities and counties with tax revenues that will help ensure police officers, teachers, firefighters, and others have the resources they need to work together to stabilize our communities. These funds will also make our rail, highways, roads, bridges, water, and electrical grid more flexible and accessible to local officials and more affordable and reliable for our nation's senior citizens and families. This new stimulus package includes several important components valuable to families, businesses, and state and local elected officials.

This bill has no earmarks and it is not a perfect bill. I would have preferred a newer version of the Comprehensive Employment Training Act (CETA) that provided so many jobs to so many people in the late 1980s. I hoped for stronger "Buy American" language for our automobile manufacturers and steel, concrete, asphalt, and aggregate suppliers. As Congress moves forward, I will continue to fight for these programs. However, this bill is a down payment to the American people and American business.

This bill contains an increase in the Food Stamp Program, the most efficient and effective economic stimulus of all. According to the Center on Budget and Policy Priorities, "food stamps are one of the most effective forms of economic stimulus because low-income individuals generally spend their available resources on meeting their daily needs, such as shelter, food, and transportation. Therefore, every dollar in food stamps that a low-income family receives enables the family to spend an additional dollar on food or other items. USDA research has found that $1 in food stamps generates $1.84 in total economic activity." With 37 million Americans living in poverty and 250,000 homeless veterans sleeping in our streets, Congress' increase in the Food Stamp program means very simply that people will be able to eat.

Today, the unemployment rate in many cities is over than eight percent. The American Recovery and Reinvestment Act focuses on addressing the needs of those who need assistance most by supporting initiatives that will create jobs, keep families in their homes, and provide all Americans with access to healthcare and higher education.

The bill contains an increase in The Supplemental Security Income (SSI) program. This program, which provides basic income support to poor elderly individuals and people with disabilities, is so desperately needed by our seniors and those with physical or mental challenges. How is this an economic stimulus? Again, according to the Center on Budget and Policy Priorities, "because the beneficiaries of this payment have very low incomes, they are likely to spend the additional payment quickly, thereby providing effective stimulus."

The Emergency Shelter Grant program, administered by HUD, provides formula grants to states and municipalities that may be used for

homelessness prevention, emergency shelters, and street outreach. Twenty-five percent of the funds go to states; the rest go to our cities and counties. These grants are desperately needed in Michigan, a state with one of the highest rates of home foreclosure in our nation. These grants directly help families avoid homelessness, pay overdue rent or utility bills, and relocate into new apartments and homes. These funds are typically spent very, very quickly, therefore boosting the local economy. The Workforce Investment Act (WIA) provides funds to cities and counties for job training and employment services for dislocated workers, youth, and adults.

This bill contains $300 billion worth of tax cuts that will enable businesses to hire employees. It extends bonus depreciation that allows businesses to recover the cost of capital expenditures over time according to a depreciation schedule. This measure also extends [expands] small business expensing, which helps small businesses quickly recover the cost of specific capital expenses by choosing to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Most importantly, the bill has a tax cut that promotes the hiring of unemployed veterans and disconnected youth. Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: unemployed veterans and disconnected youth. Furthermore, ninety-five percent of all Americans will receive a tax break because of this bill.

This bill gives local elected leaders authority to oversee and administer the distribution of contracts, jobs, and funds. Local officials, particularly mayors and county executives, face severe and significant financial constraints as they try to resolve issues plaguing their communities. Congress has determined that a significant portion of the stimulus funds must remain in the hands of local government officials to ensure that we support people who need jobs and businesses that need contracting opportunities.

This bill allows small businesses and businesses owned by women and minorities to be able to compete fairly for contracts as primary contractors as we rebuild our country. Too often, these businesses are entirely excluded from the process or awarded smaller subcontracts by larger companies that receive the majority of the contracts. Qualified minority- and women-owned businesses must receive opportunities to compete and become primary contractors where possible. This bill does that. I am proud that this bill includes specific provisions that will ensure that qualified minority- and women-owned businesses will be able to compete and win.

Furthermore, we must promote green jobs, which are the future of our cities, counties, and states. We must explore renewable sources of energy, including wind, solar, biomass, and geothermal energy. We obtain more than 70% of the oil that we use from foreign sources; to ensure our protection, we must become more energy independent. By retrofitting buildings so that they are energy-efficient, developing ‘‘smart’’ electric grids, and extending local and state commuter rail, mass transit, and freight railroads, we can create an additional two million jobs, according to the Center for American Progress. We can also preserve the planet for future generations, which will strengthen national security. I am proud to have helped to lead the fight for Advanced Battery technology funding that will preserve American jobs in Michigan for the Big Three. I am also proud of the fact that this bill includes funding that will rebuild and retrofit our nation's public schools using green technology and American steel and iron.

Finally, we must make sure that 100% of the stimulus plan dollars uses American steel, lumber, electronics, cement, asphalt, and other materials, services, and workers. This will stimulate the growth and development of American companies and industries. This uniquely American investment in our people and products will rebuild our nation, revitalize our communities, renew our spirit, offer financial support to cities, and put unemployed people back to work. While the ‘‘Buy American’’ provisions in this bill are a good start, I will continue to work during the 111th Congress for even stronger provisions that ensure that American automobiles are used at American embassies throughout the world, that American steel and iron is poured for our bridges and buildings, and that Americans get the jobs that are fueled with American tax dollars.

I am proud to serve the people of the 13th Congressional District and the entire State of Michigan as part of this historic 111th Congress. We must use this moment to generate the momentum needed to improve America's infrastructure. We must increase contracting opportunities to local businesses, stimulate financial investments that will create jobs for local citizens, and give hope to all Americans as we rebuild America together.

The American Recovery and Reinvestment Act is a timely, targeted, and tremendous first step as Congress works to right the fiscal follies of the past eight years. This bill is not the conclusion, but the beginning, of the hope, change, and challenge that our President, Barack Obama, illustrated in his Inauguration Address a little more than a week ago. Congress must pass this bill so that we can preserve a future not only for ourselves, but for our children and our children's children. America has not been at such an economic precipice, and Congress has not had such an economic challenge since the Great Depression. In the past three months, almost two million jobs have been lost; the stock market continues its downward death spiral; food banks cannot keep up with the demand from homeless families, seniors, and children; home foreclosures are skyrocketing; and more importantly, the American people demand results. As the Bible says, and the President stated in his Inauguration Address, it is time for us—Congress and Americans—to put away childish things. It is time for Congress to pass the American Recovery and Reinvestment Act of 2009.

Mr. POSEY. Mr. Chair, we have before us an $825 billion bill (H.R. 1). With a figure this large it is a little hard to get our hands around how much this is. One way to look at it is that it amounts to spending $7,052 for every family in America. Looked at another way this is enough money to pay for four years of college tuition to a private college for every senior graduating from high school this year and next and still have $150 billion left over. $825 billion is larger than the economies of all but 10% of the countries in the world.

As we consider this level of spending we must view it in the context of our current out of control federal spending. Just three weeks ago, the non-partisan Congressional Budget Office (CBO) projected that the federal government will have a $1.2 trillion deficit this year. This amounts to 8.3% of the Gross Domestic Product (GDP) which is far higher than the pervious record of 5.9% set in 1934 at the height of the Great Depression. In 2009, one out of every three dollars that the federal government will spend will be borrowed and our grandchildren will be stuck with the bill. And these figures do not even factor in the $825 billion in this bill. No country has ever borrowed and spent its way into prosperity, which is what this bill proposes to do. Adding further to this deficit as this bill does is unthinkable.

I appreciate the frankness of my Democrat Chairman, Rep. KANJORSKI (D–PA) who said of his own party ‘‘I think we've lost our way. . . .’’ He went on to add, ‘‘I think, to a large extent, many of the parts of the stimulus are programs that are going to take years and years and years to accomplish . . .’’

After examining the bill and CBO's analysis, I couldn't agree more with my colleague. In fact, CBO estimates that only 7% of the ‘‘stimulus’’ will be spent in 2009. They report that only 38% of the stimulus money will be spent in the first 2 years, leaving over 60% to be spent three or more years down the road. In fact $3 billion will not be spent until 2019—ten years from now. How does spending money ten years from now or even three years from now stimulate the economy today? Clearly, those writing this bill in the Speaker's office are out of control.

We were told that a stimulus should focus on ‘‘shovel-ready’’ initiatives that are ready to go. But less than 4% of the total cost of this legislation consists of highway projects.

This bill includes $5 billion for the Public Housing Capital Fund. Yet, this fund already has an unspent balance of $7 billion. H.R. 1 also appropriates $1 billion for Community Development Block Grant program, yet this program currently has $23 billion in unspent funds. Why is this Congress adding spending to these cash rich accounts? If they were serious about stimulating the economy Congress should simply make them spend the money they already have. H.R. 1 takes steps to rollback provisions aimed at stopping ACORN—a group charged with voter fraud—from getting federal housing funds. Some of the spending is this bill parading as stimulus—like family planning spending—has little to do with stimulating the economy and more to do with opening the U.S. Treasury to political allies.

I am concerned that this bill has welfare payments parading as tax cuts. Tax cuts are supposed to go to those who pay taxes. H.R. 1 proposes to provide $145 billion in tax cuts for working families. However, on closer inspection we find out that $45 billion of what is labeled as a tax cut is instead a payment from

the U.S. taxpayers to those who do not pay taxes. Furthermore, the bill increases the refundability of the child tax credit by $18 billion—increasing the child tax credit payment to those who don't pay taxes.

Let me also say that I appreciate all of the talk about the need to work together in a bipartisan fashion. I was pleased that several Republican amendments were adopted when portions of this bill were considered in several Congressional Committees. I was deeply disappointed that a number of the Republican Amendments disappeared from the bill between the time it was passed in committee and brought to the House floor for a vote. Bipartisanship is supposed to be a two-way street, not simply a demand to show bipartisanship by accepting the Speakers bill.

If we really want to stimulate the economy we should focus on what actually creates jobs in the country—small businesses. Small businesses create 70% of the new jobs in America. Unfortunately, this bill does virtually nothing to help small businesses.

I will be voting against the speaker's bill and in support of the Republican substitute. The bill that I am voting for will lower the 10% tax rate to 5% and the 15% tax rate to $10%. This will give all taxpaying Americans a tax cut. It will leave money in their pockets that they can use it to meet their own family expenses. We include small business tax relief, including a provision allowing small businesses to write off up to $250,000 in capital expenditures. We extend unemployment benefits through 2009 and we exempt these payments from income taxes. We also include other job-creating provisions and we do so without raising anyone's taxes. I have also cosponsored legislation that would reduce the 28% tax rate to 23%. This will cut taxes for individual and job-creating small businesses.

Lower taxes, not higher borrowing, spending and debt will put our economy back on track. I urge my colleagues to vote for lower taxes and against higher spending and debt.

Mr. BACA. Mr. Chair, I rise today to voice my strong support for H.R. 1, The American Recovery and Reinvestment Act.

The United States is in the middle of its worst economic crisis in a generation.

In my district, in the Inland Empire of California—we have the fifth highest rate of foreclosures in the nation; and the unemployment rate has soared above 10%.

Too many working families are caught in this economic tsunami;

Everyday that we sit by and do nothing—more families are losing their jobs, their homes, and their piece of the American Dream.

We must act boldly, and we must act quickly.

H.R. 1 contains the right mix of targeted government spending; and tax cuts to American workers and business—that will create 4 million jobs and get our economy moving again!

As Chairman of the Agriculture Subcommittee on nutrition—I am especially pleased that the stimulus package includes a $20 billion increase in SNAP funding.

This will help to put additional food on the table for over 30 million hungry people!

It will also immediately stimulate our economy. USDA economists estimate that this increase will result in $36 billion in new economic activity.

I urge my colleagues to support struggling families—and not sit idly by in this time of crisis. Vote yes on H.R. 1.

Mr. STARK. Mr. Chair, I rise in support of H.R. 1, the "American Recovery and Reinvestment Act of 2009."

American families are facing dire economic conditions. In my state of California, unemployment is nearing 10% and tens of thousands of families are losing their homes each month. Nationwide, family budgets and state budgets are stretched to the breaking point. Parents are forced to decide whether to pay for health care or the utility bill, while school districts contemplate laying-off teachers and state welfare and Medicaid caseloads expand. This crisis demands bold action to get people working again, strengthen our safety net, and build infrastructure for the 21st Century.

I am not a proponent of all of the provisions in this bill—especially the ill-conceived corporate tax breaks that will do nothing to create jobs or jump-start our economy. The good, however, greatly outweighs the bad.

Among the good, I count the necessary spending to bolster state Medicaid, Unemployment Insurance and Food Stamps programs. Economists tell us that these steps are some of the most effective ways to stimulate the economy. These provisions allow resources to go directly to individuals who have been hurt by the recession and to bolster weakened state budgets.

This package will also create jobs right away by funding "shovel ready" projects to improve mass transit, rebuild bridges and roads, modernize our water systems, retrofit energy inefficient buildings, and create a clean energy infrastructure.

To ensure that our children are ready to compete in a global economy, this legislation makes bold investments in education. These investments include funding for school modernization, an expansion of the successful Early Head Start program, child care assistance for an additional 300,000 children, increased Pell Grants and refundable education tax credits for college students, and a State Fiscal Stabilization Fund to prevent teacher layoffs.

As Chairman of the Ways and Means Health Subcommittee, I am most excited about the health components we've included in this legislation. When President Obama signs this bill, he will do more to advance the cause of repairing our broken health system than the previous Administration did in eight long years.

By investing $20 billion in health information technology, this act puts us on a path to a modern health care delivery system that improves patient outcomes, increases provider efficiency, and decreases the cost of health care for all. In fact, the Congressional Budget Office tells us that this bill will incentivize 90% of America's doctors and 70% of hospitals to adopt electronic health records—resulting in lower health costs for both the public and private sectors.

I have received letters in support of this section from groups that include the American Hospital Association, Families USA, Health Care for America Now, the Healthcare Leadership Council, Information Technology Association of America, the Coalition for Patient Privacy, and many others. For example, Dr. John Halamka, Dean of Technology at Harvard Medical School recently wrote about this legislation that: "With appropriate policies and requirements to implement Interoperable, certified EHRs, the dream of a fully electronic healthcare system in the US will move forward more in the next few years than in my entire career to date."

Not only will this investment in health IT improve our health care system, but it will create high tech jobs for those who develop, train, and utilize the software—one study estimates that 30,000 jobs will be created for every $1 billion spent.

I am proud of the work that has gone into the health IT portion of this bill to invest in modernizing our health system, and I am excited about the enormous advantage this gives us as we move later this year to reform our health care system to cover everyone in America.

This bill also takes important steps to protect the health insurance of workers who have lost their jobs due to this economic crisis.

COBRA health continuation coverage is a lifeline for many people between jobs, but as anyone who has ever been on COBRA knows, it is expensive. On average, the monthly premium for COBRA coverage is $1069—an amount that exceeds many people's entire unemployment check.

This bill contains a 65% COBRA subsidy for up to 12 months for people who have been involuntarily terminated as a result of the recession. Because COBRA doesn't cover everyone, the bill also includes an option for states to temporarily open their Medicaid program—with 100% federal funding—to provide health coverage for unemployed workers and their families. Together, these provisions are projected to protect the health care of more than 8 million Americans.

In addition, this bill recognizes the special difficulties facing older and long time workers in a recession. It provides the ability for these workers to extend COBRA coverage beyond the standard 18 months until such time as they have obtained new group coverage or have become eligible for Medicare. This provision has no cost to the government, but will provide what could be the only opportunity for longtime workers to maintain their health coverage.

There is no doubt that the economic hole our country has been put into is deep. We will not pull ourselves out of it overnight. But the legislation before us today will provide a direct jolt to our economy and will protect those families who are struggling to get by. This is the kind of bold action that Americans voted for last November, and I urge all my colleagues to support this bill and get it to President Obama to be signed into law.

Mr. KIND. Mr. Chair, I rise today in support of H.R. 1, the American Recovery and Reinvestment Act of 2009.

Our country is in the midst of a crisis unlike anything we have seen since the Great Depression. The number of Americans filing for unemployment rose for every state last month, and the numbers for January are not promising. Our credit markets are still frozen,

meaning businesses on Main Street are not able to borrow to make payroll. Manufacturing production has hit a 28-year low. Individuals and families are not able to pay their bills and all the while have watched their retirement accounts dwindle.

The bill before us today attempts to remedy these problems with a timely, targeted, and temporary stimulus program to get the economy up and running again, while at the same time addressing the negative effects that the current recession has had on individual Americans. This is not a time for Congress to be timid; we need bold action on several fronts to get people back to work and get the economy back on track. This plan is a nationwide effort to create jobs by investing in clean energy, health care, education and infrastructure, while cutting taxes for American families and businesses.

As a member of the House Ways & Means Committee, I am proud of the work that we did in assembling our part of the larger stimulus bill. Our plan provides tax relief to working families, assistance with healthcare costs, and extended and enhanced unemployment. The plan also gives small and large businesses tax incentives to hire people and purchase new capital.

Specifically, H.R. 1 includes a tax cut to 95 percent of all Americans through a refundable tax credit of $500 for individuals and $1000 for families. Instead of a refund check in the mail, workers will see an uptick in each of their paychecks when the tax cut takes effect. This will provide extra money each pay period for workers to purchase essential needs like food, clothing, and gas.

The American Recovery and Reinvestment Act also includes several small business tax items that will help stimulate the economy. Specifically, the bill contains an extension of bonus depreciation and small business expensing that was proven to be effective after the first stimulus bill was passed in January 2007. The bill also includes a provision that allows businesses that have suffered a net operating loss to carry back that loss to offset their current year's tax liability.

I would like to commend the Senate Finance Committee for including a provision that I have long championed in their version of this legislation. The provision would allow S corporations that convert from C status to sell assets they held at the time of conversion after 7 years—instead of 10, as required under current law—without incurring the 35% ''built-in gains'' (BIG) tax. This fix, which appeared in my broader S Corporation Modernization Act of 2007 (H.R. 4840), would temporarily release capital that is sorely needed by small businesses today. In fact, according to IRS statistics, hundreds of thousands of S corporations are potentially sitting on billions of dollars in appreciated assets that they cannot access or redeploy due to the prohibitive tax implications of the BIG tax. I look forward to working with Speaker PELOSI and Chairman RANGEL to ensure that BIG relief remains in the final recovery package sent to President Obama.

In addition to the many important tax provisions included in the American Recovery and Reinvestment Act, the bill also makes meaningful and important changes in our health care system. First, this legislation moves our hospitals and doctors towards a nationwide interoperable electronic health records system, a step that will not only improve the quality of care provided in this country but will help us all save money.

It is my hope that in implementing the Act's health information technology (HIT) provisions, Secretary-nominee Daschle will strike a careful balance on privacy standards to ensure that patients' personal health information is fully protected without precluding important activities from moving forward, such as quality improvement efforts, medical research, and outcomes-based reimbursement. In addition, as HIT adoption progresses under this legislation, it is crucial that Congress remains vigilant to ensure that all providers—especially those in rural areas, such as critical access hospitals—do not fall behind. We must not allow a technology divide to emerge in this country's health care system.

In addition to the investment in HIT, H.R. 1 also includes important funding for comparative effectiveness research, a crucial step that we must take if we are to move this country towards a value and outcomes based health care system. By arming both patients and providers with the best available information, we can ensure that data and the clinical evidence are guiding the care that is given. With both HIT and comparative effectiveness research in place, we can finally begin to control the overutilization and poor decision-making that have pushed the cost of health care in this country to untenable levels.

As critically important as the investments under the American Recovery and Reinvestment Act are to digging this country out of recession and economic stagnation, we must not use it as an opportunity to abandon fiscal discipline. In fact, the causes and roots of this financial crisis make it more important now than it ever has been to get the federal budget and our long-term unfunded obligations under control. Once our economy returns to stable footing, I would strongly urge Congress and President Obama to undertake significant budget reform efforts to ensure that we are not leaving a legacy of debt for our children and grandchildren.

Our current economic crisis is an extraordinary challenge, but also an extraordinary opportunity. If this country is to successfully address the many, serious challenges we are currently facing—from an expensive and failing health care system, to the need for a greater reliance on American-made renewable energy—we cannot be blind to fiscal realities. We must take a serious, thoughtful approach to the money we both collect and spend as a federal government.

I know that many are skeptical of this plan before us today. I am skeptical as well. Though this package may not be perfect, I do not believe we have the luxury to wait as more Americans lose their jobs every day. This bill provides a shot in the arm for our economy which will start lifting the spirits of Americans and stop the oncoming economic chaos.

Mr. Chair, I support this important legislation that will jump start our economy and get Americans back to work.

Mr. GARY G. MILLER of California. Mr. Chair, there is no debate that the economy is in serious trouble and it is clear that quick, responsible action must be taken to ensure struggling American families will be able to rebound from the current recession. What is even clearer is the package, which will ultimately be signed by the President, will not help struggling Americans nearly fast enough. Rather, it devotes billions of dollars to special interest groups' pet projects and commits vast sums of money to long term spending priorities that do nothing to stimulate the economy. What the American people need is a package that is timely, targeted, and temporary, which is why I am voting against H.R. 1, the American Recovery and Reinvestment Act.

This massive piece of legislation—equivalent to the entire yearly discretionary budget of the U.S. Congress—was developed in haste, behind closed doors, and without the input that was promised to the Minority party in Congress. The bill represents a litany of pork barrel spending that will do nothing to help hard working American families struggling to make ends meet. For example, this bill contains $600 million to buy new cars for the federal government, $50 million to fund the National Endowment of the Arts, $44 million to repair the U.S. Department of Agriculture Headquarters, $400 million for NASA to conduct climate change research, and $335 million for sexually transmitted disease education and prevention programs. These items represent an increase in government spending, not job creation. Further, the bill creates 32 more government programs, directs $248 billion in mandatory spending, and according to the non-partisan Congressional Budget Office, only 40 percent of the discretionary funds will be spent in the next year and a half.

All in all, based on the Democrats' estimation of the number of jobs they wish to create with this legislation, Congress will be spending $275,000 per job created or saved. Americans should be asking; how will we pay for all this spending once the economy recovers? The fact remains that once this bill becomes law, the total federal deficit will be approaching $2 trillion. We must make sure that the relief we provide is immediate, effective, and temporary.

To accomplish this we must focus the stimulus on providing tax relief to struggling families and small businesses. Small businesses remain the life blood of the American economy and we must ensure that resources are in place to allow them to thrive. House Republicans propose to allow small businesses to take a tax deduction equal to 20% of their income, and allowing businesses to write asset depreciation off on their taxes at an accelerated rate, which will immediately free up funds for small businesses to retain and hire new employees. This is in addition to retaining the net operating loss carryback and expensing for small businesses, currently contained in the bill. To ensure business only hire legal workers and U.S. citizens, I am pleased the bill includes a four year reauthorization of the E-verify program and will work to make it mandatory and permanent.

Rather than a refundable credit based on payroll taxes, House Republicans propose reducing the lowest individual tax rates from 15% to 10% and from 10% to 5% As a result every taxpaying-family in America will see an immediate increase in their income with an average benefit of $500 in tax relief from the

drop in the 10% bracket and $1,200 for the drop in the 15% bracket. A married couple filing jointly could save up to $3,200 a year in taxes. The Alternative Minimum Tax is again threatening to affect millions of middle class Americans and needs to be addressed immediately so taxpayers can be confident that this burdensome tax will not strike them this year. Additionally, House Republicans propose to make unemployment benefits tax free so that those individuals between jobs can focus on providing for their families.

The stimulus proposal pending in Congress includes record levels of government spending that will substantially increase the current deficit. As stewards of the economy, Congress must ensure that the proposals adopted here are the most effective at turning the economy around. Wasteful spending and new government programs will only place the American people at a greater risk in the future. Americans deserve a stimulus package that addresses their needs, not a stimulus package that devotes millions of dollars to pet projects and interest group demands.

Mr. HALL of Texas. Mr. Chair, I rise today to express my deep disappointment at a missed opportunity in this Stimulus Bill. Before us is a package that many claim will stimulate the American economy and create jobs. But we are on the verge of losing thousands of highly skilled American jobs and this bill has done nothing to address the situation.

As Ranking Member of the Science and Technology Committee, I am particularly concerned about a section aimed at the National Aeronautics and Space Administration. As many of us are aware, NASA is currently on a path to retire the Space Shuttle in 2010 and develop the next generation launch system, but without sufficient funding that replacement system cannot be ready before 2015 at the earliest. During this five year gap, America will pay cash to Russia to provide transportation for our astronauts to our International Space Station.

The bill calls for $600 million, but none of that money will help close this impending gap. This one-time addition will not keep an estimated 5,600 jobs from disappearing during the gap, and it will not reduce our dependency on and payments to Russia. I want to be clear—because this bill fails to include funding to reduce the gap, we will be forced to lay off high tech workers in the United States while we are paying Russia to do the job that these American workers used to do.

Many Members of Congress have been concerned by this situation. Last year's NASA Authorization Bill passed the House with a resounding vote of 409–15 and authorized an additional $1 billion to accelerate the development of the shuttle follow-on—known as Constellation System. Unless the Constellation System can be delivered sooner than 2015, we stand to lose thousands of highly-skilled aerospace jobs that will be very difficult and costly to replace. The sooner these systems are developed the sooner we eliminate our reliance on the Russians for access to the International Space Station, and give our Nation the systems necessary to explore beyond low-Earth orbit to the Moon and beyond.

Keeping American tax dollars working for us here at home would stimulate the creation of highly-skilled, well-paid jobs in this country. Furthermore these types of investments in our Nation's space transportation infrastructure would continue to pay dividends and have large multiplier effects throughout the economy by stimulating high-tech manufacturing and networks of suppliers around the country. It is exactly the kind of thing that should be part of this "stimulus package." Not funding the acceleration of the Constellation Systems represents a failure of our national leadership that will be paid for on the backs of American aerospace workers and with a loss of our industrial competitiveness against our international competitors.

It makes me sick that we are bailing out failed banks and corporations while ignoring the support of a successful Space Station and space program—a program that could defend our nation from space and provide a cure for our most deadly diseases. By lessening the utility of a Space Station that provides a platform for lifesaving research, including growing white corpuscles that could be used to cure cancer, we are weakening our competitiveness. We are allowing Russia to reap the benefits of our space program—benefits that are badly needed here at home. It is comparable to buying energy from Saudi Arabia and other nations and not spending that same amount developing our own natural resources, such as those found in ANWR, off the coasts of Florida and California, and in the energy-rich Gulf of Mexico.

I am told that the total budget for NASA is less than 1% of the Federal budget (7/10ths to be exact). Surely, we can honor the request that Congresswoman KOSMAS had in her amendment that the Rules Committee rejected—a request that would have narrowed the gap—especially considering that we throw away billions on other nations through foreign aid. President Monroe is famous for saying "hands off this hemisphere," but we should be saying "hands on this hemisphere" and protecting our own American citizens, and their jobs, first.

Mr. SKELTON. Mr. Chair, as the House considers H.R. 1, the American Economic Recovery and Reinvestment Act, let me express my support for the measure, which would appropriate additional funds for important rural development programs and invest in the future of the United States.

As a rural Missouri Congressman and Chairman of the House Armed Services Committee, I have examined our current economic crisis through the perspective of those who live in small town Missouri and through the lens of national security.

The United States is the world's indispensable nation. To remain so, we must utilize all elements of national power—military, diplomatic, and economic. Should our economy fail, it will dramatically undercut America's military and diplomatic strength and make it far more difficult to properly address international challenges.

To confront the recession, Congress and the President have an obligation to act boldly, yet wisely, to help avert the kind of economic downturn that could have lasting, severe consequences for the American people and for the future of our country.

Our economy has been in decline since December 2007, and the downturn has accelerated in recent months. Consumer confidence and spending have fallen, businesses have shed millions of jobs, housing values have diminished, and mortgage foreclosures have risen dramatically. Economists from all political stripes warn us that without additional stimulus, deflation could sink the American economy for years to come.

While Congress and the Administration have acted over the past year to battle the recession, more must be done immediately to create jobs, to stimulate consumer spending, to promote small business development, and to mitigate the housing crisis.

I am pleased that the economic recovery bill being considered in the House takes important steps toward stimulating the sluggish economy.

The measure would invest heavily in our national infrastructure and in the health, education, and safety of the American people; provide important tax relief for working families and for businesses; and strengthen the safety net for workers who have fallen on hard times.

As someone who represents small town Missouri, I am particularly pleased that the legislation would commit plentiful resources for programs important to rural America, including rural water programs, rural highways and infrastructure projects, school modernization initiatives, Corps of Engineers projects, and Internet broadband expansion.

I also am grateful that the legislation would direct additional funds toward critical military construction projects, including military health care, child care, and housing facilities. These projects are so very important to our military personnel and their families.

While the economic recovery legislation is an important part of our country's effort to stimulate the economy, it should not be perceived as a silver bullet that will cure all economic ills.

Congress and the Administration must continue to examine the global economic turmoil and consider additional legislative solutions to it, especially as it relates to the housing sector. I remain troubled that mortgage foreclosures have risen sharply despite new laws that encourage banks to renegotiate troubled mortgages. The housing crisis is at the heart of our recession and more must be done on this front.

I urge my colleagues to support the economic rescue bill and look forward to working with the Senate to ensure the measure can be enacted swiftly.

Mr. DREIER. Mr. Chair, because the Committee on Education and Labor did not mark up its portions of H.R. 1, I am including in the record, at their request, their views on the portions of the bill that should have been marked up by the Education and Labor Committee. Had the Committee marked up the bill, these would have been included in the Committee report. I hope that in the future, we can do a better job of adhering to regular order so that it will not be necessary to take these steps.

MINORITY VIEWS ON H.R. 1

COMMITTEE ON EDUCATION AND LABOR REPUBLICANS

Although it is described by the Democratic majority as an "economic stimulus package," this massive spending vehicle contains some of the most sweeping changes to the

role of the federal government in elementary/secondary and postsecondary education policy in decades. And despite the far-reaching nature of the proposed policy shifts and spending expansions, these changes have not been approved or even reviewed by the U.S. House Committee on Education and Labor, the congressional committee with sole jurisdiction over these matters. Instead, less than a week after it was publicly released, Democrats are poised to approve a bill loaded with wasteful government spending; a bill that will not have the intended effect of creating jobs and stimulating our shaky economy; and a bill that makes broad, unprecedented education policy changes with little to no congressional guidance.

Committee Republicans believe that Congress should pass a real economic stimulus package that will provide middle-class families, job seekers, small business owners, and the self-employed with reforms that will create jobs and put the economy back on track. Instead of giving billions of dollars to federal and state government bureaucrats to spend on pet programs created and supported by the Congressional leadership and the new Administration, we need to put more money in the hands of American families and businesses and empower them to help in our nation's economic recovery.

WILL THE PROPOSED EDUCATION SPENDING MEASURES CREATE JOBS AND STIMULATE THE ECONOMY, OR SIMPLY SADDLE OUR CHILDREN WITH UNMANAGEABLE DEBT?

The Democrats' spending package could provide more than $145 billion in new spending for elementary/secondary and postsecondary education. This staggering funding level is more than double the Department of Education's current discretionary budget for all of its programs and activities.

In light of the fact that this bill is being considered outside of the normal authorization and appropriations processes, it is vitally important that we ask tough questions and demand satisfactory answers before committing hundreds of billions of taxpayer dollars to funding new and expanded programs. In each case, we must ask—

''Will every dollar allocated truly stimulate the economy?''

''Will the funding in the education portion of this bill actually create jobs?''

''How many private sector jobs will the bill create?''

''How long will these jobs last?''

''Is the funding sustainable once the initial infusion is gone?''

''Or will this simply create an unrealistic demand for federal dollars and expectations that will continue to drive our deficit into the trillions of dollars in the future?''

''Is the funding in the economic stimulus bill truly 'emergency' spending, or could it wait and be considered through the normal legislative process?''

Unfortunately, when one looks at the package proposed unilaterally by congressional Democrats and attempts to answer these questions, the only logical conclusion is that the spending in this bill will not provide the job creation or other benefits needed to support our economy in the short-term. Nor will it provide the necessary levels of immediate relief to struggling American families and businesses. The vast majority of spending being proposed would simply bloat the federal bureaucracy and expand the federal government's role in education in previously unseen directions.

Perhaps the Washington Post said it best in an editorial that appeared just days before this massive spending plan is scheduled for a vote in the U.S. House. It said, ''Helping hire, equip and pay police, a $4 billion item under the bill, might be a good idea, but writing checks to individual households for the same amount would do more to stimulate the economy. Ditto for $16 billion in Pell Grants for college students, $2.1 billion for Head Start and $50 million for the National Endowment for the Arts. All of those ideas may have merit, but why do they belong in an emergency measure aimed to kick-start the economy? . . .

''[G]iven their cost, and the inherent difficulty of forecasting their impact, Congress should vet them through the normal legislative process, weigh them against other priorities and pay for them.''

And although some of the money in the bill is intended for worthy goals that enjoy bipartisan support, such as those that will increase student awards in the Pell Grant program, the funding increase is slated to vanish after two years. For students entering college this year, with this temporary aid increase, we must ask: How will they make up the difference when the additional federal money is no longer there in two years? Either all low-income students will see their Pell Grants slashed by $500 or more, or Congress will need to find at least $16 billion each and every year going forward just to maintain this funding level. This scenario will not only play out on college campuses, but in states, school districts, public schools, Head Start centers, and local workforce centers all across the country that are slated to receive billions in temporary taxpayer dollars.

It is fiscally irresponsible and unfair to students and the American taxpayer to hold out the promise of additional money only to pull it back, or to set up a situation in which federal spending—and along with it, the deficit—has nowhere to go but up to relieve the tremendous pressure to continue programs at exorbitantly high levels once the stimulus is no longer in effect.

UNPRECEDENTED EXPANSION OF FEDERAL GOVERNMENT'S ROLE IN SCHOOL CONSTRUCTION WITH NO CONGRESSIONAL OVERSIGHT

Over the past decade, the condition of local public school facilities has become an important component of the education debate in communities throughout the nation. In both cities and suburbs, students, parents, teachers, and many public officials argue that school buildings are overcrowded, unsafe, and obsolete. As a result, the amount being spent on school construction, modernization, and renovation has become a significant issue in many states and local school districts.

While strongly supportive of public education, historically, the federal government has had an extremely limited, almost nonexistent role in financing school infrastructure projects and facility improvement programs, which have been a state and local responsibility. The federal government has chosen to maintain this limited role in school construction while focusing on adequately funding programs that increase student achievement, primarily through the Title I program for low-income students, and on helping states provide a free, appropriate public education to those students with special needs under the Individuals with Disabilities Education Act (IDEA). It has also chosen to focus limited federal resources on providing lasting and permanent increases to the Pell Grant program that directly benefits low-income students pursuing a college education.

Ignoring more than 40 years of deliberate effort by Congress to limit its focus to these national priorities since passage of the Elementary and Secondary Education Act, IDEA, and the Higher Education Act, the Democrats responsible for drafting this spending package have chosen to create an unprecedented $20 billion federal school construction program. The program would weaken efforts at the state level to fund school construction, dramatically increase the cost of building elementary and secondary schools and public colleges and universities, and dramatically expand the size and scope of the federal government.

With the unmet need for school construction and renovation at the elementary and secondary level estimated at $112 billion, and with states and local school districts spending an average of $20.7 billion annually on school construction, it's a valid question to wonder how a new federal school construction program administered by the U.S. Department of Education (which received roughly $22 billion last year for all programs under the Office of Elementary and Secondary Education) could do a better job at building schools than state and local officials.

One of the most troubling aspects of the massive new federal school construction program authorized in this so-called economic stimulus bill is that it will be subject to the requirements of the Depression-era Davis-Bacon Act, which requires construction projects to be paid using flawed ''prevailing wages'' and favors union wage workers. It is estimated that this requirement raises the costs of school construction by as much as one-third in some parts of the country, especially in those local communities that have lower costs and are not subject to the flawed prevailing wage structure.

The federal government should maintain its longstanding focus on assisting states and local school districts to improve student academic achievement and providing low-income students with Pell Grants so that they can go to college. It should not undertake a $20 billion school construction experiment.

DENYING STUDENTS WITH DISABILITIES THE ABILITY TO RECEIVE A HIGH QUALITY EDUCATION AT PUBLIC OR PRIVATE SCHOOLS

The proposed economic stimulus package prohibits states and school districts from using funds under the State Stabilization Fund from assisting students that attend private elementary or secondary schools. This provision directly contradicts the rights guaranteed to students with disabilities under the Individuals with Disabilities Education Act or IDEA, and affirmed by the U.S. Supreme Court. Under IDEA, parents of children with disabilities have the right to place their children in an education environment that best meets the needs of the particular student—regardless of whether it is a public or private school. Under the statute, states and school districts can also place children with a disability in a private school in order to meet the law's requirement that a disabled child be provided a free and appropriate public education. In both cases, IDEA requires that children in private schools receive special education and related services in order to enhance their education. The economic stimulus package, which would prohibit states and school districts from using funding under the bill to educate students with disabilities in private school settings, jeopardizes the fundamental and basic tenet of IDEA, which is to ensure that all students with disabilities, regardless of where they attend school, are entitled to the same high quality elementary and secondary education as their peers. The provision is a major reversal in the federal government's effort to

ensure that services are provided to students with disabilities and one that should be removed from the package.

NEW FEDERAL EDUCATION POLICY MANDATES JEOPARDIZE MONEY TO STATES THAT WANT FEDERAL ASSISTANCE

The Democrats' economic stimulus package also includes $79 billion for a new ''state stabilization fund'' to assist states in coping with their recent budget problems. Of the total funding, at least 61 percent must be spent in support of elementary/secondary and postsecondary education. In order for a state to receive assistance under this new program, it must: maintain state support for elementary/secondary education and postsecondary education at the level that it had in fiscal year 2006; address inequities in the distribution of teachers between high- and low-poverty schools; establish a statewide longitudinal data system; enhance reading and math assessments; and ensure that all students with disabilities and those who are Limited English Proficient (LEP) are included in state assessments and are offered proper accommodations to enable their participation in state assessments.

According to current data on just three of the five requirements outlined above, many states will be unable to qualify for the additional money under the state stabilization fund. Certainly, none will qualify in the near-term. Hence, we have to determine that the state stabilization fund is not likely to lead to any job creation or stimulate the economy in any meaningful way.

CONCLUSION

Under the guise of economic stimulus, this spending package makes unprecedented changes in the direction of federal education policy without observing the regular legislative process. Even more troubling, it is doubtful that the funding will actually create jobs or stimulate the economy. It is far more likely that the high levels of spending in the bill will only stimulate expectations for future spending to levels that are unrealistic and unsustainable. Our children will be saddled with debt, our states and schools will be left holding the bag when the funding disappears, and our economy may be left worse off than it is now.

HOWARD P. ''BUCK'' MCKEON.
PETER HOEKSTRA.
MARK E. SOUDER.
JOE WILSON.
JOHN KLINE.
ROB BISHOP OF UTAH.
BRETT GUTHRIE.
DAVID P. ROE.

Mr. BACHUS. Mr. CHAIR, I and Mr. NEUGEBAUER, Mr. LUCAS, Mr. MANZULLO, Mrs. BIGGERT, Mr. GARY MILLER of California, Mrs. CAPITO, Mr. HENSARLING, Mr. GARRETT of New Jersey, Mr. BARRETT of South Carolina, Mrs. BACHMANN, Mr. MARCHANT, Mr. POSEY, Ms. JENKINS and Mr. PAULSEN submit the following for the RECORD:

COMMITTEE ON FINANCIAL SERVICES REPUBLICAN VIEWS ON H.R. 1, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, JANUARY 28, 2009

$15 billion of the $1.16 trillion in costs (debt plus servicing) associated with H.R. 1, the ''American Recovery and Reinvestment Act of 2009'' (ARRA), falls within the jurisdiction of the Committee on Financial Services. The stated goal of this legislation is to provide immediate stimulus to our ailing economy. It is, therefore, imperative that this legislation target funds to programs and organizations which offer the maximum immediate economic stimulus, and ensures that bad actors are not rewarded.

Yet, several provisions included in the bill do not meet this standard. First, this legislation does not have important safeguards to prevent funds from being distributed to organizations—such as the Association of Community Organizations for Reform Now (ACORN)—implicated in illegal activities. Second, the $15 billion earmarked for existing housing programs in Title XII of ARRA cannot be spent in a timely and efficient manner that will provide the economic stimulus that is so sorely needed.

The majority of the housing programs funded under the stimulus bill have large unexpended balances sitting in their accounts. While the funds have been obligated, the programs have very slow spend-out rates. According to the Appropriations Committee staff:

Public Housing Capital Fund has $7 billion in unexpended balances ($2 B in 2008; $1.5 B 2007; $1 B 2006 and $500 million in 2005). Given the backlog in the pipeline, there is a legitimate question whether this new $5 billion can be spent in a timely enough manner to have a stimulative effect on the economy.

The Section 202 (elderly housing) program has an unexpended balance of $4.4 billion and the Section 811 (disabled housing) program has a $1 billion unexpended balance. This program allows for $2.5 billion in ''energy retrofit investments.'' While this may be a laudable long term goal, its relationship to economic stimulus seems tenuous.

Native American Block Grants Program currently has $1 billion in unexpended balances in its account; yet $500 million, which is essentially another year's worth of funding for this program, is included in H.R. 1.

The Neighborhood Stabilization Program, which was enacted seven months ago, has yet to disburse any of the $4 billion authorized under the program to states or localities eligible for funding. However, H.R. 1 includes another $4.19 billion for this program.

We are concerned that H.R. 1 includes billions of dollars in new spending on existing programs that are clearly in need of reform. In addition, H.R. 1 rewrites the Neighborhood Stabilization Program that Congress enacted last year, which was designed as a one-time appropriation. There is considerable disagreement on the merits of the Neighborhood Stabilization Program, and no evidence that it works, given that no funds have been disbursed to date. In an editorial dated January 25, 2009, the Washington Post stated:

For sheer irrationality, it would be hard to top the $4.19 billion the bill would give to the Neighborhood Stabilization Program, on top of $4 billion authorized last year. This program gives local governments money to buy and rehabilitate homes that have been foreclosed on—thus giving lenders an incentive to foreclose on more houses.

In addition to questioning the economic stimulus nature of the housing funds included in H.R. 1, we are concerned that the bill gives groups, such as ACORN, access to billions of taxpayer dollars. ACORN already qualifies for and receives millions of dollars in Federal funding as a HUD-certified housing counselor through HUD's HOME and Community Development Block Grant programs. According to a 2008 analysis conducted by House Republicans, ACORN has received at least $53 million in direct Federal funding since 1994. The group receives millions more from the government through indirect funding from states and cities.

At a time of financial distress, Congress should not reward bad actors that illegally manipulate our electoral process. Last Congress, language was included in the ''Housing and Economic Recovery Act of 2008'' (HERA) (Public Law 110–289) barring any group indicted for Federal election fraud or that hired an individual indicted for Federal election fraud from accessing funds made available through the Neighborhood Stabilization Program. This provision had the effect of rendering ACORN ineligible for assistance. Due to the changes to the Neighborhood Stabilization Program included in the economic stimulus bill, it is unclear whether those same safeguards and restrictions continue to apply.

It is important that Congress take steps to revive our economy. However, H.R. 1—specifically the spending on housing programs in this legislation and the lack of safeguards—will not translate into the necessary stimulus to get our economy moving again. Instead, we believe that allowing hard working American families to keep more of their earnings in the form of tax cuts will have a far more positive economic effect than any amount of government spending and borrowing. When individuals are able to take home more of their earnings, they will save, spend and invest more—all of which help stimulate the economy.

Ms. GINNY BROWN-WAITE of Florida. I rise today in support of the American taxpayer, not the American Recovery and Reinvestment Act.

For months the American Recovery and Reinvestment Act was billed by President Obama as a job creating, infrastructure improvement package.

I know I wasn't the only one that heard the words "shovel ready" over and over again when I inquired about ways to help Florida's 5th Congressional District.

Despite the fact that this bill was crafted exclusively by President Obama and Speaker PELOSI, we as a country were asked to give President Obama a chance and were told that we should trust his judgment.

President Obama has taken what should have been a bipartisan bill to create jobs and packed it with ideological spending priorities from the liberal left.

The best way to stimulate the economy and create jobs is to cut tax rates across the board, reduce the corporate tax rate, and better fund organizations like the Small Business Administration and the Federal Housing Administration. These concrete steps would stimulate job growth, put money into consumers' hands quickly, and help prevent future home foreclosures.

Our Republican alternative, offered by Mr. CAMP and Mr. CANTOR, would do just that. We eliminate all the pork-ridden projects, cancel out billions in funds for projects not ready till 2012, and focus on providing immediate relief to the American public.

The bill before us today does virtually nothing to promote immediate job growth or help struggling businesses. America's strength is based on the hard work and ingenuity of its citizens, not throwing taxpayer funds into yet another bureaucratic black hole.

A real stimulus package should return tax dollars back to the people that paid them, provide real incentives for American businesses

to hire new employees, and help people stay in their homes. The bill before the House today does none of this; instead it focuses on make-work government projects and pet projects of the liberal left.

Mr. Chair, facts are stubborn things.

Only $450 million of this bill (less than one half of one percent) would go to capitalize a loan program for small business, even though the facts show that small businesses are the backbone of our economy and the key engine of job growth in this country.

Furthermore, only seven percent of this package will actually be spent on improving our nation's roads and infrastructure.

Why would the Democrat Majority and President Obama not provide more funding in this bill to help small business, to improve our roads and repair our aging infrastructure?

My only guess is that their idea of a "stimulus" plan means we increase funding for a myriad of already bloated federal government programs that should be dealt with in the appropriations process, not an emergency jobs and infrastructure bill.

Some of the most egregious examples of programs within the massive spending bill include; $50 million for the National Endowment for the Arts; $6.2 billion for a Weatherization Assistance Program; $150 million for the Smithsonian Facilities; $1.1 billion for Comparative Effectiveness Research; $100 million for Lead-Based Paint Hazards. And a long, long list of other misguided priorities.

With these non-essential projects, the message that President Obama is sending to the American taxpayer is that pork barrel policies are here to stay, and that the era of Change in Washington is already dead.

While the President and the Speaker have attempted to distract the American public from the true intentions of this bill, the Congressional Budget Office has called them to account.

The non-partisan CBO found that only $26 billion in this bill would be spent in 2009, and less than half of the total would be spent by the end of 2011.

What happened to "shovel ready"?

What happened to creating jobs with purpose?

And speaking of jobs, wouldn't you think that the best way to create jobs in this country would be to stimulate private sector investment and growth?

Sadly, this Administration feels that big government should get even bigger, and if you run the numbers, even richer.

According to a study of the bill published in the Wall Street Journal today, each new government job created by the Democrat bill will cost the American taxpayer $646,214.

We all joke about the inefficiency of the federal government, but at least we don't pay them $600,000 a year!

Furthermore, one would hope that if the American public is being asked to go another trillion dollars into debt that at least Florida would get our fair share of funds in exchange.

Sadly, when Democrat leaders drafted this bill they chose to give Florida the absolute lowest dollars per capita of any state and the second lowest dollars per capita for transportation of any state. If my constituents are forced to take on that much new debt, they should at least get something out of this bargain with the devil. Instead they get short-changed and still get stuck with the bill. That is not fair, but is what we have come to expect from this Democrat leadership.

The bottom line is that we can not spend our way out of this economic mess.

And by doubling down, my colleagues are making our hole that much deeper.

There is no doubt that our economy needs a kick start to put us back on the path to prosperity. What we do not need, however, is yet another pork ridden bailout that produces few jobs, sends billions of your money to corrupt organizations like ACORN, and does nothing to put money back in the hands of American taxpayers.

Mr. Chair, I oppose the American Recovery and Reinvestment Act and I encourage my colleagues to do the same.

Mr. MURTHA. Mr. Chair, the American Recovery and Reinvestment Act of 2009 includes a total of $4.9 billion to address critical facility maintenance and repair issues within the Department of Defense; invests in energy efficiency at DoD facilities; and provides much needed research into alternative energy sources for the Department.

FACILITIES

The bill includes $4.5 billion to make major repairs and upgrades at Defense Department facilities, which affects both the quality of life for service personnel and their effectiveness in performing their missions.

Over the past two years, the Defense Subcommittee has found numerous base facilities to be inadequate and/or in dire need of maintenance and repair. These conditions are clearly illustrated by the problems we've seen at Walter Reed Army Medical Center and the barracks at Ft. Bragg. The Defense Department's annual budget requests have failed to address these issues, and the latest estimates show that the facilities repair backlog has reached $63 billion and continues to grow.

The funds made available in this bill will provide the Defense Department with: $154 million to rehabilitate Army barracks; $455 million to revitalize Military Medical Treatment Facilities; $2.1 billion to reduce the backlog of repairs to Defense facilities throughout the country; and $1.8 billion to make DoD buildings more energy efficient.

ENERGY RESEARCH

The bill also includes $350 million to advance research and development programs for fuel cells and batteries; alternative fuels; hybrid energy sources; improved engines; and bio-fuels.

The Department of Defense is one of the largest single energy consumers in the world. The FY 2009 DoD Appropriations Act alone provided $14.4 billion for the Department to purchase 136 million barrels of refined petroleum products. In addition to the cost, the need to store and transport fuel represents one of the most significant logistical challenges for U.S. Military Forces.

This research funding is essential to reducing the Defense Department's dependence on petroleum, and the security risks that arise from being dependent on a single energy source.

I urge you to support this bill.

Mr. SULLIVAN. Mr. Chair, today, the House is debating how best to boost the nation's economy. I would like to underscore for my colleagues the important relationship between healthcare and economic vitality, and the importance of leveraging private matching funds to address health care challenges in my district and throughout the nation.

Health status is a major determinant in a region's economic viability, yet many parts of the country face shortages in health care providers and services. These medically underserved areas often experience significant disparities in life expectancy and incidence of chronic disease, and the disparities are often most acutely felt by minority or rural populations.

Some surprising statistics in my district highlight the consequences of this sort of discrepancy. While north Tulsa comprises 40% of the region's population, only 4% of the region's physicians are located there. Due to these shortages of health care services, we have seen a fourteen year difference in life expectancy between north Tulsa and south Tulsa. In addition, residents of north Tulsa have rates of cancer and heart disease that are 30% higher than national averages.

As Congress considers ways to stimulate the economy, I encourage my colleagues to consider the significant health disparities that exist in medically underserved areas, particularly in rural areas and areas with large minority populations. These regions need coherent health care delivery systems—systems that integrate primary care, preventive care, specialty care, and acute care, and that are connected through a health care technology infrastructure. I also encourage that in addition to directing federal funds to this effort, that we can also leverage non-federal, private matching funds to bring this about. Health care projects with strong community public-private partnerships with the availability of private matching funds should be used as a factor for distribution under the stimulus.

While the legislation before us devotes significant funding to health care, including community based wellness and prevention programs, we should work to ensure that these programs are designed in such a fashion as to provide comprehensive and systemic improvements to medically underserved communities. It is my hope that in directing federal funds to this effort, we can also leverage non-federal sources to fund our health care safety net.

As this legislation moves forward, I look forward to working with my colleagues to address the health care disparities confronting underserved communities in Oklahoma and around the country in a way that not only improves the health of our constituents but the economy as well.

Mrs. CAPPS. Mr. Chair, I rise in support of the American Recovery and Reinvestment Act.

I am glad that we have taken seriously our challenge to pass an economic stimulus bill right away so that we can take important steps to protect ordinary Americans.

I have been particularly concerned about the effect of the current economic situation on health care access and am relieved to see that the bill before us today takes excellent steps to address the health care crisis.

Most important, in my view, are the Medicaid provisions that will ensure states can continue to provide Medicaid to their residents with, at minimum, the current level of benefits.

My home state of California, much like other states, is suffering a budget crisis that is leading to proposals of slashing Medicaid benefits.

We must protect current benefits AND ensure that Medicaid and COBRA are available for the high number of Americans who have lost their jobs.

This bill does an excellent job of doing that.

I also want to applaud the inclusion of Health Information Technology language, including essential privacy protections.

Spurring adoption of HIT will reduce medical errors, allow physicians and nurses to spend more time with their patients and create jobs.

But I would be remiss if I didn't express disappointment in one important item that was unfortunately not included in today's bill.

The Energy & Commerce Committee, on which I serve, rightly included language to make family planning services for low-income women a state option.

Currently, states must apply for a waiver, accompanied by the uncertainty of future applications' success, in order to provide this basic health care service for women who do not otherwise qualify for Medicaid, but are low-income nonetheless.

Through a campaign of misinformation perpetrated, I am sad to say, by some of our own colleagues in Congress, we were forced to strip this provision out in order to reinforce the message of the underlying bill.

But make no mistake, the family planning provisions would have saved hundreds of millions of dollars over the next several years.

And you don't have to take my word for it, just ask the CBO, which scored the provision as a savings.

So I will remind my colleagues that we have lost an important opportunity to improve health care services to the extent that this bill originally intended to do and I vow to work with the White House and Congressional leadership to ensure we fix this in the near future.

Nonetheless, the remaining health care language is strong and will provide tremendous relief to the millions of currently unemployed Americans as well as those who rely on Medicaid.

Mr. Chair, we also have a tremendous opportunity to put America on a path to economic recovery by moving us toward energy security.

Immediate investments in renewable energy production and rebuilding our infrastructure to be greener will create hundreds of thousands of jobs, save billions of dollars in energy costs, and reduce our carbon footprint in the long term.

And that's exactly what the bill before us today does.

It creates new programs, and it makes important changes to others, that will get Americans back to work.

And the cash savings achieved through increased efficiency will go back into local communities and could be used to pay mortgages and other necessities continuing to improve the economy.

I am also pleased to see that this bill will help our country prepare for the DTV transition.

By allocating funds to the converter box coupon program, hotline call centers, and consumer education, we can ensure millions of Americans are not left behind during this transition.

Finally, this bill will enable people in unserved and underserved areas of our country to harness the internet as a tool for economic, social and civic empowerment by providing much needed funding for broadband deployment and wireless voice service.

So I want to applaud the Chairman for his excellent work on the provisions that fall within our Committee's jurisdiction and urge my colleagues to support it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chair, as snow drifts outside our nation's Capitol, we acknowledge that we as a nation are in the midst of an economic winter. I support H.R. 1, the American Recovery and Reinvestment Act, because I believe that the federal and state programs funded therein will provide needed stimulus to our economy.

With record numbers of Americans unemployed, with our defense budget stretched in war, with our children slipping in educational competitiveness, and with the sick and elderly facing a deepening well of poverty, it is time to act. Congress and the Administration have swiftly assembled a package of wide-ranging support in many important areas. I particularly support the science and educational stimulus activities.

Science and technology funding go directly to the high-tech workforce. Investments in the Advanced Research Project Agency for Energy will support research into energy sources and energy efficiency. The bill also contains funding toward a more reliable, energy-efficient electricity grid to keep up with tomorrow's technologies. It contains money for the National Institute of Standards and Technology to fund grants for research science buildings at colleges and universities. Funding for the National Aeronautics and Space Administration will enable more scientists to conduct climate change research. Investments in scientific research are investments in our future. They will pay for themselves ten-fold over future generations and very well could save our planet from the destructive effects of global warming.

Educational opportunities for all students are an imperative investment in our future. This recovery package will make bold investments to provide children with a 21st century education, modernize our schools and colleges, and make college more affordable. An investment of $14 billion for modernization of K–12 schools is badly needed. The legislation also contains money to enable bright students to go to college. It improves current higher education tax credits by creating a new ''American Opportunity'' tax credit with a maximum of $2,500, rather than the current maximum of $1,800. This expansion will make college more affordable for millions of low- and moderate-income students. It also provides additional support for the Head Start program, which will provide important development services to 110,000 additional low-income preschool children. Furthermore, the bill provides funds for competitive grants to provide financial incentives for teachers who raise student achievement and close the achievement gaps in high-need schools.

We must invest in our nation's Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions. Currently, there exists a ''digital divide'' between HBCU campuses and their counterparts. There is a great need to update campus technology and develop educational and technological opportunities for students and staff. Because of their unique resources, HBCUs continue to be extremely effective in producing African American graduates and preparing them to compete in the global economy. HBCUs represent nine of the top ten colleges that graduate the most African Americans who go on to earn PhDs. I request to insert data into the RECORD demonstrating the important value that HBCUs add, when it comes to minority education. The distinctive ability of HBCUs to provide opportunity and advancement to African American students is undeniable and is worthy of federal support.

When Americans think of this landmark stimulus bill, shovel-ready projects may immediately come to mind. However, investments in research and in math and science education will pay long-term dividends. They not only will create new jobs, but they will elevate our workforce by providing an excellent education. These investments will open a world of opportunities for millions who previously had none. This bill is an investment in our future: tomorrow and for decades to come.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, AS WELL AS THE UNITED NEGRO COLLEGE FUND SERVE A PREDOMINANTLY LOW-INCOME, MINORITY STUDENT POPULATION

60 percent of UNCF students come from families with average incomes under $30,000.

92 percent of UNCF students require financial assistance to attend college.

60 percent of UNCF students are the first in their families to attend college.

Yet HBCUs continue to educate and graduate African American students at higher rates than other colleges and universities and with fewer resources.

HBCUs represent less than 3 percent of all postsecondary institutions, but produce 18 percent of African American college graduates.

In 2000, 40 percent of all African American students who received baccalaureate degrees in physics, chemistry, astronomy, environmental sciences, mathematics, and biology graduated from HBCUs.

Between 1997 and 2001, more African American science and engineering doctoral recipients began their educations at UNCF institutions than at Berkeley, Harvard, the University of Pennsylvania, MIT, Brown, Stanford, Princeton, and Yale combined.

HBCUs represent nine of the top 10 colleges graduating African American students who go on to earn PhDs. Approximately 40 percent of African Americans with PhDs earned their bachelors degrees from HBCUs.

In 2004, five of the top 25 producers of African American medical school applicants were UNCF member institutions.

85 percent of African American dentists and physicians earned degrees at HBCUs.

Spelman and Bennett Colleges, the nation's only historically black women's colleges, account for more female African American doctorate-degree holders than the ''Seven Sisters'' institutions combined.

Numerous studies have documented increased developmental gains and increased satisfaction among African American students who attend HBCUs compared to their counterparts who attend historically white institutions.

HCBU graduates are more likely than graduates of other colleges to engage in social, political and philanthropic activities.

HBCUS AND UNCF CONTINUE TO RISE TO MEET THESE CHALLENGES, ALTHOUGH THEIR FEDERAL FUNDING IS DISPROPORTIONATELY LOW, RELATIVE TO OTHER INSTITUTIONS OF HIGHER EDUCATION

In October 2007, the National Science Foundation released data demonstrating a persistent disparity in the level of federal research and development (R&D) and science and engineering (S&E) funding awarded to HBCUs, as compared to majority institutions of higher education:

In FY05, under federal S&E categories cutting across six federal agencies, HBCUs received collectively $479 million.

This, compared to $28.3 billion received by all other institutions of higher education, represents about 1.7 percent of total awards.

In R&D, HBCUs received $294.2 million out of $25 billion awarded to all institutions of higher education, just over 1 percent of the total.

Of the $3.1 billion awarded by NSF for university R&D efforts, only $10.8 million went to HBCUs. This total represents less than 0.5 percent of overall federal funding.

Mr. PASCRELL. Mr. Chair, as a member of the Ways and Means Committee, I support the inclusion of the comparative effectiveness provision in the American Recovery and Reinvestment Act. Agencies within the Department of Health and Human Services, such as the Agency for Health Care Research and Quality, are already undertaking comparative effectiveness research under a 2003 provision. The Department has worked diligently to conduct research that meets the priorities and requests of the Medicare, Medicaid and SCHIP programs, but its resources are too limited to conduct the types of comparative clinical effectiveness studies Americans need to improve the quality of health care they receive. This provision would expand on the 2003 directive to move these efforts forward in a way that generates necessary information for health care providers to ensure patients receive the best care possible.

This provision could help the United States begin to address significant health problems, such as the type-2 diabetes epidemic. In New Jersey, over 400,000 people have been diagnosed with diabetes. Even more alarming, an additional 178,000 residents have the disease but are unaware of it. It is a sad truth that, in New Jersey, diabetes is no longer a rare condition and indeed has a significant and growing impact on the health of my constituents.

Of course, this epidemic is not confined to New Jersey alone. In the United States, there are over 20 million individuals with type-2 diabetes, approximately 6 million of which are over age 65. Between 80 to 90 percent of patients diagnosed with type-2 diabetes are also overweight. This provision would ensure that the Department of Health and Human Services will now have the resources to conduct research comparing treatments that emphasize weight loss and glycemic control to those that emphasize glycemic control alone. Studies like this would generate the information necessary to move the diabetes care paradigm from subjective recommendations to evidence-based medicine that would improve the care of all patients with type-2 diabetes. This is just one example of the promise that comparative effectiveness research holds. Additional studies would help identify the most effective treatments for other serious health conditions.

Because of the promise of comparative effectiveness research and the opportunity it holds for improving the health of all Americans, Mr. Chair, I support the provision and the underlying bill.

Mr. CONYERS. Mr. Chair, today I rise in strong support of H.R. 1, the American Recovery and Reinvestment Act of 2009. This stimulus package injects targeted, temporary, and responsible investment in our economy and, with a little luck and hard work, will pull our Nation back from the brink of fiscal collapse.

The jobs, training, and investment that will be created with this stimulus will provide true relief to the weary American worker. As much as the other side would like to convince us, building green schools creates jobs; fixing crumbling aqueducts and sewer systems creates jobs; installing energy efficient insulation in public buildings creates jobs; even resodding the National Mall creates jobs. Even better, our Nation will reap the benefits of this investment for years to come; creating many additional jobs in the private sector as we repave roadways and transform dilapidated communities into thriving commerce-rich economic zones.

Thank goodness this Congress and this President have thrown aside the voodoo economic policies of the past 8 years. By voting for this Act, we right American jobs policy by returning to a common-sense principle: promoting work that produces American products and strengthens American communities. Instead of simply cutting taxes for big corporations and promoting policies that shift capital from one bank account to another, this Act will leave behind real tangible benefits for the next generation—a true legacy of achievement.

As we debate this issue here today, Michigan's unemployment rate has risen above 10 percent, local manufacturers are slashing tens of thousands of jobs, and many are signing up for Medicaid and COBRA insurance at unprecedented levels. The jobs created by this stimulus are long-term jobs that provide solid wages to working-class Americans; it is only these types of jobs that will pull Michigan out of its economic malaise.

This stimulus package is a historic solution to a historic problem; it will likely be the biggest piece of legislation ever passed by this body. Faced with such dire economic problems, we have to aim big. Two notable economists, Paul Krugman and Jeffery Sachs have both voiced their support for a large scale stimulus to avoid a ‘‘L shaped’’ recovery that would mirror Japan's stagnant growth and labor market of the 1990s. In these gloomy economic times, hesitation and caution are not a viable option. Now is the time to act decisively.

Mr. Chair, H.R. 1 promotes sorely needed investment in transportation. For example, it provides $30 billion for federal aid to highway and bridge construction, $3 billion to airport improvement projects, and $1.1 billion for Amtrak and intercity passenger rail grants. These projects will offer additional much needed personal and commercial movement options for my constituents.

Additionally, as an ardent supporter of universal health care, I am delighted that the American Recovery and Reinvestment Act will fund many important programs that will reduce health costs. H.R. 1 will provide $1 billion to renovate community clinics and $600 million to address doctor shortages in urban areas by assisting medical school students with their expenses if they agree to practice in underserved communities as a part of the National Health Service Corps. To further lower health care costs, H.R. 1 will create a Prevention and Wellness Fund, where $3 billion will be allocated to fight preventable chronic diseases. This will include grants to state and local public health departments, immunization programs, and disease prevention initiatives. Moreover, the bill will invest $20 billion to computerize medical records to cut costs, extend COBRA healthcare for the unemployed with a $30.3 billion investment, and will give $8.6 billion to expand Medicaid coverage for the recently unemployed.

H.R. 1 will also help provide quality education to all Americans. As a direct response to the recent cut backs in educational funding and staggering increases in college tuition, the bill will provide $79 billion to states and $41 billion to local school districts through Title I, IDEA, the School Modernization and Repair Program, and the education technology program. Furthermore, $15 billion will be given to states as bonus grants if they can meet key performance measures. Lastly, H.R. 1 increases individual Pell Grant allocations by $500.

H.R. 1 will also help hard working Americans stay in their homes. The bill will create a $5 billion Public Housing Capital Fund that will repair and modernize public housing. $1.5 billion will be given to rehabilitate low-income housing using green technologies in the HOME Investment Partnerships. In addition, $4.2 billion will help communities purchase and rehabilitate foreclosed, vacant properties in order to create more affordable housing and reduce neighborhood blight.

I could go on and on about the many worthy initiatives this bill furthers. In particular, I am heartened that it makes wise investments in preserving our public places, ending hunger, and promoting the deployment of broadband Internet access. Needless to say, it is a comprehensive bill and a vote for it is a vote to revitalize every sector of our economy.

For too long many have believed that the free market can fix America's problem. We have been told that the only thing created by public investment is more bureaucracy and an unwieldy national debt.

Well, I am here to tell you that prudent targeted government investment in the private and public sectors creates something else: jobs. The minority had their chance to promote their version of the economy when they controlled the Congress and the White House. And what have they left us: unchecked spending that resulted in millions of jobs lost, a lower standard of living, and the greatest levels of inequality we have seen since the period of unchecked deregulation that immediately preceded the Great Depression.

The investments championed by President Franklin Delano Roosevelt led us out of a period of despair and uncertainty and ushered in

the greatest period of sustained growth our Nation has ever experienced. We did it once; we can do it again. H.R. 1 is the blueprint for such a recovery and I urge my colleagues to support this legislation.

Mr. STEARNS. Mr. Chair, with America facing a 7.2 percent unemployment rate, record low consumer confidence, and country's worst economic downturn since the beginning of World War II, our nation needs a real economic stimulus that will give tax relief to hurting American businesses, create long term sustainable job growth, and provide real permanent tax relief to American families. What this country does not need is the federal government increasing our national debt to record levels, burying our children and our grandchildren under a mountain of debt.

This Democrat spending plan is simply not stimulative. According to CBO, the plan includes $604 billion in new spending and $212 billion in tax cuts for a total cost of $816 billion over the 2009 to 2019 period. While this plan is aimed at quickly injecting government cash into the economy, only 15 percent, or $93 billion, of the spending will occur during this fiscal year and only 37 percent of the spending would occur in fiscal year 2010. This means that over half of the plan's spending will occur starting in 2011, hardly a quick injection into the lagging economy as promised by the Democrat authors. What is clearly evident is that much of this money will not be spent in the next two years to stimulate the economy and that billions of dollars in pork barrel spending will go to constituencies important to the Democrat party. This is far too important of an economic time to play political games and return election favors in the form of government funding. Our country needs a real economic stimulus package.

Included in this Democrat spending spree are longstanding liberal spending priorities. What does $50 million for the National Endowment for the Arts, $400 million for climate change research, $650 million for the Digital-to-Analog Converter Box Program and $1 billion for the Census have to do with creating jobs? The Democrat bill won't stimulate anything but more government and more debt. The slow and wasteful spending in the House Democrat bill is a disservice to millions of Americans who want to see this Congress take immediate action to get this economy moving again.

Many have looked to our economic history to provide guidance during this difficult time, particularly to the New Deal instituted by President Franklin Roosevelt. Unfortunately, what many economists have found is that New Deal principles are stale ideas that do not translate into economic stimulus in the 21st century.

First, the Great Depression began in 1929 and did not end until 1940. And the stock market did not return to the level of September 3, 1929 until 1954. If today's economy were to go through a similar ''recovery,'' we would not fully escape the current recession until 2018 and the Dow would not reach its high of 2007 until sometime in 2032.

Secondly, many economists note that during the Great Depression the U.S. did not actually have much of an expansionary fiscal policy. As Tyler Cowen stated in the New York Times article, The New Deal Didn't Always Work, Either, ''under President Herbert Hoover and continuing with Roosevelt, the federal government increased income taxes, excise taxes, inheritance taxes, corporate income taxes, holding company taxes and 'excess profits' taxes. When all of these tax increases are taken into account, New Deal fiscal policy didn't do much to promote recovery.''

This legislation is also an unprecedented expansion of the nation's debt burden. The U.S. is projected to have a $1.2 trillion deficit in FY 2009 even without the enactment of any stimulus legislation. As a percentage of GDP, the projected FY 2009 deficit, 8.3 percent of GDP, is considerably larger than any deficit during the Great Depression, the highest was 5.9 percent of GDP in 1934. The federal debt grew by more than $2 trillion in the last two years, and may grow by another $2 trillion in 2009.

The year 2008 could easily be defined as the year of the bailout. The months have passed in a torrent of troubling government ''rescues'' of private sector financial firms. Those bailouts have come at a great price and have exposed American taxpayers to vast financial risk. And in a financial crisis, such as the one we are now facing, bailout after bailout is quite simply not a good strategy for recovery.

The cascade of bailouts began in March of 2008 with the collapse of investment bank Bear Stearns. The Federal Reserve stepped in when Bear Stearns lost significant liquidity and lent another large investment firm—JPMorgan—$29 billion to buy up Bear Stearns and its liabilities. This was quickly followed by legislative recognition of the housing and foreclosure crisis and, subsequently, the Treasury's forced rescue of out-of-control GSEs Fannie Mae and Freddie Mac which has put taxpayers on the hook for trillions worth of risk.

Since October of 2008, the U.S. Treasury has committed $350 billion in public funds to private financial institutions, many of which have utilized reckless investment strategies, through the Troubled Asset Relief Program, TARP. Specifically, insurance giant MG has received $40 billion, Citigroup—which just tried to spend $50 billion on a luxury corporate jet—has received $20 billion, an additional $20 billion has been given to the Federal Reserve, and $250 billion has gone to large national banks in the form of direct capital injections. Even more troubling is the $23.4 billion of these TARP funds, which has been allocated to bail out automobile manufacturers such as General Motors and Ford. This type of government intervention in the private sector is unprecedented and has put us on a precarious path to socialism.

The new Secretary of the Treasury, Tim Geithner, is now poised to spend an additional $350 billion as part of a second installment of TARP funds as reports are coming out that executives such as John Thain, have used these funds to hand out $4 billion in bonuses to fellow executives, $1 million to renovate his office, and $1,400 for the purchase a new personal waste basket. Due to the lack of transparency and accountability of how the first $350 billion was spent, and the fact that banks have not made it easier to get loans and the credit markets have not thawed as expected, I voted against the TARP Reform and Accountability Act, H.R. 384, and in favor of a resolution, H.J. RES. 3, disapproving of the release of these additional funds.

Given the massive amount of money the federal government has spent on bailouts since March of 2008 along with the ever-rising debt level, it is unconscionable to continue committing good money after bad. This money belongs to the American taxpayer and now, more than ever, we must rein in this out-of-control government spending for our future generations who will have to pay back this irresponsible debt accumulation.

Mr. Chair, enough is enough, turn off the government spigot of federal funding into non-simulative debt spending. It is time for this Congress to pass a real economic stimulus that will give tax relief to hurting American businesses, create long term sustainable job growth, and provide real permanent tax relief to American families.

Mr. HOLT. Mr. Chair, I rise this evening in support of the American Recovery and Reinvestment Act of 2009 (H.R. 1). America is in the midst of the worst economic storm since the Great Depression. Millions of people are hurting across the United States and in my home state of New Jersey. New Jersey's unemployment rate has risen to 7.1 percent from 4.2 percent just a year ago. Our nation's economy is in recession, and we must respond with every tool in our tool box to help put Americans back to work and rebuild our struggling economy.

We could let the free market continue to spiral downward or we could pass a bill with a smaller price tag, ignoring the lessons learned from Congress's previous attempt at stimulating the economy through rebate sent out in spring of 2008. We can no longer wait to act. The time has come for a bold, national, response. Economists have predicted that the unemployment rate will skyrocket to over 12 percent this year. The package we are considering today has the potential to create 3 to 4 million much needed new jobs in the short term.

The House approved the American Recovery and Reinvestment Act, comprehensive legislation that through targeted, job-creating spending, responsible investments in the nation's social safety net to help Americans weather the difficult months ahead, and tax cuts for 95 percent of Americans will help the United States climb out of the current recession. Importantly, this bill includes critical investments in research and development, which lay the ground work for innovation and sustainable, long-term economic growth. It is unfortunate that not one member of the minority saw fit to approve this important bill.

In the short term, the American Recovery and Reinvestment Act would help create up to 1.5 million new construction jobs by providing $30 billion to states for transportation, infrastructure, and energy efficiency improvements. This would translate to approximately $777 million for ready-to-go road and bridge modernization projects in my home state of New Jersey. Infrastructure improvements would serve a dual purpose; creating 835,000 jobs and helping to address the backlog of needed improvements to our nation's transportation

network that total $61 billion, according to the U.S. Department of Transportation. This bill would also invest $10 billion in public transportation, $333 million to relieve congestion on our roadways in New Jersey. This bill would also create an additional 375,000 jobs by investing $19 billion for clean water, environmental restoration, and flood control projects.

H.R. 1 will fund a number of additional projects that my Central New Jersey constituents refer to as ''green stimulus.'' Investment in ''green stimulus'' can create good American jobs that cannot be outsourced, while reducing our reliance on foreign fuels, protecting our environment and slowing the rate of global warming. Specifically, this legislation would provide $32 billion to transform the nation's energy transmission, distribution, and production system so they can handle renewable energy sources. This legislation includes more than $26 billion in incentives to promote renewable energy and help low and middle income Americans weatherize their homes. These incentives include the renewable energy production tax credit, the energy research and development tax credit, and the consumer energy-efficiency tax credits.

Responding to the nation's rising unemployment rate, this bill would devote $4 billion to job training programs and would extend unemployment benefits through December 31, 2009, increasing benefits by $25 per week for individuals looking for work.

The current economic downturn has hit hard public school districts, which are being forced to make painful cuts in services. The American Recovery and Reinvestment Plan makes sound investments in public education. The legislation would provide $20 billion to states to rebuild the nation's crumbling schools. In particular, the bill includes a provision from a bill that I authored, the School Building Enhancement Act, which would give schools grants to increase their energy efficiency helping them to save thousands of dollars annually on their energy costs.

Additionally, to ensure that families can send their children to college, this bill would increase the maximum Pell Grant by $500, to $5,350 and would help 4 million more students attend college with a new $2,500 college tuition tax credit for families.

I am deeply gratified that the Economic Recovery and Reinvestment Act reflects a profound commitment to renewing our nation's innovation infrastructure. In crafting this package, Congress has recognized that research and innovation are not merely luxuries to be undertaken only in time of economic prosperity. The truth is that scientific research is perhaps the most powerful economic engine, creating jobs in the short-term and building our economy for the long-term.

All together, the recovery package includes nearly $16 billion to support scientific research and facilities, including $3 billion for the National Science Foundation, $2 billion for the Department of Energy's Office of Science, and $3.5 billion for the National Institutes of Health. There is no doubt that these funds will create jobs. Lab technicians will be hired to carry out projects that previously went unfunded. Electricians will be put to work wiring new laboratory equipment. And construction workers will begin refurbishing our neglected laboratories and building the facilities that will transform science for the twenty-first century.

Of course, the ideal project is one that keeps on giving, and that is exactly what scientific research does. The innovation and discoveries that come from research form the roots from which our economy grows and prospers. For too long, we have underinvested in science, and we will never know the resulting costs to our prosperity. But we know that science will be the foundation of our nation's future economic vitality. In his inaugural address, President Obama said, ''We will restore science to its rightful place.'' That place is at the very heart of our nation's progress. The American Recovery and Reinvestment Act acknowledges this fact and provides an important first step toward the sustained investment that will prevent the need for future recovery packages.

As American workers lose their jobs, more and more face losing their health insurance coverage as well. Job losses have boosted Medicaid and SCHIP rolls, straining state budgets already stretched thin due to lower tax revenues. To address these problems, this bill would allow states to temporarily cover their unemployed workers under Medicaid and would increase temporarily the federal government's contribution to Medicaid. For workers able to continue their health coverage through COBRA, the bill would subsidize COBRA premiums by 65 percent. The Joint Committee on Taxation and Congressional Budget Office estimate that these two provisions will provide health insurance to more than eight million people.

In addition to helping families maintain their health insurance coverage, the American Recovery and Reinvestment Act seeks to improve health care quality and its value. This bill would promote Health Information Technology systems, which could help reduce medical errors while lowering administrative costs, and accelerate their adoption and usage among doctors and hospitals.

The American Recovery and Reinvestment Act of 2009 would also address the struggling economy by putting money back in the pockets of American families, workers, students and businesses through $285 billion worth of tax cuts. Ninety-five percent of working Americans would receive a tax cut through a refundable tax credit of up to $500 per worker that will be quickly distributed by reducing tax withholding from workers' paychecks. It will lower the taxes of more than 16 million families by increasing the child tax credit and expanding the earned income tax credit.

This bill includes a number of provisions that will help businesses to create new jobs in this difficult economy. It will allow businesses to improve cash flow by allowing businesses to write off 90 percent of losses incurred in 2008 and 2009 against taxes assessed over the previous five years. In addition, it will help businesses expand by extending the increased bonus depreciation for businesses making investments in new plants and equipment in 2009. This legislation will help small businesses by doubling the amount they can deduct on their taxes for capital investments and new equipment.

Through this comprehensive approach, we can begin to put the American economy back on the right track. We must approve the American Recovery and Reinvestment Act. We need to get America back to work and rebuild our economy.

Mr. LANGEVIN. Mr. Chair, I rise in support of H.R. 1, the American Recovery and Reinvestment Act, which will save and create millions of jobs across our country, jumpstart our economy and transform it to meet the needs of the 21st century by making our nation more globally competitive and energy independent.

We are facing dire economic times. Every week, we are faced with new reports on job losses across our country. In my home state of Rhode Island, we have the country's second highest unemployment rate at ten percent and last December, we were ranked sixth nationally in foreclosure rates. These harsh realities have made it increasingly clear that our economy will face an even sharper downturn if we do not act soon. With that in mind, I support taking action to rebuild our nation's economy.

H.R. 1 will appropriate $544 billion for transportation and infrastructure upgrades and construction, health care programs, education assistance, housing assistance and energy efficiency upgrades, and includes $275 billion in personal and business tax breaks for a total of $819 billion to be expended over Fiscal Years 2009 and 2010. This measure helps those hit hardest by the economic downturn by extending unemployment benefits, providing job training to get people back to work quickly, increasing food stamp benefits, and extending health benefits for those who lose their job.

This measure provides $90 billion to modernize our crumbling roads and bridges, increase transit and rail funding to reduce traffic congestion and gas consumption, and invest in clean water and other environmental restoration projects. It is estimated that Rhode Island will receive $154 million for highways and bridges and $39 million for the Clean Water State Revolving Fund, which will significantly raise and almost double our state's budget for these programs. These projects will immediately create jobs in my state, as projects will only receive funding if they are ''ready to go'' within 90 days of the enactment of this bill.

This measure also includes education initiatives that will build 21st century classrooms, labs and libraries through a new program that will modernize, renovate and repair school buildings. It is estimated that Rhode Island will receive $48 million for Title I programs, which serve disadvantaged children, and $48 million for IDEA Funds. H.R. 1 also provides $15.6 billion for Pell grants, and it is estimated that Rhode Island will receive $97.5 million in aid for 28,217 recipients for an average award for the academic year 2009–10 of $3,456. Investing in our children's education not only has long-term benefits to our economy, but it also delivers on our nation's promise to ensure that all individuals have an equal opportunity to succeed.

I have strongly advocated for a comprehensive energy plan to lower costs, create jobs and improve our environment. H.R. 1 will not only double renewable energy production, but I am especially pleased that funding is included to build the infrastructure to transmit renewable energy to homes throughout our nation. The bill also promotes a Smart Grid Investment Program to modernize our electricity

grid to meet the needs of our growing and evolving energy system. While Congress supports an efficient and modern system of power generation, the bill also provides necessary credits to individuals to make their homes more energy efficient through weatherization programs and with credits to purchase energy efficient appliances.

This measure includes individual tax relief, including the "Making work pay" tax credit, which will provide up to $500 for an individual or $1,000 for married couples filing jointly. Parents will also benefit from an increase in the earned income tax credit for families with three or more children and the bill allows for additional low-income families to receive the child tax credit. It will also provide a tax credit up to $7500 for first time home buyers if they purchase a home between April 8th, 2008 and July 1st, 2009, injecting a much needed incentive into the housing market.

I also supported H.R. 1 because it includes unprecedented accountability and strong oversight by creating the Recovery Act Accountability and Transparency Board, which will coordinate and conduct oversight of federal spending under the bill. A website with the board's reports will be placed on a website, which will also show how funds are spent and list announcements of contract and grant competitions and awards.

Mr. Chair, it is important to understand that this funding is not a silver bullet, but that our economy will continue to decline without this immediate action. The Recovery package will begin to slow our downward economic trend and allow us to regain our footing as we begin to make much-needed long term investments to transform our economy for the 21st century. American prosperity depends on individual economic security. It is only when Americans do not have to worry about losing their job, keeping their home or paying their bills that our economy will truly flourish. I am committed to improving the economic outlook for the millions who are struggling, and I will continue working with my colleagues in Congress on this vital and urgent goal.

□ 1400

The CHAIR. All time for general debate has expired.

Pursuant to House Resolution 92, the amendment printed in part A of House Report 111–9 is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Recovery and Reinvestment Act of 2009''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. PURPOSES AND PRINCIPLES.

(a) STATEMENT OF PURPOSES.—The purposes of this Act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.

(4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.

(5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

(b) GENERAL PRINCIPLES CONCERNING USE OF FUNDS.—The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified in subsection (a), including commencing expenditures and activities as quickly as possible consistent with prudent management.

SEC. 4. REFERENCES.

Except as expressly provided otherwise, any reference to ''this Act'' contained in any division of this Act shall be treated as referring only to the provisions of that division.

SEC. 5. EMERGENCY DESIGNATIONS.

(a) IN GENERAL.—Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(b) PAY-AS-YOU-GO.—All applicable provisions in this Act are designated as an emergency for purposes of pay-as-you-go principles.

DIVISION A—APPROPRIATION PROVISIONS

SEC. 1001. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes.

TITLE I—GENERAL PROVISIONS

Subtitle A—Use of Funds

SEC. 1101. RELATIONSHIP TO OTHER APPROPRIATIONS.

Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

SEC. 1102. PREFERENCE FOR QUICK-START ACTIVITIES.

In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

SEC. 1103. REQUIREMENT OF TIMELY AWARD OF GRANTS.

(a) FORMULA GRANTS.—Formula grants using funds made available in this Act shall be awarded not later than 30 days after the date of the enactment of this Act (or, in the case of appropriations not available upon enactment, not later than 30 days after the appropriation becomes available for obligation), unless expressly provided otherwise in this Act.

(b) COMPETITIVE GRANTS.—Competitive grants using funds made available in this Act shall be awarded not later than 90 days after the date of the enactment of this Act (or, in the case of appropriations not available upon enactment, not later than 90 days after the appropriation becomes available for obligation), unless expressly provided otherwise in this Act.

(c) ADDITIONAL PERIOD FOR NEW PROGRAMS.—The time limits specified in subsections (a) and (b) may each be extended by up to 30 days in the case of grants for which funding was not provided in fiscal year 2008.

SEC. 1104. USE IT OR LOSE IT REQUIREMENTS FOR GRANTEES.

(a) DEADLINE FOR BINDING COMMITMENTS.—Each recipient of a grant made using amounts made available in this Act in any account listed in subsection (c) shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after the grant is awarded, if later) to make use of 50 percent of the funds awarded, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the grant is awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by a grant recipient (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the recipient specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this section.

(b) REDISTRIBUTION OF UNCOMMITTED FUNDS.—The head of the Federal department or agency involved shall recover or deobligate any grant funds not committed in accordance with subsection (a), and redistribute such funds to other recipients eligible under the grant program and able to make use of such funds in a timely manner

(including binding commitments within 120 days after the reallocation).

(c) APPROPRIATIONS TO WHICH THIS SECTION APPLIES.—This section shall apply to grants made using amounts appropriated in any of the following accounts within this Act:

(1) ''Environmental Protection Agency—State and Tribal Assistance Grants''.

(2) ''Department of Transportation—Federal Aviation Administration—Grants-in-Aid for Airports''.

(3) ''Department of Transportation—Federal Railroad Administration—Capital Assistance for Intercity Passenger Rail Service''.

(4) ''Department of Transportation—Federal Transit Administration—Capital Investment Grants''.

(5) ''Department of Transportation—Federal Transit Administration—Fixed Guideway Infrastructure Investment''.

(6) ''Department of Transportation—Federal Transit Administration—Transit Capital Assistance''.

(7) ''Department of Housing and Urban Development—Public and Indian Housing—Public Housing Capital Fund''.

(8) ''Department of Housing and Urban Development—Public and Indian Housing—Elderly, Disabled, and Section 8 Assisted Housing Energy Retrofit''.

(9) ''Department of Housing and Urban Development—Public and Indian Housing—Native American Housing Block Grants''.

(10) ''Department of Housing and Urban Development—Community Planning and Development—HOME Investment Partnerships Program''.

(11) ''Department of Housing and Urban Development—Community Planning and Development—Self-Help and Assisted Homeownership Opportunity Program''.

SEC. 1105. PERIOD OF AVAILABILITY.

(a) IN GENERAL.—All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act.

(b) REOBLIGATION.—Amounts that are not needed or cannot be used under title X of this Act for the activity for which originally obligated may be deobligated and, notwithstanding the limitation on availability specified in subsection (a), reobligated for other activities that have received funding from the same account or appropriation in such title.

SEC. 1106. SET-ASIDE FOR MANAGEMENT AND OVERSIGHT.

Unless other provision is made in this Act (or in other applicable law) for such expenses, up to 0.5 percent of each amount appropriated in this Act may be used for the expenses of management and oversight of the programs, grants, and activities funded by such appropriation, and may be transferred by the head of the Federal department or agency involved to any other appropriate account within the department or agency for that purpose. Funds set aside under this section shall remain available for obligation until September 30, 2012.

SEC. 1107. APPROPRIATIONS FOR INSPECTORS GENERAL.

In addition to funds otherwise made available in this Act, there are hereby appropriated the following sums to the specified Offices of Inspector General, to remain available until September 30, 2013, for oversight and audit of programs, grants, and projects funded under this Act:

(1) ''Department of Agriculture—Office of Inspector General'', $22,500,000.

(2) ''Department of Commerce—Office of Inspector General'', $10,000,000.

(3) ''Department of Defense—Office of the Inspector General'', $15,000,000.

(4) ''Department of Education—Departmental Management—Office of the Inspector General'', $14,000,000.

(5) ''Department of Energy—Office of Inspector General'', $15,000,000.

(6) ''Department of Health and Human Services—Office of the Secretary—Office of Inspector General'', $19,000,000.

(7) ''Department of Homeland Security—Office of Inspector General'', $2,000,000.

(8) ''Department of Housing and Urban Development—Management and Administration—Office of Inspector General'', $15,000,000.

(9) ''Department of the Interior—Office of Inspector General'', $15,000,000.

(10) ''Department of Justice—Office of Inspector General'', $2,000,000.

(11) ''Department of Labor—Departmental Management—Office of Inspector General'', $6,000,000.

(12) ''Department of Transportation—Office of Inspector General'', $20,000,000.

(13) ''Department of Veterans Affairs—Office of Inspector General'', $1,000,000.

(14) ''Environmental Protection Agency—Office of Inspector General'', $20,000,000.

(15) ''General Services Administration—General Activities—Office of Inspector General'', $15,000,000.

(16) ''National Aeronautics and Space Administration—Office of Inspector General'', $2,000,000.

(17) ''National Science Foundation—Office of Inspector General'', $2,000,000.

(18) ''Small Business Administration—Office of Inspector General'', $10,000,000.

(19) ''Social Security Administration—Office of Inspector General'', $2,000,000.

(20) ''Corporation for National and Community Service—Office of Inspector General'', $1,000,000.

SEC. 1108. APPROPRIATION FOR GOVERNMENT ACCOUNTABILITY OFFICE.

There is hereby appropriated as an additional amount for ''Government Accountability Office—Salaries and Expenses'' $25,000,000, for oversight activities relating to this Act.

SEC. 1109. PROHIBITED USES.

None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

SEC. 1110. USE OF AMERICAN IRON AND STEEL.

(a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron and steel used in the project is produced in the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) WRITTEN JUSTIFICATION FOR WAIVER.—If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) DEFINITIONS.—In this section, the terms ''public building'' and ''public work'' have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

SEC. 1111. WAGE RATE REQUIREMENTS.

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

SEC. 1112. ADDITIONAL ASSURANCE OF APPROPRIATE USE OF FUNDS.

None of the funds provided by this Act may be made available to the State of Illinois, or any agency of the State, unless (1) the use of such funds by the State is approved in legislation enacted by the State after the date of the enactment of this Act, or (2) Rod R. Blagojevich no longer holds the office of Governor of the State of Illinois. The preceding sentence shall not apply to any funds provided directly to a unit of local government (1) by a Federal department or agency, or (2) by an established formula from the State.

SEC. 1113. PERSISTENT POVERTY COUNTIES.

(a) ALLOCATION REQUIREMENT.—Of the amount appropriated in this Act for ''Department of Agriculture—Rural Development Programs—Rural Community Advancement Program'', at least 10 percent shall be allocated for assistance in persistent poverty counties.

(b) DEFINITION.—For purposes of this section, the term ''persistent poverty counties'' means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1980, 1990, and 2000 decennial censuses.

SEC. 1114. REQUIRED PARTICIPATION IN E-VERIFY PROGRAM.

None of the funds made available in this Act may be used to enter into a contract with an entity that does not participate in the E-verify program described in section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 1115. ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF APPROPRIATE USE OF FUNDS.

(a) CERTIFICATION BY GOVERNOR.—Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that the State will request and use funds provided by this Act.

(b) ACCEPTANCE BY STATE LEGISLATURE.—If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) DISTRIBUTION.—After the adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

Subtitle B—Accountability in Recovery Act Spending

PART 1—TRANSPARENCY AND OVERSIGHT REQUIREMENTS

SEC. 1201. TRANSPARENCY REQUIREMENTS.

(a) REQUIREMENTS FOR FEDERAL AGENCIES.—Each Federal agency shall publish on the website Recovery.gov (as established under section 1226 of this subtitle)—

(1) a plan for using funds made available in this Act to the agency; and

(2) all announcements for grant competitions, allocations of formula grants, and awards of competitive grants using those funds.

(b) REQUIREMENTS FOR FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES.—

(1) INFRASTRUCTURE INVESTMENT FUNDING.—With respect to funds made available under this Act for infrastructure investments to Federal, State, or local government agencies, the following requirements apply:

(A) Each such agency shall notify the public of funds obligated to particular infrastructure investments by posting the notification on the website Recovery.gov.

(B) The notification required by subparagraph (A) shall include the following:

(i) A description of the infrastructure investment funded.

(ii) The purpose of the infrastructure investment.

(iii) The total cost of the infrastructure investment.

(iv) The rationale of the agency for funding the infrastructure investment with funds made available under this Act.

(v) The name of the person to contact at the agency if there are concerns with the infrastructure investment and, with respect to Federal agencies, an email address for the Federal official in the agency whom the public can contact.

(vi) In the case of State or local agencies, a certification from the Governor, mayor, or other chief executive, as appropriate, that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made.

(2) OPERATIONAL FUNDING.—With respect to funds made available under this Act in the form of grants for operational purposes to State or local government agencies or other organizations, the agency or organization shall publish on the website Recovery.gov a description of the intended use of the funds, including the number of jobs sustained or created.

(c) AVAILABILITY ON INTERNET OF CONTRACTS AND GRANTS.—Each contract awarded or grant issued using funds made available in this Act shall be posted on the Internet and linked to the website Recovery.gov. Proprietary data that is required to be kept confidential under applicable Federal or State law or regulation shall be redacted before posting.

SEC. 1202. INSPECTOR GENERAL REVIEWS.

(a) REVIEWS.—Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using funds made available in this Act. Any findings of an inspector general resulting from such a review shall be relayed immediately to the head of each department and agency. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the Internet and linked to the website Recovery.gov.

(b) EXAMINATION OF RECORDS.—The Inspector General of the agency concerned may examine any records related to obligations of funds made available in this Act.

SEC. 1203. GOVERNMENT ACCOUNTABILITY OFFICE REVIEWS AND REPORTS.

(a) REVIEWS AND REPORTS.—The Comptroller General of the United States shall conduct bimonthly reviews and prepare reports on such reviews on the use by selected States and localities of funds made available in this Act. Such reports, along with any audits conducted by the Comptroller General of such funds, shall be posted on the Internet and linked to the website Recovery.gov.

(b) EXAMINATION OF RECORDS.—The Comptroller General may examine any records related to obligations of funds made available in this Act.

SEC. 1204. COUNCIL OF ECONOMIC ADVISERS REPORTS.

The Chairman of the Council of Economic Advisers, in consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, shall submit quarterly reports to Congress detailing the estimated impact of programs under this Act on employment, economic growth, and other key economic indicators.

SEC. 1205. SPECIAL CONTRACTING PROVISIONS.

The Federal Acquisition Regulation shall apply to contracts awarded with funds made available in this Act. To the maximum extent possible, such contracts shall be awarded as fixed-price contracts through the use of competitive procedures. Existing contracts so awarded may be utilized in order to obligate such funds expeditiously. Any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website Recovery.gov.

PART 2—ACCOUNTABILITY AND TRANSPARENCY BOARD

SEC. 1221. ESTABLISHMENT OF THE ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established a board to be known as the ''Recovery Act Accountability and Transparency Board'' (hereafter in this subtitle referred to as the ''Board'') to coordinate and conduct oversight of Federal spending under this Act to prevent waste, fraud, and abuse.

SEC. 1222. COMPOSITION OF BOARD.

(a) MEMBERSHIP.—The Board shall be composed of seven members as follows:

(1) The Chief Performance Officer of the President, who shall chair the Board.

(2) Six members designated by the President from the inspectors general and deputy secretaries of the Departments of Education, Energy, Health and Human Services, Transportation, and other Federal departments and agencies to which funds are made available in this Act.

(b) TERMS.—Each member of the Board shall serve for a term to be determined by the President.

SEC. 1223. FUNCTIONS OF THE BOARD.

(a) OVERSIGHT.—The Board shall coordinate and conduct oversight of spending under this Act to prevent waste, fraud, and abuse. In addition to responsibilities set forth in this subtitle, the responsibilities of the Board shall include the following:

(1) Ensuring that the reporting of information regarding contract and grants under this Act meets applicable standards and specifies the purpose of the contract or grant and measures of performance.

(2) Verifying that competition requirements applicable to contracts and grants under this Act and other applicable Federal law have been satisfied.

(3) Investigating spending under this Act to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring.

(4) Reviewing whether there are sufficient qualified acquisition and grant personnel overseeing spending under this Act.

(5) Reviewing whether acquisition and grant personnel receive adequate training and whether there are appropriate mechanisms for interagency collaboration.

(b) REPORTS.—

(1) FLASH AND OTHER REPORTS.—The Board shall submit to Congress reports, to be known as ''flash reports'', on potential management and funding problems that require immediate attention. The Board also shall submit to Congress such other reports as the Board considers appropriate on the use and benefits of funds made available in this Act.

(2) QUARTERLY.—The Board shall submit to the President and Congress quarterly reports summarizing its findings and the findings of agency inspectors general and may issue additional reports as appropriate.

(3) ANNUALLY.—On an annual basis, the Board shall prepare a consolidated report on the use of funds under this Act. All reports shall be publicly available and shall be posted on the Internet website Recovery.gov, except that portions of reports may be redacted if the portions would disclose information that is protected from public disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act).

(c) RECOMMENDATIONS TO AGENCIES.—The Board shall make recommendations to Federal agencies on measures to prevent waste, fraud, and abuse. A Federal agency shall, within 30 days after receipt of any such recommendation, submit to the Board, the President, and the congressional committees of jurisdiction a report on whether the agency agrees or disagrees with the recommendations and what steps, if any, the agency plans to take to implement the recommendations.

SEC. 1224. POWERS OF THE BOARD.

(a) COORDINATION OF AUDITS AND INVESTIGATIONS BY AGENCY INSPECTORS GENERAL.—The Board shall coordinate the audits and investigations of spending under this Act by agency inspectors general.

(b) CONDUCT OF REVIEWS BY BOARD.—The Board may conduct reviews of spending under this Act and may collaborate on such reviews with any inspector general.

(c) MEETINGS.—The Board may, for the purpose of carrying out its duties under this Act, hold public meetings, sit and act at times and places, and receive information as the Board considers appropriate. The Board shall meet at least once a month.

(d) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon request of the Chairman of the Board, the head of that department or agency shall furnish that information to the Board.

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under this Act.

SEC. 1225. STAFFING.

(a) EXECUTIVE DIRECTOR.—The Chairman of the Board may appoint and fix the compensation of an executive director and other personnel as may be required to carry out the functions of the Board. The Director shall be paid at the rate of basic pay for level IV of the Executive Schedule.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Board, the head of any Federal department or agency may detail any Federal official or employee, including officials and employees of offices of inspector general, to the Board without reimbursement from the Board, and such detailed staff shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) OFFICE SPACE.—Office space shall be provided to the Board within the Executive Office of the President.

SEC. 1226. RECOVERY.GOV.

(a) REQUIREMENT TO ESTABLISH WEBSITE.—The Board shall establish and maintain a website on the Internet to be named Recovery.gov, to foster greater accountability and transparency in the use of funds made available in this Act.

(b) PURPOSE.—Recovery.gov shall be a portal or gateway to key information related to this Act and provide a window to other Government websites with related information.

(c) MATTERS COVERED.—In establishing the website Recovery.gov, the Board shall ensure the following:

(1) The website shall provide materials explaining what this Act means for citizens. The materials shall be easy to understand and regularly updated.

(2) The website shall provide accountability information, including a database of findings from audits, inspectors general, and the Government Accountability Office.

(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use funds made available in this Act.

(4) The website shall provide detailed data on contracts awarded by the Government for purposes of carrying out this Act, including information about the competitiveness of the contracting process, notification of solicitations for contracts to be awarded, and information about the process that was used for the award of contracts.

(5) The website shall include printable reports on funds made available in this Act obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts awarded for purposes of carrying out this Act.

(7) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

SEC. 1227. PRESERVATION OF THE INDEPENDENCE OF INSPECTORS GENERAL.

Inspectors general shall retain independent authority to determine whether to conduct an audit or investigation of spending under this Act. If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, within 30 days after receipt of the request, submit to the Board, the agency head, and the congressional committees of jurisdiction a report explaining why the inspector general has rejected the request in whole or in part.

SEC. 1228. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditor generals.

SEC. 1229. INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established a panel to be known as the ''Independent Advisory Panel'' to advise the Board.

(b) MEMBERSHIP.—The Panel shall be composed of five members appointed by the President from among individuals with expertise in economics, public finance, contracting, accounting, or other relevant fields.

(c) FUNCTIONS.—The Panel shall make recommendations to the Board on actions the Board could take to prevent waste, fraud, and abuse in Federal spending under this Act.

(d) TRAVEL EXPENSES.—Each member of the Panel shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

SEC. 1230. FUNDING.

There is hereby appropriated to the Board $14,000,000 to carry out this subtitle.

SEC. 1231. BOARD TERMINATION.

The Board shall terminate 12 months after 90 percent of the funds made available under this Act have been expended, as determined by the Director of the Office of Management and Budget.

PART 3—ADDITIONAL ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

SEC. 1241. LIMITATION ON THE LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

No contract entered into using funds made available in this Act pursuant to the authority provided in section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) that is for an amount greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. (4)(11))—

(1) may exceed the time necessary—

(A) to meet the unusual and compelling requirements of the work to be performed under the contract; and

(B) for the executive agency to enter into another contract for the required goods or services through the use of competitive procedures; and

(2) may exceed one year unless the head of the executive agency entering into such contract determines that exceptional circumstances apply.

SEC. 1242. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE AND OFFICES OF INSPECTOR GENERAL TO CERTAIN EMPLOYEES.

(a) ACCESS.—Each contract awarded using funds made available in this Act shall provide that the Comptroller General and his representatives, and any representatives of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), are authorized—

(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any current employee regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General or an Inspector General.

SEC. 1243. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving funds made available in this Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the Board, an inspector general, the Comptroller General, a member of Congress, or a Federal agency head, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an executive agency contract or grant;

(2) a gross waste of executive agency funds;

(3) a substantial and specific danger to public health or safety; or

(4) a violation of law related to an executive agency contract (including the competition for or negotiation of a contract) or grant awarded or issued to carry out this Act.

(b) INVESTIGATION OF COMPLAINTS.—

(1) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the inspector general of the executive agency that awarded the contract or issued the grant. Unless the inspector general determines that the complaint is frivolous, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the Federal agency that awarded the contract or issued the grant, and the Board.

(2)(A) Except as provided under subparagraph (B), the inspector general shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) Not later than 30 days after receiving an inspector general report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(2) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(3) An inspector general determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

(4) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(5) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5.

(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(e) DEFINITIONS.—

(1) NON-FEDERAL EMPLOYER RECEIVING FUNDS UNDER THIS ACT.—The term ''non-Federal employer receiving funds made available in this Act'' means—

(A) with respect to a Federal contract awarded or Federal grant issued to carry out this Act, the contractor or grantee, as the case may be, if the contractor or grantee is an employer; or

(B) a State or local government, if the State or local government has received funds made available in this Act.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(3) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

TITLE II—AGRICULTURE, NUTRITION, AND RURAL DEVELOPMENT

DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

For an additional amount for ''Agriculture Buildings and Facilities and Rental Payments'', $44,000,000, for necessary construction, repair, and improvement activities: *Provided*, That section 1106 of this Act shall not apply to this appropriation.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $209,000,000, for work on deferred maintenance at Agricultural Research Service facilities: *Provided*, That priority in the use of such funds shall be given to critical deferred maintenance, to projects that can be completed, and to activities that can commence promptly following enactment of this Act.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses,'' $245,000,000, for the purpose of maintaining and modernizing the information technology system: *Provided*, That section 1106 of this Act shall not apply to this appropriation.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', $350,000,000, of which $175,000,000 is for necessary expenses to purchase and restore floodplain easements as authorized by section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) (except that no more than $50,000,000 of the amount provided for the purchase of floodplain easements may be obligated for projects in any one State): *Provided*, That section 1106 of this Act shall not apply to this appropriation: *Provided further*, That priority in the use of such funds shall be given to projects that can be fully funded and completed with the funds appropriated in this Act, and to activities that can commence promptly following enactment of this Act.

WATERSHED REHABILITATION PROGRAM

For an additional amount for ''Watershed Rehabilitation Program'', $50,000,000, for necessary expenses to carry out rehabilitation of structural measures: *Provided*, That section 1106 of this Act shall not apply to this appropriation: *Provided further*, That priority in the use of such funds shall be given to projects that can be fully funded and completed with the funds appropriated in this Act, and to activities that can commence promptly following enactment of this Act.

RURAL DEVELOPMENT PROGRAMS

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans as authorized by sections 306 and 310B and described in sections 381E(d)(1), 381E(d)(2), and 381E(d)(3) of the Consolidated Farm and Rural Development Act, to be available from the rural community advancement program, as follows: $5,838,000,000, of which $1,102,000,000 is for rural community facilities direct loans, of which $2,000,000,000 is for business and industry guaranteed loans, and of which $2,736,000,000 is for rural water and waste disposal direct loans.

For an additional amount for the cost of direct loans, loan guarantees, and grants, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: $1,800,000,000, of which $63,000,000 is for rural community facilities direct loans, of which $137,000,000 is for rural community facilities grants authorized under section 306(a) of the Consolidated Farm and Rural Development Act, of which $87,000,000 is for business and industry guaranteed loans, of which $13,000,000 is for rural business enterprise grants authorized under section 310B of the Consolidated Farm and Rural Development Act, of which $400,000,000 is for rural water and waste disposal direct loans, and of which $1,100,000,000 is for rural water and waste disposal grants authorized under section 306(a): *Provided*, That the amounts appropriated under this heading shall be transferred to, and merged with, the appropriation for ''Rural Housing Service, Rural Community Facilities Program Account'', the appropriation for ''Rural Business-Cooperative Service, Rural Business Program Account'', and the appropriation for ''Rural Utilities Service, Rural Water and Waste Disposal Program Account'': *Provided further*, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: *Provided further*, That priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided: *Provided further*, That priority for awarding such funds shall be given to activities that can commence promptly following enactment of this Act.

In addition to other available funds, the Secretary of Agriculture may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans, loan guarantees, and grants funded under this account, which shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'' and shall remain available until September 30, 2012: *Provided*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

Funds appropriated by this Act to the Rural Community Advancement Program for rural community facilities, rural business, and rural water and waste disposal direct loans, loan guarantees and grants may be transferred among these programs: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount of gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $22,129,000,000 for loans to section 502 borrowers, of which $4,018,000,000 shall be for direct loans, and of which $18,111,000,000 shall be for unsubsidized guaranteed loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $500,000,000, of which $270,000,000 shall be for direct loans,

and of which $230,000,000 shall be for unsubsidized guaranteed loans.

In addition to other available funds, the Secretary of Agriculture may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans and loan guarantees funded under this account, of which $1,750,000 will be committed to agency projects associated with maintaining the compliance, safety, and soundness of the portfolio of loans guaranteed through the section 502 guaranteed loan program: *Provided*, These funds shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'': *Provided further*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

Funds appropriated by this Act to the Rural Housing Insurance Fund Program account for section 502 direct loans and unsubsidized guaranteed loans may be transferred between these programs: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants, $2,825,000,000: *Provided*, That the cost of direct and guaranteed loans shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That, notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for open access broadband infrastructure in any area of the United States: *Provided further*, That at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture: *Provided further*, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the most rural residents that do not have access to broadband service: *Provided further*, That priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers: *Provided further*, That notwithstanding section 1103 of this Act, 50 percent of the grants, loans, and loan guarantees made available under this heading shall be awarded not later than September 30, 2009: *Provided further*, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: *Provided further*, That priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided: *Provided further*, That priority for awarding such funds shall be given to activities that can commence promptly following enactment of this Act: *Provided further*, That no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Deployment Grant Program: *Provided further*, That the Secretary shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

In addition to other available funds, the Secretary may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans, loan guarantees, and grants funded under this account, which shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'' and shall remain available until September 30, 2012: *Provided*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $100,000,000, for the purposes specified in section 17(h)(10)(B)(ii) for the Secretary of Agriculture to provide assistance to State agencies to implement new management information systems or improve existing management information systems for the program.

EMERGENCY FOOD ASSISTANCE PROGRAM

For an additional amount for the emergency food assistance program as authorized by section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)), $150,000,000, of which $100,000,000 is for the purchase of commodities and of which $50,000,000 is for costs associated with the distribution of commodities.

GENERAL PROVISIONS, THIS TITLE

SEC. 2001. TEMPORARY INCREASE IN BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

(a) MAXIMUM BENEFIT INCREASE.—

(1) IN GENERAL.—Beginning the first month that begins not less than 25 days after the date of enactment of this Act, the value of benefits determined under section 8(a) of the Food and Nutrition Act of 2008 and consolidated block grants for Puerto Rico and American Samoa determined under section 19(a) of such Act shall be calculated using 113.6 percent of the June 2008 value of the thrifty food plan as specified under section 3(o) of such Act.

(2) TERMINATION.—

(A) The authority provided by this subsection shall terminate after September 30, 2009.

(B) Notwithstanding subparagraph (A), the Secretary of Agriculture may not reduce the value of the maximum allotment below the level in effect for fiscal year 2009 as a result of paragraph (1).

(b) REQUIREMENTS FOR THE SECRETARY.—In carrying out this section, the Secretary shall—

(1) consider the benefit increases described in subsection (a) to be a ''mass change'';

(2) require a simple process for States to notify households of the increase in benefits;

(3) consider section 16(c)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A)) to apply to any errors in the implementation of this section, without regard to the 120-day limit described in that section; and

(4) have the authority to take such measures as necessary to ensure the efficient administration of the benefits provided in this section.

(c) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section, the Secretary shall make available $150,000,000 in each of fiscal years 2009 and 2010, to remain available through September 30, 2012, of which $4,500,000 is for necessary expenses of the Food and Nutrition Service for management and oversight of the program and for monitoring the integrity and evaluating the effects of the payments made under this section.

(2) AVAILABILITY OF FUNDS.—Funds described in paragraph (1) shall be made available as grants to State agencies based on each State's share of households that participate in the Supplemental Nutrition Assistance Program as reported to the Department of Agriculture for the 12-month period ending with June, 2008.

(d) TREATMENT OF JOBLESS WORKERS.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act, and for each subsequent month through September 30, 2010, jobless adults who comply with work registration and employment and training requirements under section 6, section 20, or section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015, 2029, or 2035) shall not be disqualified from the Supplemental Nutrition Assistance Program because of the provisions of section 6(o)(2) of such Act (7 U.S.C. 2015(o)(2)). Beginning on October 1, 2010, for the purposes of section 6(o), a State agency shall disregard any period during which an individual received Supplemental Nutrition Assistance Program benefits prior to October 1, 2010.

(e) FUNDING.—There is appropriated to the Secretary of Agriculture such sums as are necessary to carry out this section, to remain available until expended. Section 1106 of this Act shall not apply to this appropriation.

SEC. 2002. AFTERSCHOOL FEEDING PROGRAM FOR AT-RISK CHILDREN.

Section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)) is amended by striking paragraph (5).

TITLE III—COMMERCE, JUSTICE, AND SCIENCE

Subtitle A—Commerce

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Development Assistance Programs'', $250,000,000: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall not exceed 2 percent instead of the percentage specified in such section: *Provided further*, That the amount set aside pursuant to the previous proviso shall be transferred to and merged with the appropriation for ''Salaries and Expenses'' for purposes of program administration and oversight: *Provided further*, That up to $50,000,000 may be transferred to federally authorized regional economic development commissions.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $1,000,000,000: *Provided*, That section 1106 of this Act shall not apply to funds provided under this heading.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $350,000,000, to remain available until September 30, 2011: *Provided*, That funds shall be available to establish the State Broadband Data and Development Grant Program, as authorized by Public Law 110–385, for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State, and to develop and maintain a nationwide broadband inventory map, as authorized by section 6001 of division B of this Act.

WIRELESS AND BROADBAND DEPLOYMENT GRANT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses related to the Wireless and Broadband Deployment Grant Programs established by section 6002 of division B of this Act, $2,825,000,000, of which $1,000,000,000 shall be for Wireless Deployment Grants and $1,825,000,000 shall be for Broadband Deployment Grants: *Provided*, That the National Telecommunications and Information Administration shall submit a report on planned spending and actual obligations describing the use of these funds not later than 120 days after the date of enactment of this Act, and an update report not later than 60 days following the initial report, to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate: *Provided further*, That notwithstanding section 1103 of this Act, 50 percent of the grants made available under this heading shall be awarded not later than September 30, 2009: *Provided further*, That up to 20 percent of the funds provided under this heading for Wireless Deployment Grants and Broadband Deployment Grants may be transferred between these programs: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

Notwithstanding any other provision of law, and in addition to amounts otherwise provided in any other Act, for costs associated with the Digital-to-Analog Converter Box Program, $650,000,000, to be available until September 30, 2009: *Provided*, That these funds shall be available for coupons and related activities, including but not limited to education, consumer support and outreach, as deemed appropriate and necessary to ensure a timely conversion of analog to digital television.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for ''Scientific and Technical Research and Services'', $100,000,000.

INDUSTRIAL TECHNOLOGY SERVICES

For an additional amount for ''Industrial Technology Services'', $100,000,000, of which $70,000,000 shall be available for the necessary expenses of the Technology Innovation Program and $30,000,000 shall be available for the necessary expenses of the Hollings Manufacturing Extension Partnership.

CONSTRUCTION OF RESEARCH FACILITIES

For an additional amount for ''Construction of Research Facilities'', as authorized by sections 13 through 15 of the Act of March 13, 1901 (15 U.S.C. 278c–278e), $300,000,000, for a competitive construction grant program for research science buildings: *Provided further*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $400,000,000, for habitat restoration and mitigation activities.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'', $600,000,000, for accelerating satellite development and acquisition, acquiring climate sensors and climate modeling capacity, and establishing climate data records: *Provided further*, That not less than $140,000,000 shall be available for climate data modeling.

Subtitle B—Justice

DEPARTMENT OF JUSTICE

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', $3,000,000,000, to be available for the Edward Byrne Memorial Justice Assistance Grant Program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of such Act shall not apply for purposes of this Act): *Provided*, That section 1106 of this Act shall not apply to funds provided under this heading.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for ''Community Oriented Policing Services'', $1,000,000,000, to be available for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section: *Provided*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 3201. WAIVER OF MATCHING REQUIREMENT AND SALARY LIMIT UNDER COPS PROGRAM.

Sections 1701(g) and 1704(c) of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3796dd(g) and 3796dd–3(c)) shall not apply with respect to funds appropriated in this or any other Act making appropriations for fiscal year 2009 or 2010 for Community Oriented Policing Services authorized under part Q of such Act of 1968.

Subtitle C—Science

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For an additional amount for ''Science'', $400,000,000, of which not less than $250,000,000 shall be solely for accelerating the development of the tier 1 set of Earth science climate research missions recommended by the National Academies Decadal Survey.

AERONAUTICS

For an additional amount for ''Aeronautics'', $150,000,000.

CROSS AGENCY SUPPORT PROGRAMS

For an additional amount for ''Cross Agency Support Programs'', for necessary expenses for restoration and mitigation of National Aeronautics and Space Administration owned infrastructure and facilities related to the consequences of hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $50,000,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for ''Research and Related Activities'', $2,500,000,000: *Provided*, That $300,000,000 shall be available solely for the Major Research Instrumentation program and $200,000,000 shall be for activities authorized by title II of Public Law 100–570 for academic research facilities modernization: *Provided*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

EDUCATION AND HUMAN RESOURCES

For an additional amount for ''Education and Human Resources'', $100,000,000: *Provided*, That $60,000,000 shall be for activities authorized by section 7030 of Public Law 110–69 and $40,000,000 shall be for activities authorized by section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n).

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For an additional amount for ''Major Research Equipment and Facilities Construction'', $400,000,000, which shall be available only for approved projects.

TITLE IV—DEFENSE

DEPARTMENT OF DEFENSE

FACILITY INFRASTRUCTURE INVESTMENTS, DEFENSE

For expenses, not otherwise provided for, to improve, repair and modernize Department of Defense facilities, restore and modernize Army barracks, and invest in the energy efficiency of Department of Defense facilities, $4,500,000,000, for Facilities Sustainment, Restoration and Modernization programs of the Department of Defense (including minor construction and major maintenance and repair), which shall be available as follows:

(1) ''Operation and Maintenance, Army'', $1,490,804,000.

(2) ''Operation and Maintenance, Navy'', $624,380,000.

(3) ''Operation and Maintenance, Marine Corps'', $128,499,000.

(4) ''Operation and Maintenance, Air Force'', $1,236,810,000.

(5) ''Defense Health Program'', $454,658,000.

(6) ''Operation and Maintenance, Army Reserve'', $110,899,000.

(7) ''Operation and Maintenance, Navy Reserve'', $62,162,000.

(8) ''Operation and Maintenance, Marine Corps Reserve'', $45,038,000.

(9) ''Operation and Maintenance, Air Force Reserve'', $14,881,000.

(10) ''Operation and Maintenance, Army National Guard'', $302,700,000.

(11) ''Operation and Maintenance, Air National Guard'', $29,169,000.

ENERGY RESEARCH AND DEVELOPMENT, DEFENSE

For expenses, not otherwise provided for, for research, development, test and evaluation programs for improvements in energy

generation, transmission, regulation, use, and storage, for military installations, military vehicles, and other military equipment, $350,000,000, which shall be available as follows:

(1) ''Research, Development, Test and Evaluation, Army'', $87,500,000.

(2) ''Research, Development, Test and Evaluation, Navy'', $87,500,000.

(3) ''Research, Development, Test and Evaluation, Air Force'', $87,500,000.

(4) ''Research, Development, Test and Evaluation, Defense-Wide'', $87,500,000

TITLE V—ENERGY AND WATER

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'', $2,000,000,000: *Provided*, That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this paragraph: *Provided further*, That notwithstanding any other provision of law, funds provided in this paragraph shall not be cost shared with the Inland Waterways Trust Fund as authorized in Public Law 99–662: *Provided further*, That funds provided in this paragraph may only be used for programs, projects or activities previously funded: *Provided further*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That funds provided in this paragraph shall be used for elements of projects, programs or activities that can be completed using funds provided herein: *Provided further*, That funds appropriated in this paragraph may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with one or more of section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), and section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), notwithstanding the program cost limitations set forth in those sections: *Provided further*, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further*, That for projects that are being completed with funds appropriated in this Act that are otherwise expired or lapsed for obligation, expired or lapsed funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'', $250,000,000: *Provided*, That funds provided in this paragraph may only be used for programs, projects, or activities previously funded: *Provided further*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That funds provided in this paragraph shall be used for elements of projects, programs, or activities that can be completed using funds provided herein: *Provided further*, That for projects that are being completed with funds appropriated in this Act that are otherwise expired or lapsed for obligation, expired or lapsed funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'', $2,225,000,000: *Provided*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That funds provided in this paragraph shall be used for elements of projects, programs, or activities that can be completed using funds provided herein: *Provided further*, That for projects that are being completed with funds appropriated in this Act that are otherwise expired or lapsed for obligation, expired or lapsed funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act.

REGULATORY PROGRAM

For an additional amount for ''Regulatory Program'', $25,000,000.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'', $500,000,000: *Provided*, That of the amount appropriated under this heading, not less than $126,000,000 shall be used for water reclamation and reuse projects authorized under title XVI of Public Law 102–575: *Provided further*, That of the amount appropriated under this heading, not less than $80,000,000 shall be used for rural water projects and these funds shall be expended primarily on water intake and treatment facilities of such projects: *Provided further*, That the costs of reimbursable activities, other than for maintenance and rehabilitation, carried out with funds made available under this heading shall be repaid pursuant to existing authorities and agreements: *Provided further*, That the costs of maintenance and rehabilitation activities carried out with funds provided in this Act shall be repaid pursuant to existing authority, except the length of repayment period shall be determined on needs-based criteria to be established and adopted by the Commissioner of the Bureau of Reclamation, but in no case shall the repayment period exceed 25 years.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $18,500,000,000, which shall be used as follows:

(1) $2,000,000,000 shall be for expenses necessary for energy efficiency and renewable energy research, development, demonstration and deployment activities, to accelerate the development of technologies, to include advanced batteries, of which not less than $800,000,000 is for biomass and $400,000,000 is for geothermal technologies.

(2) $500,000,000 shall be for expenses necessary to implement the programs authorized under part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.).

(3) $1,000,000,000 shall be for the cost of grants to institutional entities for energy sustainability and efficiency under section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1).

(4) $6,200,000,000 shall be for the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

(5) $3,500,000,000 shall be for Energy Efficiency and Conservation Block Grants, for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.).

(6) $3,400,000,000 shall be for the State Energy Program authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321).

(7) $200,000,000 shall be for expenses necessary to implement the programs authorized under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011).

(8) $300,000,000 shall be for expenses necessary to implement the program authorized under section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) and the Energy Star program.

(9) $400,000,000 shall be for expenses necessary to implement the program authorized under section 721 of the Energy Policy Act of 2005 (42 U.S.C. 16071).

(10) $1,000,000,000 shall be for expenses necessary for the manufacturing of advanced batteries authorized under section 136(b)(1)(B) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(b)(1)(B)): *Provided*, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further*, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability,''

$4,500,000,000: *Provided*, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply, and for implementation of programs authorized under title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 et seq.): *Provided further*, That of such amounts, $100,000,000 shall be for worker training: *Provided further*, That the Secretary of Energy may use or transfer amounts provided under this heading to carry out new authority for transmission improvements, if such authority is enacted in any subsequent Act, consistent with existing fiscal management practices and procedures.

ADVANCED BATTERY LOAN GUARANTEE PROGRAM

For the cost of guaranteed loans as authorized by section 135 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17012), $1,000,000,000, to remain available until expended: *Provided*, That of such amount, $10,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

INSTITUTIONAL LOAN GUARANTEE PROGRAM

For the cost of guaranteed loans as authorized by section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1), $500,000,000: *Provided*, That of such amount, $10,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

For an additional amount for ''Innovative Technology Loan Guarantee Program'' for the cost of guaranteed loans authorized by section 1705 of the Energy Policy Act of 2005, $8,000,000,000: *Provided*, That of such amount, $25,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

FOSSIL ENERGY

For an additional amount for ''Fossil Energy'', $2,400,000,000 for necessary expenses to demonstrate carbon capture and sequestration technologies as authorized under section 702 of the Energy Independence and Security Act of 2007.

SCIENCE

For an additional amount for ''Science'', $2,000,000,000: *Provided*, That of such amounts, not less than $400,000,000 shall be used for the Advanced Research Projects Agency—Energy authorized under section 5012 of the America COMPETES Act (42 U.S.C. 16538): *Provided further*, That of such amounts, not less than $100,000,000 shall be used for advanced scientific computing.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup,'' $500,000,000: *Provided*, That such amounts shall be used for elements of projects, programs, or activities that can be completed using funds provided herein.

GENERAL PROVISIONS, THIS TITLE

SEC. 5001. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

The Hoover Power Plant Act of 1984 (Public Law 98–381) is amended by adding at the end the following:

''TITLE III—BORROWING AUTHORITY

''SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

''(a) DEFINITIONS.—In this section—

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Western Area Power Administration.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(b) AUTHORITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

''(A) the Western Area Power Administration may borrow funds from the Treasury; and

''(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), $3,250,000,000 in outstanding repayable balances at any 1 time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

''(i) constructing, financing, facilitating, or studying construction of new or upgraded electric power transmission lines and related facilities with at least 1 terminus within the area served by the Western Area Power Administration; and

''(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after the date of enactment of this section.

''(2) INTEREST.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

''(3) REFINANCING.—The Western Area Power Administration may refinance loans taken pursuant to this section within the Treasury.

''(4) PARTICIPATION.—The Administrator may permit other entities to participate in projects financed under this section.

''(5) CONGRESSIONAL REVIEW OF DISBURSEMENT.—Effective upon the date of enactment of this section, the Administrator shall have the authority to have utilized $1,750,000,000 at any one time. If the Administrator seeks to borrow funds above $1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

''(c) TRANSMISSION LINE AND RELATED FACILITY PROJECTS.—

''(1) IN GENERAL.—For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

''(A) each other such project; and

''(B) all other Western Area Power Administration power and transmission facilities.

''(2) PROCEEDS.—The Western Area Power Administration shall apply the proceeds from the use of the transmission capacity from an individual project under this section to the repayment of the principal and interest of the loan from the Treasury attributable to that project, after reserving such funds as the Western Area Power Administration determines are necessary—

''(A) to pay for any ancillary services that are provided; and

''(B) to meet the costs of operating and maintaining the new project from which the revenues are derived.

''(3) SOURCE OF REVENUE.—Revenue from the use of projects under this section shall be the only source of revenue for—

''(A) repayment of the associated loan for the project; and

''(B) payment of expenses for ancillary services and operation and maintenance.

''(4) LIMITATION ON AUTHORITY.—Nothing in this section confers on the Administrator any obligation to provide ancillary services to users of transmission facilities developed under this section.

''(d) CERTIFICATION.—

''(1) IN GENERAL.—For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

''(A) the project is in the public interest;

''(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

''(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

''(2) FORGIVENESS OF BALANCES.—

''(A) IN GENERAL.—If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

''(B) UNCONSTRUCTED PROJECTS.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

''(C) NOTIFICATION.—The Administrator shall notify the Secretary of such amounts as are to be forgiven under this paragraph.

''(e) PUBLIC PROCESSES.—

''(1) POLICIES AND PRACTICES.—Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

''(2) REQUESTS FOR INTERESTS.—In the course of selecting potential projects to be funded under this section, the Administrator shall seek requests for interest from entities interested in identifying potential projects through one or more notices published in the Federal Register.''.

SEC. 5002. BONNEVILLE POWER ADMINISTRATION.

For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to implement the authority of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional $3,250,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any time.

SEC. 5003. APPROPRIATIONS TRANSFER AUTHORITY.

Not to exceed 20 percent of the amounts made available in this Act to the Department of Energy for ''Energy Efficiency and Renewable Energy'', ''Electricity Delivery and Energy Reliability'', and ''Advanced Battery Loan Guarantee Program'' may be transferred within and between such accounts, except that no amount specified under any such heading may be increased or decreased by more than a total of 20 percent by such transfers, and notification of such transfers shall be submitted promptly to the Committees on Appropriations of the House of Representatives and the Senate.

TITLE VI—FINANCIAL SERVICES AND GENERAL GOVERNMENT

Subtitle A—General Services

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $7,700,000,000 for real property activities with priority given to activities that can commence promptly following enactment of this Act; of which up to $1,000,000,000 shall be used for construction, repair, and alteration of border facilities and land ports of entry; of which not less than $6,000,000,000 shall be used for construction, repair, and alteration of Federal buildings for projects that will create the greatest impact on energy efficiency and conservation; of which $108,000,000 shall remain available until September 30, 2012, and shall be used for rental of space costs associated with the construction, repair, and alteration of these projects; *Provided*, That of the amounts provided, $160,000,000 shall remain available until September 30, 2012, and shall be for building operations in support of the activities described in this paragraph: *Provided further*, That the preceding proviso shall apply to this appropriation in lieu of the provisions of section 1106 of this Act: *Provided further*, That the Administrator of General Services is authorized to initiate design, construction, repair, alteration, leasing, and other projects through existing authorities of the Administrator: *Provided further*, That the Administrator shall submit a detailed plan, by project, regarding the use of funds to the Committees on Appropriations of the House of Representatives and the Senate within 30 days after enactment of this Act, and shall provide notification to the Committees within 15 days prior to any changes regarding the use of these funds: *Provided further*, That the Administrator shall report to the Committees on the obligation of these funds on a quarterly basis beginning on June 30, 2009: *Provided further*, That of the amounts provided, $4,000,000 shall be transferred to and merged with ''Government-Wide Policy'', for the Office of Federal High-Performance Green Buildings as authorized in the Energy Independence and Security Act of 2007 (Public Law 110–140).

ENERGY EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of the General Services Administration's Motor Vehicle Acquisition and Motor Vehicle Leasing programs for the acquisition of motor vehicles, including plug-in and alternative fuel vehicles, $600,000,000: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section: *Provided further*, That none of these funds may be obligated until the Administrator of General Services submits to the Committees on Appropriations of the House of Representatives and the Senate, within 90 days after enactment of this Act, a plan for expenditure of the funds that details the current inventory of the Federal fleet owned by the General Services Administration, as well as other Federal agencies, and the strategy to expend these funds to replace a portion of the Federal fleet with the goal of substantially increasing energy efficiency over the current status, including increasing fuel efficiency and reducing emissions: *Provided further*, That the Administrator shall report to the Committees on the obligation of these funds on a quarterly basis beginning on June 30, 2009.

Subtitle B—Small Business

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans and loan guarantees authorized by sections 6202 through 6205 of this Act, $426,000,000: *Provided*, That such cost, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses to carry out the direct loan and loan guarantee programs authorized by this Act, $4,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses: *Provided*, That this sentence shall apply to this appropriation in lieu of the provisions of section 1106 of this Act.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 6201. ECONOMIC STIMULUS LENDING PROGRAM FOR SMALL BUSINESSES.

(a) PURPOSE.—The purpose of this section is to permit the Small Business Administration to guarantee up to 95 percent of qualifying small business loans made by eligible lenders.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) The term ''qualifying small business loan'' means any loan to a small business concern that would be eligible for a loan guarantee under section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 and following).

(3) The term ''small business concern'' has the same meaning as provided by section 3 of the Small Business Act (15 U.S.C. 632).

(c) APPLICATION.—In order to participate in the loan guarantee program under this section a lender shall submit an application to the Administrator for the guarantee of up to 95 percent of the principal amount of a qualifying small business loan. The Administrator shall approve or deny each such application within 5 business days after receipt thereof. The Administrator may not delegate to lenders the authority to approve or disapprove such applications.

(d) FEES.—The Administrator may charge fees for guarantees issued under this section. Such fees shall not exceed the fees permitted for loan guarantees under section 7(a) of the Small Business Act (15 U.S.C. 631 and following).

(e) INTEREST RATES.—The Administrator may not guarantee under this section any loan that bears interest at a rate higher than 3 percent above the higher of either of the following as quoted in the Wall Street Journal on the first business day of the week in which such guarantee is issued:

(1) The London interbank offered rate (LIBOR) for a 3-month period.

(2) The Prime Rate.

(f) QUALIFIED BORROWERS.—

(1) ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—A loan guarantee may not be made under this section for a loan made to a concern if an individual who is an alien unlawfully present in the United States—

(A) has an ownership interest in that concern; or

(B) has an ownership interest in another concern that itself has an ownership interest in that concern.

(2) FIRMS IN VIOLATION OF IMMIGRATION LAWS.—No loan guarantee may be made under this section for a loan to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

(g) CRIMINAL BACKGROUND CHECKS.—Prior to the approval of any loan guarantee under this section, the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.

(h) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(i) SUNSET.—Loan guarantees may not be issued under this section after the date 90 days after the date of establishment (as determined by the Administrator) of the economic recovery program under section 6204.

(j) SMALL BUSINESS ACT PROVISIONS.—The provisions of the Small Business Act applicable to loan guarantees under section 7 of that Act shall apply to loan guarantees under this section except as otherwise provided in this section.

(k) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6202. ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.

(a) PURPOSE.—The purpose of this section is to provide the Small Business Administration with the authority to establish a Secondary Market Lending Authority within the SBA to make loans to the systemically important SBA secondary market broker-dealers who operate the SBA secondary market.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''Administrator'' means the Administrator of the SBA.

(2) The term ''SBA'' means the Small Business Administration.

(3) The terms ''Secondary Market Lending Authority'' and ''Authority'' mean the office established under subsection (c).

(4) The term ''SBA secondary market'' means the market for the purchase and sale of loans originated, underwritten, and closed under the Small Business Act.

(5) The term ''Systemically Important Secondary Market Broker-Dealers'' mean those entities designated under subsection (c)(1) as vital to the continued operation of the SBA secondary market by reason of their purchase and sale of the government guaranteed portion of loans, or pools of loans, originated, underwritten, and closed under the Small Business Act.

(c) RESPONSIBILITIES, AUTHORITIES, ORGANIZATION, AND LIMITATIONS.—

(1) DESIGNATION OF SYSTEMICALLY IMPORTANT SBA SECONDARY MARKET BROKER-DEALERS.—The Administrator shall establish a process to designate, in consultation with the Board of Governors of the Federal Reserve and the Secretary of the Treasury, Systemically Important Secondary Market Broker-Dealers.

(2) ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.—

(A) ORGANIZATION.—

(i) The Administrator shall establish within the SBA an office to provide loans to Systemically Important Secondary Market Broker-dealers to be used for the purpose of financing the inventory of the government guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(ii) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(iii) The Administrator is authorized to hire such personnel as are necessary to operate the Authority.

(iv) The Administrator may contract such Authority operations as he determines necessary to qualified third-party companies or individuals.

(v) The Administrator is authorized to contract with private sector fiduciary and custodial agents as necessary to operate the Authority.

(B) LOANS.—

(i) The Administrator shall establish by rule a process under which Systemically Important SBA Secondary Market Broker-Dealers designated under paragraph (1) may apply to the Administrator for loans under this section.

(ii) The rule under clause (i) shall provide a process for the Administrator to consider and make decisions regarding whether or not to extend a loan applied for under this section. Such rule shall include provisions to assure each of the following:

(I) That loans made under this section are for the sole purpose of financing the inventory of the government guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(II) That loans made under this section are fully collateralized to the satisfaction of the Administrator.

(III) That there is no limit to the frequency in which a borrower may borrow under this section unless the Administrator determines that doing so would create an undue risk of loss to the agency or the United States.

(IV) That there is no limit on the size of a loan, subject to the discretion of the Administrator.

(iii) Interest on loans under this section shall not exceed the Federal Funds target rate as established by the Federal Reserve Board of Governors plus 25 basis points.

(iv) The rule under this section shall provide for such loan documents, legal covenants, collateral requirements and other required documentation as necessary to protect the interests of the agency, the United States, and the taxpayer.

(v) The Administrator shall establish custodial accounts to safeguard any collateral pledged to the SBA in connection with a loan under this section.

(vi) The Administrator shall establish a process to disburse and receive funds to and from borrowers under this section.

(C) LIMITATIONS ON USE OF LOAN PROCEEDS BY SYSTEMICALLY IMPORTANT SECONDARY MARKET BROKER-DEALERS.—The Administrator shall ensure that borrowers under this section are using funds provided under this section only for the purpose specified in subparagraph (B)(ii)(I). If the Administrator finds that such funds were used for any other purpose, the Administrator shall—

(i) require immediate repayment of outstanding loans;

(ii) prohibit the borrower, its affiliates, or any future corporate manifestation of the borrower from using the Authority; and

(iii) take any other actions the Administrator, in consultation with the Attorney General of the United States, deems appropriate.

(d) REPORT TO CONGRESS.—The Administrator shall submit a report to Congress not later than the third business day of each month containing a statement of each of the following:

(1) The aggregate loan amounts extended during the preceding month under this section.

(2) The aggregate loan amounts repaid under this section during the proceeding month.

(3) The aggregate loan amount outstanding under this section.

(4) The aggregate value of assets held as collateral under this section.

(5) The amount of any defaults or delinquencies on loans made under this section.

(6) The identity of any borrower found by the Administrator to misuse funds made available under this section.

(7) Any other information the Administrator deems necessary to fully inform Congress of undue risk of financial loss to the United States in connection with loans made under this section.

(e) DURATION.—The authority of this section shall remain in effect for a period of 2 years after the date of enactment of this section.

(f) FUNDING.—Such sums as necessary are authorized to be appropriated to carry out the provisions of this section.

(g) BUDGET TREATMENT.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(h) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall promulgate regulations under this section within 15 days after the date of enactment of enactment of this section. In promulgating these regulations, the Administrator the notice requirements of section 553(b) of title 5 of the United States Code shall not apply.

SEC. 6203. ESTABLISHMENT OF SBA SECONDARY MARKET GUARANTEE AUTHORITY.

(a) PURPOSE.—The purpose of this section is to provide the Administrator with the authority to establish the SBA Secondary Market Guarantee Authority within the SBA to provide a Federal guarantee for pools of first lien 504 loans that are to be sold to third-party investors.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) The term ''first lien position 504 loan'' means the first mortgage position, non-federally guaranteed loans made by private sector lenders made under title V of the Small Business Investment Act.

(c) ESTABLISHMENT OF AUTHORITY.—

(1) ORGANIZATION.—

(A) The Administrator shall establish a Secondary Market Guarantee Authority within the Small Business Administration.

(B) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(C) The Administrator is authorized to hire such personnel as are necessary to operate the Authority and may contract such operations of the Authority as necessary to qualified third-party companies or individuals.

(D) The Administrator is authorized to contract with private sector fiduciary and custodial agents as necessary to operate the Authority.

(2) GUARANTEE PROCESS.—

(A) The Administrator shall establish, by rule, a process in which private sector entities may apply to the Administration for a Federal guarantee on pools of first lien position 504 loans that are to be sold to third-party investors.

(B) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(C) The Administrator is authorized to hire such personnel as are necessary to operate the Authority and may contract such operations of the Authority as necessary to qualified third-party companies or individuals.

(D) The Administrator is authorized to contract with private sector fiduciary and custodial agents as necessary to operate the Authority.

(3) RESPONSIBILITIES.—

(A) The Administrator shall establish, by rule, a process in which private sector entities may apply to the SBA for a Federal guarantee on pools of first lien position 504 loans that are to be sold to third-party investors.

(B) The rule under this section shall provide for a process for the Administrator to consider and make decisions regarding whether to extend a Federal guarantee referred to in clause (i). Such rule shall also provide that:

(i) The seller of the pools purchasing a guarantee under this section retains not less than 5 percent of the dollar amount of the pools to be sold to third-party investors.

(ii) The seller of such pools shall absorb any and all losses resulting from a shortage or excess of monthly cash flows.

(iii) The Administrator shall receive a monthly fee of not more than 50 basis points on the outstanding balance of the dollar amount of the pools that are guaranteed.

(iv) The Administrator may guarantee not more than $3,000,000,000 of pools under this authority.

(C) The Administrator shall establish documents, legal covenants, and other required documentation to protect the interests of the United States.

(D) The Administrator shall establish a process to receive and disburse funds to entities under the authority established in this section.

(d) LIMITATIONS.—

(1) The Administrator shall ensure that entities purchasing a guarantee under this section are using such guarantee for the purpose of selling 504 first lien position pools to third-party investors.

(2) If the Administrator finds that any such guarantee was used for a purpose other than that specified in paragraph (1), the Administrator shall—

(A) terminate such guarantee immediately,

(B) prohibit the purchaser of the guarantee or its affiliates (within the meaning of the

regulations under 13 CFR 121.103) from using the authority of this section in the future; and

(C) take any other actions the Administrator, in consultation with the Attorney General of the United States deems appropriate.

(e) OVERSIGHT.—The Administrator shall submit a report to Congress not later than the third business day of each month setting forth each of the following:

(1) The aggregate amount of guarantees extended under this section during the proceeding month.

(2) The aggregate amount of guarantees outstanding.

(3) Defaults and payments on defaults made under this section.

(4) The identity of each purchaser of a guarantee found by the Administrator to have misused guarantees under this section.

(5) Any other information the Administrator deems necessary to fully inform Congress of undue risk to the United States associated with the issuance of guarantees under this section.

(f) DURATION OF PROGRAM.—The authority of this section shall terminate on the date 2 years after the date of enactment of this section.

(g) FUNDING.—Such sums as necessary are authorized to be appropriated to carry out the provisions of this section.

(h) BUDGET TREATMENT.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(i) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall issue regulations under this section within 15 days after the date of enactment of this section. The notice requirements of section 553(b) of Title 5, United States Code shall not apply to the promulgation of such regulations.

SEC. 6204. ECONOMIC RECOVERY PROGRAM.

(a) PURPOSE.—The purpose of this section is to establish a new lending and refinancing authority within the Small Business Administration.

(b) DEFINITIONS.—For purposes of this section:

(1) The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) The term ''small business concern'' has the same meaning as provided by section 3 of the Small Business Act (15 U.S.C. 632).

(c) REFINANCING AUTHORITY.—

(1) IN GENERAL.—Upon application from a lender (and with consent of the borrower), the Administrator may refinance existing non-Small Business Administration or Small Business Administration loans (including loans under sections 7(a) and 504 of the Small Business Act) made to small business concerns.

(2) ELIGIBLE LOANS.—In order to be eligible for refinancing under this section—

(A) the amount of the loan refinanced may not exceed $10,000,000 and a first lien must be conveyed to the Administrator;

(B) the lender shall offer to accept from the Administrator as full repayment of the loan an amount equal to less than 100 percent but more than 85 percent of the remaining balance of the principal of the loan; and

(C) the loan to be refinanced was made before the date of enactment of this Act and for a purpose that would have been eligible for a loan under any Small Business Administration lending program.

(3) TERMS.—The term of the refinancing by the Administrator under this section shall not be less than remaining term on the loan that is refinanced but shall not exceed a term of 20 years. The rate of interest on the loan refinanced under this section shall be fixed by the Administrator at a level that the Administrator determines will result in manageable monthly payments for the borrower.

(4) LIMIT.—The Administrator may not refinance amounts under this section that are greater than the amount the lender agrees to accept from the Administrator as full repayment of the loan as provided in paragraph (2)(B).

(d) UNDERWRITING AND OTHER LOAN SERVICES.—

(1) IN GENERAL.—The Administrator is authorized to engage in underwriting, loan closing, funding, and servicing of loans made to small business concerns and to guarantee loans made by other entities to small business concerns.

(2) APPLICATION PROCESS.—The Administrator shall by rule establish a process in which small business concerns may submit applications to the Administrator for the purposes of securing a loan under this subsection. The Administrator shall, at a minimum, collect all information necessary to determine the creditworthiness and repayment ability of the borrower.

(3) PARTICIPATION OF LENDERS.—

(A) The Administrator shall by rule establish a process in which the Administrator makes available loan applications and all accompanying information to lenders for the purpose of such lenders originating, underwriting, closing, and servicing such loans.

(B) Lenders are eligible to receive loan applications and accompanying information under this paragraph if they participate in the programs established in section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act (15 U.S.C. 695).

(C) The Administrator shall first make available such loan applications and accompanying information to lenders within 100 miles of a loan applicant's principal office.

(D) If a lender described in subparagraph (C) does not agree to originate, underwrite, close, and service such loans within 5 business days of receiving the loan applications, the Administrator shall subsequently make available such loan applications and accompanying information to lenders in the Preferred Lenders Program under section 7(a)(2)(C)(ii) of the Small Business Act (15 U.S.C. 636).

(E) If a lender described in subparagraph (C) or (D) does not agree to originate, underwrite, close, and service such loans within 10 business days of receiving the loan applications, the Administrator may originate, underwrite, close, and service such loans as described in paragraph (1) of this subsection.

(4) ASSET SALES.—The Administrator shall offer to sell loans made or refinanced by the Administrator under this section. Such sales shall be made through semi-annual public solicitation (in the Federal Register and in other media) of offers to purchase. The Administrator may contract with vendors for due diligence, asset valuation, and other services related to such sales. The Administrator may not sell any loan under this section for less than 90 percent of the net present value of the loan, as determined and certified by a qualified third-party.

(5) LOANS NOT SOLD.—The Administrator shall maintain and service loans made by the Administrator under this section that are not sold through the asset sales under this section.

(e) DURATION.— The authority of this section shall terminate on the date two years after the date on which the program under this section becomes operational (as determined by the Administrator).

(f) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(g) QUALIFIED LOANS.—

(1) ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—A loan to any concern shall not be subject to this section if an individual who is an alien unlawfully present in the United States—

(A) has an ownership interest in that concern; or

(B) has an ownership interest in another concern that itself has an ownership interest in that concern.

(2) FIRMS IN VIOLATION OF IMMIGRATION LAWS.—No loan shall be subject to this section if the borrower is an entity found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

(h) REPORTS.—The Administrator shall submit a report to Congress semi-annually setting forth the aggregate amount of loans and geographic dispersion of such loans made, underwritten, closed, funded, serviced, sold, guaranteed, or held by the Administrator under the authority of this section. Such report shall also set forth information concerning loan defaults, prepayments, and recoveries related to loans made under the authority of this section.

(i) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6205. STIMULUS FOR COMMUNITY DEVELOPMENT LENDING.

(a) REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

''(7) PERMISSIBLE DEBT REFINANCING.—

''(A) IN GENERAL.—Any financing approved under this title may include a limited amount of debt refinancing.

''(B) EXPANSIONS.—If the project involves expansion of a small business concern which has existing indebtedness collateralized by fixed assets, any amount of existing indebtedness that does not exceed ½ of the project cost of the expansion may be refinanced and added to the expansion cost, if—

''(i) the proceeds of the indebtedness were used to acquire land, including a building situated thereon, to construct a building thereon, or to purchase equipment;

''(ii) the borrower has been current on all payments due on the existing debt for not less than 1 year preceding the date of refinancing; and

''(iii) the financing under section 504 will provide better terms or rate of interest than exists on the debt at the time of refinancing.''.

(b) JOB CREATION GOALS.—Section 501(e)(1) and section 501(e)(2) of the Small Business Investment Act (15 U.S.C. 695) are each amended by striking ''$50,000'' and inserting ''$65,000''.

SEC. 6206. INCREASING SMALL BUSINESS INVESTMENT.

(a) SIMPLIFIED MAXIMUM LEVERAGE LIMITS.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended—

(1) by striking so much of paragraph (2) as precedes subparagraphs (C) and (D) and inserting the following:

''(2) MAXIMUM LEVERAGE.—

''(A) IN GENERAL.—The maximum amount of outstanding leverage made available to any one company licensed under section 301(c) of this Act may not exceed the lesser of—

''(i) 300 percent of such company's private capital; or

''(ii) $150,000,000.

''(B) MULTIPLE LICENSES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to two or more companies licensed under section 301(c) of this Act that are commonly controlled (as determined by the Administrator) and not under capital impairment may not exceed $225,000,000.''; and

(2) by striking paragraph (4).

(b) SIMPLIFIED AGGREGATE INVESTMENT LIMITATIONS.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

''(a) PERCENTAGE LIMITATION ON PRIVATE CAPITAL.—If any small business investment company has obtained financing from the Administrator and such financing remains outstanding, the aggregate amount of securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not, without the approval of the Administrator, exceed 10 percent of the sum of—

''(1) the private capital of such company; and

''(2) the total amount of leverage projected by the company in the company's business plan that was approved by the Administrator at the time of the grant of the company's license.''.

SEC. 6207. GAO REPORT.

(a) REPORT.—Not later than 30 days after the enactment of this Act, the Comptroller General of the United States shall report to the Congress on the actions of the Administrator in implementing the authority established in sections 6201 through 6206 of this Act.

(b) INCLUDED ITEM.—The report under this section shall include a summary of the activity of the Administrator under this section and an analysis of whether he is accomplishing the purpose of increasing liquidity in the secondary market for Small Business Administration loans.

TITLE VII—HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $100,000,000, for non-intrusive detection technology to be deployed at sea ports of entry.

CONSTRUCTION

For an additional amount for ''Construction'', $150,000,000, to repair and construct inspection facilities at land border ports of entry.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for ''Aviation Security'', $500,000,000, for the purchase and installation of explosive detection systems and emerging checkpoint technologies: *Provided*, That the Assistant Secretary of Homeland Security (Transportation Security Administration) shall prioritize the award of these funds to accelerate the installations at locations with completed design plans and to expeditiously award new letters of intent.

COAST GUARD

ALTERATION OF BRIDGES

For an additional amount for ''Alteration of Bridges'', $150,000,000, for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516): *Provided*, That the Coast Guard shall award these funds to those bridges that are ready to proceed to construction.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER

For an additional amount for ''Emergency Food and Shelter'', $200,000,000, to carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.): *Provided*, That for the purposes of this appropriation, the redistribution required by section 1104(b) shall be carried out by the Federal Emergency Management Agency and the National Board, who may reallocate and obligate any funds that are unclaimed or returned to the program: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 3.5 percent instead of the percentage specified in such section.

GENERAL PROVISIONS, THIS TITLE

SEC. 7001. EXTENSION OF PROGRAMS.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

SEC. 7002. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2008, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including (but not limited to)—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 404, but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the basic pilot confirmation system established under such section;

(2) provide such funds quarterly in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Office of Inspector General of the Social Security Administration and the Department of Homeland Security.

(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2008, has not been reached as of October 1 of such fiscal year, the latest agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the basic pilot confirmation system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 7003. GAO STUDY OF BASIC PILOT CONFIRMATION SYSTEM.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study regarding erroneous tentative nonconfirmations under the basic pilot confirmation system established under section 404(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

(b) MATTERS TO BE STUDIED.—In the study required under subsection (a), the Comptroller General shall determine and analyze—

(1) the causes of erroneous tentative nonconfirmations under the basic pilot confirmation system;

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and Federal agencies.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit the results of the study required under subsection (a) to the Committee on Ways and Means and the Committee on the Judiciary of the House of Representatives and the Committee on Finance and the Committee on the Judiciary of the Senate.

SEC. 7004. GAO STUDY OF EFFECTS OF BASIC PILOT PROGRAM ON SMALL ENTITIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the Comptroller General's analysis of

the effects of the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) on small entities (as defined in section 601 of title 5, United States Code). The report shall detail—

(1) the costs of compliance with such program on small entities;

(2) a description and an estimate of the number of small entities enrolled and participating in such program or an explanation of why no such estimate is available;

(3) the projected reporting, recordkeeping and other compliance requirements of such program on small entities;

(4) factors that impact small entities' enrollment and participation in such program, including access to appropriate technology, geography, entity size, and class of entity; and

(5) the steps, if any, the Secretary of Homeland Security has taken to minimize the economic impact of participating in such program on small entities.

(b) DIRECT AND INDIRECT EFFECTS.—The report shall cover, and treat separately, direct effects (such as wages, time, and fees spent on compliance) and indirect effects (such as the effect on cash flow, sales, and competitiveness).

(c) SPECIFIC CONTENTS.—The report shall provide specific and separate details with respect to—

(1) small businesses (as defined in section 601 of title 5, United States Code) with fewer than 50 employees; and

(2) small entities operating in States that have mandated use of the basic pilot program.

SEC. 7005. WAIVER OF MATCHING REQUIREMENT UNDER SAFER PROGRAM.

Subparagraph (E) of section 34(a)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(a)(1)(E)) shall not apply with respect to funds appropriated in this or any other Act making appropriations for fiscal year 2009 or 2010 for grants under such section 34.

TITLE VIII—INTERIOR AND ENVIRONMENT

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Construction'', $325,000,000, for priority road, bridge, and trail repair or decommissioning, critical deferred maintenance projects, facilities construction and renovation, hazardous fuels reduction, and remediation of abandoned mine or well sites: *Provided*, That funds may be transferred to other appropriate accounts of the Bureau of Land management: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $300,000,000, for priority road and bridge repair and replacement, and critical deferred maintenance and improvement projects on National Wildlife Refuges, National Fish Hatcheries, and other Service properties: *Provided*, That funds may be transferred to ''Resource Management'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

NATIONAL PARK SERVICE

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $1,700,000,000, for projects to address critical deferred maintenance needs within the National Park System, including roads, bridges and trails, and for other critical infrastructure projects: *Provided*, That funds may be transferred to ''Operation of the National Park System'': *Provided further*, That $200,000,000 of these funds shall be for projects related to the preservation and repair of historical and cultural resources within the National Park System: *Provided further*, That $15,000,000 of these funds shall be transferred to the ''Historic Preservation Fund'' for historic preservation projects at historically black colleges and universities as authorized by the Historic Preservation Fund Act of 1996 and the Omnibus Parks and Public Lands Act of 1996, except that any matching requirements otherwise required for such projects are waived: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

CENTENNIAL CHALLENGE

To carry out provisions of section 814(g) of Public Law 104–333 relating to challenge cost share agreements, $100,000,000, for National Park Service Centennial Challenge signature projects and programs: *Provided*, That not less than 50 percent of the total cost of each project or program is derived from non-Federal sources in the form of donated cash, assets, in-kind services, or a pledge of donation guaranteed by an irrevocable letter of credit: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for ''Surveys, Investigations, and Research'', $200,000,000, for repair and restoration of facilities; equipment replacement and upgrades including stream gages, and seismic and volcano monitoring systems; national map activities; and other critical deferred maintenance and improvement projects: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $500,000,000, for priority repair and replacement of schools, detention centers, roads, bridges, employee housing, and critical deferred maintenance projects: *Provided*, That not less than $250,000,000 shall be used for new and replacement schools and detention centers: *Provided further*, That funds may be transferred to ''Operation of Indian Programs'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount for ''Hazardous Substance Superfund'', $800,000,000, which shall be used for the Superfund Remedial program: *Provided*, That amounts available by law from this appropriation for management and administration shall take the place of the set-aside under section 1106 of this Act.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for ''Leaking Underground Storage Tank Trust Fund Program'', to carry out leaking underground storage tank cleanup activities authorized by subtitle I of the Solid Waste Disposal Act, $200,000,000, which shall be used to carry out leaking underground storage tank cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act, except that such funds shall not be subject to the State matching requirements in section 9003(h)(7)(B): *Provided*, That amounts available by law from this appropriation for management and administration shall take the place of the set-aside under section 1106 of this Act.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', $8,400,000,000, which shall be used as follows:

(1) $6,000,000,000 shall be for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), except that such funds shall not be subject to the State matching requirements in paragraphs (2) and (3) of section 602(b) of such Act or to the Federal cost share limitations in section 202 of such Act: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 2 percent instead of the percentage specified in such section: *Provided further*, That, notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to a total of 1.5 percent of such funds may be reserved by the Administrator of the Environmental Protection Agency for grants under section 518(c) of such Act: *Provided further*, That the requirements of section 513 of such Act shall apply to the construction of treatment works carried out in whole or in part with assistance made available under this heading by a Clean Water State Revolving Fund under title VI of such Act, or with assistance made available under section 205(m) of such Act, or both: *Provided further*, That, notwithstanding the requirements of section 603(d) of such Act, each State shall use 50 percent of the amount of the capitalization grant received by the State under title VI of such Act to provide assistance, in the form of additional subsidization, including forgiveness of principal, negative interest loans, and grants, to municipalities (as defined in section 502 of such Act) for projects that are included on the State's priority list established under section 603(g) of such Act, of which 80 percent shall be for projects to benefit municipalities that meet affordability criteria as determined by the Governor of the State and 20 percent shall be for projects to address water-efficiency goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage environmentally sensitive project planning, design, and construction, to the extent that there are sufficient project applications eligible for such assistance.

(2) $2,000,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), except that such funds shall not be subject to

the State matching requirements of section 1452(e) of such Act: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 2 percent instead of the percentage specified in such section: *Provided further*, That section 1452(k) of the Safe Drinking Water Act shall not apply to such funds: *Provided further*, That the requirements of section 1450(e) of such Act (42 U.S.C. 300j–9(e)) shall apply to the construction carried out in whole or part with assistance made available under this heading by a Drinking Water State Revolving fund under section 1452 of such Act: *Provided further*, That, notwithstanding the requirements of section 1452(a)(2) of such Act, each State shall use 50 percent of the amount of the capitalization grant received by the State under section 1452 of such Act to provide assistance, in the form of additional subsidization, including forgiveness of principal, negative interest loans, and grants, to municipalities (as defined in section 1401 of such Act) for projects that are included on the State's priority list established under section 1452(b)(3) of such Act.

(3) $300,000,000 shall be for grants under title VII, Subtitle G of the Energy Policy Act of 2005: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 3 percent instead of the percentage specified in such section.

(4) $100,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 3 percent instead of the percentage specified in such section.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Capital Improvement and Maintenance'', $650,000,000, for reconstruction, capital improvement, decommissioning, and maintenance of forest roads, bridges and trails; alternative energy technologies, energy efficiency enhancements and deferred maintenance at Federal facilities; and for remediation of abandoned mine sites, removal of fish passage barriers, and other critical habitat, forest improvement and watershed enhancement projects on Federal lands and waters: *Provided*, That funds may be transferred to ''National Forest System'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $850,000,000, of which $300,000,000 is for hazardous fuels reduction, forest health, wood to energy grants and rehabilitation and restoration activities on Federal lands, and of which $550,000,000 is for State fire assistance hazardous fuels projects, volunteer fire assistance, cooperative forest health projects, city forest enhancements, and wood to energy grants on State and private lands: *Provided*, That amounts in this paragraph may be transferred to ''State and Private Forestry'' and ''National Forest System'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH FACILITIES

For an additional amount for ''Indian Health Facilities'', $550,000,000, for priority health care facilities construction projects and deferred maintenance, and the purchase of equipment and related services, including but not limited to health information technology: *Provided*, That notwithstanding any other provision of law, the amounts available under this paragraph shall be allocated at the discretion of the Director of the Indian Health Service: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Facilities Capital'', $150,000,000, for deferred maintenance projects, and for repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623): *Provided*, That funds may be transferred to ''Salaries and Expenses'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For an additional amount for ''Grants and Administration'', $50,000,000, to be distributed in direct grants to fund arts projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support during the current economic downturn: *Provided*, That 40 percent of such funds shall be distributed to State arts agencies and regional arts organizations in a manner similar to the agency's current practice and 60 percent of such funds shall be for competitively selected arts projects and activities according to sections 2 and 5(c) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951, 954(c)): *Provided further*, That matching requirements under section 5(e) of such Act shall be waived: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

TITLE IX—LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

Subtitle A—Labor

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (''WIA''), $4,000,000,000, which shall be available for obligation on the date of enactment of this Act, as follows:

(1) $500,000,000 for grants to the States for adult employment and training activities;

(2) $1,200,000,000 for grants to the States for youth activities, including summer jobs for youth: *Provided*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer jobs for youth provided with such funds: *Provided further*, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': *Provided further*, That no portion of the additional funds provided herein shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further*, That for purposes of section 127(b)(1)(C)(iv) of the WIA, such funds shall be allotted as if the total amount of funding available for youth activities in the fiscal year does not exceed $1,000,000,000;

(3) $1,000,000,000 for grants to the States for dislocated worker employment and training activities;

(4) $500,000,000 for the dislocated workers assistance national reserve to remain available for Federal obligation through June 30, 2010: *Provided*, That such funds shall be made available for grants only to eligible entities that serve areas of high unemployment or high poverty and only for the purposes described in subsection 173(a)(1) of the WIA: *Provided further*, That the Secretary of Labor shall ensure that applicants for such funds demonstrate how income support, child care, and other supportive services necessary for an individual's participation in job training will be provided;

(5) $50,000,000 for YouthBuild activities, which shall remain available for Federal obligation through June 30, 2010; and

(6) $750,000,000 for a program of competitive grants for worker training and placement in high growth and emerging industry sectors: *Provided*, That $500,000,000 shall be for research, labor exchange and job training projects that prepare workers for careers in the energy efficiency and renewable energy industries specified in section 171(e)(1)(B)(ii) of the WIA (as amended by the Green Jobs Act of 2007): *Provided further*, That in awarding grants from those funds not designated in the preceding proviso, the Secretary of Labor shall give priority to projects that prepare workers for careers in the health care sector: *Provided further*, That the provisions of section 1103 of this Act shall not apply to this appropriation:

Provided, That the additional funds provided to States under this heading are not subject to section 191(a) of the WIA: *Provided further*, That notwithstanding section 1106 of this Act, there shall be no amount set aside from the appropriations made in subsections (1) through (3) under this heading and the amount set aside for subsections (4) through (6) shall be up to 1 percent instead of the percentage specified in such section.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for ''Community Service Employment for Older Americans'' to carry out title V of the Older Americans Act of 1965, $120,000,000, which shall be available for obligation on the date of enactment of this Act: *Provided*, That funds shall be allotted within 30 days of such enactment to current grantees in proportion to their allotment in program year 2008.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States in accordance with section 6 of the Wagner-

Peyser Act, $500,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, and which shall be available for obligation on the date of enactment of this Act: *Provided*, That such funds shall remain available to the States through September 30, 2010: *Provided further*, That, with respect to such funds, section 6(b)(1) of such Act shall be applied by substituting ''one-third'' for ''two-thirds'' in subparagraph (A), with the remaining one-third of the sums to be allotted in accordance with section 132(b)(2)(B)(ii)(III) of the Workforce Investment Act of 1998: *Provided further*, That not less than $250,000,000 of the amount provided under this heading shall be used by States for reemployment services for unemployment insurance claimants (including the integrated Employment Service and Unemployment Insurance information technology required to identify and serve the needs of such claimants): *Provided further*, That the Secretary of Labor shall establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Departmental Management'', $80,000,000, for the enforcement of worker protection laws and regulations, oversight, and coordination activities related to the infrastructure and unemployment insurance investments in this Act: *Provided*, That the Secretary of Labor may transfer such sums as necessary to ''Employment and Standards Administration'', ''Occupational Safety and Health Administration'', and ''Employment and Training Administration—Program Administration'' for enforcement, oversight, and coordination activities: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

OFFICE OF JOB CORPS

For an additional amount for ''Office of Job Corps'', $300,000,000, for construction, rehabilitation and acquisition of Job Corps Centers, which shall be available upon the date of enactment of this Act and remain available for obligation through June 30, 2010: *Provided*, That section 1552(a) of title 31, United States Code shall not apply to up to 30 percent of such funds, if such funds are used for a multi-year lease agreement that will result in construction activities that can commence within 120 days of enactment of this Act: *Provided further*, That notwithstanding section 3324(a) of title 31, United States Code, the funds referred to in the preceding proviso may be used for advance, progress, and other payments: *Provided further*, That the Secretary of Labor may transfer up to 15 percent of such funds to meet the operational needs of such centers, which may include the provision of additional training for careers in the energy efficiency and renewable energy industries: *Provided further*, That priority should be given to activities that can commence promptly following enactment and to those projects that will create the greatest impact on the energy efficiency of Job Corps facilities: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than September 30, 2009 and quarterly thereafter as long as funding provided under this heading is available for obligation or expenditure.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9101. ELIGIBLE EMPLOYEES IN THE RECREATIONAL MARINE INDUSTRY.

Section 2(3)(F) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(F)) is amended—

(1) by striking '', repair, or dismantle''; and

(2) by striking the semicolon and inserting '', or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;''.

Subtitle B—Health and Human Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES

For an additional amount for ''Health Resources and Services'', $2,188,000,000 which shall be used as follows:

(1) $500,000,000, of which $250,000,000 shall not be available until October 1, 2009, shall be for grants to health centers authorized under section 330 of the Public Health Service Act (''PHS Act'');

(2) $1,000,000,000 shall be available for renovation and repair of health centers authorized under section 330 of the PHS Act and for the acquisition by such centers of health information technology systems: *Provided*, That the timeframe for the award of grants pursuant to section 1103(b) of this Act shall not be later than 180 days after the date of enactment of this Act instead of the timeframe specified in such section;

(3) $88,000,000 shall be for fit-out and other costs related to moving into a facility to be secured through a competitive lease procurement to replace or renovate a headquarters building for Public Health Service agencies and other components of the Department of Health and Human Services; and

(4) $600,000,000, of which $300,000,000 shall not be available until October 1, 2009, shall be for the training of nurses and primary care physicians and dentists as authorized under titles VII and VIII of the PHS Act, for the provision of health care personnel under the National Health Service Corps program authorized under title III of the PHS Act, and for the patient navigator program authorized under title III of the PHS Act.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'' for equipment, construction, and renovation of facilities, including necessary repairs and improvements to leased laboratories, $462,000,000: *Provided*, That notwithstanding any other provision of law, the Centers for Disease Control and Prevention may award a single contract or related contracts for development and construction of facilities that collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: *Provided further*, That in accordance with applicable authorities, policies, and procedures, the Centers for Disease Control and Prevention shall acquire real property, and make any necessary improvements thereon, to relocate and consolidate property and facilities of the National Institute for Occupational Safety and Health.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for ''National Center for Research Resources'', $1,500,000,000 for grants or contracts under section 481A of the Public Health Service Act to renovate or repair existing non-Federal research facilities: *Provided*, That sections 481A(c)(1)(B)(ii), paragraphs (1), (3), and (4) of section 481A(e), and section 481B of such Act shall not apply to the use of such funds: *Provided further*, That the references to ''20 years'' in subsections (c)(1)(B)(i) and (f) of section 481A of such Act are deemed to be references to ''10 years'' for purposes of using such funds: *Provided further*, That the National Center for Research Resources may also use such funds to provide, under the authority of section 301 and title IV of such Act, shared instrumentation and other capital research equipment to recipients of grants and contracts under section 481A of such Act and other appropriate entities: *Provided further*, That the Director of the Center shall provide to the Committees on Appropriations of the House of Representatives and the Senate an annual report indicating the number of institutions receiving awards of a grant or contract under section 481A of such Act, the proposed use of the funding, the average award size, a list of grant or contract recipients, and the amount of each award: *Provided further*, That the Center, in obligating such funds, shall require that each entity that applies for a grant or contract under section 481A for any project shall include in its application an assurance described in section 1621(b)(1)(I) of the Public Health Service Act: *Provided further*, That the Center shall give priority in the award of grants and contracts under section 481A of such Act to those applications that are expected to generate demonstrable energy-saving or beneficial environmental effects: *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this heading.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $1,500,000,000, of which $750,000,000 shall not be available until October 1, 2009: *Provided*, That such funds shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: *Provided further*, That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund): *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this heading.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $500,000,000, to fund high priority repair and improvement projects for National Institutes of Health facilities on the Bethesda, Maryland campus and other agency locations.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Healthcare Research and Quality'' to carry out titles III and IX of the Public Health Service Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $700,000,000 for comparative effectiveness research: *Provided*, That of the amount appropriated in this paragraph, $400,000,000 shall be transferred to the Office of the Director of the National Institutes of Health (''Office of the Director'') to conduct or support comparative effectiveness research: *Provided further*, That funds transferred to the Office of the Director may be transferred to the national research institutes and national centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this paragraph: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 1 percent instead of the percentage specified in such section.

In addition, $400,000,000 shall be available for comparative effectiveness research to be allocated at the discretion of the Secretary of Health and Human Services (''Secretary''): *Provided*, That the funding appropriated in this paragraph shall be used to accelerate the development and dissemination of research assessing the comparative effectiveness of health care treatments and strategies, including through efforts that: (1) conduct, support, or synthesize research that compares the clinical outcomes, effectiveness, and appropriateness of items, services, and procedures that are used to prevent, diagnose, or treat diseases, disorders, and other health conditions; and (2) encourage the development and use of clinical registries, clinical data networks, and other forms of electronic health data that can be used to generate or obtain outcomes data: *Provided further*, That the Secretary shall enter into a contract with the Institute of Medicine, for which no more than $1,500,000 shall be made available from funds provided in this paragraph, to produce and submit a report to the Congress and the Secretary by not later than June 30, 2009, that includes recommendations on the national priorities for comparative effectiveness research to be conducted or supported with the funds provided in this paragraph and that considers input from stakeholders: *Provided further*, That the Secretary shall consider any recommendations of the Federal Coordinating Council for Comparative Effectiveness Research established by section 9201 of this Act and any recommendations included in the Institute of Medicine report pursuant to the preceding proviso in designating activities to receive funds provided in this paragraph and may make grants and contracts with appropriate entities, which may include agencies within the Department of Health and Human Services and other governmental agencies, as well as private sector entities, that have demonstrated experience and capacity to achieve the goals of comparative effectiveness research: *Provided further*, That the Secretary shall publish information on grants and contracts awarded with the funds provided under this heading within a reasonable time of the obligation of funds for such grants and contracts and shall disseminate research findings from such grants and contracts to clinicians, patients, and the general public, as appropriate: *Provided further*, That, to the extent feasible, the Secretary shall ensure that the recipients of the funds provided by this paragraph offer an opportunity for public comment on the research: *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this paragraph: *Provided further*, That the Secretary shall provide the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate with an annual report on the research conducted or supported through the funds provided under this heading: *Provided further*, That the Secretary, jointly with the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated under this heading prior to making any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the type of research being conducted or supported, including the priority conditions addressed; and specify the allocation of resources within the Department of Health and Human Services: *Provided further*, That the Secretary jointly with the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

For an additional amount for ''Low-Income Home Energy Assistance'' for making payments under section 2602(b) and section 2602(d) of the Low-Income Home Energy Assistance Act of 1981, $1,000,000,000, which shall become available on October 1, 2009: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For an additional amount for ''Payments to States for the Child Care and Development Block Grant'', $2,000,000,000, of which $1,000,000,000 shall become available on October 1, 2009, which shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for ''Children and Families Services Programs'', $3,200,000,000, which shall be used as follows:

(1) $1,000,000,000 for carrying out activities under the Head Start Act, of which $500,000,000 shall become available on October 1, 2009;

(2) $1,100,000,000 for expansion of Early Head Start programs, as described in section 645A of the Head Start Act, of which $550,000,000 shall become available on October 1, 2009: *Provided*, That of the funds provided in this sentence, up to 10 percent shall be available for the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act: *Provided further*, That the preceding proviso shall apply to this appropriation in lieu of the provisions of section 1106 of this Act: *Provided further*, That the provisions of section 1103 of this Act shall not apply to this appropriation;

(3) $1,000,000,000 for carrying out activities under sections 674 through 679 of the Community Services Block Grant Act, of which $500,000,000 shall become available on October 1, 2009, and of which no part shall be subject to paragraphs (2) and (3) of section 674(b) of such Act: *Provided*, That notwithstanding section 675C(a)(1) of such Act, 100 percent of the funds made available to a State from this additional amount shall be distributed to eligible entities as defined in section 673(1) of such Act: *Provided further*, That for services furnished under such Act during fiscal years 2009 and 2010, States may apply the last sentence of section 673(2) of such Act by substituting ''200 percent'' for ''125 percent'': *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation; and

(4) $100,000,000 for carrying out activities under section 1110 of the Social Security Act, of which $50,000,000 shall become available on October 1, 2009: *Provided*, That the Secretary of Health and Human Services shall distribute such amount under the Compassion Capital Fund to eligible faith-based and community organizations: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for ''Aging Services Programs'' under section 311, and subparts 1 and 2 of part C, of title III of the Older Americans Act of 1965, $200,000,000, of which $100,000,000 shall become available on October 1, 2009: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

OFFICE OF THE SECRETARY

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the National Coordinator for Health Information Technology'' to carry out section 9202 of this Act, $2,000,000,000, to remain available until expended: *Provided*, That of such amount, the Secretary of Health and Human Services shall transfer $20,000,000 to the Director of the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care information enterprise integration through activities such as technical standards analysis and establishment of conformance testing infrastructure, so long as such activities are coordinated with the Office of the National Coordinator for Health Information Technology: *Provided further*, That the provisions of section 1103 of this Act shall not

apply to this appropriation: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 0.25 percent instead of the percentage specified in such section: *Provided further*, That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the fiscal year 2009 operating plan shall be provided not later than 90 days after enactment of this Act and that subsequent annual operating plans shall be provided not later than November 1 of each year: *Provided further*, That these operating plans shall describe how expenditures are aligned with the specific objectives, milestones, and metrics of the Federal Health Information Technology Strategic Plan, including any subsequent updates to the Plan; the allocation of resources within the Department of Health and Human Services and other Federal agencies; and the identification of programs and activities that are supported: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each major set of activities not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure: *Provided further*, That the Comptroller General of the United States shall review on an annual basis the expenditures from funds provided under this heading to determine if such funds are used in a manner consistent with the purpose and requirements under this heading.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Health and Social Services Emergency Fund'' to support advanced research and development pursuant to section 319L of the Public Health Service Act, $430,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation.

For an additional amount for ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools, $420,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation: *Provided further*, That products purchased with these funds may, at the discretion of the Secretary of Health and Human Services (''Secretary''), be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccine and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: *Provided further*, That funds appropriated in this paragraph may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposed specified in this sentence.

For an additional amount for ''Public Health and Social Services Emergency Fund'' to improve information technology security at the Department of Health and Human Services, $50,000,000: *Provided*, That the Secretary shall prepare and submit a report by not later than November 1, 2009, and by not later than 15 days after the end of each month thereafter, updating the status of actions taken and funds obligated in this and previous appropriations Acts for pandemic influenza preparedness and response activities, biomedical advanced research and development activities, Project BioShield, and Cyber Security.

PREVENTION AND WELLNESS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for a ''Prevention and Wellness Fund'' to be administered through the Department of Health and Human Services Office of the Secretary, $3,000,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation: *Provided further*, That of the amount appropriated under this heading not less than $2,350,000,000 shall be transferred to the Centers for Disease Control and Prevention as follows:

(1) not less than $954,000,000 shall be used as an additional amount to carry out the immunization program authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act (''section 317 immunization program''), of which $649,900,000 shall be available on October 1, 2009;

(2) not less than $296,000,000 shall be used as an additional amount to carry out Part A of title XIX of the Public Health Service Act, of which $148,000,000 shall be available on October 1, 2009;

(3) not less than $545,000,000 shall be used as an additional amount to carry out chronic disease, health promotion, and genomics programs, as jointly determined by the Secretary of Health and Human Services (''Secretary'') and the Director of the Centers for Disease Control and Prevention (''Director'');

(4) not less than $335,000,000 shall be used as an additional amount to carry out domestic HIV/AIDS, viral hepatitis, sexually-transmitted diseases, and tuberculosis prevention programs, as jointly determined by the Secretary and the Director;

(5) not less than $60,000,000 shall be used as an additional amount to carry out environmental health programs, as jointly determined by the Secretary and the Director;

(6) not less than $50,000,000 shall be used as an additional amount to carry out injury prevention and control programs, as jointly determined by the Secretary and the Director;

(7) not less than $30,000,000 shall be used as an additional amount for public health workforce development activities, as jointly determined by the Secretary and the Director;

(8) not less than $40,000,000 shall be used as an additional amount for the National Institute for Occupational Safety and Health to carry out research activities within the National Occupational Research Agenda; and

(9) not less than $40,000,000 shall be used as an additional amount for the National Center for Health Statistics:

Provided further, That of the amount appropriated under this heading not less than $150,000,000 shall be available for an additional amount to carry out activities to implement a national action plan to prevent healthcare-associated infections, as determined by the Secretary, of which not less $50,000,000 shall be provided to States to implement healthcare-associated infection reduction strategies: *Provided further*, That of the amount appropriated under this heading $500,000,000 shall be used to carry out evidence-based clinical and community-based prevention and wellness strategies and public health workforce development activities authorized by the Public Health Service Act, as determined by the Secretary, that deliver specific, measurable health outcomes that address chronic and infectious disease rates and health disparities, which shall include evidence-based interventions in obesity, diabetes, heart disease, cancer, tobacco cessation and smoking prevention, and oral health, and which may be used for the Healthy Communities program administered by the Centers for Disease Control and Prevention and other existing community-based programs administered by the Department of Health and Human Services: *Provided further*, That funds appropriated in the preceding proviso may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate: *Provided further*, That the Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out with funds provided under this heading in order to determine the quality and effectiveness of the programs: *Provided further*, That the Secretary shall, not later than 1 year after the date of enactment of this Act, submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report (1) summarizing the annual evaluations of programs from the preceding proviso; and (2) making recommendations concerning future spending on prevention and wellness activities, including any recommendations made by the United States Preventive Services Task Force in the area of clinical preventive services and the Task Force on Community Preventive Services in the area of community preventive services: *Provided further*, That the Secretary shall enter into a contract with the Institute of Medicine, for which no more than $1,500,000 shall be made available from funds provided in this paragraph, to produce and submit a report to the Congress and the Secretary by no later than 1 year after the date of enactment of this Act that includes recommendations on the national priorities for clinical and community-based prevention and wellness activities that will have a positive impact in preventing illness or reducing healthcare costs and that considers input from stakeholders: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided under this heading in fiscal year 2009 (excluding funds to carry out the section 317 immunization program), but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided under this heading in fiscal year 2010 (excluding funds to carry out the section 317 immunization program), but not later than November 1, 2009, that indicate the prevention priorities to be addressed; provide measurable goals for each prevention priority; detail the allocation of resources within the Department of Health and Human Services; and identify which programs or activities are supported, including descriptions of any new programs or activities: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual

obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009 and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9201. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS RESEARCH.

(a) ESTABLISHMENT.—There is hereby established a Federal Coordinating Council for Comparative Effectiveness Research (in this section referred to as the ''Council'').

(b) PURPOSE; DUTIES.—The Council shall—

(1) assist the offices and agencies of the Federal Government, including the Departments of Health and Human Services, Veterans Affairs, and Defense, and other Federal departments or agencies, to coordinate the conduct or support of comparative effectiveness and related health services research; and

(2) advise the President and Congress on—

(A) strategies with respect to the infrastructure needs of comparative effectiveness research within the Federal Government;

(B) appropriate organizational expenditures for comparative effectiveness research by relevant Federal departments and agencies; and

(C) opportunities to assure optimum coordination of comparative effectiveness and related health services research conducted or supported by relevant Federal departments and agencies, with the goal of reducing duplicative efforts and encouraging coordinated and complementary use of resources.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall be composed of not more than 15 members, all of whom are senior Federal officers or employees with responsibility for health-related programs, appointed by the President, acting through the Secretary of Health and Human Services (in this section referred to as the ''Secretary''). Members shall first be appointed to the Council not later than 30 days after the date of the enactment of this Act.

(2) MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include one senior officer or employee from each of the following agencies:

(i) The Agency for Healthcare Research and Quality.

(ii) The Centers for Medicare and Medicaid Services.

(iii) The National Institutes of Health.

(iv) The Office of the National Coordinator for Health Information Technology.

(v) The Food and Drug Administration.

(vi) The Veterans Health Administration within the Department of Veterans Affairs.

(vii) The office within the Department of Defense responsible for management of the Department of Defense Military Health Care System.

(B) QUALIFICATIONS.—At least half of the members of the Council shall be physicians or other experts with clinical expertise.

(3) CHAIRMAN; VICE CHAIRMAN.—The Secretary shall serve as Chairman of the Council and shall designate a member to serve as Vice Chairman.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than June 30, 2009, the Council shall submit to the President and the Congress a report containing information describing Federal activities on comparative effectiveness research and recommendations for additional investments in such research conducted or supported from funds made available for allotment by the Secretary for comparative effectiveness research in this Act.

(2) ANNUAL REPORT.—The Council shall submit to the President and Congress an annual report regarding its activities and recommendations concerning the infrastructure needs, appropriate organizational expenditures and opportunities for better coordination of comparative effectiveness research by relevant Federal departments and agencies.

(e) STAFFING; SUPPORT.—From funds made available for allotment by the Secretary for comparative effectiveness research in this Act, the Secretary shall make available not more than 1 percent to the Council for staff and administrative support.

SEC. 9202. INVESTMENT IN HEALTH INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the Strategic Plan developed by the Office of the National Coordinator for Health Information Technology. Such investment shall include investment in at least the following:

(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

(2) Integration of health information technology, including electronic medical records, into the initial and ongoing training of health professionals and others in the healthcare industry who would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information as determined by the Secretary.

(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic records, into a provider's delivery of care, including community health centers receiving assistance under section 330 of the Public Health Service Act and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Childrens Health Insurance Program).

(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

(5) Promotion of the interoperability of clinical data repositories or registries.

The Secretary shall implement paragraph (3) in coordination with State agencies administering the Medicaid program and the State Children's Health Insurance Program.

(b) LIMITATION.—None of the funds appropriated to carry out this section may be used to make significant investments in, or provide significant funds for, the acquisition of hardware or software or for the use of an electronic health or medical record, or significant components thereof, unless such investments or funds are for certified products that would permit the full and accurate electronic exchange and use of health information in a medical record, including standards for security, privacy, and quality improvement functions adopted by the Office of the National Coordinator for Health Information Technology.

(c) REPORT.—The Secretary shall annually report to the Committees on Energy and Commerce, on Ways and Means, on Science and Technology, and on Appropriations of the House of Representatives and the Committees on Finance, on Health, Education, Labor, and Pensions, and on Appropriations of the Senate on the uses of these funds and their impact on the infrastructure for the electronic exchange and use of health information.

Subtitle C—Education

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For an additional amount for ''Education for the Disadvantaged'' to carry out title I of the Elementary and Secondary Education Act of 1965 (''ESEA''), $13,000,000,000: *Provided*, That $5,500,000,000 shall be available for targeted grants under section 1125 of the ESEA, of which $2,750,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $2,750,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That $5,500,000,000 shall be available for education finance incentive grants under section 1125A of the ESEA, of which $2,750,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $2,750,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That $2,000,000,000 shall be for school improvement grants under section 1003(g) of the ESEA, of which $1,000,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $1,000,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

IMPACT AID

For an additional amount for ''Impact Aid'' to carry out section 8007 of title VIII of the Elementary and Secondary Education Act of 1965, $100,000,000, which shall remain available through September 30, 2010: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for ''School Improvement Programs'' to carry out subpart 1, part D of title II of the Elementary and Secondary Education Act of 1965 (''ESEA''), and subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, $1,066,000,000: *Provided*, That $1,000,000,000 shall be available for subpart 1, part D of title II of the ESEA, of which $500,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $500,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *Provided further*, That the provisions of section 1106 of this Act shall not apply to these funds: *Provided further*, That $66,000,000 shall be available for subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, of which $33,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $33,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011.

INNOVATION AND IMPROVEMENT

For an additional amount for ''Innovation and Improvement'' to carry out subpart 1,

part D and subpart 2, part B of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $225,000,000: *Provided*, That $200,000,000 shall be available for subpart 1, part D of title V of the ESEA: *Provided further*, That these funds shall be expended as directed in the fifth, sixth, and seventh provisos under the heading ''Innovation and Improvement'' in the Department of Education Appropriations Act, 2008: *Provided further*, That a portion of these funds shall also be used for a rigorous national evaluation by the Institute of Education Sciences, utilizing randomized controlled methodology to the extent feasible, that assesses the impact of performance-based teacher and principal compensation systems supported by the funds provided in this Act on teacher and principal recruitment and retention in high-need schools and subjects: *Provided further*, That $25,000,000 shall be available for subpart 2, part B of title V of the ESEA: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

SPECIAL EDUCATION

For an additional amount for ''Special Education'' for carrying out section 611 and part C of the Individuals with Disabilities Education Act (''IDEA''), $13,600,000,000: *Provided*, That $13,000,000,000 shall be available for section 611 of the IDEA, of which $6,000,000,000 shall become available on July 1, 2009, and remain available through September 30, 2010, and $7,000,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *Provided further*, That $600,000,000 shall be available for part C of the IDEA, of which $300,000,000 shall become available on July 1, 2009, and remain available through September 30, 2010, and $300,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *Provided further*, That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA from funds available for obligation on July 1, 2009, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further*, That by July 1, 2010, the Secretary shall reserve the amount needed for grants under section 643(e) of the IDEA from funds available for obligation on July 1, 2010, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further*, That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For an additional amount for ''Rehabilitation Services and Disability Research'' for providing grants to States to carry out the Vocational Rehabilitation Services program under part B of title I and parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act of 1973, $700,000,000: *Provided*, That $500,000,000 shall be available for part B of title I of the Rehabilitation Act, of which $250,000,000 shall become available on October 1, 2009: *Provided further*, That funds provided herein shall not be considered in determining the amount required to be appropriated under section 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal year: *Provided further*, That, notwithstanding section 7(14)(A), the Federal share of the costs of vocational rehabilitation services provided with the funds provided herein shall be 100 percent: *Provided further*, That the provisions of section 1106 of this Act shall not apply to these funds: *Provided further*, That $200,000,000 shall be available for parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act, of which $100,000,000 shall become available on October 1, 2009: *Provided further*, That $34,775,000 shall be for State Grants, $114,581,000 shall be for independent living centers, and $50,644,000 shall be for services for older blind individuals.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for ''Student Financial Assistance'' to carry out subpart 1 of part A and part C of title IV of the Higher Education Act of 1965 (''HEA''), $16,126,000,000, which shall remain available through September 30, 2011: *Provided*, That $15,636,000,000 shall be available for subpart 1of part A of title IV of the HEA: *Provided further*, That $490,000,000 shall be available for part C of title IV of the HEA, of which $245,000,000 shall become available on October 1, 2009: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

The maximum Pell Grant for which a student shall be eligible during award year 2009-2010 shall be $4,860.

STUDENT AID ADMINISTRATION

For an additional amount for ''Student Aid Administration'' to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D, and E of title IV of the Higher Education Act of 1965, $50,000,000, which shall remain available through September 30, 2011: *Provided*, That such amount shall also be available for an independent audit of programs and activities authorized under section 459A of such Act: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

HIGHER EDUCATION

For an additional amount for ''Higher Education'' to carry out part A of title II of the Higher Education Act of 1965, $100,000,000: *Provided*, That section 203(c)(1) of such Act shall not apply to awards made with these funds.

INSTITUTE OF EDUCATION SCIENCES

For an additional amount for Institute of Education Sciences to carry out section 208 of the Educational Technical Assistance Act, $250,000,000, which may be used for Statewide data systems that include postsecondary and workforce information, of which up to $5,000,000 may be used for State data coordinators and for awards to public or private organizations or agencies to improve data coordination: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

SCHOOL MODERNIZATION, RENOVATION, AND REPAIR

For carrying out section 9301 of this Act, $14,000,000,000: *Provided*, That amount available under section 9301 of this Act for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR

For carrying out section 9302 of this Act, $6,000,000,000: *Provided*, That amount available under section 9302 of this Act for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9301. 21ST CENTURY GREEN HIGH-PERFORMING PUBLIC SCHOOL FACILITIES.

(a) DEFINITIONS.—In this section:

(1) The term ''Bureau-funded school'' has the meaning given to such term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

(2) The term ''charter school'' has the meaning given such term in section 5210 of the Elementary and Secondary Education Act of 1965.

(3) The term ''local educational agency''—

(A) has the meaning given to that term in section 9101 of the Elementary and Secondary Education Act of 1965, and shall also include the Recovery School District of Louisiana and the New Orleans Public Schools; and

(B) includes any public charter school that constitutes a local educational agency under State law.

(4) The term ''outlying area''—

(A) means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(5) The term ''public school facilities'' includes charter schools.

(6) The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(7) The term ''LEED Green Building Rating System'' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(8) The term ''Energy Star'' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

(9) The term ''CHPS Criteria'' means the green building rating program developed by the Collaborative for High Performance Schools.

(10) The term ''Green Globes'' means the Green Building Initiative environmental design and rating system referred to as Green Globes.

(b) PURPOSE.—Grants under this section shall be for the purpose of modernizing, renovating, or repairing public school facilities, based on their need for such improvements, to be safe, healthy, high-performing, and up-to-date technologically.

(c) ALLOCATION OF FUNDS.—

(1) RESERVATIONS.—

(A) IN GENERAL.—From the amount appropriated to carry out this section, the Secretary of Education shall reserve 1 percent of such amount, consistent with the purpose described in subsection (b)—

(i) to provide assistance to the outlying areas; and

(ii) for payments to the Secretary of the Interior to provide assistance to Bureau-funded schools.

(B) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $6,000,000 of such amount for administration and oversight of this section.

(2) ALLOCATION TO STATES.—

(A) STATE-BY-STATE ALLOCATION.—Of the amount appropriated to carry out this section, and not reserved under paragraph (1),

each State shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2008 relative to the total amount received by all local educational agencies in every State under such part for such fiscal year.

(B) STATE ADMINISTRATION.—A State may reserve up to 1 percent of its allocation under subparagraph (A) to carry out its responsibilities under this section, including—

(i) providing technical assistance to local educational agencies;

(ii) developing, within 6 months of receiving its allocation under subparagraph (A), a plan to develop a database that includes an inventory of public school facilities in the State and the modernization, renovation, and repair needs of, energy use by, and the carbon footprint of such schools; and

(iii) developing a school energy efficiency quality plan.

(C) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—From the amount allocated to a State under subparagraph (A), each local educational agency in the State that meets the requirements of section 1112(a) of the Elementary and Secondary Education Act of 1965 shall receive an amount in proportion to the amount received by such local educational agency under part A of title I of that Act for fiscal year 2008 relative to the total amount received by all local educational agencies in the State under such part for such fiscal year, except that no local educational agency that received funds under part A of title I of that Act for such fiscal year shall receive a grant of less than $5,000.

(D) SPECIAL RULE.—Section 1122(c)(3) of the Elementary and Secondary Education Act of 1965 shall not apply to subparagraph (A) or (C).

(3) SPECIAL RULES.—

(A) DISTRIBUTIONS BY SECRETARY.—The Secretary of Education shall make and distribute the reservations and allocations described in paragraphs (1) and (2) not later than 30 days after the date of the enactment of this Act.

(B) DISTRIBUTIONS BY STATES.—A State shall make and distribute the allocations described in paragraph (2)(C) within 30 days of receiving such funds from the Secretary.

(d) USE IT OR LOSE IT REQUIREMENTS.—

(1) DEADLINE FOR BINDING COMMITMENTS.—Each local educational agency receiving funds under this section shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after such funds are awarded, if later) to make use of 50 percent of such funds, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after such funds are awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by a local educational agency (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the agency specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this subsection.

(2) REDISTRIBUTION OF UNCOMMITTED FUNDS.—A State shall recover or deobligate any funds not committed in accordance with paragraph (1), and redistribute such funds to other local educational agencies eligible under this section and able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

(e) ALLOWABLE USES OF FUNDS.—A local educational agency receiving a grant under this section shall use the grant for modernization, renovation, or repair of public school facilities, including—

(1) repairing, replacing, or installing roofs, including extensive, intensive or semi-intensive green roofs, electrical wiring, plumbing systems, sewage systems, lighting systems, or components of such systems, windows, or doors, including security doors;

(2) repairing, replacing, or installing heating, ventilation, air conditioning systems, or components of such systems (including insulation), including indoor air quality assessments;

(3) bringing public schools into compliance with fire, health, and safety codes, including professional installation of fire/life safety alarms, including modernizations, renovations, and repairs that ensure that schools are prepared for emergencies, such as improving building infrastructure to accommodate security measures;

(4) modifications necessary to make public school facilities accessible to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that such modifications shall not be the primary use of the grant;

(5) asbestos or polychlorinated biphenyls abatement or removal from public school facilities;

(6) implementation of measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls, abatement, or a combination of each;

(7) implementation of measures designed to reduce or eliminate human exposure to mold or mildew;

(8) upgrading or installing educational technology infrastructure to ensure that students have access to up-to-date educational technology;

(9) technology activities that are carried out in connection with school repair and renovation, including—

(A) wiring;

(B) acquiring hardware and software;

(C) acquiring connectivity linkages and resources; and

(D) acquiring microwave, fiber optics, cable, and satellite transmission equipment;

(10) modernization, renovation, or repair of science and engineering laboratory facilities, libraries, and career and technical education facilities, including those related to energy efficiency and renewable energy, and improvements to building infrastructure to accommodate bicycle and pedestrian access;

(11) renewable energy generation and heating systems, including solar, photovoltaic, wind, geothermal, or biomass, including wood pellet, systems or components of such systems;

(12) other modernization, renovation, or repair of public school facilities to—

(A) improve teachers' ability to teach and students' ability to learn;

(B) ensure the health and safety of students and staff;

(C) make them more energy efficient; or

(D) reduce class size; and

(13) required environmental remediation related to public school modernization, renovation, or repair described in paragraphs (1) through (12).

(f) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(1) payment of maintenance costs; or

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(g) SUPPLEMENT, NOT SUPPLANT.—A local educational agency receiving a grant under this section shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available for modernization, renovation, or repair of public school facilities.

(h) PROHIBITION REGARDING STATE AID.—A State shall not take into consideration payments under this section in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(i) SPECIAL RULE ON CONTRACTING.—Each local educational agency receiving a grant under this section shall ensure that, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, and women- and veteran-owned businesses, through full and open competition.

(j) SPECIAL RULE ON USE OF IRON AND STEEL PRODUCED IN THE UNITED STATES.—

(1) IN GENERAL.—A local educational agency shall not obligate or expend funds received under this section for a project for the modernization, renovation, or repair of a public school facility unless all of the iron and steel used in such project is produced in the United States.

(2) EXCEPTIONS.—The provisions of paragraph (1) shall not apply in any case in which the local educational agency finds that—

(A) their application would be inconsistent with the public interest;

(B) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) inclusion of iron and steel produced in the United States will increase the cost of the overall project contract by more than 25 percent.

(k) APPLICATION OF GEPA.—The grant program under this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b).

(l) CHARTER SCHOOLS.—A local educational agency receiving an allocation under this section shall use an equitable portion of that allocation for allowable activities benefitting charter schools within its jurisdiction, as determined based on the percentage of students from low-income families in the schools of the agency who are enrolled in charter schools and on the needs of those schools as determined by the agency.

(m) GREEN SCHOOLS.—

(1) IN GENERAL.—A local educational agency shall use not less than 25 percent of the funds received under this section for public school modernization, renovation, or repairs that are certified, verified, or consistent with any applicable provisions of—

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

(E) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(2) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of Energy

and the Administrator of the Environmental Protection Agency, shall provide outreach and technical assistance to States and school districts concerning the best practices in school modernization, renovation, and repair, including those related to student academic achievement and student and staff health, energy efficiency, and environmental protection.

(n) YOUTHBUILD PROGRAMS.—The Secretary of Education, in consultation with the Secretary of Labor, shall work with recipients of funds under this section to promote appropriate opportunities for participants in a YouthBuild program (as defined in section 173A of the Workforce Investment Act of 1998 (29 U.S.C. 2918a)) to gain employment experience on modernization, renovation, and repair projects funded under this section.

(o) REPORTING.—

(1) REPORTS BY LOCAL EDUCATIONAL AGENCIES.—Local educational agencies receiving a grant under this section shall compile, and submit to the State educational agency (which shall compile and submit such reports to the Secretary), a report describing the projects for which such funds were used, including—

(A) the number of public schools in the agency, including the number of charter schools;

(B) the total amount of funds received by the local educational agency under this section and the amount of such funds expended, including the amount expended for modernization, renovation, and repair of charter schools;

(C) the number of public schools in the agency with a metro-centric locale code of 41, 42, or 43 as determined by the National Center for Education Statistics and the percentage of funds received by the agency under this section that were used for projects at such schools;

(D) the number of public schools in the agency that are eligible for schoolwide programs under section 1114 of the Elementary and Secondary Education Act of 1965 and the percentage of funds received by the agency under this section that were used for projects at such schools;

(E) the cost of each project, which, if any, of the standards described in subsection (k)(1) the project met, and any demonstrable or expected academic, energy, or environmental benefits as a result of the project;

(F) if flooring was installed, whether—

(i) it was low- or no-VOC (Volatile Organic Compounds) flooring;

(ii) it was made from sustainable materials; and

(iii) use of flooring described in clause (i) or (ii) was cost effective; and

(G) the total number and amount of contracts awarded, and the number and amount of contracts awarded to local, small, minority-owned, women-owned, and veteran-owned businesses.

(2) REPORTS BY SECRETARY.—Not later than December 31, 2011, the Secretary of Education shall submit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate a report on grants made under this section, including the information described in paragraph (1), the types of modernization, renovation, and repair funded, and the number of students impacted, including the number of students counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.

SEC. 9302. HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR.

(a) PURPOSE.—Grants awarded under this section shall be for the purpose of modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction, research, or student housing.

(b) GRANTS TO STATE HIGHER EDUCATION AGENCIES.—

(1) FORMULA.—From the amounts appropriated to carry out this section, the Secretary of Education shall allocate funds to State higher education agencies based on the number of students attending institutions of higher education, with the State higher education agency in each State receiving an amount that is in proportion to the number of full-time equivalent undergraduate students attending institutions of higher education in such State for the most recent fiscal year for which there are data available, relative to the total number of full-time equivalent undergraduate students attending institutions of higher education in all States for such fiscal year.

(2) APPLICATION.—To be eligible to receive an allocation from the Secretary under paragraph (1), a State higher education agency shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(3) REALLOCATION.—Amounts allocated to a State higher education agency under this section that are not obligated by such agency within 6 months of the date the agency receives such amounts shall be returned to the Secretary, and the Secretary shall reallocate such amounts to State higher education agencies in other States on the same basis as the original allocations under paragraph (1)(B).

(4) ADMINISTRATION AND OVERSIGHT EXPENSES.—From the amounts appropriated to carry out this section, not more than $6,000,000 shall be available to the Secretary for administrative and oversight expenses related to carrying out this section.

(c) USE OF GRANTS BY STATE HIGHER EDUCATION AGENCIES.—

(1) SUBGRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), each State higher education agency receiving an allocation under subsection (b)(1) shall use the amount allocated to award subgrants to institutions of higher education within the State to carry out projects in accordance with subsection (d)(1).

(B) SUBGRANT AWARD ALLOCATION.—A State higher education agency shall award subgrants to institutions of higher education under this section based on the demonstrated need of each institution for facility modernization, renovation, and repair.

(C) PRIORITY CONSIDERATIONS.—In awarding subgrants under this section, each State higher education agency shall give priority consideration to institutions of higher education with any of the following characteristics:

(i) The institution is eligible for Federal assistance under title III or title V of the Higher Education Act of 1965.

(ii) The institution was impacted by a major disaster or emergency declared by the President (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), including an institution affected by a Gulf hurricane disaster, as such term is defined in section 824(g)(1) of the Higher Education Act of 1965 (20 U.S.C. 11611–3(g)(1)).

(iii) The institution demonstrates that the proposed project or projects to be carried out with a subgrant under this section will increase the energy efficiency of the institution's facilities and comply with the LEED Green Building Rating System.

(2) ADMINISTRATIVE AND OVERSIGHT EXPENSES.—Of the allocation amount received under subsection (b)(1), a State higher education agency may reserve not more than 5 percent of such amount, or $500,000, whichever is less, for administrative and oversight expenses related to carrying out this section.

(d) USE OF SUBGRANTS BY INSTITUTIONS OF HIGHER EDUCATION.—

(1) PERMISSIBLE USES OF FUNDS.—An institution of higher education receiving a subgrant under this section shall use such subgrant to modernize, renovate, or repair facilities of the institution that are primarily used for instruction, research, or student housing, which may include any of the following:

(A) Repair, replacement, or installation of roofs, electrical wiring, plumbing systems, sewage systems, or lighting systems.

(B) Repair, replacement, or installation of heating, ventilation, or air conditioning systems (including insulation).

(C) Compliance with fire and safety codes, including—

(i) professional installation of fire or life safety alarms; and

(ii) modernizations, renovations, and repairs that ensure that the institution's facilities are prepared for emergencies, such as improving building infrastructure to accommodate security measures.

(D) Retrofitting necessary to increase the energy efficiency of the institution's facilities.

(E) Renovations to the institution's facilities necessary to comply with accessibility requirements in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(F) Abatement or removal of asbestos from the institution's facilities.

(G) Modernization, renovation, and repair relating to improving science and engineering laboratories, libraries, and instructional facilities.

(H) Upgrading or installation of educational technology infrastructure.

(I) Installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet), or geothermal systems, or components of such systems.

(J) Other modernization, renovation, or repair projects that are primarily for instruction, research, or student housing.

(2) GREEN SCHOOL REQUIREMENT.—An institution of higher education receiving a subgrant under this section shall use not less than 25 percent of such subgrant to carry out projects for modernization, renovation, or repair that are certified, verified, or consistent with the applicable provisions of—

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

(E) an equivalent program adopted by the State or the State higher education agency.

(3) PROHIBITED USES OF FUNDS.—No funds awarded under this section may be used for—

(A) the maintenance of systems, equipment, or facilities, including maintenance associated with any permissible uses of funds described in paragraph (1);

(B) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other

events for which admission is charged to the general public;

(C) modernization, renovation, or repair of facilities—

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or

(ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission; or

(D) construction of new facilities.

(4) USE IT OR LOSE IT REQUIREMENTS.—

(A) DEADLINE FOR BINDING COMMITMENTS.—Each institution of higher education receiving a subgrant under this section shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after the subgrant is awarded, if later) to make use of 50 percent of the funds awarded, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the subgrant is awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by an institution of higher education receiving such a subgrant (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the institution specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this section.

(B) REDISTRIBUTION OF UNCOMMITTED FUNDS.—A State higher education agency shall recover or deobligate any subgrant funds not committed in accordance with subparagraph (A), and redistribute such funds to other institutions of higher education that are—

(i) eligible for subgrants under this section; and

(ii) able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

(e) APPLICATION OF GEPA.—The grant program authorized in this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b). The Secretary shall, notwithstanding section 437 of such Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, establish such program rules as may be necessary to implement such grant program by notice in the Federal Register.

(f) REPORTING.—

(1) REPORTS BY INSTITUTIONS.—Not later than September 30, 2011, each institution of higher education receiving a subgrant under this section shall submit to the State higher education agency awarding such subgrant a report describing the projects for which such subgrant was received, including—

(A) a description of each project carried out, or planned to be carried out, with such subgrant, including the types of modernization, renovation, and repair to be completed by each such project;

(B) the total amount of funds received by the institution under this section and the amount of such funds expended, as of the date of the report, on the such projects;

(C) the actual or planned cost of each such project and any demonstrable or expected academic, energy, or environmental benefits resulting from such project; and

(D) the total number of contracts, and amount of funding for such contracts, awarded by the institution to carry out such projects, as of the date of such report, including the number of contracts, and amount of funding for such contracts, awarded to local, small, minority-owned, women-owned, and veteran-owned businesses, as such terms are defined by the Small Business Act.

(2) REPORTS BY STATES.—Not later than December 31, 2011, each State higher education agency receiving a grant under this section shall submit to the Secretary a report containing a compilation of all of the reports under paragraph (1) submitted to the agency by institutions of higher education.

(3) REPORTS BY THE SECRETARY.—Not later than March 31, 2012, the Secretary shall submit to the Committee on Education and Labor in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate and Committees on Appropriations of the House of Representatives and the Senate a report on grants and subgrants made under this section, including the information described in paragraph (1).

(g) DEFINITIONS.—In this section:

(1) CHPS CRITERIA.—The term ''CHPS Criteria'' means the green building rating program developed by the Collaborative for High Performance Schools.

(2) ENERGY STAR.—The term ''Energy Star'' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

(3) GREEN GLOBES.—The term ''Green Globes'' means the Green Building Initiative environmental design and rating system referred to as Green Globes.

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965.

(5) LEED GREEN BUILDING RATING SYSTEM.—The term ''LEED Green Building Rating System'' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(7) STATE.—The term ''State'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(8) STATE HIGHER EDUCATION AGENCY.—The term ''State higher education agency'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

SEC. 9303. MANDATORY PELL GRANTS.

Section 401(b)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(9)(A)) is amended—

(1) in clause (ii), by striking ''$2,090,000,000'' and inserting ''$2,733,000,000''; and

(2) in clause (iii), by striking ''$3,030,000,000'' and inserting ''$3,861,000,000''.

SEC. 9304. INCREASE STUDENT LOAN LIMITS.

(a) AMENDMENTS.—Section 428H(d) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''$2,000'' and inserting ''$4,000''; and

(B) in subparagraph (B), by striking ''$31,000'' and inserting ''$39,000''; and

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i)(I) and clause (iii)(I), by striking ''$6,000'' each place it appears and inserting ''$8,000''; and

(ii) in clause (ii)(I) and clause (iii)(II), by striking ''$7,000'' each place it appears and inserting ''$9,000''; and

(B) in subparagraph (B), by striking ''$57,500'' and inserting ''$65,500''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans first disbursed on or after January 1, 2009.

SEC. 9305. STUDENT LENDER SPECIAL ALLOWANCE.

(a) TEMPORARY CALCULATION RULE.—Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end the following new clause:

''(vii) TEMPORARY CALCULATION RULE DURING UNSTABLE COMMERCIAL PAPER MARKETS.—

''(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on October 1, 2008, and ending on December 31, 2008, in computing the special allowance paid pursuant to this subsection with respect to loans for which the first disbursement is made on or after January 1, 2000, clause (i)(I) of this subparagraph shall be applied by substituting 'the rate that is the average rate of the 3-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association, minus 0.13 percent,' for 'the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period'.

''(II) PARTICIPATION INTERESTS.—Notwithstanding subclause (I) of this clause, the special allowance paid on any loan held by a lender that has sold participation interests in such loan to the Secretary shall be the rate computed under this subparagraph without regard to subclause (I) of this clause, unless the lender agrees that the participant's yield with respect to such participation interest is to be calculated in accordance with subclause (I) of this clause.''.

(b) CONFORMING AMENDMENTS.—Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is further amended—

(1) in clause (i)(II), by striking ''such average bond equivalent rate'' and inserting ''the rate determined under subclause (I)''; and

(2) in clause (v)(III), by striking ''(iv), and (vi)'' and inserting ''(iv), (vi), and (vii)''.

Subtitle D—Related Agencies

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'' to carry out the Domestic Volunteer Service Act of 1973 and the National and Community Service Act of 1990 (''1990 Act''), $160,000,000, which shall be used to expand existing AmeriCorps grants: *Provided*, That funds made available under this heading may be used to provide adjustments to awards made prior to September 30, 2010 in order to waive the match requirement authorized in section 121(e)(4) of part I of subtitle C of the 1990 Act, if the Chief Executive Officer of the Corporation for National and Community Service (''CEO'') determines that the grantee has reduced capacity to meet this requirement: *Provided further*, That in addition to requirements identified herein, funds provided under this heading shall be subject to the terms and conditions under which funds are appropriated in fiscal year 2009: *Provided further*, That the CEO shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated under this heading prior to making

any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the allocation of resources and the increased number of volunteers supported by the AmeriCorps programs: *Provided further*, That the CEO shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''National Service Trust'' established under subtitle D of title I of the National and Community Service Act of 1990 (''1990 Act''), $40,000,000, which shall remain available until expended: *Provided*, That the Corporation for National and Community Service may transfer additional funds from the amount provided within ''Operating Expenses'' for grants made under subtitle C of the 1990 Act to this appropriation upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the amount appropriated for or transferred to the National Service Trust may be invested under section 145(b) of the 1990 Act without regard to the requirement to apportion funds under 31 U.S.C. 1513(b).

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Limitation on Administrative Expenses'', $900,000,000, which shall be used as follows:

(1) $400,000,000 for the construction and associated costs to establish a new National Computer Center, which may include lease or purchase of real property: *Provided*, That the construction plan and site selection for such center shall be subject to review and approval by the Office of Management and Budget: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified 15 days in advance of the lease or purchase of such site: *Provided further*, That such center shall continue to be a government-operated facility; and

(2) $500,000,000 for processing disability and retirement workloads: *Provided*, That up to $40,000,000 may be used by the Commissioner of Social Security for health information technology research and activities to facilitate the adoption of electronic medical records in disability claims, including the transfer of funds to ''Supplemental Security Income Program'' to carry out activities under section 1110 of the Social Security Act.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $920,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $600,000,000 shall be for training and recruit troop housing, $220,000,000 shall be for permanent party troop housing, and $100,000,000 shall be for child development centers: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $350,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $170,000,000 shall be for sailor and marine housing and $180,000,000 shall be for child development centers: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $280,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $200,000,000 shall be for airmen housing and $80,000,000 shall be for child development centers: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $3,750,000,000, for the construction of hospitals and ambulatory surgery centers: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for ''Military Construction, Army National Guard'', $140,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for ''Military Construction, Air National Guard'', $70,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for ''Military Construction, Army Reserve'', $100,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, NAVY RESERVE

For an additional amount for ''Military Construction, Navy Reserve'', $30,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For an additional amount for ''Military Construction, Air Force Reserve'', $60,000,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For an additional amount to be deposited into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $300,000,000: *Provided*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL FACILITIES

For an additional amount for ''Medical Facilities'' for non-recurring maintenance, including energy projects, $950,000,000: *Provided*, That not later than 30 days after the

date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for ''National Cemetery Administration'' for monument and memorial repairs, $50,000,000: *Provided*, That not later than 30 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

TITLE XI—DEPARTMENT OF STATE

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $276,000,000, of which up to $120,000,000 shall be available for the design and construction of a backup information management facility in the United States to support mission-critical operations and projects, and up to $98,527,000 shall be available to carry out the Department of State's responsibilities under the Comprehensive National Cybersecurity Initiative: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'' for the water quantity program to meet immediate repair and rehabilitation requirements, $224,000,000: *Provided*, That up to $2,000,000 may be transferred to, and merged with, funds available under the heading ''International Boundary and Water Commission, United States and Mexico—Salaries and Expenses'', and such amount shall be in lieu of amounts available under section 1106 of this Act: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

TITLE XII—TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

For an additional amount for ''Grants-in-Aid for Airports'', to enable the Secretary of Transportation to make grants for discretionary projects as authorized by subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, $3,000,000,000: *Provided*, That such funds shall not be subject to apportionment formulas, special apportionment categories, or minimum percentages under chapter 471: *Provided further*, That the conditions, certifications, and assurances required for grants under subchapter I of chapter 471 of such title apply: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into contracts or other binding commitments to make use of not less than 50 percent of the funds awarded shall be 120 days after award of the grant.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE INVESTMENT

For projects and activities eligible under section 133 of title 23, United States Code, section 144 of such title (without regard to subsection (g)), and sections 103, 119, 134, 148, and 149 of such title, $30,000,000,000, of which $300,000,000 shall be for Indian reservation roads under section 204 of such title; $250,000,000 shall be for park roads and parkways under section 204 of such title; $20,000,000 shall be for highway surface transportation and technology training under section 140(b) of such title; and $20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 0.2 percent of the funds made available under this heading instead of the percentage specified in such section: *Provided further*, That, after making the set-asides authorized by the previous provisos, the funds made available under this heading shall be distributed among the States, and Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161, but, in the case of the Puerto Rico Highway Program and the Territorial Highway Program, under section 120(a)(5) of such division: *Provided further*, That 45 percent of the funds distributed to a State under this heading shall be suballocated within the State in the manner and for the purposes described in section 133(d) of title 23, United States Code, (without regard to the comparison to fiscal year 2005 in paragraph (2)): *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts within 120 days of enactment of this Act, are included in an approved Statewide Transportation Improvement Program (STIP) and/or Metropolitan Transportation Improvement Program (TIP), are projected for completion within a three-year time frame, and are located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161): *Provided further*, That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for Indian reservation roads and park roads and parkways which shall be administered in accordance with chapter 2 of title 23, United States Code: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall, at the option of the recipient, be up to 100 percent of the total cost thereof: *Provided further*, That funds made available by this Act shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, if less than 50 percent of the funds made available to each State and territory under this heading are obligated within 180 days after the date of distribution of those funds to the States and territories, then the portion of the 50 percent of the total funding distributed to the State or territory that has not been obligated shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States and territories that have obligated at least 50 percent of the funds made available under this heading and are able to obligate amounts in addition to those previously distributed, except that, for those funds suballocated within the State, if less than 50 percent of the funds so suballocated within the State are obligated within 150 days of suballocation, then the portion of the 50 percent of funding so suballocated that has not been obligated will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, any funds made available under this heading that are not obligated by August 1, 2010, shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States able to obligate amounts in addition to those previously distributed, except that funds suballocated within the State that are not obligated by June 1, 2010, will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That notwithstanding section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act.

FEDERAL RAILROAD ADMINISTRATION

CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE

For an additional amount for ''Capital Assistance for Intercity Passenger Rail Service'' to enable the Secretary of Transportation to make grants for capital costs as authorized by chapter 244 of title 49 United States Code, $300,000,000: *Provided*, That notwithstanding section 1103 of this Act, the Secretary shall give preference to projects for the repair, rehabilitation, upgrade, or purchase of railroad assets or infrastructure that can be awarded within 180 days of enactment of this Act: *Provided further*, That in awarding grants for the acquisition of a piece of rolling stock or locomotive, the Secretary shall give preference to FRA-compliant rolling stock and locomotives: *Provided further*, That the Secretary shall give preference to projects that support the development of intercity high speed rail service: *Provided further*, That the Federal share shall be, at the option of the recipient, up to 100 percent.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for ''Capital and Debt Service Grants to the National Railroad Passenger Corporation'' (Amtrak) to enable the Secretary of Transportation to make capital grants to Amtrak as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432), $800,000,000: *Provided*, That priority shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure: *Provided further*, That none of the funds under this heading shall be used to subsidize the operating losses of Amtrak: *Provided further*, Notwithstanding section 1103 of this Act, funds made available under this heading shall be awarded not later than 7 days after the date of enactment of this Act.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

For transit capital assistance grants, $6,000,000,000, of which $5,400,000,000 shall be for grants under section 5307 of title 49, United States Code and shall be apportioned in accordance with section 5336 of such title (other than subsections (i)(1) and (j)) but may not be combined or commingled with any other funds apportioned under such section 5336, and of which $600,000,000 shall be for grants under section 5311 of such title and shall be apportioned in accordance with such section 5311 but may not be combined or commingled with any other funds apportioned under that section: *Provided*, That of the funds provided for section 5311 under this heading, 3 percent shall be made available for section 5311(c)(1): *Provided further*, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 180 days after apportionment: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That notwithstanding any other provision of law, of the funds apportioned in accordance with section 5336, up to three-quarters of 1 percent shall be available for administrative expenses and program management oversight and of the funds apportioned in accordance with section 5311, up to one-half of 1 percent shall be available for administrative expenses and program management oversight and both amounts shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, $2,000,000,000: *Provided*, That the Secretary of Transportation shall apportion funds under this heading pursuant to the formula set forth in section 5337 of title 49, United States Code: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account: *Provided further*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 180 days after apportionment: *Provided further*, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'', as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $1,000,000,000: *Provided*, That such amount shall be allocated without regard to the limitation under section 5309(m)(2)(A)(i): *Provided further*, That in selecting projects to be funded, priority shall be given to projects that are currently in construction or are able to award contracts based on bids within 120 days of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into contracts or other binding commitments to make use of not less than 50 percent of the funds awarded shall be 120 days after award: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That applicable chapter 53 requirements shall apply, except that notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

PUBLIC HOUSING CAPITAL FUND

For an additional amount for ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (''the Act''), $5,000,000,000: *Provided*, That the Secretary of Housing and Urban Development shall distribute at least $4,000,000,000 of this amount by the same formula used for amounts made available in fiscal year 2008: *Provided further*, That public housing authorities shall give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the public housing authorities: *Provided further*, That public housing agencies shall give priority consideration to the rehabilitation of vacant rental units: *Provided further*, That notwithstanding any other provision of the Act or regulations, (1) funding provided herein may not be used for Operating Fund activities pursuant to section 9(g) of the Act, and (2) any restriction of funding to replacement housing uses shall be inapplicable: *Provided further*, That public housing agencies shall prioritize capital projects underway or already in their 5-year plans: *Provided further*, That of the amount provided under this heading, the Secretary may obligate up to $1,000,000,000, for competitive grants to public housing authorities for activities including: (1) investments that leverage private sector funding or financing for housing renovations and energy conservation retrofit investments; (2) rehabilitation of units using sustainable materials and methods that improve energy efficiency, reduce energy costs, or preserve and improve units with good access to public transportation or employment centers; (3) increase the availability of affordable rental housing by expediting rehabilitation projects to bring vacant units into use or by filling the capital investment gap for redevelopment or replacement housing projects which have been approved or are otherwise ready to proceed but are stalled due to the inability to obtain anticipated private capital; or (4) address the needs of seniors and persons with disabilities through improvements to housing and related facilities which attract or promote the coordinated delivery of supportive services: *Provided further*, That the Secretary may waive statutory or regulatory provisions related to the obligation and expenditure of capital funds if necessary to facilitate the timely expenditure of funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment).

ELDERLY, DISABLED, AND SECTION 8 ASSISTED HOUSING ENERGY RETROFIT

For grants or loans to owners of properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 17012), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), or section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), to accomplish energy retrofit investments, $2,500,000,000: *Provided*, That such loans or grants shall be provided through the Office of Affordable Housing Preservation of the Department of Housing and Urban Development, on such terms and conditions as the Secretary of Housing and Urban Development deems appropriate: *Provided further*, That eligible owners must have at least a satisfactory management review rating, be in substantial compliance with applicable performance standards and legal requirements, and commit to an additional period of affordability determined by the Secretary: *Provided further*, That the Secretary shall undertake appropriate underwriting and oversight with respect to such transactions: *Provided further*, That the Secretary may set aside funds made available under this heading for an efficiency incentive payable upon satisfactory completion of energy retrofit investments, and may provide additional incentives if such investments resulted in extraordinary job creation for low-income and very low-income persons: *Provided further*, that of the funds provided under this heading, 1 percent shall be available only for staffing, training, technical assistance, technology, monitoring, research and evaluation activities.

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for ''Native American Housing Block Grants'', as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (''NAHASDA'') (25 U.S.C. 4111 et seq.), $500,000,000: *Provided*, That $250,000,000 of the amount appropriated under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date that funds are available to the recipients: *Provided further*, That in allocating the funds appropriated under this heading, the Secretary of Housing and Urban Development shall not require an additional action plan from grantees: *Provided further*, That the Secretary may obligate $250,000,000 of the

amount appropriated under this heading for competitive grants to eligible entities that apply for funds as authorized under NAHASDA: *Provided further*, That in awarding competitive funds, the Secretary shall give priority to projects that will spur construction and rehabilitation and will create employment opportunities for low-income and unemployed persons.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for ''Community Development Fund'' $1,000,000,000, to carry out the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): *Provided*, That the amount appropriated in this paragraph shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That in allocating the funds appropriated in this paragraph, the Secretary of Housing and Urban Development shall not require an additional action plan from grantees: *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients; *Provided further*, That in administering funds provided in this paragraph, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute.

For a further additional amount for ''Community Development Fund'', $4,190,000,000, to be used for neighborhood stabilization activities related to emergency assistance for the redevelopment of abandoned and foreclosed homes as authorized under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), of which—

(1) not less than $3,440,000,000 shall be allocated by a competition for which eligible entities shall be States, units of general local government, and nonprofit entities or consortia of nonprofit entities: *Provided*, That the award criteria for such competition shall include grantee capacity, leveraging potential, targeted impact of foreclosure prevention, and any additional factors determined by the Secretary of Housing and Urban Development: *Provided further*, that the Secretary may establish a minimum grant size: *Provided further*, That amounts made available under this Section may be used to (A) establish financing mechanisms for purchase and redevelopment of foreclosed-upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers; (B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell or rent such homes and properties; (C) establish and operate land banks for homes that have been foreclosed upon; (D) demolish foreclosed properties that have become blighted structures; and (E) redevelop demolished or vacant foreclosed properties in order to sell or rent such properties; and

(2) up to $750,000,000 shall be awarded by competition to nonprofit entities or consortia of nonprofit entities to provide community stabilization assistance by (A) accelerating state and local government and nonprofit productivity; (B) increasing the scale and efficiency of property transfers of foreclosed and vacant residential properties from financial institutions and government entities to qualified local housing providers in order to return the properties to productive affordable housing use; (C) building industry and property management capacity; and (D) partnering with private sector real estate developers and contractors and leveraging private sector capital: *Provided further*, That such community stabilization assistance shall be provided primarily in States and areas with high rates of defaults and foreclosures to support the acquisition, rehabilitation and property management of single-family and multi-family homes and to work in partnership with the private sector real estate industry and to leverage available private and public funds for those purposes: *Provided further*, That for purposes of this paragraph qualified local housing providers shall be nonprofit organizations with demonstrated capabilities in real estate development or acquisition and rehabilitation or property management of single- or multi-family homes, or local or state governments or instrumentalities of such governments: *Provided further*, That qualified local housing providers shall be expected to utilize and leverage additional local nonprofit, governmental, for-profit and private resources: *Provided further*, That in the case of any foreclosure on any dwelling or residential real property acquired with any amounts made available under this heading, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—(1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: *Provided further*, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property: *Provided further*, That the recipient of any grant or loan from amounts made available under this heading may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: *Provided further*, That in the case of any qualified foreclosed housing for which funds made available under this heading are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of acquisition or financing, the owner and any successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: *Provided further*, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: *Provided further*, That this paragraph shall not preempt any State or local law that provides more protection for tenants: *Provided further*, That amounts made available under this heading may be used for the costs of demolishing foreclosed housing that is deteriorated or unsafe: *Provided further*, That the amount for demolition of such housing may not exceed 10 percent of amounts allocated under this paragraph to States and units of general local government: *Provided further*, That no amounts from a grant made under this paragraph may be used to demolish any public housing (as such term is defined in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a)): *Provided further*, That section 2301(d)(4) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is repealed.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for ''HOME Investment Partnerships Program'' as authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act (''the Act''), $1,500,000,000: *Provided*, That the amount appropriated under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That the Secretary of Housing and Urban Development may waive statutory or regulatory provisions related to the obligation of such funds if necessary to facilitate the timely expenditure of funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment): *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date that funds are available to the recipients.

SELF-HELP AND ASSISTED HOMEOWNERSHIP OPPORTUNITY PROGRAM

For an additional amount for ''Self-Help and Assisted Homeownership Opportunity Program'', as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, $10,000,000: *Provided*, That in awarding competitive grant funds, the Secretary of Housing and Urban Development shall give priority to the provision and rehabilitation of sustainable, affordable single and multifamily units in low-income, high-need rural areas: *Provided further*, That in selecting projects to be funded, grantees shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the grantee.

HOMELESS ASSISTANCE GRANTS

For an additional amount for ''Homeless Assistance Grants'', for the emergency shelter grants program as authorized under subtitle B of tile IV of the McKinney-Vento Homeless Assistance Act, $1,500,000,000: *Provided*, That in addition to homeless prevention activities specified in the emergency shelter grant program, funds provided under this heading may be used for the provision of short-term or medium-term rental assistance; housing relocation and stabilization

services including housing search, mediation or outreach to property owners, legal services, credit repair, resolution of security or utility deposits, utility payments, rental assistance for a final month at a location, and moving costs assistance; or other appropriate homelessness prevention activities; *Provided further*, That these funds shall be allocated pursuant to the formula authorized by section 413 of such Act: *Provided further*, That the Secretary of Housing and Urban Development may waive statutory or regulatory provisions related to the obligation and use of emergency shelter grant funds necessary to facilitate the timely expenditure of funds.

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

For an additional amount for ''Lead Hazard Reduction'', for the Lead Hazard Reduction Program as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $100,000,000: *Provided*, That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(e) of the Multifamily Housing Property Disposition Reform Act of 1994: *Provided further*, That of the total amount made available under this heading, $30,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs.

GENERAL PROVISIONS, THIS TITLE

SEC. 12001. MAINTENANCE OF EFFORT AND REPORTING REQUIREMENTS TO ENSURE TRANSPARENCY AND ACCOUNTABILITY.

(a) MAINTENANCE OF EFFORT.—Not later than 30 days after the date of enactment of this Act, for each amount that is distributed to a State or agency thereof from an appropriation in this Act for a covered program, the Governor of the State shall certify that the State will maintain its effort with regard to State funding for the types of projects that are funded by the appropriation. As part of this certification, the Governor shall submit to the covered agency a statement identifying the amount of funds the State planned to expend as of the date of enactment of this Act from non-Federal sources in the period beginning on the date of enactment of this Act through September 30, 2010, for the types of projects that are funded by the appropriation.

(b) PERIODIC REPORTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each grant recipient shall submit to the covered agency from which they received funding periodic reports on the use of the funds appropriated in this Act for covered programs. Such reports shall be collected and compiled by the covered agency and transmitted to Congress.

(2) CONTENTS OF REPORTS.—For amounts received under each covered program by a grant recipient under this Act, the grant recipient shall include in the periodic reports information tracking—

(A) the amount of Federal funds appropriated, allocated, obligated, and outlayed under the appropriation;

(B) the number of projects that have been put out to bid under the appropriation and the amount of Federal funds associated with such projects;

(C) the number of projects for which contracts have been awarded under the appropriation and the amount of Federal funds associated with such contracts;

(D) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts;

(E) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts;

(F) the number of jobs created or sustained by the Federal funds provided for projects under the appropriation, including information on job sectors and pay levels; and

(G) for each covered program report information tracking the actual aggregate expenditures by each grant recipient from non-Federal sources for projects eligible for funding under the program during the period beginning on the date of enactment of this Act through September 30, 2010, as compared to the level of such expenditures that were planned to occur during such period as of the date of enactment of this Act.

(3) TIMING OF REPORTS.—Each grant recipient shall submit the first of the periodic reports required under this subsection not later than 30 days after the date of enactment of this Act and shall submit updated reports not later than 60 days, 120 days, 180 days, 1 year, and 3 years after such date of enactment.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED AGENCY.—The term ''covered agency'' means the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Federal Transit Administration of the Department of Transportation.

(2) COVERED PROGRAM.—The term ''covered program'' means funds appropriated in this Act for ''Grants-in-Aid for Airports'' to the Federal Aviation Administration; for ''Highway Infrastructure Investment'' to the Federal Highway Administration; for ''Capital Assistance for Intercity Passenger Rail Service'' to the Federal Railroad Administration; for ''Transit Capital Assistance'', ''Fixed Guideway Infrastructure Investment'', and ''Capital Investment Grants'' to the Federal Transit Administration.

(3) GRANT RECIPIENT.—The term ''grant recipient'' means a State or other recipient of assistance provided under a covered program in this Act. Such term does not include a Federal department or agency.

SEC. 12002. FHA LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), notwithstanding any other provision of law, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

SEC. 12003. GSE CONFORMING LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2009, if the limitation on the maximum original principal obligation of a mortgage that may purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)), respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during 2009, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

SEC. 12004. FHA REVERSE MORTGAGE LOAN LIMITS FOR 2009.

For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 171520(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150

percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

TITLE XIII—STATE FISCAL STABILIZATION FUND

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $79,000,000,000, which shall be administered by the Department of Education, of which $39,500,000,000 shall become available on July 1, 2009 and remain available through September 30, 2010, and $39,500,000,000 shall become available on July 1, 2010 and remain available through September 30, 2011: *Provided*, That the provisions of section 1103 of this Act shall not apply to the funds reserved under section 13001(c) of this title: *Provided further*, That the amount made available under section 13001(b) of this title for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

GENERAL PROVISIONS, THIS TITLE

SEC. 13001. ALLOCATIONS.

(a) OUTLYING AREAS.—From each year's appropriation to carry out this title, the Secretary of Education shall first allocate one half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $12,500,000 each year for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $7,500,000,000 each year for grants under sections 13006 and 13007.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not obligate within one year of receiving a grant, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 13002. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—For each fiscal year, the Governor shall use at least 61 percent of the State's allocation under section 13001 for the support of elementary, secondary, and postsecondary education.

(2) RESTORING 2008 STATE SUPPORT FOR EDUCATION.—

(A) IN GENERAL.—The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the fiscal year 2008 level; and

(ii) to provide the amount of funds to public institutions of higher education in the State that is needed to restore State support for postsecondary education to the fiscal year 2008 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to restore State support for education to the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(3) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.—After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) OTHER GOVERNMENT SERVICES.—For each fiscal year, the Governor may use up to 39 percent of the State's allocation under section 1301 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

SEC. 13003. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (''ESEA''), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (''IDEA''), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (''the Perkins Act'').

(b) PROHIBITION.—A local educational agency may not use funds received under this title for capital projects unless authorized by ESEA, IDEA, or the Perkins Act.

SEC. 13004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—An institution of higher education may not use funds received under this title for construction, renovation, or facility repair.

SEC. 13005. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 13001 shall submit an annual application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) FIRST YEAR APPLICATION.—In the first of such applications, the Governor shall—

(1) include the assurances described in subsection (e);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation.

(c) SECOND YEAR APPLICATION.—In the second year application, the Governor shall—

(1) include the assurances described in subsection (e); and

(2) describe how the State intends to use its allocation.

(d) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 13006 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (e), and the strategies the State is employing to help ensure that high-need students in the State continue making progress towards meeting the State's student academic achievement standards;

(3) describe how the State would use its grant funding, including how it will allocate the funds to give priority to high-need schools and local educational agencies; and

(4) include a plan for evaluating its progress in closing achievement gaps.

(e) ASSURANCES.—An application under subsection (b) or (c) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for public institutions of higher education (not including support for capital projects or for research and development) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take actions to comply with section 1111(b)(8)(C) of ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

(3) IMPROVING COLLECTION AND USE OF DATA.—The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) ASSESSMENTS.—The State—

(A) will enhance the quality of academic assessments described in section 1111(b)(3) of ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a)); and

(B) will comply with the requirements of paragraphs 3(C)(ix) and (6) of section 1111(b) of ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments.

SEC. 13006. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—From the total amount reserved under section 13001(c) that is not used for section 13007, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), and (4) of section 13005(e).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 13005 and such other criteria as the Secretary determines appropriate.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant

under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 13007. INNOVATION FUND.

(a) IN GENERAL.—

(1) PROGRAM ESTABLISHED.—From the total amount reserved under section 13001(c), the Secretary may reserve up to $325,000,000 each year to establish an Innovation Fund, which shall consist of academic achievement awards that recognize States, local educational agencies, or schools that meet the requirements described in subsection (b).

(2) BASIS FOR AWARDS.—The Secretary shall make awards to States, local educational agencies, or schools that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such States, local educational agencies, and schools to expand their work and serve as models for best practices;

(B) to allow such States, local educational agencies, and schools to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, a State, local educational agency, or school shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

SEC. 13008. STATE REPORTS.

For each year of the program under this title, a State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this title within the State;

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this title;

(5) the State's progress in reducing inequities in the distribution of teachers, in implementing a State student longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases; and

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance.

SEC. 13009. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 13006 and 13007 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 13010. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 13008.

SEC. 13011. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.

SEC. 13012. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(4) any other term used in this title that is defined in section 9101 of ESEA (20 U.S.C. 7801) shall have the meaning given the term in that section.

DIVISION B—OTHER PROVISIONS

TITLE I—TAX PROVISIONS

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the ''American Recovery and Reinvestment Tax Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Making Work Pay

SEC. 1001. MAKING WORK PAY CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

"SEC. 36A. MAKING WORK PAY CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

''(1) 6.2 percent of earned income of the taxpayer, or

''(2) $500 ($1,000 in the case of a joint return).

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by 2 percent of so much of the taxpayer's modified adjusted gross income as exceeds $75,000 ($150,000 in the case of a joint return).

''(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

''(A) any nonresident alien individual,

''(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

''(C) an estate or trust.

Such term shall not include any individual unless the requirements of section 32(c)(1)(E) are met with respect to such individual.

''(2) EARNED INCOME.—The term 'earned income' has the meaning given such term by section 32(c)(2), except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

''(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2010.''.

(b) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under section 36A of the Internal Revenue Code of 1986 (as added by this section) to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this section).

(c) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting ''36A,'' after ''36,''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''36A,'' after ''36,''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36 the following new item:

''Sec. 36A. Making work pay credit.''.

(e) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Additional Tax Relief for Families With Children

SEC. 1101. INCREASE IN EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN.—In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

''(B) REDUCTION OF MARRIAGE PENALTY.—

''(i) IN GENERAL.—The dollar amount in effect under paragraph (2)(B) shall be $5,000.

''(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in 2010, the $5,000 amount in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(iii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1102. INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 24(d) is amended to read as follows:

''(4) SPECIAL RULE FOR 2009 AND 2010.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be zero.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle C—American Opportunity Tax Credit

SEC. 1201. AMERICAN OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) INCREASE IN CREDIT.—The Hope Scholarship Credit shall be an amount equal to the sum of—

''(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $2,000, plus

''(B) 25 percent of such expenses so paid as exceeds $2,000 but does not exceed $4,000.

''(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION.—Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'.

''(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS.—Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

''(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT.—In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

''(ii) $80,000 ($160,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

''(6) PORTION OF CREDIT MADE REFUNDABLE.—40 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

''(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS.—In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by inserting ''25A(i),'' after ''23,''.

(2) Section 25(e)(1)(C)(ii) is amended by inserting ''25A(i),'' after ''24,''.

(3) Section 26(a)(1) is amended by inserting ''25A(i),'' after ''24,''.

(4) Section 25B(g)(2) is amended by inserting ''25A(i),'' after ''23,''.

(5) Section 904(i) is amended by inserting ''25A(i),'' after ''24,''.

(6) Section 1400C(d)(2) is amended by inserting ''25A(i),'' after ''24,''.

(7) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''25A,'' before ''35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

(e) TREASURY STUDIES REGARDING EDUCATION INCENTIVES.—

(1) STUDY REGARDING COORDINATION WITH NON-TAX EDUCATIONAL INCENTIVES.—The Secretary of the Treasury, or the Secretary's delegate, shall study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965.

(2) STUDY REGARDING IMPOSITION OF COMMUNITY SERVICE REQUIREMENTS.—The Secretary of the Treasury, or the Secretary's delegate, shall study the feasibility of requiring students to perform community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

Subtitle D—Housing Incentives

SEC. 1301. WAIVER OF REQUIREMENT TO REPAY FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before July 1, 2009—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(b) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after December 31, 2008.

SEC. 1302. COORDINATION OF LOW-INCOME HOUSING CREDIT AND LOW-INCOME HOUSING GRANTS.

Subsection (i) of section 42 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) COORDINATION WITH LOW-INCOME HOUSING GRANTS.—

''(A) REDUCTION IN STATE HOUSING CREDIT CEILING FOR LOW-INCOME HOUSING GRANTS RECEIVED IN 2009.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2009 shall each be reduced by so much of such amount as is taken into account in determining the amount of any grant to such State under section 1711 of the American Recovery and Reinvestment Tax Act of 2009.

''(B) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any grant described in subparagraph (A).''.

Subtitle E—Tax Incentives for Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 1401. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 1402. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 1411. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) such net operating loss shall be reduced by 10 percent of such loss (determined without regard to this subparagraph),

''(II) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(III) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(IV) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph—

''(i) such loss from operations shall be reduced by 10 percent of such loss (determined without regard to this paragraph), and

''(ii) paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 1412. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART 3—INCENTIVES FOR NEW JOBS

SEC. 1421. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

''(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) UNEMPLOYED VETERAN.—The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

''(I) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

''(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

''(ii) DISCONNECTED YOUTH.—The term 'disconnected youth' means any individual who is certified by the designated local agency—

''(I) as having attained age 16 but not age 25 on the hiring date,

''(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

''(III) as not regularly employed during such 6-month period, and

''(IV) as not readily employable by reason of lacking a sufficient number of basic skills.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART 4—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

SEC. 1431. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

(2) Internal Revenue Service Notice 2008–83 is inconsistent with the congressional intent in enacting such section 382(m).

(3) The legal authority to prescribe Internal Revenue Service Notice 2008–83 is doubtful.

(4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008–83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation on built-in losses following an ownership change of a bank.

(b) DETERMINATION OF FORCE AND EFFECT OF INTERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING BANKS FROM LIMITATION ON CERTAIN BUILT–IN LOSSES FOLLOWING OWNERSHIP CHANGE.—

(1) IN GENERAL.—Internal Revenue Service Notice 2008–83—

(A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and

(B) shall have no force or effect with respect to any ownership change after such date.

(2) BINDING CONTRACTS.—Notwithstanding paragraph (1), Internal Revenue Service Notice 2008–83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009 if such change—

(A) is pursuant to a written binding contract entered into on or before such date, or

(B) is pursuant to a written agreement entered into on or before such date and such agreement was described on or before such date in a public announcement or in a filing

with the Securities and Exchange Commission required by reason of such ownership change.

Subtitle F—Fiscal Relief for State and Local Governments

PART 1—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

''(A) IN GENERAL.—In applying paragraph (2)(A), there shall not be taken into account tax-exempt obligations issued during 2009 or 2010.

''(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

''(C) REFUNDINGS.—For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: ''That portion of any obligation not taken into account under paragraph (2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010.—

''(i) INCREASE IN LIMITATION.—In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '$30,000,000' for '$10,000,000'.

''(ii) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

''(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS.—In the case of a qualified financing issue issued during 2009 or 2010—

''(I) subparagraph (F) shall not apply, and

''(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue issued by the qualified borrower with respect to which such portion relates).

''(iv) QUALIFIED FINANCING ISSUE.—For purposes of this subparagraph, the term 'qualified financing issue' means any composite, pooled, or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to one or more ultimate borrowers each of whom is a qualified borrower.

''(v) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

''(vi) QUALIFIED BORROWER.—For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

''(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED AFTER 2008.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

PART 2—TAX CREDIT BONDS FOR SCHOOLS

SEC. 1511. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

''(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

''(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

''(1) $11,000,000,000 for 2009,

''(2) $11,000,000,000 for 2010, and

''(3) except as provided in subsection (f), zero after 2010.

''(d) 60 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

''(1) IN GENERAL.—60 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

''(2) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

''(i) the amount allocated to such State under this subsection for such year, and

''(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's adjusted minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

''(B) ADJUSTED MINIMUM PERCENTAGE.—A State's adjusted minimum percentage for any calendar year is the product of—

''(i) the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year, multiplied by

''(ii) 1.68.

''(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

''(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2009, and $200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

''(e) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

''(1) IN GENERAL.—40 percent of the limitation applicable under subsection (c) for any

calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year.

''(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

''(3) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the preceding sentence may be allocated as provided in subsection (d)(1).

''(4) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

''(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

''(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

''(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(1) the amount allocated under subsection (d) to any State, exceeds

''(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4) or (e).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended by striking ''or'' at the end of subparagraph (C), by inserting ''or'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) a qualified school construction bond,''.

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54F. Qualified school construction bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1512. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Section 54E(c)(1) is amended by striking ''and 2009'' and inserting ''and $1,400,000,000 for 2009 and 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART 3—TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS

SEC. 1521. TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 is amended by adding at the end the following new subpart:

''Subpart J—Taxable Bond Option for Governmental Bonds

''Sec. 54AA. Taxable bond option for governmental bonds.

''SEC. 54AA. TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS.

''(a) IN GENERAL.—If a taxpayer holds a taxable governmental bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—The amount of the credit determined under this subsection with respect to any interest payment date for a taxable governmental bond is 35 percent of the amount of interest payable by the issuer with respect to such date.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

''(d) TAXABLE GOVERNMENTAL BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'taxable governmental bond' means any obligation (other than a private activity bond) if—

''(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103, and

''(B) the issuer makes an irrevocable election to have this section apply.

''(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

''(A) a taxable governmental bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6432,

''(B) the yield on a taxable governmental bond shall be determined without regard to the credit allowed under subsection (a), and

''(C) a bond shall not be treated as a taxable governmental bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

''(e) INTEREST PAYMENT DATE.—For purposes of this section, the term 'interest payment date' means any date on which the holder of record of the taxable governmental bond is entitled to a payment of interest under such bond.

''(f) SPECIAL RULES.—

''(1) INTEREST ON TAXABLE GOVERNMENTAL BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—For purposes of this title, interest on any taxable governmental bond shall be includible in gross income.

''(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).

''(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED BEFORE 2011.—In the case of a qualified bond issued before January 1, 2011—

''(1) ISSUER ALLOWED REFUNDABLE CREDIT.—In lieu of any credit allowed under this section with respect to such bond, the issuer of such bond shall be allowed a credit as provided in section 6432.

''(2) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' means any taxable governmental bond issued as part of an issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for capital expenditures, and

''(B) the issuer makes an irrevocable election to have this subsection apply.

''(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6432.''.

(b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE 2011.—Subchapter B of chapter 65, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 6432. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

''(a) IN GENERAL.—In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

''(b) PAYMENT OF CREDIT.—The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

''(c) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

''(d) INTEREST PAYMENT DATE.—For purposes of this subsection, the term 'interest payment date' means each date on which interest is payable by the issuer under the terms of the bond.

''(e) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' has the meaning given such term in section 54AA(h).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or 6428'' and inserting ''6428, or 6432,''.

(2) Section 54A(c)(1)(B) is amended by striking ''subpart C'' and inserting ''subparts C and J''.

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking ''and I'' and inserting '', I, and J''.

(4) Section 6401(b)(1) is amended by striking ''and I'' and inserting ''I, and J''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart J. Taxable bond option for governmental bonds.''.

(6) The table of sections for subchapter B of chapter 65, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 6432. Credit for qualified bonds allowed to issuer on advance basis.''.

(d) TRANSITIONAL COORDINATION WITH STATE LAW.—Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any taxable governmental bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART 4—RECOVERY ZONE BONDS

SEC. 1531. RECOVERY ZONE BONDS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

''PART III—RECOVERY ZONE BONDS

''Sec. 1400U–1. Allocation of recovery zone bonds.

''Sec. 1400U–2. Recovery zone economic development bonds.

''Sec. 1400U–3. Recovery zone facility bonds.

''SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.

''(a) ALLOCATIONS.—

''(1) IN GENERAL.—The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States in the proportion that each such State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

''(2) 2008 STATE EMPLOYMENT DECLINE.—For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of—

''(A) the number of individuals employed in such State determined for December 2007, over

''(B) the number of individuals employed in such State determined for December 2008.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion the each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State.

''(B) LARGE MUNICIPALITIES.—For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

''(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES.—For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—There is a national recovery zone economic development bond limitation of $10,000,000,000.

''(B) RECOVERY ZONE FACILITY BONDS.—There is a national recovery zone facility bond limitation of $15,000,000,000.

''(b) RECOVERY ZONE.—For purposes of this part, the term 'recovery zone' means—

''(1) any area designated by the issuer as having significant poverty, unemployment, home foreclosures, or general distress, and

''(2) any area for which a designation as an empowerment zone or renewal community is in effect.

''SEC. 1400U–2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

''(a) IN GENERAL.—In the case of a recovery zone economic development bond—

''(1) such bond shall be treated as a qualified bond for purposes of section 6432, and

''(2) subsection (b) of such section shall be applied by substituting '55 percent' for '35 percent'.

''(b) RECOVERY ZONE ECONOMIC DEVELOPMENT BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone economic development bond' means any taxable governmental bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for one or more qualified economic development purposes, and

''(B) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U–1.

''(c) QUALIFIED ECONOMIC DEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

''(1) capital expenditures paid or incurred with respect to property located in such zone,

''(2) expenditures for public infrastructure and construction of public facilities, and

''(3) expenditures for job training and educational programs.

''SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.

''(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any recovery zone facility bond.

''(b) RECOVERY ZONE FACILITY BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone facility bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

''(B) such bond is issued before January 1, 2011, and

''(C) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

''(c) RECOVERY ZONE PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if—

''(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the recovery zone took effect,

''(B) the original use of which in the recovery zone commences with the taxpayer, and

''(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

''(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

''(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

''(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

''(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

''(d) NONAPPLICATION OF CERTAIN RULES.—Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

''PART III. RECOVERY ZONE BONDS.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1532. TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end the following new subsection:

''(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

''(1) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

''(B) NATIONAL LIMITATION.—There is a national tribal economic development bond limitation of $2,000,000,000.

''(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of a tribal economic development bond—

''(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State, and

''(B) section 146 shall not apply.

''(3) TRIBAL ECONOMIC DEVELOPMENT BOND.—

''(A) IN GENERAL.—For purposes of this section, the term 'tribal economic development bond' means any bond issued by an Indian tribal government—

''(i) the interest on which is not exempt from tax under section 103 by reason of subsection (c) (determined without regard to this subsection) but would be so exempt if issued by a State or local government, and

''(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

''(B) EXCEPTIONS.—The term tribal economic development bond shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

''(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

''(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

''(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).''.

(b) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the effects of the amendment made by subsection (a). Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph, including the Secretary's recommendations regarding such amendment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

PART 5—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1541. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle G—Energy Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

SEC. 1601. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking ''2010'' in paragraph (1) and inserting ''2013'',

(2) by striking ''2011'' each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting ''2014'', and

(3) by striking ''2012'' in paragraph (11)(B) and inserting ''2014''.

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 45(d) is amended by striking ''and before'' and all that follows and inserting '' and before October 3, 2008.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1602. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Subsection (a) of section 48 is amended by adding at the end the following new paragraph:

''(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—

''(A) IN GENERAL.—In the case of any qualified investment credit facility placed in service in 2009 or 2010—

''(i) such facility shall be treated as energy property for purposes of this section, and

''(ii) the energy percentage with respect to such property shall be 30 percent.

''(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

''(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term 'qualified investment credit facility' means any facility described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1603. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

(a) REPEAL OF LIMITATION ON CREDIT FOR QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).

(b) REPEAL OF LIMITATION ON PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

(1) IN GENERAL.—Subsection (a) of section 48 is amended by striking paragraph (4).

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(1) is amended by striking ''(8), and (9)'' and inserting ''and (8)''.

(B) Section 25D(e) is amended by striking paragraph (9).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2),the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

SEC. 1604. COORDINATION WITH RENEWABLE ENERGY GRANTS.

Section 48 is amended by adding at the end the following new subsection:

''(d) COORDINATION WITH DEPARTMENT OF ENERGY GRANTS.—In the case of any property with respect to which the Secretary of Energy makes a grant under section 1721 of the American Recovery and Reinvestment Tax Act of 2009—

''(1) DENIAL OF PRODUCTION AND INVESTMENT CREDITS.—No credit shall be determined under this section or section 45 with respect to such property for the taxable year in which such grant is made or any subsequent taxable year.

''(2) RECAPTURE OF CREDITS FOR PROGRESS EXPENDITURES MADE BEFORE GRANT.—If a credit was determined under this section with respect to such property for any taxable year ending before such grant is made—

''(A) the tax imposed under subtitle A on the taxpayer for the taxable year in which such grant is made shall be increased by so much of such credit as was allowed under section 38,

''(B) the general business carryforwards under section 39 shall be adjusted so as to recapture the portion of such credit which was not so allowed, and

''(C) the amount of such grant shall be determined without regard to any reduction in the basis of such property by reason of such credit.

''(3) TREATMENT OF GRANTS.—Any such grant shall—

''(A) not be includible in the gross income of the taxpayer, but

''(B) shall be taken into account in determining the basis of the property to which such grant relates, except that the basis of such property shall be reduced under section 50(c) in the same manner as a credit allowed under subsection (a).''.

PART 2—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1611. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL LIMITATION.—The national new clean renewable energy bond limitation shall be increased by $1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).''.

SEC. 1612. INCREASED LIMITATION AND EXPANSION OF QUALIFIED ENERGY CONSERVATION BONDS.

(a) INCREASED LIMITATION.—Subsection (e) of section 54D is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL LIMITATION.—The national qualified energy conservation bond limitation shall be increased by $2,400,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (1), (2), and (3).''.

(b) LOANS AND GRANTS TO IMPLEMENT GREEN COMMUNITY PROGRAMS.—

(1) IN GENERAL.—Subparagraph (A) of section 54D(f)(1) is amended by inserting ''(or loans or grants for capital expenditures to implement any green community program)'' after ''Capital expenditures''.

(2) BONDS TO IMPLEMENT GREEN COMMUNITY PROGRAMS NOT TREATED AS PRIVATE ACTIVITY BONDS FOR PURPOSES OF LIMITATIONS ON QUALIFIED ENERGY CONSERVATION BONDS .—Subsection (e) of section 54D is amended by adding at the end the following new paragraph:

''(4) BONDS TO IMPLEMENT GREEN COMMUNITY PROGRAMS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of paragraph (3) and subsection (f)(2), a bond shall not be treated as a private activity bond solely because proceeds of the issue of which such bond is a part are to be used for loans or grants for capital expenditures to implement any green community program.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART 3—ENERGY CONSERVATION INCENTIVES

SEC. 1621. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

''(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

''(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.''.

(b) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1622. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) REMOVAL OF CREDIT LIMITATION FOR PROPERTY PLACED IN SERVICE.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended to read as follows:

''(1) MAXIMUM CREDIT FOR FUEL CELLS.—In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 25D(e) is amended—

(A) by striking all that precedes subparagraph (B) and inserting the following:

''(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

''(A) MAXIMUM EXPENDITURES FOR FUEL CELLS.—The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.'', and

(B) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1623. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(e) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010.—In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011—

''(A) in the case of any such property which does not relate to hydrogen—

''(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

''(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

''(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000', and

''(B) in the case of any such property which relates to hydrogen, subsection (b) shall be applied by substituting '$200,000' for '$30,000'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART 4—ENERGY RESEARCH INCENTIVES

SEC. 1631. INCREASED RESEARCH CREDIT FOR ENERGY RESEARCH.

(a) IN GENERAL.—Section 41 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ENERGY RESEARCH CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) IN GENERAL.—The credit determined under subsection (a)(1) shall be increased by 20 percent of the qualified energy research expenses for the taxable year.

''(2) QUALIFIED ENERGY RESEARCH EXPENSES.—For purposes of this subsection, the term 'qualified energy research expenses' means so much of the taxpayer's qualified research expenses as are related to the fields of fuel cells and battery technology, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

''(3) COORDINATION WITH OTHER RESEARCH CREDITS.—

''(A) INCREMENTAL CREDIT.—The amount of qualified energy research expenses taken into account under subsection (a)(1)(A) shall not exceed the base amount.

''(B) ALTERNATIVE SIMPLIFIED CREDIT.—For purposes of subsection (c)(5), the amount of qualified energy research expenses taken into account for the taxable year for which the credit is being determined shall not exceed—

''(i) in the case of subsection (c)(5)(A), 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined, and

''(ii) in the case of subsection (c)(5)(B)(ii), zero.

''(C) BASIC RESEARCH AND ENERGY RESEARCH CONSORTIUM PAYMENTS.—Any amount taken into account under paragraph (1) shall not be taken into account under paragraph (2) or (3) of subsection (a).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 41(i)(1)(B), as redesignated by subsection (a), is amended by inserting ''(in the case of the increase in the credit determined under subsection (h), December 31, 2010)'' after ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle H—Other Provisions

PART 1—APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS

SEC. 1701. APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS.

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any qualified clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

(5) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

PART 2—GRANTS TO PROVIDE FINANCING FOR LOW-INCOME HOUSING

SEC. 1711. GRANTS TO STATES FOR LOW-INCOME HOUSING PROJECTS IN LIEU OF LOW-INCOME HOUSING CREDIT ALLOCATIONS FOR 2009.

(a) IN GENERAL.—The Secretary of the Treasury shall make a grant to the housing credit agency of each State in an amount equal to such State's low-income housing grant election amount.

(b) LOW-INCOME HOUSING GRANT ELECTION AMOUNT.—For purposes of this section, the term ''low-income housing grant election amount'' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

(1) the sum of—

(A) 100 percent of the State housing credit ceiling for 2009 which is attributable to amounts described in clauses (i) and (iii) of section 42(h)(3)(C) of the Internal Revenue Code of 1986, and

(B) 40 percent of the State housing credit ceiling for 2009 which is attributable to amounts described in clauses (ii) and (iv) of such section, multiplied by

(2) 10.

(c) SUBAWARDS FOR LOW-INCOME BUILDINGS.—

(1) IN GENERAL.—A State housing credit agency receiving a grant under this section shall use such grant to make subawards to finance the construction or acquisition and rehabilitation of qualified low-income buildings. A subaward under this section may be made to finance a qualified low-income building with or without an allocation under section 42 of the Internal Revenue Code of 1986, except that a State housing credit agency may make subawards to finance qualified low-income buildings without an allocation only if it makes a determination that such use will increase the total funds available to the State to build and rehabilitate affordable housing. In complying with such determination requirement, a State housing credit agency shall establish a process in which applicants that are allocated credits are required to demonstrate good faith efforts to obtain investment commitments for such credits before the agency makes such subawards.

(2) SUBAWARDS SUBJECT TO SAME REQUIREMENTS AS LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Any such subaward with respect to any qualified low-income building shall be made in the same manner and shall be subject to the same limitations (including rent, income, and use restrictions on such building) as an allocation of housing credit dollar amount allocated by such State housing credit agency under section 42 of the Internal Revenue Code of 1986, except that such subawards shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing credit ceiling applicable to such agency.

(3) COMPLIANCE AND ASSET MANAGEMENT.—The State housing credit agency shall perform asset management functions to ensure compliance with section 42 of the Internal Revenue Code of 1986 and the long-term viability of buildings funded by any subaward under this section. The State housing credit agency may collect reasonable fees from a subaward recipient to cover expenses associated with the performance of its duties under this paragraph. The State housing credit agency may retain an agent or other private contractor to satisfy the requirements of this paragraph.

(4) RECAPTURE.—The State housing credit agency shall impose conditions or restrictions, including a requirement providing for recapture, on any subaward under this section so as to assure that the building with respect to which such subaward is made remains a qualified low-income building during the compliance period. Any such recapture shall be payable to the Secretary of the Treasury for deposit in the general fund of the Treasury and may be enforced by means of liens or such other methods as the Secretary of the Treasury determines appropriate.

(d) RETURN OF UNUSED GRANT FUNDS.—Any grant funds not used to make subawards

under this section before January 1, 2011, shall be returned to the Secretary of the Treasury on such date. Any subawards returned to the State housing credit agency on or after such date shall be promptly returned to the Secretary of the Treasury. Any amounts returned to the Secretary of the Treasury under this subsection shall be deposited in the general fund of the Treasury.

(e) DEFINITIONS.—Any term used in this section which is also used in section 42 of the Internal Revenue Code of 1986 shall have the same meaning for purposes of this section as when used in such section 42. Any reference in this section to the Secretary of the Treasury shall be treated as including the Secretary's delegate.

(f) APPROPRIATIONS.—There is hereby appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this section.

PART 3—GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS

SEC. 1721. GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Upon application, the Secretary of Energy shall, within 60 days of the application and subject to the requirements of this section, provide a grant to each person who places in service specified energy property during 2009 or 2010 to reimburse such person for a portion of the expense of such facility as provided in subsection (b).

(b) GRANT AMOUNT.—

(1) IN GENERAL.—The amount of the grant under subsection (a) with respect to any specified energy property shall be the applicable percentage of the basis of such facility.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ''applicable percentage'' means—

(A) 30 percent in the case of any property described in paragraphs (1) through (4) of subsection (c), and

(B) 10 percent in the case of any other property.

(3) DOLLAR LIMITATIONS.—In the case of property described in paragraph (2), (6), or (7) of subsection (c), the amount of any grant under this section with respect to such property shall not exceed the limitation described in section 48(c)(1)(B), 48(c)(2)(B), or 48(c)(3)(B) of the Internal Revenue Code of 1986, respectively, with respect to such property.

(c) SPECIFIED ENERGY PROPERTY.—For purposes of this section, the term ''specified energy property'' means any of the following:

(1) QUALIFIED FACILITIES.—Any facility described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of the Internal Revenue Code of 1986.

(2) QUALIFIED FUEL CELL PROPERTY.—Any qualified fuel cell property (as defined in section 48(c)(1) of such Code).

(3) SOLAR PROPERTY.—Any property described in clause (i) or (ii) of section 48(a)(3)(A) of such Code.

(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—Any qualified small wind energy property (as defined in section 48(c)(4) of such Code).

(5) GEOTHERMAL PROPERTY.—Any property described in clause (iii) of section 48(a)(3)(A) of such Code.

(6) QUALIFIED MICROTURBINE PROPERTY.—Any qualified microturbine property (as defined in section 48(c)(2) of such Code).

(7) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Any combined heat and power system property (as defined in section 48(c)(3) of such Code).

(8) GEOTHERMAL HEATPUMP PROPERTY.—Any property described in clause (vii) of section 48(a)(3)(A) of such Code.

(d) APPLICATION OF CERTAIN RULES.—In making grants under this section, the Secretary of Energy shall apply rules similar to the rules of section 50 of the Internal Revenue Code of 1986. In applying such rules, if the facility is disposed of, or otherwise ceases to be a qualified renewable energy facility, the Secretary of Energy shall provide for the recapture of the appropriate percentage of the grant amount in such manner as the Secretary of Energy determines appropriate.

(e) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—The Secretary of Energy shall not make any grant under this section to any Federal, State, or local government (or any political subdivision, agency, or instrumentality thereof) or any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(f) DEFINITIONS.—Terms used in this section which are also used in section 45 or 48 of the Internal Revenue Code of 1986 shall have the same meaning for purposes of this section as when used in such section 45 or 48. Any reference in this section to the Secretary of the Treasury shall be treated as including the Secretary's delegate.

(g) COORDINATION BETWEEN DEPARTMENTS OF TREASURY AND ENERGY.—The Secretary of the Treasury shall provide the Secretary of Energy with such technical assistance as the Secretary of Energy may require in carrying out this section. The Secretary of Energy shall provide the Secretary of the Treasury with such information as the Secretary of the Treasury may require in carrying out the amendment made by section 1604.

(h) APPROPRIATIONS.—There is hereby appropriated to the Secretary of Energy such sums as may be necessary to carry out this section.

(i) TERMINATION.—The Secretary of Energy shall not make any grant to any person under this section unless the application of such person for such grant is received before October 1, 2011.

PART 4—STUDY OF ECONOMIC, EMPLOYMENT, AND RELATED EFFECTS OF THIS ACT

SEC. 1731. STUDY OF ECONOMIC, EMPLOYMENT, AND RELATED EFFECTS OF THIS ACT.

On February 1, 2010, and every 3 months thereafter in calendar year 2010, the Comptroller General of the United States shall submit to the Committee on Ways and Means a written report on the most recent national (and, where available, State-by-State) information on—

(1) the economic effects of this Act;

(2) the employment effects of this Act, including—

(A) a comparison of the number of jobs preserved and the number of jobs created as a result of this Act; and

(B) a comparison of the numbers of jobs preserved and the number of jobs created in each of the public and private sectors;

(3) the share of tax and non-tax expenditures provided under this Act that were spent or saved, by group and income class;

(4) how the funds provided to States under this Act have been spent, including a breakdown of—

(A) funds used for services provided to citizens; and

(B) wages and other compensation for public employees; and

(5) a description of any funds made available under this Act that remain unspent, and the reasons why.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers and Struggling Families Act''.

Subtitle A—Unemployment Insurance

SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) FEDERAL-STATE AGREEMENTS.—Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (hereinafter in this section referred to as the ''Secretary''). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) ADDITIONAL COMPENSATION.—Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this paragraph) plus an additional $25.

(2) ALLOWABLE METHODS OF PAYMENT.—Any additional compensation provided for in accordance with paragraph (1) shall be payable either—

(A) as an amount which is paid at the same time and in the same manner as any regular compensation otherwise payable for the week involved; or

(B) at the option of the State, by payments which are made separately from, but on the same weekly basis as, any regular compensation otherwise payable.

(c) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

(d) PAYMENTS TO STATES.—

(1) IN GENERAL.—

(A) FULL REIMBURSEMENT.—There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of additional compensation (as described in subsection (b)(1)) paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) TERMS OF PAYMENTS.—Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010.—In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION.—Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

(f) FRAUD AND OVERPAYMENTS.—The provisions of section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2356) shall apply with respect to additional compensation (as described in subsection (b)(1)) to the same extent and in the same manner as in the case of emergency unemployment compensation.

(g) APPLICATION TO OTHER UNEMPLOYMENT BENEFITS.—

(1) IN GENERAL.—Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (h)(3) to the same extent and in the same manner as if those benefits were regular compensation.

(2) ELIGIBILITY AND TERMINATION RULES.—Additional compensation (as described in subsection (b)(1))—

(A) shall not be payable, pursuant to this subsection, with respect to any unemployment benefits described in subsection (h)(3) for any week beginning on or after the date specified in subsection (e)(1)(B), except in the case of an individual who was eligible to receive additional compensation (as so described) in connection with any regular compensation or any unemployment benefits described in subsection (h)(3) for any period of unemployment ending before such date; and

(B) shall in no event be payable for any week beginning after the date specified in subsection (e)(3).

(h) DISREGARD OF ADDITIONAL COMPENSATION FOR PURPOSES OF MEDICAID AND SCHIP.—The monthly equivalent of any additional compensation paid under this section shall be disregarded in considering the amount of income of an individual for any purposes under title XIX and title XXI of the Social Security Act.

(i) DEFINITIONS.—For purposes of this section—

(1) the terms ''compensation'', ''regular compensation'', ''benefit year'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note);

(2) the term ''emergency unemployment compensation'' means emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2353); and

(3) any reference to unemployment benefits described in this paragraph shall be considered to refer to—

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970); and

(B) unemployment compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary.

SEC. 2003. SPECIAL TRANSFERS FOR UNEMPLOYMENT COMPENSATION MODERNIZATION.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''Special Transfers in Fiscal Years 2009, 2010, and 2011 for Modernization

''(f)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter 'incentive payments') to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with succeeding provisions of this subsection.

''(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

''(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State—

''(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

''(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

''(2) The State law of a State meets the requirements of this paragraph if such State law—

''(A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation; or

''(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

''(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

''(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time work (as defined by the Secretary of Labor), except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work (as so defined).

''(B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term 'compelling family reason' means the following:

''(i) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual

or of any member of the individual's immediate family (as defined by the Secretary of Labor).

''(ii) The illness or disability of a member of the individual's immediate family (as those terms are defined by the Secretary of Labor).

''(iii) The need for the individual to accompany such individual's spouse—

''(I) to a place from which it is impractical for such individual to commute; and

''(II) due to a change in location of the spouse's employment.

''(C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such programs shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

''(D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has any dependents (as defined by State law), in an amount equal to at least $15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than $50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less).

''(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after the date of the enactment of this subsection prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

''(B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.

''(ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

''(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

''(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

''(iii) No application under subparagraph (A) may be considered if submitted before the date of the enactment of this subsection or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2011.

''(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

''(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

''(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve $7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 902, 910, or 1203 of the amount in the Federal unemployment account as of any given time. Any amount so reserved for which the Secretary of the Treasury has not received a certification under paragraph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2011, become unrestricted as to use as part of the Federal unemployment account.

''(7) For purposes of this subsection, the terms 'benefit year', 'base period', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

''(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

''(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(D) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

Subtitle B—Assistance for Vulnerable Individuals

SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.

(a) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end the following:

''(c) EMERGENCY FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund which shall be known as the 'Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs' (in this subsection referred to as the 'Emergency Fund').

''(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as are necessary for payment to the Emergency Fund.

''(3) GRANTS.—

''(A) GRANT RELATED TO CASELOAD INCREASES.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) CASELOAD INCREASE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the average monthly assistance caseload of the State for the quarter exceeds the average monthly assistance caseload of the State for the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be 80 percent of the amount (if any) by which the total expenditures of the State for basic assistance (as defined by the Secretary) in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total expenditures of the State for such assistance for the corresponding quarter in the emergency fund base year of the State.

''(B) GRANT RELATED TO INCREASED EXPENDITURES FOR NON-RECURRENT SHORT TERM BENEFITS.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) NON-RECURRENT SHORT TERM EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for non-recurrent short term benefits in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State for non-recurrent short term benefits in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(C) GRANT RELATED TO INCREASED EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) SUBSIDIZED EMPLOYMENT EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for subsidized employment in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total of such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(4) AUTHORITY TO MAKE NECESSARY ADJUSTMENTS TO DATA AND COLLECT NEEDED DATA.—In determining the size of the caseload of a State and the expenditures of a State for basic assistance, non-recurrent short-term benefits, and subsidized employment, during any period for which the State requests funds under this subsection, and during the emergency fund base year of the State, the Secretary may make appropriate adjustments to the data to ensure that the data reflect expenditures under the State program funded under this part and qualified State expenditures. The Secretary may develop a mechanism for collecting expenditure data, including procedures which allow States to make reasonable estimates, and may set deadlines for making revisions to the data.

''(5) LIMITATION.—The total amount payable to a single State under subsection (b) and this subsection for a fiscal year shall not exceed 25 percent of the State family assistance grant.

''(6) LIMITATIONS ON USE OF FUNDS.—A State to which an amount is paid under this subsection may use the amount only as authorized by section 404.

''(7) TIMING OF IMPLEMENTATION.—The Secretary shall implement this subsection as quickly as reasonably possible, pursuant to appropriate guidance to States.

''(8) DEFINITIONS.—In this subsection:

''(A) AVERAGE MONTHLY ASSISTANCE CASELOAD.—The term 'average monthly assistance caseload' means, with respect to a State and a quarter, the number of families receiving assistance during the quarter under the State program funded under this part or as qualified State expenditures, subject to adjustment under paragraph (4).

''(B) EMERGENCY FUND BASE YEAR.—

''(i) IN GENERAL.—The term 'emergency fund base year' means, with respect to a State and a category described in clause (ii), whichever of fiscal year 2007 or 2008 is the fiscal year in which the amount described by the category with respect to the State is the lesser.

''(ii) CATEGORIES DESCRIBED.—The categories described in this clause are the following:

''(I) The average monthly assistance caseload of the State.

''(II) The total expenditures of the State for non-recurrent short term benefits, whether under the State program funded under this part or as qualified State expenditures.

''(III) The total expenditures of the State for subsidized employment, whether under the State program funded under this part or as qualified State expenditures.

''(C) QUALIFIED STATE EXPENDITURES.—The term 'qualified State expenditures' has the meaning given the term in section 409(a)(7).''.

(b) TEMPORARY MODIFICATION OF CASELOAD REDUCTION CREDIT.—Section 407(b)(3)(A)(i) of such Act (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting ''(or if the immediately preceding fiscal year is fiscal year 2009 or 2010, then, at State option, during the emergency fund base year of the State with respect to the average monthly assistance caseload of the State (within the meaning of section 403(c)(8)(B)))'' before ''under the State''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2102. ONE-TIME EMERGENCY PAYMENT TO SSI RECIPIENTS.

(a) PAYMENT AUTHORITY.—

(1) IN GENERAL.—At the earliest practicable date in calendar year 2009 but not later than 120 days after the date of the enactment of this section, the Commissioner of Social Security shall make a one-time payment to each individual who is determined by the Commissioner in calendar year 2009 to be an individual who—

(A) is entitled to a cash benefit under the supplemental security income program under title XVI of the Social Security Act (other than pursuant to section 1611(e)(1)(B) of such Act) for at least 1 day in the calendar month in which the first payment under this section is to be made; or

(B)(i) was entitled to such a cash benefit (other than pursuant to section 1611(e)(1)(B) of such Act) for at least 1 day in the 2-month period preceding that calendar month; and

(ii) whose entitlement to that benefit ceased in that 2-month period solely because the income of the individual (and the income of the spouse, if any, of the individual) exceeded the applicable income limit described in paragraph (1)(A) or (2)(A) of section 1611(a) of such Act.

(2) AMOUNT OF PAYMENT.—Subject to subsection (b)(1) of this section, the amount of the payment shall be—

(A) in the case of an individual eligible for a payment under this section who does not have a spouse eligible for such a payment, an amount equal to the average of the cash benefits payable in the aggregate under section 1611 or 1619(a) of the Social Security Act to eligible individuals who do not have an eligible spouse, for the most recent month for which data on payment of the benefits are available, as determined by the Commissioner of Social Security; or

(B) in the case of an individual eligible for a payment under this section who has a spouse eligible for such a payment, an amount equal to the average of the cash benefits payable in the aggregate under section 1611 or 1619(a) of the Social Security Act to eligible individuals who have an eligible spouse, for the most recent month for which data on payment of the benefits are available, as so determined.

(b) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO WITHHOLD PAYMENT TO RECOVER PRIOR OVERPAYMENT OF SSI BENEFITS.—The Commissioner of Social Security may withhold part or all of a payment otherwise required to be made under subsection (a) of this section to an individual, in order to recover a prior overpayment of benefits to the individual under the supplemental security income program under title XVI of the Social Security Act, subject to the limitations of section 1631(b) of such Act.

(2) PAYMENT TO BE DISREGARDED IN DETERMINING UNDERPAYMENTS UNDER THE SSI PROGRAM.—A payment under subsection (a) shall be disregarded in determining whether there has been an underpayment of benefits under the supplemental security income program under title XVI of the Social Security Act.

(3) NONASSIGNMENT.—The provisions of section 1631(d) of the Social Security Act shall apply with respect to payments under this section to the same extent as they apply in the case of title XVI of such Act.

(c) PAYMENTS TO BE DISREGARDED FOR PURPOSES OF ALL FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—A payment under subsection (a) shall not be regarded as income to the recipient, and shall not be regarded as a resource of the recipient for the month of receipt and the following 6 months, for purposes of determining the eligibility of any individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) APPROPRIATION.—Out of any sums in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary to carry out this section.

SEC. 2103. TEMPORARY RESUMPTION OF PRIOR CHILD SUPPORT LAW.

During the period that begins with October 1, 2008, and ends with September 30, 2010, section 455(a)(1) of the Social Security Act shall be applied and administered as if the phrase ''from amounts paid to the State under section 458 or'' did not appear in such section.

TITLE III—HEALTH INSURANCE ASSISTANCE FOR THE UNEMPLOYED

SEC. 3001. SHORT TITLE AND TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the ''Health Insurance Assistance for the Unemployed Act of 2009''.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

SEC. 3002. PREMIUM ASSISTANCE FOR COBRA BENEFITS AND EXTENSION OF COBRA BENEFITS FOR OLDER OR LONG-TERM EMPLOYEES.

(a) PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

(1) PROVISION OF PREMIUM ASSISTANCE.—

(A) REDUCTION OF PREMIUMS PAYABLE.—In the case of any premium for a period of coverage beginning on or after the date of the enactment of this Act for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays 35 percent of the amount of such premium (as determined without regard to this subsection).

(B) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6431 of the Internal Revenue Code of 1986, as added by paragraph (12).

(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a health reimbursement arrangement or a health flexible spending arrangement, or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof)) or is eligible for benefits under title XVIII of the Social Security Act, or

(ii) the earliest of—

(I) the date which is 12 months after the first day of the first month that paragraph (1)(A) applies with respect to such individual,

(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ''assistance eligible individual'' means any qualified beneficiary if—

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—Notwithstanding section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who is a qualified beneficiary described in paragraph (3)(A) as of the date of the enactment of this Act and has not made the election referred to in paragraph (3)(B) as of such date, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the 60-day period commencing with the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

(i) shall commence on the date of the enactment of this Act, and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

(i) beginning on the date of the qualifying event, and

(ii) ending with the day before the date of the enactment of this Act,

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan by reason of such individual's ineligibility for COBRA continuation coverage, the Secretary of Labor (or the Secretary of Health and Human Services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual's eligibility within 10 business days after receipt of such individual's application for review under this paragraph.

(6) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible individual under this subsection shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.

(7) NOTICES TO INDIVIDUALS.—

(A) GENERAL NOTICE.—

(i) IN GENERAL.—In the case of notices provided under section 606(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium reduction with respect to such coverage under this subsection.

(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

(iii) FORM.—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(B) SPECIFIC REQUIREMENTS.—Each additional notification under subparagraph (A) shall include—

(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided for failure to so notify the plan, and

(v) a description, displayed in a prominent manner, of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium.

(C) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of an individual described in paragraph (3)(A) who has elected COBRA continuation coverage as of the date of enactment of this Act or an individual described in paragraph (4)(A), the administrator of the group health plan (or other entity) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A).

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph.

(8) SAFEGUARDS.—The Secretary of the Treasury shall provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this subsection.

(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment

assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on website of the Departments of Labor, Treasury, and Health and Human Services.

(10) DEFINITIONS.—For purposes of this subsection—

(A) ADMINISTRATOR.—The term ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(B) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage. Such term does not include coverage under a health flexible spending arrangement.

(C) COBRA CONTINUATION PROVISION.—The term ''COBRA continuation provision'' means the provisions of law described in subparagraph (B).

(D) COVERED EMPLOYEE.—The term ''covered employee'' has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974.

(E) QUALIFIED BENEFICIARY.—The term ''qualified beneficiary'' has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(11) REPORTS.—

(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

(i) the number of individuals provided such assistance as of the date of the report; and

(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes—

(i) the number of individuals provided premium reduction under this section;

(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

(12) COBRA PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6431. COBRA PREMIUM ASSISTANCE.

''(a) IN GENERAL.—The entity to whom premiums are payable under COBRA continuation coverage shall be reimbursed for the amount of premiums not paid by plan beneficiaries by reason of section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009. Such amount shall be treated as a credit against the requirement of such entity to make deposits of payroll taxes and the liability of such entity for payroll taxes. To the extent that such amount exceeds the amount of such taxes, the Secretary shall pay to such entity the amount of such excess. No payment may be made under this subsection to an entity with respect to any assistance eligible individual until after such entity has received the reduced premium from such individual required under section 3002(a)(1)(A) of such Act.

''(b) PAYROLL TAXES.—For purposes of this section, the term 'payroll taxes' means—

''(1) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding),

''(2) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

''(3) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

''(c) TREATMENT OF CREDIT.—Except as otherwise provided by the Secretary, the credit described in subsection (a) shall be applied as though the employer had paid to the Secretary, on the day that the qualified beneficiary's premium payment is received, an amount equal to such credit.

''(d) TREATMENT OF PAYMENT.—For purposes of section 1324(b)(2) of title 31, United States Code, any payment under this section shall be treated in the same manner as a refund of the credit under section 35.

''(e) REPORTING.—

''(1) IN GENERAL.—Each entity entitled to reimbursement under subsection (a) for any period shall submit such reports as the Secretary may require, including—

''(A) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a), and

''(B) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated offsets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a).

''(2) TIMING OF REPORTS RELATING TO AMOUNT OF PAYROLL TAXES.—Reports required under paragraph (1)(B) shall be submitted at the same time as deposits of taxes imposed by chapters 21, 22, and 24 or at such time as is specified by the Secretary.

''(f) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including the requirement to report information or the establishment of other methods for verifying the correct amounts of payments and credits under this section. The Secretary shall issue such regulations or guidance with respect to the application of this section to group health plans that are multiemployer plans (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974).''.

(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—In determining any amount transferred or appropriated to any fund under the Social Security Act, section 6431 of the Internal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6431. COBRA premium assistance.''.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR COBRA PREMIUM ASSISTANCE.

''(a) IN GENERAL.—Any person required to notify a group health plan under section 3002(a)(2)(C)) of the Health Insurance Assistance for the Unemployed Act of 2009 who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of 110 percent of the premium reduction provided under such section after termination of eligibility under such subsection.

''(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(B) CLERICAL AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

''Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to failures occurring after the date of the enactment of this Act.

(14) COORDINATION WITH HCTC.—

(A) IN GENERAL.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

''(9) COBRA PREMIUM ASSISTANCE.—In the case of an assistance eligible individual who receives premium reduction for COBRA continuation coverage under section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009 for any month during the taxable year, such individual shall not be treated as an eligible individual, a certified individual, or a qualifying family member for purposes of this section or section 7527 with respect to such month.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of

1986 is amended by inserting after section 139B the following new section:

"SEC. 139C. COBRA PREMIUM ASSISTANCE.

''In the case of an assistance eligible individual (as defined in section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009), gross income does not include any premium reduction provided under subsection (a) of such section.''.

(B) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

''Sec. 139C. COBRA premium assistance.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.

(b) EXTENSION OF COBRA BENEFITS FOR OLDER OR LONG-TERM EMPLOYEES.—

(1) ERISA AMENDMENT.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new clauses:

''(x) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—In the case of a qualifying event described in section 603(2) with respect to a covered employee who (as of such qualifying event) has attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, clauses (i) and (ii) shall not apply. For purposes of this clause, in the case of a group health plan that is a multiemployer plan, service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(xi) YEAR OF SERVICE.— For purposes of this subparagraph, the term 'year of service' shall have the meaning provided in section 202(a)(3).''.

(2) IRC AMENDMENT.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subclauses:

''(X) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—In the case of a qualifying event described in paragraph (3)(B) with respect to a covered employee who (as of such qualifying event) has attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, subclauses (I) and (II) shall not apply. For purposes of this subclause, in the case of a group health plan that is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(XI) YEAR OF SERVICE.— For purposes of this clause, the term 'year of service' shall have the meaning provided in section 202(a)(3) of the Employee Retirement Income Security Act of 1974.''.

(3) PHSA AMENDMENT.—Section 2202(2)(A) of the Public Health Service Act is amended by adding at the end the following new clauses:

''(viii) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—In the case of a qualifying event described in section 2203(2) with respect to a covered employee who (as of such qualifying event) has attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, clauses (i) and (ii) shall not apply. For purposes of this clause, in the case of a group health plan that is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(ix) YEAR OF SERVICE.— For purposes of this subparagraph, the term 'year of service' shall have the meaning provided in section 202(a)(3) of the Employee Retirement Income Security Act of 1974.''.

(4) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after the date of the enactment of this Act.

SEC. 3003. TEMPORARY OPTIONAL MEDICAID COVERAGE FOR THE UNEMPLOYED.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(10)(A)(ii)—

(A) by striking ''or'' at the end of subclause (XVIII);

(B) by adding ''or'' at the end of subclause (XIX); and

(C) by adding at the end the following new subclause

''(XX) who are described in subsection (dd)(1) (relating to certain unemployed individuals and their families);''; and

(2) by adding at the end the following new subsection:

''(dd)(1) Individuals described in this paragraph are—

''(A) individuals who—

''(i) are within one or more of the categories described in paragraph (2), as elected under the State plan; and

''(ii) meet the applicable requirements of paragraph (3); and

''(B) individuals who—

''(i) are the spouse, or dependent child under 19 years of age, of an individual described in subparagraph (A); and

''(ii) meet the requirement of paragraph (3)(B).

''(2) The categories of individuals described in this paragraph are each of the following:

''(A)(i) Individuals who are receiving unemployment compensation benefits; and

''(ii) individuals who were receiving, but have exhausted, unemployment compensation benefits on or after July 1, 2008.

''(B) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, whose family gross income does not exceed a percentage specified by the State (not to exceed 200 percent) of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

''(C) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, who are members of households participating in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq), and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

''(3) The requirements of this paragraph with respect to an individual are the following:

''(A) In the case of individuals within a category described in subparagraph (A)(i) of paragraph (2), the individual was involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, or meets such comparable requirement as the Secretary specifies through rule, guidance, or otherwise in the case of an individual who was an independent contractor.

''(B) The individual is not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)), but applied without regard to paragraph (1)(F) of such section and without regard to coverage provided by reason of the application of subsection (a)(10)(A)(ii)(XX).

''(4)(A) No income or resources test shall be applied with respect to any category of individuals described in subparagraph (A) or (C) of paragraph (2) who are eligible for medical assistance only by reason of the application of subsection (a)(10)(A)(ii)(XX).

''(B) Nothing in this subsection shall be construed to prevent a State from imposing a resource test for the category of individuals described in paragraph (2)(B)).

''(C) In the case of individuals described in paragraph (2)(A) or (2)(C), the requirements of subsections (i)(22) and (x) in section 1903 shall not apply.''.

(b) 100 PERCENT FEDERAL MATCHING RATE.—

(1) FMAP FOR TIME-LIMITED PERIOD.—The third sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: ''and for items and services furnished on or after the date of enactment of this Act and before January 1, 2011, to individuals who are eligible for medical assistance only by reason of the application of section 1902(a)(10)(A)(ii)(XX)''.

(2) CERTAIN ENROLLMENT-RELATED ADMINISTRATIVE COSTS.—Notwithstanding any other provision of law, for purposes of applying section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)), with respect to expenditures incurred on or after the date of the enactment of this Act and before January 1, 2011, for costs of administration (including outreach and the modification and operation of eligibility information systems) attributable to eligibility determination and enrollment of individuals who are eligible for medical assistance only by reason of the application of section 1902(a)(10)(A)(ii)(XX) of such Act, as added by subsection (a)(1), the Federal matching percentage shall be 100 percent instead of the matching percentage otherwise applicable.

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396c(f)(4)) is amended by inserting ''1902(a)(10)(A)(ii)(XX), or'' after ''1902(a)(10)(A)(ii)(XIX),''.

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1)—

(A) by striking ''or'' at the end of clause (xii);

(B) by adding ''or'' at the end of clause (xiii); and

(C) by inserting after clause (xiii) the following new clause:

''(xiv) individuals described in section 1902(dd)(1),''.

TITLE IV—HEALTH INFORMATION TECHNOLOGY

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Health Information Technology for

Economic and Clinical Health Act'' or the ''HITECH Act''.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Subtitle A—Promotion of Health Information Technology

PART I—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 4101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

"SEC. 3000. DEFINITIONS.

''In this title:

''(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(2) ENTERPRISE INTEGRATION.—The term 'enterprise integration' means the electronic linkage of health care providers, health plans, the government, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infrastructure in accordance with applicable law, and such term includes related application protocols and other related standards.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, health care clinic, Federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, an ambulatory surgical center described in section 1833(i) of the Social Security Act, and any other category of facility or clinician determined appropriate by the Secretary.

''(4) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(5) HEALTH INFORMATION TECHNOLOGY.—The term 'health information technology' means hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services that are specifically designed for use by health care entities for the electronic creation, maintenance, or exchange of health information.

''(6) HEALTH PLAN.—The term 'health plan' has the meaning given such term in section 1171(5) of the Social Security Act.

''(7) HIT POLICY COMMITTEE.—The term 'HIT Policy Committee' means such Committee established under section 3002(a).

''(8) HIT STANDARDS COMMITTEE.—The term 'HIT Standards Committee' means such Committee established under section 3003(a).

''(9) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171(6) of the Social Security Act.

''(10) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353(a).

''(11) NATIONAL COORDINATOR.—The term 'National Coordinator' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

''(12) PHARMACIST.—The term 'pharmacist' has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

''(13) QUALIFIED ELECTRONIC HEALTH RECORD.—The term 'qualified electronic health record' means an electronic record of health-related information on an individual that—

''(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

''(B) has the capacity—

''(i) to provide clinical decision support;

''(ii) to support physician order entry;

''(iii) to capture and query information relevant to health care quality; and

''(iv) to exchange electronic health information with, and integrate such information from other sources.

''(14) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"Subtitle A—Promotion of Health Information Technology

"SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of the National Coordinator for Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary and shall report directly to the Secretary.

''(b) PURPOSE.—The National Coordinator shall perform the duties under subsection (c) in a manner consistent with the development of a nationwide health information technology infrastructure that allows for the electronic use and exchange of information and that—

''(1) ensures that each patient's health information is secure and protected, in accordance with applicable law;

''(2) improves health care quality, reduces medical errors, reduces health disparities, and advances the delivery of patient-centered medical care;

''(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, duplicative care, and incomplete information;

''(4) provides appropriate information to help guide medical decisions at the time and place of care;

''(5) ensures the inclusion of meaningful public input in such development of such infrastructure;

''(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information;

''(7) improves public health activities and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;

''(8) facilitates health and clinical research and health care quality;

''(9) promotes prevention of chronic diseases;

''(10) promotes a more effective marketplace, greater competition, greater systems analysis, increased consumer choice, and improved outcomes in health care services; and

''(11) improves efforts to reduce health disparities.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—

''(1) STANDARDS.—The National Coordinator shall review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004. The Coordinator shall make such determination, and report to the Secretary such determination, not later than 45 days after the date the recommendation is received by the Coordinator.

''(2) HIT POLICY COORDINATION.—

''(A) IN GENERAL.—The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

''(B) HIT POLICY AND STANDARDS COMMITTEES.—The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

''(3) STRATEGIC PLAN.—

''(A) IN GENERAL.—The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific objectives, milestones, and metrics with respect to the following:

''(i) The electronic exchange and use of health information and the enterprise integration of such information.

''(ii) The utilization of an electronic health record for each person in the United States by 2014.

''(iii) The incorporation of privacy and security protections for the electronic exchange of an individual's individually identifiable health information.

''(iv) Ensuring security methods to ensure appropriate authorization and electronic authentication of health information and specifying technologies or methodologies for rendering health information unusable, unreadable, or indecipherable.

''(v) Specifying a framework for coordination and flow of recommendations and policies under this subtitle among the Secretary, the National Coordinator, the HIT Policy Committee, the HIT Standards Committee, and other health information exchanges and other relevant entities.

''(vi) Methods to foster the public understanding of health information technology.

''(vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, and improving the continuity of care among health care settings.

''(B) COLLABORATION.—The strategic plan shall be updated through collaboration of public and private entities.

''(C) MEASURABLE OUTCOME GOALS.—The strategic plan update shall include measurable outcome goals.

''(D) PUBLICATION.—The National Coordinator shall republish the strategic plan, including all updates.

''(4) WEBSITE.—The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall develop a program (either directly or by contract) for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include testing of the technology in accordance with section 4201(b) of the HITECH Act.

''(B) CERTIFICATION CRITERIA DESCRIBED.—In this title, the term 'certification criteria' means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.

''(6) REPORTS AND PUBLICATIONS.—

''(A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED.—Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(B) IMPLEMENTATION REPORT.—The National Coordinator shall prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology, including information on whether the technologies and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers.

''(C) ASSESSMENT OF IMPACT OF HIT ON COMMUNITIES WITH HEALTH DISPARITIES AND UNINSURED, UNDERINSURED, AND MEDICALLY UNDERSERVED AREAS.—The National Coordinator shall assess and publish the impact of health information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved individuals (including urban and rural areas) and identify practices to increase the adoption of such technology by health care providers in such communities.

''(D) EVALUATION OF BENEFITS AND COSTS OF THE ELECTRONIC USE AND EXCHANGE OF HEALTH INFORMATION.—The National Coordinator shall evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue.

''(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including the required level of Federal funding, expectations for regional, State, and private investment, and the expected contributions by volunteers to activities for the utilization of such records.

''(7) ASSISTANCE.—The National Coordinator may provide financial assistance to

consumer advocacy groups and not-for-profit entities that work in the public interest for purposes of defraying the cost to such groups and entities to participate under, whether in whole or in part, the National Technology Transfer Act of 1995 (15 U.S.C. 272 note).

''(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall establish a governance mechanism for the nationwide health information network.

''(d) DETAIL OF FEDERAL EMPLOYEES.—

''(1) IN GENERAL.—Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

''(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

''(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

''(B) be in addition to any other staff of the Department employed by the National Coordinator.

''(3) ACCEPTANCE OF DETAILEES.—Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

''(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF THE NATIONAL COORDINATOR.—Not later than 12 months after the date of the enactment of this title, the Secretary shall appoint a Chief Privacy Officer of the Office of the National Coordinator, whose duty it shall be to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other Federal agencies (and similar privacy officers in such agencies), with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

''SEC. 3002. HIT POLICY COMMITTEE.

''(a) ESTABLISHMENT.—There is established a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementation of the strategic plan described in section 3001(c)(3).

''(b) DUTIES.—

''(1) RECOMMENDATIONS ON HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.—The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Committee shall update such recommendations and make new recommendations as appropriate.

''(2) SPECIFIC AREAS OF STANDARD DEVELOPMENT.—

''(A) IN GENERAL.—The HIT Policy Committee shall recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information for purposes of adoption under section 3004 and shall recommend an order of priority for the development, harmonization, and recognition of such standards, specifications, and certification criteria among the areas so recommended. Such standards and implementation specifications shall include named standards, architectures, and software schemes for the authentication and security of individually identifiable health information and other information as needed to ensure the reproducible development of common solutions across disparate entities.

''(B) AREAS REQUIRED FOR CONSIDERATION.—For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas:

''(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law, and for the use and disclosure of limited data sets of such information.

''(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.

''(iii) The utilization of a certified electronic health record for each person in the United States by 2014.

''(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

''(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, by reducing health disparities, and by advancing research and education.

''(vi) Technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in the nationwide health information network or physically transported outside of the secured, physical perimeter of a health care provider, health plan, or health care clearinghouse.

''(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

''(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

''(I) the collection of quality data and public reporting;

''(II) biosurveillance and public health;

''(III) medical and clinical research; and

''(IV) drug safety.

''(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

''(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

''(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

''(v) Technologies that help reduce medical errors.

''(vi) Technologies that facilitate the continuity of care among health settings.

''(vii) Technologies that meet the needs of diverse populations.

''(viii) Any other technology that the HIT Policy Committee finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

''(3) FORUM.—The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

''(2) MEMBERSHIP.—The membership of the HIT Policy Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

''(3) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

''SEC. 3003. HIT STANDARDS COMMITTEE.

''(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

''(b) DUTIES.—

''(1) STANDARDS DEVELOPMENT.—

''(A) IN GENERAL.—The HIT Standards Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection (a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 3004(a)(2)(B). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

''(B) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 4201(a) of the HITECH Act.

''(C) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements

adopted pursuant to section 1173 of the Social Security Act.

''(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(3) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under section 3002. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

''(4) PUBLIC INPUT.—The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Standards Committee.

''(2) MEMBERSHIP.—The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

''(3) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

''(4) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

''SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS; ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.

''(a) PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS.—

''(1) REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

''(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—If the Secretary determines—

''(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

''(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

''(3) PUBLICATION.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

''(b) ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall, through the rulemaking process described in section 3004(a), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

''(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

''SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

''For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 4111 of the HITECH Act.

''SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

''(a) IN GENERAL.—Except as provided under section 4112 of the HITECH Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

''(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

''SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator shall support the development, routine updating, and provision of qualified EHR technology (as defined in section 3000) consistent with subsections (b) and (c) unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace.

''(b) CERTIFICATION.—In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

''(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

''SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order 13335 or the Office of such National Coordinator on the date before the date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

''(b) AHIC.—

''(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

''(2) In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

''(c) RULES OF CONSTRUCTION.—

''(1) ONCHIT.—Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(2) AHIC.—Nothing in sections 3002 or 3003 or subsection (b) shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 in a manner that would permit the Secretary to choose to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

''SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

''(a) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

''(1) This title may not be construed as having any effect on the authorities of the

Secretary under HIPAA privacy and security law.

''(2) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.

''(b) DEFINITION.—For purposes of this section, the term 'HIPAA privacy and security law' means—

''(1) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of title IV of the HITECH Act; and

''(2) regulations under such provisions.

"SEC. 3010. AUTHORIZATION FOR APPROPRIATIONS.

''There is authorized to be appropriated to the Office of the National Coordinator for Health Information Technology to carry out this subtitle $250,000,000 for fiscal year 2009.''.

SEC. 4102. TECHNICAL AMENDMENT.

Section 1171(5) of the Social Security Act (42 U.S.C. 1320d) is amended by striking ''or C'' and inserting ''C, or D''.

PART II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 4111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined in the Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 4101.

(b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation specification adopted under section 3004 of the Public Health Service Act, as added by section 4101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) APPLICATION OF DEFINITIONS.—The definitions contained in section 3000 of the Public Health Service Act, as added by section 4101, shall apply for purposes of this part.

SEC. 4112. APPLICATION TO PRIVATE ENTITIES.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 4101.

SEC. 4113. STUDY AND REPORTS.

(a) REPORT ON ADOPTION OF NATIONWIDE SYSTEM.—Not later than 2 years after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that—

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

(2) describes barriers to the adoption of such a nationwide system; and

(3) contains recommendations to achieve full implementation of such a nationwide system.

(b) REIMBURSEMENT INCENTIVE STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) AGING SERVICES TECHNOLOGY STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) MATTERS TO BE STUDIED.—The study under paragraph (1) shall include—

(A) an evaluation of—

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection:

(A) AGING SERVICES TECHNOLOGY.—The term ''aging services technology'' means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) SENIOR.—The term ''senior'' has such meaning as specified by the Secretary.

Subtitle B—Testing of Health Information Technology

SEC. 4201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 4101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) VOLUNTARY TESTING PROGRAM.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 4101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 4202. RESEARCH AND DEVELOPMENT PROGRAMS.

(a) HEALTH CARE INFORMATION ENTERPRISE INTEGRATION RESEARCH CENTERS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) PURPOSE.—The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS.—Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology

at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) NATIONAL INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) shall coordinate Federal research and development programs related to the development and deployment of health information technology, including activities related to—

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;

(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

SEC. 4301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 4101, is amended by adding at the end the following new subtitle:

"Subtitle B—Incentives for the Use of Health Information Technology

"SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

"(a) IN GENERAL.—The Secretary shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 3001. To the greatest extent practicable, the Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

"(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

"(2) Development and adoption of appropriate certified electronic health records for categories of providers, as defined in section 3000, not eligible for support under title XVIII or XIX of the Social Security Act for the adoption of such records.

"(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012(b), including community health centers receiving assistance under section 330, covered entities under section 340B, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

"(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

"(5) Promotion of the interoperability of clinical data repositories or registries.

"(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

"(7) Improvement and expansion of the use of health information technology by public health departments.

"(8) Provision of $300 million to support regional or sub-national efforts towards health information exchange.

"(b) COORDINATION.—The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

"(c) ADDITIONAL USE OF FUNDS.—In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out health information technology activities that are provided for under laws in effect on the date of the enactment of this title.

"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

"(a) HEALTH INFORMATION TECHNOLOGY EXTENSION PROGRAM.—To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services. The National Coordinator shall consult with other Federal agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program.

"(b) HEALTH INFORMATION TECHNOLOGY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall create a Health Information Technology Research Center (in this section referred to as the 'Center') to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004.

"(2) INPUT.—The Center shall incorporate input from—

"(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

"(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

"(C) others as appropriate.

"(3) PURPOSES.—The purposes of the Center are to—

"(A) provide a forum for the exchange of knowledge and experience;

"(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

"(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of health information technology that allows for the electronic exchange and use of information including through the regional centers described in subsection (c);

"(D) provide technical assistance for the establishment and evaluation of regional and local health information networks to facilitate the electronic exchange of information across health care settings and improve the quality of health care;

"(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

"(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

"(c) HEALTH INFORMATION TECHNOLOGY REGIONAL EXTENSION CENTERS.—

"(1) IN GENERAL.—The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as 'regional centers') to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001.

"(2) AFFILIATION.—Regional centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

"(3) OBJECTIVE.—The objective of the regional centers is to enhance and promote the adoption of health information technology through—

"(A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology,

including electronic health records, to healthcare providers nationwide;

''(B) broad participation of individuals from industry, universities, and State governments;

''(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

''(D) participation, to the extent practicable, in health information exchanges;

''(E) utilization, when appropriate, of the expertise and capability that exists in Federal agencies other than the Department; and

''(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

''(4) REGIONAL ASSISTANCE.—Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

''(A) Public or not-for-profit hospitals or critical access hospitals.

''(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

''(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

''(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

''(5) FINANCIAL SUPPORT.—The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this title, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

''(A) A detailed explanation of the program and the programs goals.

''(B) Procedures to be followed by the applicants.

''(C) Criteria for determining qualified applicants.

''(D) Maximum support levels expected to be available to centers under the program.

''(7) APPLICATION REVIEW.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

''(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

''(B) the types of service to be provided to health care providers;

''(C) geographical diversity and extent of service area; and

''(D) the percentage of funding and amount of in-kind commitment from other sources.

''(8) BIENNIAL EVALUATION.—Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

''(9) CONTINUING SUPPORT.—After the second year of assistance under this subsection, a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

''SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

''(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (f)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (d).

''(c) IMPLEMENTATION GRANTS.—The Secretary may award a grant to a State or qualified State designated entity that—

''(1) has submitted, and the Secretary has approved, a plan described in subsection (e) (regardless of whether such plan was prepared using amounts awarded under subsection (b); and

''(2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

''(d) USE OF FUNDS.—Amounts received under a grant under subsection (c) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—

''(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

''(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

''(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

''(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

''(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

''(6) assisting patients in utilizing health information technology;

''(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and valuable;

''(8) supporting public health agencies' authorized use of and access to electronic health information;

''(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

''(10) such other activities as the Secretary may specify.

''(e) PLAN.—

''(1) IN GENERAL.—A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

''(2) REQUIRED ELEMENTS.—A plan described in paragraph (1) shall—

''(A) be pursued in the public interest;

''(B) be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001;

''(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

''(D) contain such elements as the Secretary may require.

''(f) QUALIFIED STATE-DESIGNATED ENTITY.—For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall—

''(1) be designated by the State as eligible to receive awards under this section;

''(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

''(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

''(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

''(5) conform to such other requirements as the Secretary may establish.

''(g) REQUIRED CONSULTATION.—In carrying out activities described in subsections (b) and (c), a State or qualified State-designated entity shall consult with and consider the recommendations of—

''(1) health care providers (including providers that provide services to low income and underserved populations);

''(2) health plans;

''(3) patient or consumer organizations that represent the population to be served;

''(4) health information technology vendors;

''(5) health care purchasers and employers;

''(6) public health agencies;

''(7) health professions schools, universities and colleges;

''(8) clinical researchers;

''(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

''(10) such other entities, as may be determined appropriate by the Secretary.

''(h) CONTINUOUS IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in

awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

''(i) REQUIRED MATCH.—

''(1) IN GENERAL.—For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under this section to a State unless the State agrees to make available non-Federal contributions (which may include in-kind contributions) toward the costs of a grant awarded under subsection (c) in an amount equal to—

''(A) for fiscal year 2011, not less than $1 for each $10 of Federal funds provided under the grant;

''(B) for fiscal year 2012, not less than $1 for each $7 of Federal funds provided under the grant; and

''(C) for fiscal year 2013 and each subsequent fiscal year, not less than $1 for each $3 of Federal funds provided under the grant.

''(2) AUTHORITY TO REQUIRE STATE MATCH FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.

''SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

''(b) ELIGIBLE ENTITY DEFINED.—For purposes of this subsection, the term 'eligible entity' means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that—

''(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

''(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

''(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);

''(4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to—

''(A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to—

''(i) the Administrator of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act; or

''(ii) the Secretary in the case of other entities;

''(B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR technology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 3004) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination; and

''(C) comply with such other requirements as the entity or the Secretary may require;

''(D) include a plan on how health care providers involved intend to maintain and support the certified EHR technology over time;

''(E) include a plan on how the health care providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian Tribe, respectively, may require; and

''(5) agrees to provide matching funds in accordance with subsection (h).

''(c) ESTABLISHMENT OF FUND.—For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a 'Loan Fund') and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

''(d) STRATEGIC PLAN.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

''(2) CONTENTS.—A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

''(A) A list of the projects to be assisted through the Loan Fund during such year.

''(B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.

''(C) A description of the financial status of the Loan Fund as of the date of submission of the plan.

''(D) The short-term and long-term goals of the Loan Fund.

''(e) USE OF FUNDS.—Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (c). Loans under this section may be used by a health care provider to—

''(1) facilitate the purchase of certified EHR technology;

''(2) enhance the utilization of certified EHR technology;

''(3) train personnel in the use of such technology; or

''(4) improve the secure electronic exchange of health information.

''(f) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

''(1) To award loans that comply with the following:

''(A) The interest rate for each loan shall not exceed the market interest rate.

''(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

''(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

''(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

''(4) To earn interest on the amounts deposited into the Loan Fund.

''(5) To make reimbursements described in subsection (g)(4)(A).

''(g) ADMINISTRATION OF LOAN FUNDS.—

''(1) COMBINED FINANCIAL ADMINISTRATION.—An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

''(2) COST OF ADMINISTERING FUND.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

''(3) GUIDANCE AND REGULATIONS.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

''(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this section as efficiently as possible in accordance with this title and applicable State laws; and

''(B) guidance to prevent waste, fraud, and abuse.

''(4) PRIVATE SECTOR CONTRIBUTIONS.—

''(A) IN GENERAL.—A Loan Fund established under this section may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

''(B) AVAILABILITY OF INFORMATION.—An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(h) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the grant is awarded in an amount

equal to not less than $1 for each $5 of Federal funds provided under the grant.

''(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

''(i) EFFECTIVE DATE.—The Secretary may not make an award under this section prior to January 1, 2010.

''SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors and enhance health care quality;

''(3) be—

''(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

''(B) a graduate school of nursing or physician assistant studies;

''(C) a consortium of two or more schools described in subparagraph (A) or (B); or

''(D) an institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies;

''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

''(5) provide matching funds in accordance with subsection (d).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

''(A) use grant funds in collaboration with 2 or more disciplines; and

''(B) use grant funds to integrate certified EHR technology into community-based clinical education.

''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

''(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS ON HEALTH CARE.

''(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

''(b) ACTIVITIES.—Activities for which assistance may be provided under subsection (a) may include the following:

''(1) Developing and revising curricula in medical health informatics and related disciplines.

''(2) Recruiting and retaining students to the program involved.

''(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

''(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.

''(c) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give preference to the following:

''(1) Existing education and training programs.

''(2) Programs designed to be completed in less than six months.

''(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

''(a) REPORTS.—The Secretary may require that an entity receiving assistance under this subtitle shall submit to the Secretary, not later than the date that is 1 year after the date of receipt of such assistance, a report that includes—

''(1) an analysis of the effectiveness of the activities for which the entity receives such assistance, as compared to the goals for such activities; and

''(2) an analysis of the impact of the project on health care quality and safety.

''(b) REQUIREMENT TO IMPROVE QUALITY OF CARE AND DECREASE IN COSTS.—The National Coordinator shall annually evaluate the activities conducted under this subtitle and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

''SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

''For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.''.

PART II—MEDICARE PROGRAM

SEC. 4311. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) INCENTIVE PAYMENTS.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

''(o) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—Subject to the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)), from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

''(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS.—

''(i) IN GENERAL.—In no case shall the amount of the incentive payment provided under this paragraph for an eligible professional for a payment year exceed the applicable amount specified under this subparagraph with respect to such eligible professional and such year.

''(ii) AMOUNT.—Subject to clause (iii), the applicable amount specified in this subparagraph for an eligible professional is as follows:

''(I) For the first payment year for such professional, $15,000.

''(II) For the second payment year for such professional, $12,000.

''(III) For the third payment year for such professional, $8,000.

''(IV) For the fourth payment year for such professional, $4,000.

''(V) For the fifth payment year for such professional, $2,000.

''(VI) For any succeeding payment year for such professional, $0.

''(iii) PHASE DOWN FOR ELIGIBLE PROFESSIONALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible professional is after 2013, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013. If the first payment year for an eligible professional is after 2015 then the applicable amount specified in this subparagraph for such professional for

such year and any subsequent year shall be $0.

''(C) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—

''(i) IN GENERAL.—No incentive payment may be made under this paragraph in the case of a hospital-based eligible professional.

''(ii) HOSPITAL-BASED ELIGIBLE PROFESSIONAL.—For purposes of clause (i), the term 'hospital-based eligible professional' means, with respect to covered professional services furnished by an eligible professional during the reporting period for a payment year, an eligible professional, such as a pathologist, anesthesiologist, or emergency physician, who furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including computer equipment, of the hospital.

''(D) PAYMENT.—

''(i) FORM OF PAYMENT.—The payment under this paragraph may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(ii) COORDINATION OF APPLICATION OF LIMITATION FOR PROFESSIONALS IN DIFFERENT PRACTICES.—In the case of an eligible professional furnishing covered professional services in more than one practice (as specified by the Secretary), the Secretary shall establish rules to coordinate the incentive payments, including the application of the limitation on amounts of such incentive payments under this paragraph, among such practices.

''(iii) COORDINATION WITH MEDICAID.—The Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XIX. The Secretary may also adjust the reporting periods under such title and such subsections in order to carry out this clause.

''(E) PAYMENT YEAR DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a year beginning with 2011.

''(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', 'fourth payment year', and 'fifth payment year' mean, with respect to covered professional services furnished by such eligible professional, each successive year immediately following the first payment year for such professional.

''(2) MEANINGFUL EHR USER.—

''(A) IN GENERAL.—For purposes of paragraph (1), an eligible professional shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (a)(7), for a reporting period under such subsection for a year) if each of the following requirements is met:

''(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary.

''(ii) INFORMATION EXCHANGE.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

''(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible professional submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary may provide for the use of alternative means for meeting the requirements of clauses (i), (ii), and (iii) in the case of an eligible professional furnishing covered professional services in a group practice (as defined by the Secretary). The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

''(B) REPORTING ON MEASURES.—

''(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

''(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

''(II) Prior to any measure being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

''(ii) LIMITATION.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

''(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting otherwise required, including reporting under subsection (k)(2)(C).

''(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

''(i) IN GENERAL.—A professional may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

''(I) an attestation;

''(II) the submission of claims with appropriate coding (such as a code indicating that a patient encounter was documented using certified EHR technology);

''(III) a survey response;

''(IV) reporting under subparagraph (A)(iii); and

''(V) other means specified by the Secretary.

''(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

''(3) APPLICATION.—

''(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

''(B) COORDINATION WITH OTHER PAYMENTS.—The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

''(C) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (a)(7), including the determination of a meaningful EHR user under paragraph (2), a limitation under paragraph (1)(B), and the exception under subsection (a)(7)(B).

''(D) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of the eligible professionals who are meaningful EHR users and, as determined appropriate by the Secretary, of group practices receiving incentive payments under paragraph (1).

''(4) CERTIFIED EHR TECHNOLOGY DEFINED.—For purposes of this section, the term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(5) DEFINITIONS.—For purposes of this subsection:

''(A) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

''(B) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(C) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(b) INCENTIVE PAYMENT ADJUSTMENT.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

''(7) INCENTIVES FOR MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(A) ADJUSTMENT.—

''(i) IN GENERAL.—Subject to subparagraphs (B) and (D), with respect to covered professional services furnished by an eligible professional during 2016 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for a reporting period for the year, the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

''(ii) APPLICABLE PERCENT.—Subject to clause (iii), for purposes of clause (i), the term 'applicable percent' means—

''(I) for 2016, 99 percent;

''(II) for 2017, 98 percent; and

''(III) for 2018 and each subsequent year, 97 percent.

''(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2019 AND SUBSEQUENT YEARS.—For 2019 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

''(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

''(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

''(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

''(E) DEFINITIONS.—For purposes of this paragraph:

''(i) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

''(ii) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.''.

(c) APPLICATION TO CERTAIN HMO-AFFILIATED ELIGIBLE PROFESSIONALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(l) APPLICATION OF ELIGIBLE PROFESSIONAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) IN GENERAL.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

''(2) ELIGIBLE PROFESSIONAL DESCRIBED.—With respect to a qualifying MA organization, an eligible professional described in this paragraph is an eligible professional (as defined for purposes of section 1848(o)) who—

''(A)(i) is employed by the organization; or

''(ii)(I) is employed by, or is a partner of, an entity that through contract with the organization furnishes at least 80 percent of the entity's patient care services to enrollees of such organization; and

''(II) furnishes at least 80 percent of the professional services of the eligible professional to enrollees of the organization; and

''(B) furnishes, on average, at least 20 hours per week of patient care services.

''(3) ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—In applying section 1848(o) under paragraph (1), instead of the additional payment amount under section 1848(o)(1)(A) and subject to subparagraph (B), the Secretary may substitute an amount determined by the Secretary to the extent feasible and practical to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such professionals was payable under part B instead of this part.

''(B) AVOIDING DUPLICATION OF PAYMENTS.—

''(i) IN GENERAL.—If an eligible professional described in paragraph (2) is eligible for the maximum incentive payment under section 1848(o)(1)(A) for the same payment period, the payment incentive shall be made only under such section and not under this subsection.

''(ii) METHODS.—In the case of an eligible professional described in paragraph (2) who is eligible for an incentive payment under section 1848(o)(1)(A) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

''(I) to ensure that duplicate payments are not made with respect to an eligible professional both under this subsection and under section 1848(o)(1)(A); and

''(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

''(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS.—In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

''(4) PAYMENT ADJUSTMENT.—

''(A) IN GENERAL.—In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph (D), the payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

''(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

''(i) the number of percentage points by which the applicable percent (under section 1848(a)(7)(A)(ii)) for the year is less than 100 percent; and

''(ii) the Medicare physician expenditure proportion specified in subparagraph (C) for the year.

''(C) MEDICARE PHYSICIAN EXPENDITURE PROPORTION.—The Medicare physician expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

''(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible professionals are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of such eligible professionals that are not meaningful EHR users for such year.

''(5) QUALIFYING MA ORGANIZATION DEFINED.—In this subsection and subsection (m), the term 'qualifying MA organization' means a Medicare Advantage organization that is organized as a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act).

''(6) MEANINGFUL EHR USER ATTESTATION.—For purposes of this subsection and subsection (m), a qualifying MA organization shall submit an attestation, in a form and manner specified by the Secretary which may include the submission of such attestation as part of submission of the initial bid under section 1854(a)(1)(A)(iv), identifying—

''(A) whether each eligible professional described in paragraph (2), with respect to such organization is a meaningful EHR user (as defined in section 1848(o)(2)) for a year specified by the Secretary; and

''(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.''.

(d) CONFORMING AMENDMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking ''and (i)'' and inserting ''(i), and (l)'';

(2) in subsection (c)—

(A) in paragraph (1)(D)(i), by striking ''section 1886(h)'' and inserting ''sections 1848(o) and 1886(h)''; and

(B) in paragraph (6)(A), by inserting after ''under part B,'' the following: ''excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,''; and

(3) in subsection (f), by inserting ''and for payments under subsection (l)'' after ''with the organization''.

(e) CONFORMING AMENDMENTS TO E-PRESCRIBING.—

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(5)(A)) is amended—

(A) in clause (i), by striking ''or any subsequent year'' and inserting '', 2013, 2014, or 2015''; and

(B) in clause (ii), by striking ''and each subsequent year'' and inserting ''and 2015''.

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w–4(m)(2)) is amended—

(A) in subparagraph (A), by striking ''For 2009'' and inserting ''Subject to subparagraph (D), for 2009''; and

(B) by adding at the end the following new subparagraph:

''(D) LIMITATION WITH RESPECT TO EHR INCENTIVE PAYMENTS.—The provisions of this paragraph shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period the eligible professional (or group practice) receives an incentive payment under subsection (o)(1)(A) with respect to a certified EHR technology (as defined in subsection (o)(4)) that has the capability of electronic prescribing.''.

SEC. 4312. INCENTIVES FOR HOSPITALS.

(a) INCENTIVE PAYMENT.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(n) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, with respect to inpatient hospital services furnished by an eligible hospital during a payment year (as defined in paragraph (2)(G)), if the eligible hospital is a meaningful EHR user (as determined under paragraph (3)) for

the reporting period with respect to such year, in addition to the amount otherwise paid under this section, there also shall be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable amount specified in paragraph (2)(A) for the hospital for such payment year.

''(2) PAYMENT AMOUNT.—

''(A) IN GENERAL.—Subject to the succeeding subparagraphs of this paragraph, the applicable amount specified in this subparagraph for an eligible hospital for a payment year is equal to the product of the following:

''(i) INITIAL AMOUNT.—The sum of—

''(I) the base amount specified in subparagraph (B); plus

''(II) the discharge related amount specified in subparagraph (C) for a 12-month period selected by the Secretary with respect to such payment year.

''(ii) MEDICARE SHARE.—The Medicare share as specified in subparagraph (D) for the hospital for a period selected by the Secretary with respect to such payment year.

''(iii) TRANSITION FACTOR.—The transition factor specified in subparagraph (E) for the hospital for the payment year.

''(B) BASE AMOUNT.—The base amount specified in this subparagraph is $2,000,000.

''(C) DISCHARGE RELATED AMOUNT.—The discharge related amount specified in this subparagraph for a 12-month period selected by the Secretary shall be determined as the sum of the amount, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

''(i) For the 1,150th through the 23,000th discharge, $200.

''(ii) For any discharge greater than the 23,000th, $0.

''(D) MEDICARE SHARE.—The Medicare share specified under this subparagraph for a hospital for a period selected by the Secretary for a payment year is equal to the fraction—

''(i) the numerator of which is the sum (for such period and with respect to the hospital) of—

''(I) the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and

''(II) the number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and

''(ii) the denominator of which is the product of—

''(I) the total number of inpatient-bed-days with respect to the hospital during such period; and

''(II) the total amount of the hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the total amount of the hospital's charges during such period.

Insofar as the Secretary determines that data are not available on charity care necessary to calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

''(E) TRANSITION FACTOR SPECIFIED.—

''(i) IN GENERAL.—Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

''(I) For the first payment year for such hospital, 1.

''(II) For the second payment year for such hospital, ¾.

''(III) For the third payment year for such hospital, ½.

''(IV) For the fourth payment year for such hospital, ¼.

''(V) For any succeeding payment year for such hospital, 0.

''(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

''(F) FORM OF PAYMENT.—The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(G) PAYMENT YEAR DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a fiscal year beginning with fiscal year 2011.

''(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to inpatient hospital services furnished by an eligible hospital, the first fiscal year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', and 'fourth payment year' mean, with respect to an eligible hospital, each successive year immediately following the first payment year for that hospital.

''(3) MEANINGFUL EHR USER.—

''(A) IN GENERAL.—For purposes of paragraph (1), an eligible hospital shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for a reporting period under such subsection for a fiscal year) if each of the following requirements are met:

''(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the hospital is using certified EHR technology in a meaningful manner.

''(ii) INFORMATION EXCHANGE.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

''(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

''(B) REPORTING ON MEASURES.—

''(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

''(I) The Secretary shall provide preference to clinical quality measures that have been selected for purposes of applying subsection (b)(3)(B)(viii) or that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

''(II) Prior to any measure (other than a clinical quality measure that has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

''(ii) LIMITATIONS.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

''(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

''(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

''(i) IN GENERAL.—A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

''(I) an attestation;

''(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

''(III) a survey response;

''(IV) reporting under subparagraph (A)(iii); and

''(V) other means specified by the Secretary.

''(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

''(4) APPLICATION.—

''(A) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (b)(3)(B)(ix), including the determination of a meaningful EHR user under paragraph (3), determination of measures applicable to services furnished by eligible hospitals under this subsection, and the exception under subsection (b)(3)(B)(ix)(II).

''(B) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the eligible hospitals that are meaningful EHR users under this subsection

or subsection (b)(3)(B)(ix) and other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that a hospital has the opportunity to review the other relevant data that are to be made public with respect to the hospital prior to such data being made public.

''(5) CERTIFIED EHR TECHNOLOGY DEFINED.—The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means a subsection (d) hospital.

''(B) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(b) INCENTIVE MARKET BASKET ADJUSTMENT.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (viii)(I), by inserting ''(or, beginning with fiscal year 2016, by one-quarter)'' after ''2.0 percentage points''; and

(2) by adding at the end the following new clause:

''(ix)(I) For purposes of clause (i) for fiscal year 2016 and each subsequent fiscal year, in the case of an eligible hospital (as defined in subsection (n)(6)(A)) that is not a meaningful EHR user (as defined in subsection (n)(3)) for the reporting period for such fiscal year, three-quarters of the applicable percentage increase otherwise applicable under clause (i) for such fiscal year shall be reduced by 33⅓ percent for fiscal year 2016, 66⅔ percent for fiscal year 2017, and 100 percent for fiscal year 2018 and each subsequent fiscal year. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year.

''(II) The Secretary may, on a case-by-case basis, exempt a subsection (d) hospital from the application of subclause (I) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subclause for more than 5 years.

''(III) For fiscal year 2016 and each subsequent fiscal year, a State in which hospitals are paid for services under section 1814(b)(3) shall adjust the payments to each subsection (d) hospital in the State that is not a meaningful EHR user (as defined in subsection (n)(3)) in a manner that is designed to result in an aggregate reduction in payments to hospitals in the State that is equivalent to the aggregate reduction that would have occurred if payments had been reduced to each subsection (d) hospital in the State in a manner comparable to the reduction under the previous provisions of this clause. The State shall report to the Secretary the methodology it will use to make the payment adjustment under the previous sentence.

''(IV) For purposes of this clause, the term 'reporting period' means, with respect to a fiscal year, any period (or periods), with respect to the fiscal year, as specified by the Secretary.''.

(c) APPLICATION TO CERTAIN HMO-AFFILIATED ELIGIBLE HOSPITALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4311(c), is further amended by adding at the end the following new subsection:

''(m) APPLICATION OF ELIGIBLE HOSPITAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) APPLICATION.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1886(n) and 1886(b)(3)(B)(ix) shall apply with respect to eligible hospitals described in paragraph (2) of the organization which the organization attests under subsection (l)(6) to be meaningful EHR users in a similar manner as they apply to eligible hospitals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

''(2) ELIGIBLE HOSPITAL DESCRIBED.—With respect to a qualifying MA organization, an eligible hospital described in this paragraph is an eligible hospital that is under common corporate governance with such organization and serves individuals enrolled under an MA plan offered by such organization.

''(3) ELIGIBLE HOSPITAL INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—In applying section 1886(n)(2) under paragraph (1), instead of the additional payment amount under section 1886(n)(2), there shall be substituted an amount determined by the Secretary to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such hospitals was payable under part A instead of this part. In implementing the previous sentence, the Secretary—

''(i) shall, insofar as data to determine the discharge related amount under section 1886(n)(2)(C) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such discharge related amount as the Secretary determines appropriate; and

''(ii) shall, insofar as data to determine the medicare share described in section 1886(n)(2)(D) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such share, which data and methodology may include use of the inpatient bed days (or discharges) with respect to an eligible hospital during the appropriate period which are attributable to both individuals for whom payment may be made under part A or individuals enrolled in an MA plan under a Medicare Advantage organization under this part as a proportion of the total number of patient-bed-days (or discharges) with respect to such hospital during such period.

''(B) AVOIDING DUPLICATION OF PAYMENTS.—

''(i) IN GENERAL.—In the case of a hospital that for a payment year is an eligible hospital described in paragraph (2), is an eligible hospital under section 1886(n), and for which at least one-third of their discharges (or bed-days) of Medicare patients for the year are covered under part A, payment for the payment year shall be made only under section 1886(n) and not under this subsection.

''(ii) METHODS.—In the case of a hospital that is an eligible hospital described in paragraph (2) and also is eligible for an incentive payment under section 1886(n) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

''(I) to ensure that duplicate payments are not made with respect to an eligible hospital both under this subsection and under section 1886(n); and

''(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

''(4) PAYMENT ADJUSTMENT.—

''(A) Subject to paragraph (3), in the case of a qualifying MA organization (as defined in section 1853(l)(5)), if, according to the attestation of the organization submitted under subsection (l)(6) for an applicable period, one or more eligible hospitals (as defined in section 1886(n)(6)(A)) that are under common corporate governance with such organization and that serve individuals enrolled under a plan offered by such organization are not meaningful EHR users (as defined in section 1886(n)(3)) with respect to a period, the payment amount payable under this section for such organization for such period shall be the percent specified in subparagraph (B) for such period of the payment amount otherwise provided under this section for such period.

''(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

''(i) the number of the percentage point reduction effected under section 1886(b)(3)(B)(ix)(I) for the period; and

''(ii) the Medicare hospital expenditure proportion specified in subparagraph (C) for the year.

''(C) MEDICARE HOSPITAL EXPENDITURE PROPORTION.—The Medicare hospital expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for inpatient hospital services.

''(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible hospitals are meaningful EHR users with respect to an applicable period, the Secretary shall apply the payment adjustment under this paragraph based on a methodology specified by the Secretary, taking into account the proportion of such eligible hospitals, or discharges from such hospitals, that are not meaningful EHR users for such period.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended—

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting '', subject to section 1886(d)(3)(B)(ix)(III),'' after ''then''; and

(B) by adding at the end the following: ''For purposes of applying paragraph (3), there shall be taken into account incentive payments, and payment adjustments under subsection (b)(3)(B)(ix) or (n) of section 1886.''.

(2) Section 1851(i)(1) of the Social Security Act (42 U.S.C. 1395w–21(i)(1)) is amended by striking ''and 1886(h)(3)(D)'' and inserting ''1886(h)(3)(D), and 1853(m)''.

(3) Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4311(d)(1), is amended—

(A) in subsection (c)—

(i) in paragraph (1)(D)(i), by striking ''1848(o)'' and inserting '', 1848(o), and 1886(n)''; and

(ii) in paragraph (6)(A), by inserting ''and subsections (b)(3)(B)(ix) and (n) of section 1886'' after ''section 1848''; and

(B) in subsection (f), by inserting ''and subsection (m)'' after ''under subsection (l)''.

SEC. 4313. TREATMENT OF PAYMENTS AND SAVINGS; IMPLEMENTATION FUNDING.

(a) PREMIUM HOLD HARMLESS.—

(1) IN GENERAL.—Section 1839(a)(1) of the Social Security Act (42 U.S.C. 1395r(a)(1)) is

amended by adding at the end the following: ''In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).''.

(2) PAYMENT.—Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended—

(A) in paragraph (2), by striking the period at the end and inserting ''; plus''; and

(B) by adding at the end the following new paragraph:

''(3) a Government contribution equal to the amount of payment incentives payable under sections 1848(o) and 1853(l)(3).''.

(b) MEDICARE IMPROVEMENT FUND.—Section 1898 of the Social Security Act (42 U.S.C. 1395iii), as added by section 7002(a) of the Supplemental Appropriations Act, 2008 (Public Law 110–252) and as amended by section 188(a)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275; 122 Stat. 2589) and by section 6 of the QI Program Supplemental Funding Act of 2008, is amended—

(1) in subsection (a)—

(A) by inserting ''medicare'' before ''fee-for-service''; and

(B) by inserting before the period at the end the following: ''including, but not limited to, an increase in the conversion factor under section 1848(d) to address, in whole or in part, any projected shortfall in the conversion factor for 2014 relative to the conversion factor for 2008 and adjustments to payments for items and services furnished by providers of services and suppliers under such original medicare fee-for-service program''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''during fiscal year 2014,'' and all that follows and inserting the following: ''during—

''(A) fiscal year 2014, $22,290,000,000; and

''(B) fiscal year 2020 and each subsequent fiscal year, the Secretary's estimate, as of July 1 of the fiscal year, of the aggregate reduction in expenditures under this title during the preceding fiscal year directly resulting from the reduction in payment amounts under sections 1848(a)(7), 1853(l)(4), 1853(m)(4), and 1886(b)(3)(B)(ix).''; and

(B) by adding at the end the following new paragraph:

''(4) NO EFFECT ON PAYMENTS IN SUBSEQUENT YEARS.—In the case that expenditures from the Fund are applied to, or otherwise affect, a payment rate for an item or service under this title for a year, the payment rate for such item or service shall be computed for a subsequent year as if such application or effect had never occurred.''.

(c) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $60,000,000 for each of fiscal years 2009 through 2015 and $30,000,000 for each succeeding fiscal year through fiscal year 2019, which shall be available for purposes of carrying out the provisions of (and amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4314. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment incentives (such as under title XVIII or XIX of the Social Security Act) and other funding for purposes of implementing and using certified EHR technology (as defined in section 3000 of the Public Health Service Act) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XVIII or XIX of the Social Security Act, or otherwise, for such purposes.

(2) DETAILS OF STUDY.—Such study shall include an examination of—

(A) the adoption rates of certified EHR technology by such health care providers;

(B) the clinical utility of such technology by such health care providers;

(C) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;

(D) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other funding under this Act, title XVIII or XIX of the Social Security Act, or otherwise;

(E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(F) any other issues the Secretary deems to be appropriate.

(b) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).

PART III—MEDICAID FUNDING

SEC. 4321. MEDICAID PROVIDER HIT ADOPTION AND OPERATION PAYMENTS; IMPLEMENTATION FUNDING.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(3)—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by striking ''plus'' at the end of subparagraph (E) and inserting ''and''; and

(C) by adding at the end the following new subparagraph:

''(F)(i) 100 percent of so much of the sums expended during such quarter as are attributable to payments for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) by Medicaid providers described in subsection (t)(1); and

''(ii) 90 percent of so much of the sums expended during such quarter as are attributable to payments for reasonable administrative expenses related to the administration of payments described in clause (i) if the State meets the condition described in subsection (t)(9); plus''; and

(2) by inserting after subsection (s) the following new subsection:

''(t)(1)(A) For purposes of subsection (a)(3)(F), the payments for certified EHR technology (and support services including maintenance that is for, or is necessary for the operation of, such technology) by Medicaid providers described in this paragraph are payments made by the State in accordance with this subsection of the applicable percent (as specified in subparagraph (B)) of the net allowable costs of Medicaid providers (as defined in paragraph (2)) for such technology (and support services).

''(B) For purposes of subparagraph (A), the applicable percent is—

''(i) in the case of a Medicaid provider described in paragraph (2)(A), 85 percent; and

''(ii) in the case of a Medicaid provider described in paragraph (2)(B), 100 percent.

''(2) In this subsection and subsection (a)(3)(F), the term 'Medicaid provider' means—

''(A) an eligible professional (as defined in paragraph (3)(B)) who is not hospital-based and has at least 30 percent of the professional's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title; and

''(B)(i) a children's hospital, (ii) an acute-care hospital that is not described in clause (i) and that has at least 10 percent of the hospital's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title, or (iii) a Federally-qualified health center or rural health clinic that has at least 30 percent of the center's or clinic's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title.

An eligible professional shall not qualify as a Medicaid provider under this subsection unless the eligible professional has waived, in a manner specified by the Secretary, any right to payment under section 1848(o) with respect to the adoption or support of certified EHR technology by the professional. In applying clauses (ii) and (iii) of subparagraph (B), the standards established by the Secretary for patient volume shall include individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

''(3) In this subsection and subsection (a)(3)(F):

''(A) The term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(B) The term 'eligible professional' means a physician as defined in paragraphs (1) and (2) of section 1861(r), and includes a certified nurse mid-wife and a nurse practitioner.

''(C) The term 'hospital-based' means, with respect to an eligible professional, a professional (such as a pathologist, anesthesiologist, or emergency physician) who furnishes substantially all of the individual's professional services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including computer equipment, of the hospital.

''(4)(A) The term 'allowable costs' means, with respect to certified EHR technology of a Medicaid provider, costs of such technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) as determined by the Secretary to be reasonable.

''(B) The term 'net allowable costs' means allowable costs reduced by any payment that is made to the Medicaid provider involved from any other source that is directly attributable to payment for certified EHR technology or services described in subparagraph (A).

''(C) In no case shall—

''(i) the aggregate allowable costs under this subsection (covering one or more years) with respect to a Medicaid provider described in paragraph (2)(A) for purchase and

initial implementation of certified EHR technology (and services described in subparagraph (A)) exceed $25,000 or include costs over a period of longer than 5 years;

''(ii) for costs not described in clause (i) relating to the operation, maintenance, or use of certified EHR technology, the annual allowable costs under this subsection with respect to such a Medicaid provider for costs not described in clause (i) for any year exceed $10,000;

''(iii) payment described in paragraph (1) for costs described in clause (ii) be made with respect to such a Medicaid provider over a period of more than 5 years;

''(iv) the aggregate allowable costs under this subsection with respect to such a Medicaid provider for all costs exceed $75,000; or

''(v) the allowable costs, whether for purchase and initial implementation, maintenance, or otherwise, for a Medicaid provider described in paragraph (2)(B)(iii) exceed such aggregate or annual limitation as the Secretary shall establish, based on an amount determined by the Secretary as being adequate to adopt and maintain certified EHR technology, consistent with paragraph (6).

''(5) Payments described in paragraph (1) are not in accordance with this subsection unless the following requirements are met:

''(A) The State provides assurances satisfactory to the Secretary that amounts received under subsection (a)(3)(F) with respect to costs of a Medicaid provider are paid directly to such provider without any deduction or rebate.

''(B) Such Medicaid provider is responsible for payment of the costs described in such paragraph that are not provided under this title.

''(C) With respect to payments to such Medicaid provider for costs other than costs related to the initial adoption of certified EHR technology, the Medicaid provider demonstrates meaningful use of certified EHR technology through a means that is approved by the State and acceptable to the Secretary, and that may be based upon the methodologies applied under section 1848(o) or 1886(n).

''(D) To the extent specified by the Secretary, the certified EHR technology is compatible with State or Federal administrative management systems.

''(6)(A) In no case shall the payments described in paragraph (1), with respect to a hospital, exceed in the aggregate the product of—

''(i) the overall hospital EHR amount for the hospital computed under subparagraph (B); and

''(ii) the Medicaid share for such hospital computed under subparagraph (C).

''(B) For purposes of this paragraph, the overall hospital EHR amount, with respect to a hospital, is the sum of the applicable amounts specified in section 1886(n)(2)(A) for such hospital for the first 4 payment years (as estimated by the Secretary) determined as if the Medicare share specified in clause (ii) of such section were 1. The Secretary shall publish in the Federal Register the overall hospital EHR amount for each hospital eligible for payments under this subsection. In computing amounts under paragraph 1886(n)(2)(C) for payment years after the first payment year, the Secretary shall assume that in subsequent payment years discharges increase at the average annual rate of growth of the most recent 3 years for which discharge data are available per year.

''(C) The Medicaid share computed under this subparagraph, for a hospital for a period specified by the Secretary, shall be calculated in the same manner as the Medicare share under section 1886(n)(2)(D) for such a hospital and period, except that there shall be substituted for the numerator under clause (i) of such section the amount that is equal to the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals who are receiving medical assistance under this title and who are not described in section 1886(n)(2)(D)(i). In computing inpatient-bed-days under the previous sentence, the Secretary shall take into account inpatient-bed-days attributable to inpatient-bed-days that are paid for individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

''(7) With respect to health care providers other than hospitals, the Secretary shall ensure coordination of the different programs for payment of such health care providers for adoption or use of health information technology (including certified EHR technology), as well as payments for such health care providers provided under this title or title XVIII, to assure no duplication of funding.

''(8) In carrying out paragraph (5)(C), the State and Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XVIII. In doing so, the Secretary may deem satisfaction of requirements for such meaningful use for a payment year under title XVIII to be sufficient to qualify as meaningful use under this subsection. The Secretary may also specify the reporting periods under this subsection in order to carry out this paragraph.

''(9) In order to be provided Federal financial participation under subsection (a)(3)(F)(ii), a State must demonstrate to the satisfaction of the Secretary, that the State—

''(A) is using the funds provided for the purposes of administering payments under this subsection, including tracking of meaningful use by Medicaid providers;

''(B) is conducting adequate oversight of the program under this subsection, including routine tracking of meaningful use attestations and reporting mechanisms; and

''(C) is pursuing initiatives to encourage the adoption of certified EHR technology to promote health care quality and the exchange of health care information under this title, subject to applicable laws and regulations governing such exchange.

''(10) The Secretary shall periodically submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on status, progress, and oversight of payments under paragraph (1).''.

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $40,000,000 for each of fiscal years 2009 through 2015 and $20,000,000 for each succeeding fiscal year through fiscal year 2019, which shall be available for purposes of carrying out the provisions of (and the amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4322. MEDICAID NURSING FACILITY GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a grant program to enhance the meaningful use of certified electronic health records in nursing facilities. In establishing such program, the Secretary shall use payment incentives for meaningful use of certified EHR technology, similar to those specified in sections 4311, 4312, and 4321, as appropriate. For the purpose of such incentives, the Secretary shall define meaningful use in a manner so as to be consistent with such sections to the extent practicable. The Secretary shall award funds to not more than 10 States to carry out activities under this section.

(b) ACTIVITIES.—The Secretary shall require a State participating in the grant program to—

(1) provide payment incentives to nursing facilities contingent on the demonstration of meaningful use of certified electronic health records;

(2) require participating nursing facilities to engage in programs to improve the quality and coordination of care through the use of certified EHR technology, including for persons who are repeatedly admitted to acute care hospitals from the nursing facility and persons who receive services across multiple medical and social services providers (including facility and community-based providers); and

(3) provide for training of appropriate personnel in the use of certified electronic health records.

(c) TARGETING.—The Secretary shall require a State participating in the grant program to target nursing facilities with a significant percentage (but not less than the average in the State) of the facility's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under title XIX of the Social Security Act.

(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to States with a high proportion of total national nursing facility days paid under title XIX of the Social Security Act.

(e) LIMITATIONS ON USE OF FUNDS.—A State may not make payments to a nursing facility in excess of 90 percent of the costs of such nursing facility for the adoption and operation of certified EHR technology.

(f) APPLICATION.—No grant may be made to a State under this section unless the State submits an application to the Secretary in a form and manner specified by the Secretary.

(g) REPORT.—Not later than the end of the 3-year period beginning on the date that grants under this section are first awarded, the Secretary shall submit a report to Congress on the activities under this grant program and the effect of this program on quality and coordination of care under title XIX of the Social Security Act.

(h) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services to carry out this section $600,000,000, to remain available until expended.

Subtitle D—Privacy

SEC. 4400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—The term ''breach'' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, use, or disclosure of such information by an employee or agent of the covered entity or business associate involved

if such acquisition, access, use, or disclosure, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered entity or business associate and if such information is not further acquired, accessed, used, or disclosed by such employee or agent.

(2) BUSINESS ASSOCIATE.—The term ''business associate'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(3) COVERED ENTITY.—The term ''covered entity'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(4) DISCLOSE.—The terms ''disclose'' and ''disclosure'' have the meaning given the term ''disclosure'' in section 160.103 of title 45, Code of Federal Regulations.

(5) ELECTRONIC HEALTH RECORD.—The term ''electronic health record'' means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(6) HEALTH CARE OPERATIONS.—The term ''health care operation'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) HEALTH CARE PROVIDER.—The term ''health care provider'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 1171(5) of the Social Security Act.

(9) NATIONAL COORDINATOR.—The term ''National Coordinator'' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a) of the Public Health Service Act, as added by section 4101.

(10) PAYMENT.—The term ''payment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) PERSONAL HEALTH RECORD.—The term ''personal health record'' means an electronic record of individually identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or for the individual.

(12) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(14) SECURITY.—The term ''security'' has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) TREATMENT.—The term ''treatment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) USE.—The term ''use'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) VENDOR OF PERSONAL HEALTH RECORDS.—The term ''vendor of personal health records'' means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

PART I—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

SEC. 4401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) APPLICATION OF SECURITY PROVISIONS.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision.

(c) ANNUAL GUIDANCE.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall, in consultation with industry stakeholders, annually issue guidance on the most effective and appropriate technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, including the use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 4101, as such provisions are in effect as of the date before the enactment of this Act.

SEC. 4402. NOTIFICATION IN THE CASE OF BREACH.

(a) IN GENERAL.—A covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in subsection (h)(1)) shall, in the case of a breach of such information that is discovered by the covered entity, notify each individual whose unsecured protected health information has been, or is reasonably believed by the covered entity to have been, accessed, acquired, or disclosed as a result of such breach.

(b) NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE.—A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c) BREACHES TREATED AS DISCOVERED.—For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)).

(2) BURDEN OF PROOF.—The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) METHODS OF NOTICE.—

(1) INDIVIDUAL NOTICE.—Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) MEDIA NOTICE.—Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(3) NOTICE TO SECRETARY.—Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than such notice must be provided immediately. If the breach was with respect to less than 500 individuals, the covered entity involved may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting

such breaches occurring during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE.—The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) DEFINITION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the term ''unsecured protected health information'' means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term ''unsecured protected health information'' shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals, including use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 4101.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 4403. EDUCATION ON HEALTH INFORMATION PRIVACY.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

(b) EDUCATION INITIATIVE ON USES OF HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this Act, the Office for Civil Rights within the Department of Health and Human Services shall develop and maintain a multi-faceted national education initiative to enhance public transparency regarding the uses of protected health information, including programs to educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. Such programs shall be conducted in a variety of languages and present information in a clear and understandable manner.

SEC. 4404. APPLICATION OF PRIVACY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES.

(a) APPLICATION OF CONTRACT REQUIREMENTS.—In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF KNOWLEDGE ELEMENTS ASSOCIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

SEC. 4405. RESTRICTIONS ON CERTAIN DISCLOSURES AND SALES OF HEALTH INFORMATION; ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES; ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.

(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLOSURES OF HEALTH INFORMATION.—In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE LIMITED DATA SET OR THE MINIMUM NECESSARY.—

(1) IN GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), a covered entity shall be treated as being in compliance with section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) GUIDANCE.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue guidance on what constitutes ''minimum necessary'' for purposes of subpart E of part 164 of title 45, Code of Federal Regulation. In issuing such guidance the Secretary shall take into consideration the guidance under section 4424(c).

(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum

necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 4423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—

(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

(2) REGULATIONS.—The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1)(A) not later than 18 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 4101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of individuals in learning the circumstances under which their protected health information is being disclosed and takes into account the administrative burden of accounting for such disclosures.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a covered entity to account for disclosures of protected health information that are not made by such covered entity or by a business associate acting on behalf of the covered entity.

(4) EFFECTIVE DATE.—

(A) CURRENT USERS OF ELECTRONIC RECORDS.—In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

(i) January 1, 2011; or

(ii) the date that it acquires an electronic health record.

(d) REVIEW OF HEALTH CARE OPERATIONS.—Not later than 18 months after the date of the enactment of this title, the Secretary shall promulgate regulations to eliminate from the definition of health care operations under section 164.501 of title 45, Code of Federal Regulations, those activities that can reasonably and efficiently be conducted through the use of information that is de-identified (in accordance with the requirements of section 164.514(b) of such title) or that should require a valid authorization for use or disclosure. In promulgating such regulations, the Secretary may choose to narrow or clarify activities that the Secretary chooses to retain in the definition of health care operations and the Secretary shall take into account the report under section 424(d). In such regulations the Secretary shall specify the date on which such regulations shall apply to disclosures made by a covered entity, but in no case would such date be sooner than the date that is 24 months after the date of the enactment of this section.

(e) PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in the following cases:

(A) The purpose of the exchange is for research or public health activities (as described in sections 164.501, 164.512(i), and 164.512(b) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(B) The purpose of the exchange is for the treatment of the individual and the price charges reflects not more than the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of health care operations in section 164.501 of title 45, Code of Federal Regulations.

(D) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(E) The purpose of the exchange is to provide an individual with a copy of the individual's protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(F) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (E).

(3) REGULATIONS.—The Secretary shall promulgate regulations to carry out paragraph (this subsection, including exceptions described in paragraph (2), not later than 18 months after the date of the enactment of this title.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(f) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

(g) CLARIFICATION.—Nothing in this subtitle shall constitute a waiver of any privilege otherwise applicable to an individual with respect to the protected health information of such individual.

SEC. 4406. CONDITIONS ON CERTAIN CONTACTS AS PART OF HEALTH CARE OPERATIONS.

(a) MARKETING.—

(1) IN GENERAL.—A communication by a covered entity or business associate that is about a product or service and that encourages recipients of the communication to purchase or use the product or service shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations, unless the communication is made as described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of such title.

(2) PAYMENT FOR CERTAIN COMMUNICATIONS.—A covered entity or business associate may not receive direct or indirect payment in exchange for making any communication described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, except—

(A) a business associate of a covered entity may receive payment from the covered entity for making any such communication on behalf of the covered entity that is consistent with the written contract (or other written arrangement) described in section 164.502(e)(2) of such title between such business associate and covered entity; or

(B) a covered entity may receive payment in exchange for making any such communication if the entity obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication.

(b) FUNDRAISING.—Fundraising for the benefit of a covered entity shall not be considered a health care operation for purposes of section 164.501 of title 45, Code of Federal Regulations.

(c) EFFECTIVE DATE.—This section shall apply to contracting occurring on or after the effective date specified under section 4423.

SEC. 4407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii) or (iii) of section 4424(b)(1)(A), following

the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such a breach of security; and

(2) notify the Federal Trade Commission.

(b) NOTIFICATION BY THIRD PARTY SERVICE PROVIDERS.—A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii) or (iii) of section 4424(b)(1)(A) in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) APPLICATION OF REQUIREMENTS FOR TIMELINESS, METHOD, AND CONTENT OF NOTIFICATIONS.—Subsections (c), (d), (e), and (f) of section 402 shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described in subsection (a) and a third party service provider described in subsection (b), with respect to a breach of security under subsection (a) of unsecured PHR identifiable health information in such records maintained or offered by such vendor, in a manner specified by the Federal Trade Commission.

(d) NOTIFICATION OF THE SECRETARY.—Upon receipt of a notification of a breach of security under subsection (a)(2), the Federal Trade Commission shall notify the Secretary of such breach.

(e) ENFORCEMENT.—A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57*a*(a)(1)(B)) regarding unfair or deceptive acts or practices.

(f) DEFINITIONS.—For purposes of this section:

(1) BREACH OF SECURITY.—The term ''breach of security'' means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR IDENTIFIABLE HEALTH INFORMATION.—The term ''PHR identifiable health information'' means individually identifiable health information, as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) UNSECURED PHR IDENTIFIABLE HEALTH INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''unsecured PHR identifiable health information'' means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 4402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 4402(h)(2) by the date specified in such section, for purposes of this section, the term ''unsecured PHR identifiable health information'' shall mean PHR identifiable health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—The provisions of this section shall not apply to breaches of security occurring on or after the earlier of the following the dates:

(A) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Secretary.

(B) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Federal Trade Commission and has taken effect.

SEC. 4408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this title.

SEC. 4409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: ''For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.''.

SEC. 4410. IMPROVED ENFORCEMENT.

(a) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(1) in subsection (b)(1), by striking ''the act constitutes an offense punishable under section 1177'' and inserting ''a penalty has been imposed under section 1177 with respect to such act''; and

(2) by adding at the end the following new subsection:

''(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

''(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

''(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.''.

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subtitle or section 1176 of the Social Security Act (42 U.S.C. 1320d–5) insofar as such section relates to privacy or security shall be transferred to the Office of Civil Rights of the Department of Health and Human Services to be used for purposes of enforcing the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act.

(2) GAO REPORT.—Not later than 18 months after the date of the enactment of this title, the Comptroller General shall submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) ESTABLISHMENT OF METHODOLOGY TO DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO HARMED INDIVIDUALS.—Not later than 3 years after the date of the enactment of this title, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) APPLICATION OF METHODOLOGY.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) TIERED INCREASE IN AMOUNT OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d–5(a)(1)) is amended by striking ''who violates a provision of this part a penalty of not more than'' and all that follows and inserting the following: ''who violates a provision of this part—

''(A) in the case of a violation of such provision in which it is established that the person did not know (and by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not to exceed the amount described in paragraph (3)(D);

''(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

''(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

''(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

''(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and extent of the violation and the nature and extent of the harm resulting from such violation.''.

(2) TIERS OF PENALTIES DESCRIBED.—Section 1176(a) of such Act (42 U.S.C. 1320d–5(a)) is further amended by adding at the end the following new paragraph:

''(3) TIERS OF PENALTIES DESCRIBED.—For purposes of paragraph (1), with respect to a violation by a person of a provision of this part—

''(A) the amount described in this subparagraph is $100 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $25,000;

''(B) the amount described in this subparagraph is $1,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $100,000;

''(C) the amount described in this subparagraph is $10,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $250,000; and

''(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.''.

(3) CONFORMING AMENDMENTS.—Section 1176(b) of such Act (42 U.S.C. 1320d–5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking ''in subparagraph (B), a penalty may not be imposed under subsection (a) if'' and all that follows through ''the failure to comply is corrected'' and inserting ''in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected''; and

(ii) in subparagraph (B), by striking ''(A)(ii)'' and inserting ''(A)'' each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

''(c) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

''(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

''(A) to enjoin further such violation by the defendant; or

''(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

''(2) STATUTORY DAMAGES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

''(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

''(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

''(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

''(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

''(A) to intervene in the action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

''(6) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) maintains a physical place of business.

''(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

''(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).''.

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking ''A penalty may not be imposed under subsection (a)'' and inserting ''No penalty may be imposed under subsection (a) and no damages obtained under subsection (c)'';

(B) in paragraph (2)(A)—

(i) in the matter before clause (i), by striking ''a penalty may not be imposed under subsection (a)'' and inserting ''no penalty may be imposed under subsection (a) and no damages obtained under subsection (c)''; and

(ii) in clause (ii), by inserting ''or damages'' after ''the penalty'';

(C) in paragraph (2)(B)(i), by striking ''The period'' and inserting ''With respect to the imposition of a penalty by the Secretary under subsection (a), the period''; and

(D) in paragraph (3), by inserting ''and any damages under subsection (c)'' after ''any penalty under subsection (a)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Such section is further amended by adding at the end the following new subsection:

''(d) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office of Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.''.

SEC. 4411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.

SEC. 4412. SPECIAL RULE FOR INFORMATION TO REDUCE MEDICATION ERRORS AND IMPROVE PATIENT SAFETY.

Nothing under this subtitle shall prevent a pharmacist from communicating with patients in order to reduce medication errors

and improve patient safety provided there is no remuneration other than for the treatment of the individual and payment for such treatment of the individual as defined in 45 CFR 164.501. The Secretary may by regulation authorize a pharmacy to receive remuneration that does not exceed their reasonable out-of-pocket costs for such communications if the Secretary determines that allowing this remuneration improves patient care and protects protected health information.

PART II—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

SEC. 4421. RELATIONSHIP TO OTHER LAWS.

(a) APPLICATION OF HIPAA STATE PREEMPTION.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle.

SEC. 4422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

SEC. 4423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

SEC. 4424. STUDIES, REPORTS, GUIDANCE.

(a) REPORT ON COMPLIANCE.—

(1) IN GENERAL.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subtitle as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as such provisions are in effect as of the date of enactment of this Act) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 4411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

(d) GAO REPORT ON TREATMENT DISCLOSURES.—Not later than one year after the date of the enactment of this title, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.

Subtitle E—Miscellaneous Medicare Provisions

SEC. 4501. MORATORIA ON CERTAIN MEDICARE REGULATIONS.

(a) DELAY IN PHASE OUT OF MEDICARE HOSPICE BUDGET NEUTRALITY ADJUSTMENT FACTOR DURING FISCAL YEAR 2009.—Notwithstanding any other provision of law, including the final rule published on August 8, 2008, 73 Federal Register 46464 et seq., relating to Medicare Program; Hospice Wage Index for Fiscal Year 2009, the Secretary of Health and Human Services shall not phase out or eliminate the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009, and the Secretary shall recompute and apply the final Medicare hospice wage index for fiscal year 2009 as if there had been no reduction in the budget neutrality adjustment factor.

(b) NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.—

(1) IN GENERAL.—Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or after October 1, 2008, as if such paragraph had never been in effect.

(2) NO EFFECT ON SUBSEQUENT YEARS.—Nothing in paragraph (1) shall be construed as having any effect on the application of paragraph (d) of section 412.322 of title 42, Code of Federal Regulations.

(c) FUNDING FOR IMPLEMENTATION.—In addition to funds otherwise available, for purposes of implementing the provisions of subsections (a) and (b), including costs incurred in reprocessing claims in carrying out such provisions, the Secretary of Health and Human Services shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) to the Centers for Medicare & Medicaid Services Program Management Account of $2,000,000 for fiscal year 2009.

SEC. 4502. LONG-TERM CARE HOSPITAL TECHNICAL CORRECTIONS.

(a) PAYMENT.—Subsection (c) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) in paragraph (1)—

(A) by amending the heading to read as follows: ''DELAY IN APPLICATION OF 25 PERCENT PATIENT THRESHOLD PAYMENT ADJUSTMENT'';

(B) by striking ''the date of the enactment of this Act'' and inserting ''July 1, 2007,''; and

(C) in subparagraph (A), by inserting ''or to a long-term care hospital, or satellite facility, that as of December 29, 2007, was co-located with an entity that is a provider-based, off-campus location of a subsection (d) hospital which did not provide services payable under section 1886(d) of the Social Security Act at the off-campus location'' after ''freestanding long-term care hospitals''; and

(2) in paragraph (2)—

(A) in subparagraph (B)(ii), by inserting ''or that is described in section 412.22(h)(3)(i) of such title'' before the period; and

(B) in subparagraph (C), by striking ''the date of the enactment of this Act'' and inserting ''October 1, 2007 (or July 1, 2007, in the case of a satellite facility described in section 412.22(h)(3)(i) of title 42, Code of Federal Regulations)''.

(b) MORATORIUM.—Subsection (d)(3)(A) of such section is amended by striking ''if the hospital or facility'' and inserting ''if the hospital or facility obtained a certificate of need for an increase in beds that is in a State for which such certificate of need is required and that was issued on or after April 1, 2005, and before December 29, 2007, or if the hospital or facility''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective and apply as if included in the enactment of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173).

TITLE V—MEDICAID PROVISIONS

SEC. 5000. TABLE OF CONTENTS OF TITLE.

The table of contents of this title is as follows:

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (e), (f), and (g), if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section;

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first calendar quarter in fiscal year 2011.

(b) GENERAL 4.9 PERCENTAGE POINT INCREASE.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g) and paragraph (2), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 4.9 percentage points.

(2) SPECIAL ELECTION FOR TERRITORIES.—In the case of a State that is not one of the 50 States or the District of Columbia, paragraph (1) shall only apply if the State makes a one-time election, in a form and manner specified by the Secretary and for the entire recession adjustment period, to apply the increase in FMAP under paragraph (1) and a 10 percent increase under subsection (d) instead of applying a 20 percent increase under subsection (d).

(c) ADDITIONAL ADJUSTMENT TO REFLECT INCREASE IN UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), in the case of a State that is a high unemployment State (as defined in paragraph (2)) for a calendar quarter during the recession adjustment period, the FMAP (taking into account the application of subsections (a) and (b)) for such quarter shall be further increased by the high unemployment percentage point adjustment specified in paragraph (3) for the State for the quarter.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—In this subsection, subject to subparagraph (B), the term ''high unemployment State'' means, with respect to a calendar quarter in the recession adjustment period, a State that is 1 of the 50 States or the District of Columbia and for which the State unemployment increase percentage (as computed under paragraph (5)) for the quarter is not less than 1.5 percentage points.

(B) MAINTENANCE OF STATUS.—If a State is a high unemployment State for a calendar quarter, it shall remain a high unemployment State for each subsequent calendar quarter ending before July 1, 2010.

(3) HIGH UNEMPLOYMENT PERCENTAGE POINT ADJUSTMENT.—

(A) IN GENERAL.—The high unemployment percentage point adjustment specified in this paragraph for a high unemployment State for a quarter is equal to the product of—

(i) the SMAP for such State and quarter (determined after the application of subsection (a) and before the application of subsection (b)); and

(ii) subject to subparagraph (B), the State unemployment reduction factor specified in paragraph (4) for the State and quarter.

(B) MAINTENANCE OF ADJUSTMENT LEVEL FOR CERTAIN QUARTERS.—In no case shall the State unemployment reduction factor applied under subparagraph (A)(ii) for a State for a quarter (beginning on or after January 1, 2009, and ending before July 1, 2010) be less than the State unemployment reduction factor applied to the State for the previous quarter (taking into account the application of this subparagraph).

(4) STATE UNEMPLOYMENT REDUCTION FACTOR.—In the case of a high unemployment State for which the State unemployment increase percentage (as computed under paragraph (5)) with respect to a calendar quarter is—

(A) not less than 1.5, but is less than 2.5, percentage points, the State unemployment reduction factor for the State and quarter is 6 percent;

(B) not less than 2.5, but is less than 3.5, percentage points, the State unemployment reduction factor for the State and quarter is 12 percent; or

(C) not less than 3.5 percentage points, the State unemployment reduction factor for the State and quarter is 14 percent.

(5) COMPUTATION OF STATE UNEMPLOYMENT INCREASE PERCENTAGE.—

(A) IN GENERAL.—In this subsection, the ''State unemployment increase percentage'' for a State for a calendar quarter is equal to the number of percentage points (if any) by which—

(i) the average monthly unemployment rate for the State for months in the most recent previous 3-consecutive-month period for which data are available, subject to subparagraph (C); exceeds

(ii) the lowest average monthly unemployment rate for the State for any 3-consecutive-month period preceding the period described in clause (i) and beginning on or after January 1, 2006.

(B) AVERAGE MONTHLY UNEMPLOYMENT RATE DEFINED.—In this paragraph, the term ''average monthly unemployment rate'' means the average of the monthly number unemployed, divided by the average of the monthly civilian labor force, seasonally adjusted, as determined based on the most recent monthly publications of the Bureau of Labor Statistics of the Department of Labor.

(C) SPECIAL RULE.—With respect to—

(i) the first 2 calendar quarters of the recession adjustment period, the most recent previous 3-consecutive-month period described in subparagraph (A)(i) shall be the 3-consecutive-month period beginning with October 2008; and

(ii) the last 2 calendar quarters of the recession adjustment period, the most recent previous 3-consecutive-month period described in such subparagraph shall be the 3-consecutive-month period beginning with December 2009.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (f) and (g) , with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by 20 percent (or, in the case of an election under subsection (b)(2), 10 percent).

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and—

(1) the increases applied under subsections (a), (b), and (c) shall not apply with respect—

(A) to payments under parts A, B, and D of title IV or title XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.);

(B) to payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); and

(C) to payments for disproportionate share hospital (DSH) payment adjustments under section 1923 of such Act (42 U.S.C. 1396r–4); and

(2) the increase provided under subsection (c) shall not apply with respect to payments under part E of title IV of such Act.

(f) STATE INELIGIBILITY AND LIMITATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a State is not eligible for an increase in its FMAP under subsection (a), (b), or (c),

or an increase in a cap amount under subsection (d), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to paragraph (3), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under paragraph (1) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(3) SPECIAL RULES.—A State shall not be ineligible under paragraph (1)—

(A) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State, prior to July 1, 2009, reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(B) on the basis of a restriction that was effective under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay (of not longer than 1 calendar quarter) in the approval of a request for a new waiver under section 1115 of such Act with respect to such restriction.

(4) STATE'S APPLICATION TOWARD RAINY DAY FUND.—A State is not eligible for an increase in its FMAP under subsection (b) or (c), or an increase in a cap amount under subsection (d), if any amounts attributable (directly or indirectly) to such increase are deposited or credited into any reserve or rainy day fund of the State.

(5) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(6) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection or subsection (g) under section 1115 of the Social Security Act or otherwise.

(g) REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for quarters during the recession adjustment period, than the percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on December 31, 2010.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) SMAP.—The term ''SMAP'' means, for a State, 100 percent minus the Federal medical assistance percentage.

(5) STATE.—The term ''State'' has the meaning given such term in section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

SEC. 5002. MORATORIA ON CERTAIN REGULATIONS.

(a) EXTENSION OF MORATORIA ON CERTAIN MEDICAID REGULATIONS.—The following sections are each amended by striking ''April 1, 2009'' and inserting ''July 1, 2009'':

(1) Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), as amended by section 7001(a)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252).

(2) Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), as amended by section 7001(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252).

(3) Section 7001(a)(3)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252).

(b) ADDITIONAL MEDICAID MORATORIUM.—Notwithstanding any other provision of law, with respect to expenditures for services furnished during the period beginning on December 8, 2008 and ending on June 30, 2009, the Secretary of Health and Human Services shall not take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to implement the final regulation relating to clarification of the definition of outpatient hospital facility services under the Medicaid program published on November 7, 2008 (73 Federal Register 66187).

SEC. 5003. TRANSITIONAL MEDICAID ASSISTANCE (TMA).

(a) 18-MONTH EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''December 31, 2010''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 2009.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 of the Social Security Act (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting ''but subject to paragraph (5)'' after ''Notwithstanding any other provision of this title'';

(2) by adding at the end of subsection (a) the following:

''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.''; and

(3) in subsection (b)(1), by inserting ''but subject to subsection (a)(5)'' after ''Notwithstanding any other provision of this title''.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting ''subparagraph (B) and'' before ''paragraph (5)'';

(2) by redesignating the matter after ''REQUIREMENT.—'' as a subparagraph (A) with the heading ''IN GENERAL.—'' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

''(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

''(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

''(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

''(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on July 1, 2009.

(A) in subclause (XIX), by striking ''or'' at the end;

(B) in subclause (XX), by adding ''or'' at the end; and

(C) by adding at the end the following new subclause:

''(XXI) who are described in subsection (ee) (relating to individuals who meet certain income standards);''.

(2) GROUP DESCRIBED.—Section 1902 of such Act (42 U.S.C. 1396a), as amended by section 3003(a) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended by adding at the end the following new subsection:

''(ee)(1) Individuals described in this subsection are individuals—

''(A) whose income does not exceed an income eligibility level established by the State that does not exceed the highest income eligibility level established under the

State plan under this title (or under its State child health plan under title XXI) for pregnant women; and

''(B) who are not pregnant.

''(2) At the option of a State, individuals described in this subsection may include individuals who, had individuals applied on or before January 1, 2007, would have been made eligible pursuant to the standards and processes imposed by that State for benefits described in clause (XV) of the matter following subparagraph (G) of section subsection (a)(10) pursuant to a waiver granted under section 1115.

''(3) At the option of a State, for purposes of subsection (a)(17)(B), in determining eligibility for services under this subsection, the State may consider only the income of the applicant or recipient.''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(B) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (ee) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting'' after ''cervical cancer''.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 3003(c)(2) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended in the matter preceding paragraph (1)—

(A) in clause (xiii), by striking ''or'' at the end;

(B) in clause (xiv), by adding ''or'' at the end; and

(C) by inserting after clause (xiii) the following:

''(xv) individuals described in section 1902(ee),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

''SEC. 1920C. (a) STATE OPTION.—State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(ee) (relating to individuals who meet certain income eligibility standard) during a presumptive eligibility period. In the case of an individual described in section 1902(ee), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State's option, medical diagnosis and treatment services that are provided in conjunction with a family planning service in a family planning setting.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(ee); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities in order to prevent fraud and abuse.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of law, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting ''for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section''.

(c) CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Section 1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

''(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.''.

SEC. 5004. PROTECTIONS FOR INDIANS UNDER MEDICAID AND CHIP.

(a) PREMIUMS AND COST SHARING PROTECTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''and (i)'' and inserting '', (i), and (j)''; and

(B) by adding at the end the following new subsection:

''(j) NO PREMIUMS OR COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN HEALTH PROGRAMS OR THROUGH REFERRAL UNDER CONTRACT HEALTH SERVICES.—

''(1) NO COST SHARING FOR ITEMS OR SERVICES FURNISHED TO INDIANS THROUGH INDIAN HEALTH PROGRAMS.—

''(A) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made under this title.

''(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under contract health services for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.''.

(2) CONFORMING AMENDMENT.—Section 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3)) is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

''(vi) An Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.''; and

(B) in subparagraph (B), by adding at the end the following new clause:

''(ix) Items and services furnished to an Indian directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2009.

(b) TREATMENT OF CERTAIN PROPERTY FROM RESOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

(1) MEDICAID.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 3003(a) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended by adding at the end the following new subsection:

''(ee) Notwithstanding any other requirement of this title or any other provision of Federal or State law, a State shall disregard the following property from resources for purposes of determining the eligibility of an individual who is an Indian for medical assistance under this title:

''(1) Property, including real property and improvements, that is held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

''(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

''(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

''(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.''.

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following new subparagraph:

''(E) Section 1902(ff) (relating to disregard of certain property for purposes of making eligibility determinations).''.

(c) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Section 1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following new subparagraph:

''(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.''.

SEC. 5005. CONSULTATION ON MEDICAID AND CHIP.

(a) IN GENERAL.—Section 1139 of the Social Security Act (42 U.S.C. 1320b–9) is amended to read as follows:

''CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG)

''SEC. 1139. The Secretary shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group, which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary shall include in such Group a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).''.

(b) SOLICITATION OF ADVICE UNDER MEDICAID AND CHIP.—

(1) MEDICAID STATE PLAN AMENDMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (70), by striking ''and'' at the end;

(B) in paragraph (71), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (71), the following new paragraph:

''(72) in the case of any State in which 1 or more Indian Health Programs or Urban Indian Organizations furnishes health care services, provide for a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of this title that are likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations and that—

''(A) shall include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations; and

''(B) may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its State plan under this title.''.

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 5004(b), is amended by adding at the end the following new subparagraph:

''(F) Section 1902(a)(72) (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as superseding existing advisory committees, working groups, guidance, or other advisory procedures established by the Secretary of Health and Human Services or by any State with respect to the provision of health care to Indians.

SEC. 5006. TEMPORARY INCREASE IN DSH ALLOTMENTS DURING RECESSION.

Section 1923(f)(3) of the Social Security Act (42 U.S.C. 1396r–4(f)(3)) is amended—

(1) in subparagraph (A), by striking ''paragraph (6)'' and inserting ''paragraph (6) and subparagraph (E)''; and

(2) by adding at the end the following new subparagraph:

''(E) TEMPORARY INCREASE IN ALLOTMENTS DURING RECESSION.—

''(i) IN GENERAL.—Subject to clause (ii), the DSH allotment for any State—

''(I) for fiscal year 2009 is equal to 102.5 percent of the DSH allotment that would be determined under this paragraph for the State for fiscal year 2009 without application of this subparagraph, notwithstanding subparagraph (B);

''(II) for fiscal year 2010 is equal to 102.5 percent of the the DSH allotment for the State for fiscal year 2009, as determined under subclause (I); and

''(III) for each succeeding fiscal year is equal to the DSH allotment for the State under this paragraph determined without applying subclauses (I) and (II).

''(ii) APPLICATION.—Clause (i) shall not apply to a State for a year in the case that the DSH allotment for such State for such year under this paragraph determined without applying clause (i) would grow higher than the DSH allotment specified under clause (i) for the State for such year.''.

TITLE VI—BROADBAND COMMUNICATIONS

SEC. 6001. INVENTORY OF BROADBAND SERVICE CAPABILITY AND AVAILABILITY.

(a) ESTABLISHMENT.—To provide a comprehensive nationwide inventory of existing broadband service capability and availability, the National Telecommunications and Information Administration (''NTIA'') shall develop and maintain a broadband inventory map of the United States that identifies and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State.

(b) PUBLIC AVAILABILITY AND INTERACTIVITY.—Not later than 2 years after the date of enactment of this Act, the NTIA shall make the broadband inventory map developed and maintained pursuant to this section accessible by the public on a World Wide Web site of the NTIA in a form that is interactive and searchable.

SEC. 6002. WIRELESS AND BROADBAND DEPLOYMENT GRANT PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The National Telecommunications and Information Administration (''NTIA'') is authorized to carry out a program to award grants to eligible entities for the non-recurring costs associated with the deployment of broadband infrastructure in rural, suburban, and urban areas, in accordance with the requirements of this section.

(2) PROGRAM WEBSITE.—The NTIA shall develop and maintain a website to make publicly available information about the program described in paragraph (1), including—

(A) each prioritization report submitted by a State under subsection (b);

(B) a list of eligible entities that have applied for a grant under this section, and the area or areas the entity proposes to serve; and

(C) the status of each such application, whether approved, denied, or pending.

(b) STATE PRIORITIES.—

(1) PRIORITIES REPORT SUBMISSION.—Not later than 75 days after the date of enactment of this section, each State intending to participate in the program under this section shall submit to the NTIA a report indicating the geographic areas of the State which—

(A) for the purposes of determining the need for Wireless Deployment Grants under subsection (c), the State considers to have the greatest priority for—

(i) wireless voice service in unserved areas; and

(ii) advanced wireless broadband service in underserved areas; and

(B) for the purposes of determining the need for Broadband Deployment Grants under subsection (d), the State considers to have the greatest priority for—

(i) basic broadband service in unserved areas; and

(ii) advanced broadband service in underserved areas.

(2) LIMITATION.—The unserved and underserved areas identified by a State in the report required by this subsection shall not represent, in the aggregate, more than 20 percent of the population of such State.

(c) WIRELESS DEPLOYMENT GRANTS.—

(1) AUTHORIZED ACTIVITY.—The NTIA shall award Wireless Deployment Grants in accordance with this subsection from amounts authorized for Wireless Deployment Grants by this subtitle to eligible entities to deploy necessary infrastructure for the provision of wireless voice service or advanced wireless broadband service to end users in designated areas.

(2) GRANT DISTRIBUTION.—The NTIA shall seek to distribute grants, to the extent possible, so that 25 percent of the grants awarded under this subsection shall be awarded to eligible entities for providing wireless voice service to unserved areas and 75 percent of grants awarded under this subsection shall be awarded to eligible entities for providing advanced wireless broadband service to underserved areas.

(d) BROADBAND DEPLOYMENT GRANTS.—

(1) AUTHORIZED ACTIVITY.—The NTIA shall award Broadband Deployment Grants in accordance with this subsection from amounts authorized for Broadband Deployment Grants by this subtitle to eligible entities to deploy necessary infrastructure for the provision of basic broadband service or advanced broadband service to end users in designated areas.

(2) GRANT DISTRIBUTION.—The NTIA shall seek to distribute grants, to the extent possible, so that 25 percent of the grants awarded under this subsection shall be awarded to eligible entities for providing basic broadband service to unserved areas and 75 percent of grants awarded under this subsection shall be awarded to eligible entities for providing advanced broadband service to underserved areas.

(e) GRANT REQUIREMENTS.—The NTIA shall—

(1) adopt rules to protect against unjust enrichment; and

(2) ensure that grant recipients—

(A) meet buildout requirements;

(B) maximize use of the supported infrastructure by the public;

(C) operate basic and advanced broadband service networks on an open access basis;

(D) operate advanced wireless broadband service on a wireless open access basis; and

(E) adhere to the principles contained in the Federal Communications Commission's broadband policy statement (FCC 05–151, adopted August 5, 2005).

(f) APPLICATIONS.—

(1) SUBMISSION.—To be considered for a grant awarded under subsection (c) or (d), an eligible entity shall submit to the NTIA an application at such time, in such manner, and containing such information and assurances as the NTIA may require. Such an application shall include—

(A) a cost-study estimate for serving the particular geographic area to be served by the entity;

(B) a proposed build-out schedule to residential households and small businesses in the area;

(C) for applicants for Wireless Deployment Grants under subsection (c), a build-out schedule for geographic coverage of such areas; and

(D) any other requirements the NTIA deems necessary.

(2) SELECTION.—

(A) NOTIFICATION.—The NTIA shall notify each eligible entity that has submitted a complete application whether the entity has been approved or denied for a grant under this section in a timely fashion.

(B) GRANT DISTRIBUTION CONSIDERATIONS.—In awarding grants under this section, the NTIA shall, to the extent practical—

(i) award not less than one grant in each State;

(ii) give substantial weight to whether an application is from an eligible entity to deploy infrastructure in an area that is an area—

(I) identified by a State in a report submitted under subsection (b); or

(II) in which the NTIA determines there will be a significant amount of public safety or emergency response use of the infrastructure;

(iii) consider whether an application from an eligible entity to deploy infrastructure in an area—

(I) will, if approved, increase the affordability of, or subscribership to, service to the greatest population of underserved users in the area;

(II) will, if approved, enhance service for health care delivery, education, or children to the greatest population of underserved users in the area;

(III) contains concrete plans for enhancing computer ownership or computer literacy in the area;

(IV) is from a recipient of more than 20 percent matching grants from State, local, or private entities for service in the area and the extent of such commitment;

(V) will, if approved, result in unjust enrichment because the eligible entity has applied for, or intends to apply for, support for the non-recurring costs through another Federal program for service in the area; and

(VI) will, if approved, significantly improve interoperable broadband communications systems available for use by public safety and emergency response; and

(iv) consider whether the eligible entity is a socially and economically disadvantaged small business concern, as defined under section 8(a) of the Small Business Act (15 U.S.C. 637).

(g) COORDINATION AND CONSULTATION.—The NTIA shall coordinate with the Federal Communications Commission and shall consult with other appropriate Federal agencies in implementing this section.

(h) REPORT REQUIRED.—The NTIA shall submit an annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate for 5 years assessing the impact of the grants funded under this section on the basis of the objectives and criteria described in subsection (f)(2)(B)(iii).

(i) RULEMAKING AUTHORITY.—The NTIA shall have the authority to prescribe such rules as necessary to carry out the purposes of this section.

(j) DEFINITIONS.—For the purpose of this section—

(1) the term ''advanced broadband service'' means a service delivering data to the end user transmitted at a speed of at least 45 megabits per second downstream and at least 15 megabits per second upstream;

(2) the term ''advanced wireless broadband service'' means a wireless service delivering to the end user data transmitted at a speed of at least 3 megabits per second downstream and at least 1 megabit per second upstream over an end-to-end internet protocol wireless network;

(3) the term ''basic broadband service'' means a service delivering data to the end user transmitted at a speed of at least 5 megabits per second downstream and at least 1 megabit per second upstream;

(4) the term ''eligible entity'' means—

(A) a provider of wireless voice service, advanced wireless broadband service, basic broadband service, or advanced broadband service, including a satellite carrier that provides any such service;

(B) a State or unit of local government, or agency or instrumentality thereof, that is or intends to be a provider of any such service; and

(C) any other entity, including construction companies, tower companies, backhaul companies, or other service providers, that the NTIA authorizes by rule to participate in the programs under this section, if such other entity is required to provide access to the supported infrastructure on a neutral, reasonable basis to maximize use;

(5) the term ''interoperable broadband communications systems'' means communications systems which enable public safety agencies to share information among local, State, Federal, and tribal public safety agencies in the same area using voice or data signals via advanced wireless broadband service;

(6) the term ''open access'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(7) the term ''State'' includes the District of Columbia and the territories and possessions;

(8) the term ''underserved area'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(9) the term ''unserved area'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(10) the term ''wireless open access'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section; and

(11) the term ''wireless voice service'' means the provision of two-way, real-time, voice communications using a mobile service.

(k) REVIEW OF DEFINITIONS.—Not later than 3 months after the date the NTIA makes a broadband inventory map of the United States accessible to the public pursuant to section 6001(b), the Federal Communications Commission shall review the definitions of ''underserved area'' and ''unserved area'', as defined by the Commission within 45 days after the date of enactment of this Act (as required by paragraphs (8) and (9) of subsection (j)), and shall revise such definitions based on the data used by the NTIA to develop and maintain such map.

SEC. 6003. NATIONAL BROADBAND PLAN.

(a) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this section, the Federal Communications Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing a national broadband plan.

(b) CONTENTS OF PLAN.—The national broadband plan required by this section shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal. The plan shall also include—

(1) an analysis of the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;

(2) a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public; and

(3) a plan for use of broadband infrastructure and services in advancing consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.

TITLE VII—ENERGY

SEC. 7001. TECHNICAL CORRECTIONS TO THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007.

(a) Section 543(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17153(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by striking paragraph (1) and inserting the following:

''(1) 34 percent to eligible units of local government–alternative 1, in accordance with subsection (b);

''(2) 34 percent to eligible units of local government–alternative 2, in accordance with subsection (b);''.

(b) Section 543(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17153(b)) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1) or (2)''.

(c) Section 548(a)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17158(a)(1)) is amending by striking ''; provided'' and all that follows through ''541(3)(B)''.

SEC. 7002. AMENDMENTS TO TITLE XIII OF THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007.

Title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 and following) is amended as follows:

(1) By amending subparagraph (A) of section 1304(b)(3) to read as follows:

''(A) IN GENERAL.—In carrying out the initiative, the Secretary shall provide financial support to smart grid demonstration projects in urban, suburban, and rural areas, including areas where electric system assets are controlled by tax-exempt entities and areas where electric system assets are controlled by investor-owned utilities.''.

(2) By amending subparagraph (C) of section 1304(b)(3) to read as follows:

''(C) FEDERAL SHARE OF COST OF TECHNOLOGY INVESTMENTS.—The Secretary shall provide to an electric utility described in subparagraph (B) or to other parties financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments made by the electric utility or other party to carry out a demonstration project.''.

(3) By inserting after section 1304(b)(3)(D) the following new subparagraphs:

''(E) AVAILABILITY OF DATA.—The Secretary shall establish and maintain a smart grid information clearinghouse in a timely manner which will make data from smart grid demonstration projects and other sources available to the public. As a condition of receiving financial assistance under this subsection, a utility or other participant in a smart grid demonstration project shall provide such information as the Secretary may require to become available through the smart grid information clearinghouse in the form and within the timeframes as directed by the Secretary. The Secretary shall assure that business proprietary information and individual customer information is not included in the information made available through the clearinghouse.

''(F) OPEN INTERNET-BASED PROTOCOLS AND STANDARDS.—The Secretary shall require as a condition of receiving funding under this subsection that demonstration projects utilize open Internet-based protocols and standards if available.''.

(4) By amending paragraph (2) of section 1304(c) to read as follows:

''(2) to carry out subsection (b), such sums as may be necessary.''.

(5) By amending subsection (a) of section 1306 by striking ''reimbursement of one-fifth (20 percent)'' and inserting ''grants of up to one-half (50 percent)''.

(6) By striking the last sentence of subsection (b)(9) of section 1306.

(7) By striking ''are eligible for'' in subsection (c)(1) of section 1306 and inserting ''utilize''.

(8) By amending subsection (e) of section 1306 to read as follows:

''(e) PROCEDURES AND RULES.—The Secretary shall—

''(1) establish within 60 days after the enactment of the American Recovery and Reinvestment Act of 2009 procedures by which applicants can obtain grants of not more than one-half of their documented costs;

''(2) require as a condition of receiving a grant under this section that grant recipients utilize open Internet-based protocols and standards if available;

''(3) establish procedures to ensure that there is no duplication or multiple payment or recovery for the same investment or costs, that the grant goes to the party making the actual expenditures for qualifying smart grid investments, and that the grants made have significant effect in encouraging and facilitating the development of a smart grid;

''(4) maintain public records of grants made, recipients, and qualifying smart grid investments which have received grants;

''(5) establish procedures to provide advance payment of moneys up to the full amount of the grant award; and

''(6) have and exercise the discretion to deny grants for investments that do not qualify in the reasonable judgment of the Secretary.''.

SEC. 7003. RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION LOAN GUARANTEE PROGRAM.

(a) AMENDMENT.—Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by adding the following at the end:

''SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

''(a) IN GENERAL.—Notwithstanding section 1703, the Secretary may make guarantees under this section only for commercial technology projects under subsection (b) that will commence construction not later than September 30, 2011.

''(b) CATEGORIES.—Projects from only the following categories shall be eligible for support under this section:

''(1) Renewable energy systems, including incremental hydropower, that generate electricity.

''(2) Electric power transmission systems, including upgrading and reconductoring projects.

''(3) Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels.

''(c) FACTORS RELATING TO ELECTRIC POWER TRANSMISSION SYSTEMS.—In determining to make guarantees to projects described in subsection (b)(2), the Secretary shall consider the following factors:

''(1) The viability of the project without guarantees.

''(2) The availability of other Federal and State incentives.

''(3) The importance of the project in meeting reliability needs.

''(4) The effect of the project in meeting a State or region's environment (including climate change) and energy goals.

''(d) WAGE RATE REQUIREMENTS.—The Secretary shall require that each recipient of support under this section provide reasonable assurance that all laborers and mechanics employed in the performance of the project for which the assistance is provided, including those employed by contractors or subcontractors, will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the 'Davis-Bacon Act').

''(e) LIMITATION.—Funding under this section for projects described in subsection (b)(3) shall not exceed $500,000,000.

''(f) SUNSET.—The authority to enter into guarantees under this section shall expire on September 30, 2011.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for the Energy Policy Act of 2005 is amended by inserting after the item relating to section 1704 the following new item:

''Sec. 1705. Temporary program for rapid deployment of renewable energy and electric power transmission projects.''.

SEC. 7004. WEATHERIZATION ASSISTANCE PROGRAM AMENDMENTS.

(a) INCOME LEVEL.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking ''150 percent'' both places it appears and inserting ''200 percent''.

(b) ASSISTANCE LEVEL PER DWELLING UNIT.— Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended by striking ''$2,500'' and inserting ''$5,000''.

(c) EFFECTIVE USE OF FUNDS.—In providing funds made available by this Act for the Weatherization Assistance Program, the Secretary may encourage States to give priority to using such funds for the most cost-effective efficiency activities, which may include insulation of attics, if, in the Secretary's view, such use of funds would increase the effectiveness of the program.

SEC. 7005. RENEWABLE ELECTRICITY TRANSMISSION STUDY.

In completing the 2009 National Electric Transmission Congestion Study, the Secretary of Energy shall include—

(1) an analysis of the significant potential sources of renewable energy that are constrained in accessing appropriate market areas by lack of adequate transmission capacity;

(2) an analysis of the reasons for failure to develop the adequate transmission capacity;

(3) recommendations for achieving adequate transmission capacity;

(4) an analysis of the extent to which legal challenges filed at the State and Federal level are delaying the construction of transmission necessary to access renewable energy; and

(5) an explanation of assumptions and projections made in the Study, including—

(A) assumptions and projections relating to energy efficiency improvements in each load center;

(B) assumptions and projections regarding the location and type of projected new generation capacity; and

(C) assumptions and projections regarding projected deployment of distributed generation infrastructure.

SEC. 7006. ADDITIONAL STATE ENERGY GRANTS.

(a) IN GENERAL.—Amounts appropriated in paragraph (6) under the heading ''Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy'' in title V of division A of this Act shall be available to the Secretary of Energy for making additional grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.). The Secretary shall make grants under this section in excess of the base allocation established for a State under regulations issued pursuant to the authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy that the governor will seek, to the extent of his or her authority, to ensure that each of the following will occur:

(1) The applicable State regulatory authority will implement the following regulatory policies for each electric and gas utility with respect to which the State regulatory authority has ratemaking authority:

(A) Policies that ensure that a utility's recovery of prudent fixed costs of service is timely and independent of its retail sales, without in the process shifting prudent costs from variable to fixed charges. This cost shifting constraint shall not apply to rate designs adopted prior to the date of enactment of this Act.

(B) Cost recovery for prudent investments by utilities in energy efficiency.

(C) An earnings opportunity for utilities associated with cost-effective energy efficiency savings.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1–2007, or achieves equivalent or greater energy savings.

(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded—

(i) by the State; or

(ii) through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this paragraph.

(b) STATE MATCH.—The State cost share requirement under the item relating to ''DEPARTMENT OF ENERGY; energy conservation'' in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861) shall not apply to assistance provided under this section.

(c) EQUIPMENT AND MATERIALS FOR ENERGY EFFICIENCY MEASURES.—No limitation on the percentage of funding that may be used for the purchase and installation of equipment and materials for energy efficiency measures under grants provided under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) shall apply to assistance provided under this section.

SEC. 7007. INAPPLICABILITY OF LIMITATION.

The limitations in section 399A(f)(2), (3), and (4) of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1(f)(2), (3), and (4)) shall not apply to grants funded with appropriations provided by this Act, except that such grant funds shall be available for not more than an amount equal to 80 percent of the costs of the project for which the grant is provided.

The CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111–9.

Mr. OBERSTAR. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OBERSTAR:

Page 207, line 21, strike ''120 days'' and insert ''90 days''.

Page 209, line 7, strike ''120 days'' and insert ''90 days''.

Page 210, line 9, strike ''180 days'' and insert ''90 days''.

Page 210, lines 20 and 21, strike ''150 days'' and insert ''75 days''.

Page 211, line 25, strike ''180 days'' and insert ''90 days''.

Page 214, line 2, strike ''180 days'' and insert ''90 days''.

Page 215, line 7, strike ''180 days'' and insert ''90 days''.

Page 216, line 8, strike ''120 days'' and insert ''90 days''.

Page 216, line 13, strike ''120 days'' and insert ''90 days''.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. I yield myself 3 minutes.

This amendment will shorten the time that States, cities, transit agencies, and aviation authorities have to obligate 50 percent of the highway transit and aviation funds provided under this Recovery Act to 90 days from the proposed 180 days.

I have had extensive consultations over the past 5 months with State and local officials about creating jobs by June to show that we can deliver economic recovery to this country. Transit agencies and State Departments of Transportation have for years said, Give us the money. We have the jobs. We need to get things going. So here is your opportunity. They have said, We can deliver.

There are 1,400,000 construction workers out of work. And I will say that when Bud Shuster—and he was chairman of the committee at the time in 1998—we moved the T–21 bill and we had 3 million new construction jobs as a result of that legislation. We can do that again. There's 15 percent unemployment in the construction trades across the country.

At a recent hearing, Carole Brown, Chair of the Chicago Transit Authority, testified that they have an unfunded deferred maintenance backlog of $5 billion, $500 million of which can be obligated within 90 days. She said, ''If you write me a check today, I will be spending the check tomorrow.''

Governor Doyle of Wisconsin said, ''There is not going to be any barrier on getting this thing done immediately. I think any Governor would have a pretty hard explanation about why the State next door or the other State is actually using the money while they are losing the money.'' He said further, ''We are looking at what we can put out to bid before the actual grant is in hand.''

California. The Commissioner of California, Will Kempton, on the conference call and again today in our committee hearing on rail issues, said, Not only do we have contractor capacity, we have well over 100,000 building trades craftsmen out of work. We are getting eight to nine bids per contract, and they are coming in at 25 percent below engineering estimates. We're getting a good deal. We can deliver. The contractors are ready, he said. The contractor community is prepared.

Transit options. Transit systems have options to buy 10,000 buses, $5 billion worth. Options for more than 1,000 rail vehicles, valued at $2 billion. They can be exercised in weeks, not months. Weeks. We heard today from the Rail Car Institute that they are down 50 percent in orders. Even of those that were on backlog, they are down 50 percent because of the recession in the rail sector.

We need this stimulus. We can put these to work.

I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I do not intend to oppose the gentleman's amendment.

The CHAIR. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. LEWIS of California. I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. I rise in strong support of the Oberstar amendment. This is a very simple amendment to understand. Chairman OBERSTAR and I have worked, as he said, we have worked together since last fall to create a stimulus package of infrastructure projects that are ready to go and in which we can employ people as soon as possible. That is the objective of Oberstar amendment.

We need to pass this amendment because we are not interested in funding projects or providing a stimulus package and not have the money into our States and our communities to build that infrastructure that will be real and not employ people.

This stimulus package is all about employing people. Whether it's Minneapolis, the great State of Minnesota, which Mr. OBERSTAR represents, or my State, look at the statistics. Look at the newspapers and the people who are losing their jobs. We need to get this money out as soon as possible so people who want to work, have a choice of work, have that opportunity.

This amendment, the Oberstar amendment, puts that money out there and it employs people immediately. No games played in this. This is not a bail-out-to-financial-institution fiasco. This is putting people to work now that are crying out for jobs and stimulating our economy.

I am pleased to rise in support. I have been pleased to join with Mr. OBERSTAR, who's been doing everything possible to get jobs and our infrastructure and our economy moving forward.

Mr. OBERSTAR. I yield myself 10 seconds, and thank the gentleman from Florida for his thoughtful remarks and for the participation and cooperation we have had. In our committee, there are no Republican roads or Democratic bridges; they are all American roads and all American bridges. And we work together.

I yield 1 minute to the distinguished Chair of the Surface Subcommittee, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. The needs are great. There are many projects on the shelf. We heard from the President's hometown, the head of the Transit Authority, $500 million on the shelf. Bus options. Ready to go. They need the money. Critical repairs. Ready to go. Engineering work done. They just need the money.

Under the original proposal of this bill, they would have only got less than half that. Now we get them closer to the $500 million. We are still not there. This is a good start. And if there's any transit director or any airport director or any Department of Transportation head or Governor across the country who can't find worthwhile investments to put people to work for these projects, given our transportation infrastructure deficits, then they will be looking for a job in the near future because that money will go to another State, another transit district, another airport that can spend it productively and put people to work and meet America's transportation infrastructure needs.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to my colleague from the Appropriations Committee, the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the ranking member. I rise in opposition to the gentleman's amendment. This is an issue that we have dealt with in the full committee markup. I believe Chairman OLVER, wisely, slightly extended the time by States to make these investments in transportation investment. And now we're debating an amendment to make that timeframe even shorter than before.

The CBO, Congressional Budget Office, has scored this amendment and said this amendment will not make a lick of difference as to how quickly these funds will spend out. Instead, we are asking our States to make hurried judgments. Haste sometimes make waste. We should expect our States to make wise decisions, and for that they could use a little more time.

I urge a ''no'' vote.

Mr. OBERSTAR. May I inquire if the gentleman from California has other speakers?

Mr. LEWIS of California. I have no additional speakers. I yield back the balance of my time.

Mr. OBERSTAR. I yield myself such time as I may consume to respond to the gentleman from Iowa, if I may have the gentleman's attention.

I have been on the phone—CBO has not—with the Commissioners of Transportation from the principal States and from the Association of Transportation officials. They have committed to have projects obligated or under contract in 90 days for the first $15 billion of this funding, and the next $15 billion in 180 days.

Our committee is going to hold oversight hearings. Every 30 days we are going to hold the feet to their fire and a blow torch to their bottom side to make sure that they deliver jobs in the timeframe that they have said they can do.

So every State is going to be on call, on notice. This is a dress rehearsal for the next authorization. If we can't deliver jobs in this context, how are they going to do it in the next 6-year authorization bill?

The CBO has very conservatively scored on the basis of previous history, not on the basis of the real world that we live in, that I have insisted on.

The CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 111–9.

Mr. MARKEY of Massachusetts. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MARKEY of Massachusetts:

Page 637, lines 10 through 15, amend subparagraph (F) to read as follows:

''(F) OPEN PROTOCOLS AND STANDARDS.—The Secretary shall require as a condition of receiving funding under this subsection that demonstration projects utilize Internet-based or other open protocols and standards if available and appropriate.''.

Page 638, lines 12 through 14, amend paragraph (2) to read as follows:

''(2) require as a condition of receiving a grant under this section that grant recipients utilize Internet-based or other open protocols and standards if available and appropriate;

The CHAIR. Pursuant to House Resolution 92, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I offer this technical amendment to clarify language that was adopted by the Energy and Commerce Committee concerning the grant program for smart grids. This language is supported by companies across energy and technology industries, from Duke Energy to General Electric to Google.

The underlying bill directs the Department of Energy to make grants for programs that support new technologies that can help Americans use energy more wisely and more efficiently. One provision in the bill requires the Secretary to ensure that the funds are used to promote innovation in the dynamic smart grid area.

The purpose of this amendment is simply to clarify that any sort of open protocol should be supported. Some industry participants were concerned

that the language adopted by the committee would have been restricted to just Internet protocol technology. This amendment makes clear that any open protocol will be eligible for funding in order to not preclude future innovation.

This provision has support from leading companies who see our energy future shaped as much by information technology as by horsepower. This provision has won support from leading electric companies, and I have already made reference earlier to Duke and to General Electric and to Google. But those are representative companies of the wide range of corporate support for this open protocol approach.

I reserve the balance of my time.

Mr. LEWIS of California. I claim the time in opposition. I have no speakers in opposition.

I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield back the balance of my time, and I move that the amendment be adopted.

The CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. SHUSTER

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 111–9.

Mr. SHUSTER. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SHUSTER:

Page 230, beginning on line 22, strike ‘‘the date of enactment of this Act’’ and insert ‘‘October 1, 2008’’.

In section 12001 of division A of the bill—

(1) redesignate subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) insert after subsection (a) the following:

(b) FAILURE TO MAINTAIN EFFORT.—If a Governor is unable to certify that Federal funds will not supplant non-Federal funds pursuant to subsection (a), then the Federal funds apportioned to that State under this Act that will supplant non-Federal funds will be recaptured by the appropriate Federal agency and redistributed to States or agencies that can spend the Federal funds without supplanting non-Federal funds.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Pennsylvania (Mr. SHUSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

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Mr. SHUSTER. My amendment is a very simple amendment, a straightforward amendment. And it states that if a governor is unable to certify Federal funds will not supplant non-Federal funds pursuant to the subsection, then the Federal funds apportioned to that State under this act that will supplant non-Federal funds will be recaptured by the appropriate Federal agency and redistributed to States or agencies that can spend the Federal funds without supplanting non-Federal funds.

What this means is that the stimulus moves money out to the States. We want to make certain that there are no games played at the State level with the budgets. For example, if a State budgets $1 billion for highway spending and they are to receive $1 billion from the Federal Government, that they can’t move that money around, reduce what they have budgeted for their funding of the highway projects and transportation projects in that State.

I think that is important to put in here to put some teeth in the stimulus bill so that those types of things don’t happen, so that we get the full effect, the full impact of the stimulus if it moves forward through the House and the Senate and we have a law that, as I said, will have the full impact of those dollars in the transportation arena in those States that will in fact create jobs. That is the basis of this amendment.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise to claim the time though I am not in opposition to the amendment.

The CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I yield myself 1 minute to commend the gentleman from Pennsylvania for the amendment that he offers, in the spirit of our committee, to make even more firm our intention that the funds from our committee be stimulus, be in place to create additional jobs, not supplant money that States had already planned to use for highway projects, transit projects, aviation projects, but to ensure that the jobs created are additional jobs in this economy. We want them to continue with their program of projects planned for the current fiscal year, but that this recovery money be supplemental to, in addition to, and to clean up the backlog that States have for months and years have complained to us—by ‘‘us’’ I mean on our committee—that they need all this additional money.

Mr. LEWIS of California. Will the gentleman yield?

Mr. OBERSTAR. I yield to the distinguished gentleman from California.

Mr. LEWIS of California. I appreciate my friend yielding.

The CHAIR. The time of the gentleman has expired.

Mr. OBERSTAR. I yield myself an additional 1 minute to yield to the gentleman.

Mr. LEWIS of California. I thank the gentleman.

The gentleman and I have worked together for many, many years, and I learned much of his business at his feet in the then-Public Works Committee years ago. And the language in this amendment does stimulate the process and we think will help us try to stimulate the economy; so I appreciate very much the work of my chairman as well as my colleague.

Mr. OBERSTAR. I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman of the Transportation Committee for his kindness and his leadership.

I don’t rise in opposition to Mr. SHUSTER’s amendment, but to reaffirm it, because of I think the importance of the amendment, and to thank this body for supporting the amendment previously passed by Mr. OBERSTAR that gives us a framework of shortened time to make sure we do get out jobs. All of the economists suggest that we are job hungry, and certainly Mark Zandi indicates that 4 million jobs will be created.

I specifically want to, as I look at the legislation and the amendment of Mr. SHUSTER who comments on highway maintenance, I think that is vital. I want to reemphasize that transit projects that can be considered new starts would fall appropriately under this economic stimulus, create jobs such as the Metro Solutions project, provide $30 million to Texas on rail, if you will, support. And as the Nadler amendment is coming forward, I support the $3 billion that is going to come forward to increase the amount of money for transit projects.

But the key element of I think what we are doing today is to create jobs. New starts in transit should be considered part of creating those jobs. Specifically the Metro Solutions project I believe will fall in that category and create the kind of engine and jobs that we want.

Let me finally say that I think it is important that I note no bar under certain funding in this stimulus package that would disallow work on inner city or urban parks. That too creates jobs, along with the work incentive and summer youth training program. I hope all of this together will combine to respond to the President’s cry creating 4 million jobs.

So I certainly do not oppose this amendment, and I hope the framework does include broadly a lot of the projects that are going to be put forward helping our States and creating jobs.

Thank you Mr. Chair, for affording me this opportunity to address H.R. 1, the “American Recovery and Reinvestment Act of 2009.” I believe H.R. 1 can be supported by every member of the House.

I believe that H.R. 1 can be supported by every member of the House. I am hopeful that my colleagues will be mindful of the words of our President, Barack Obama, and pass this important and much needed legislation without further delay.

Mr. Chair, just yesterday the Associated Press reported that tens of thousands of

Americans will be losing their jobs. This news was on top of the 2.6 million jobs lost last year under the old Bush Administration. Some of the biggest names in industry have announced lay offs yesterday, from Sprint Nextel, Caterpillar, Home Depot, to GM, all of these companies have announced thousands of lay offs.

Experts believe that without intervention, unemployment will rise to 8.8 percent, the highest since 1983, and it is reported that the worst business conditions in greater than twenty years will exist.

The American Recovery and Reinvestment Act will result in infusing greater than $850 billion into America's ailing economy. With this economic recovery plan, there will be 4 million more jobs and an unemployment rate that will be two percentage points lower by the end of 2010. This is important because the nation is facing tough economic times. It was estimated that the State of Texas had an unemployment rate of 6.0%. While this rate is below the national average, it is a high rate and is a signal that something must done to help America and the Texas economy recover. H.R. 1 provides such hope to America.

H.R. 1 provides for unprecedented accountability and transparency measures that are built into the legislation to help ensure that tax dollars are spend wisely. $550 billion is strategically targeted to priority investments; $275 billion in targeted tax cuts will also help spur economic recovery. All of these laudable aims are achieved without earmarks. This Act represents the culmination of priorities shared with the new Obama Administration and is sure to help America's economy in the longterm.

AMENDMENTS

While the House Rules Committee met last night, the Committee determined not allow an open rule despite my vociferous arguments to the contrary. Nevertheless, if there was an open rule, I would have offered the following four amendments to H.R. 1.

Amendment #1

First, I would have offered several amendments that specifically addressed the issue of funding for parklands, either rural or urban in the bill. I would have made clear that the funding in the bill in Title VIII does not preclude the use of the funding "for the restoration, creation, or maintenance of local and community parks, including urban and rural parks."

The inclusion of such language would make imminently clear the Congress's intent to work on green spaces and the creation of green jobs in a new America. This is a priority already articulated by the present Obama Administration.

I am pleased that there is no limitation on the use of the funds appropriated under this bill for use in urban parklands in Title VII. My language would have made the obligations express.

Amendment #2

Second, I would have offered an amendment that allowed local parks and recreation facilities to provided with $125 million for construction, improvements, repair or replacement of facilities related to the revitalization of state and local parks and recreation facilities under the Land and Water Conservation Act Stateside Assistance Program, as amended (16 U.S.C. 4601(4)–(11)) except that such funds shall not be subject to the matching requirements in section 4601–89(c) of that Act:

URBAN PARKS

For construction, improvements, repair, or replacement of facilities related to the revitalization of urban parks and recreation facilities, $100 million is made available under the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), except that such funds shall not be subject to the matching requirements in section 2505(a) of the Act: Provided that the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 5 percent instead of the percentage specified in such section and such funds are to remain available until expended. Cities countries meeting this criterion would have to include the required distress factors as part of their applications for funding.

I am pleased that Title VII does not preclude the use of funding for local, community, and urban parks. My language would have made the obligation express. I am also pleased to learn that funding for the local, community, and urban parks can be funded through the community block grants that have been authorized under this bill.

Parks are important to urban meccas like the City of Houston. Too often those living in the inner cities are deprived of grass and parklands, my amendments and the provision for the development of such parks in this bill would lead to the greening of urban cities.

Mr. Chairman, as many Americans are painfully aware, hundreds of state and local parks and recreational facilities are in disrepair in communities across America due to budget cutbacks and the lack of federal funding during the past eight years. In 2001, LWCF received $144 million in federal funds, but by 2006 it had been slashed to a mere $25 million. Unfortunately, funding for Land and Water Conservation Fund Stateside Assistance Program (LWCF) remained at this level for FY07 and FY08. In the state of Texas alone, the unmet need for LWCF is more than $139 million. Similarly, the Urban Park Recreation Recovery program (UPARR) has not been funded since FY 2002 when it received $28.9 million.

Historically, LWCF and UPARR funds have supported tens of thousands of state and local projects with a long track record of supporting afterschool programs, enhancing environmental conservation and education, helping to curb obesity, and contributing to economic vitality. Not funding these programs seriously undermines local educational and athletic programs, the availability of indoor and outdoor recreational activities, and overall quality of life in communities.

Mr. Chairman, communities need the services provided by state and local park and recreation agencies, but these agencies are in desperate need of repair. Hundreds of communities have thousands of capital construction and maintenance projects that are ready to commence pending matching federal funding. These projects such as new roofs for community centers, irrigation systems for sport fields, repairs to bring facilities into ADA compliance, and electrical upgrades to park and recreation facilities would allow communities to preserve, rehabilitate and maintain already existing infrastructure that provides numerous recreational opportunities for citizens. Many of these projects are especially suitable for small or minority businesses and contractors.

State and local park and recreation agencies do more than provide a place for children to play. They are woven into the fabric of each and every community across this nation. Local park and recreation agencies are the largest public provider of after school programs; these agencies work collaboratively with military bases to provide therapeutic recreation services to rehabilitate our soldiers who have been wounded in battle; they improve the quality of life and the functionality of our children who have autism through numerous programs and services and provide so many other essential community services. Additionally, state and local park and recreation agencies serve to protect our environment and promote environmental stewardship. LWCF and UPARR grants have funded projects that contribute to reduced stormwater runoff, enhanced groundwater recharge, pollutant reductions, urban heat island mitigation, and reduced energy demands.

Our nation has a long history of investing in park restoration and construction as a way to create jobs and revitalize the economy. President Franklin Roosevelt created the Citizens Conservation Council (CCC) to build and fix up America's parks as a key component of his strategy to put people back to work during the Great Depression.

Amendment #3

The third amendment that I would have offered would have extended the special rule regarding contracting under this bill to all sections of the bill. The special rule on contracting would provide that for each local agency that received a grant or money under this Act shall ensure, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, women- and veteran-owned businesses, through full and open competition.

This amendment is important because it ensures that qualified bidders, including local, small, minority, women- and veteran-owned businesses, participate in the process through full and open competition. This would definitely create jobs and help these communities.

Amendment #4

A fourth amendment that I would have offered would have conditioned the release of monies to the Department of Justice to prevent prosecutorial misconduct. Specifically, the language would have prevented the release of money to the Department of Justice unless the State did not fund any antidrug task forces for that fiscal year or the State had in effect State laws that ensured that.

(A) a person is not convicted of a drug offense unless the fact that a drug offense was committed, and the fact that the person that committed that offense, are each supported by separate pieces of evidence other than the eyewitness testimony of a law enforcement officer or an individual acting on behalf of a law enforcement officer; and

(B) a law enforcement officer does not participate in an antidrug task force unless the honesty and integrity of that officer is evaluated and found to be at an appropriately high level.

While I did not formally offer these amendments, I believe that their goals are no less aspirational and that these are indeed good ideas that should be included.

Oberstar amendment
Amendment #1

Mr. Chairman, I support, and I urge my colleagues to support the amendment offered by Chairman OBERSTAR. Chairman OBERSTAR's amendment would amend the aviation, highway, rail, and transit priority consideration and "use-it-or-lose-it" provisions to require that 50 percent of the funds be obligated within 90 days. I support this amendment. This amendment would have great import for my District and America.

I have worked tirelessly to rebuild America's infrastructure as well as contributing to America's progress, America, and the creation of American jobs. I worked with Chairman OBEY to ensure that language be included within this legislation. Specifically, I worked to ensure that significant funding be allocated for ready to go transit projects. The New Start Transit Project in Houston, Texas is one such program. Funding for this project is critical for the regional mobility of citizens of the vast communities in and around the 18th Congressional District of Texas.

Cities around the country are struggling with a backlog of transportation projects and have been experiencing difficulty in securing federal, state, and local resources in light of the struggling economy. At the same time, we are facing growing unemployment, particularly in our cities.

Houston has $1.5 billion in transit projects that could be under contract within the 90 days use it or lose it provisions contained in Chairman OBERSTAR's amendment. Not only does Houston need this infrastructure to relieve congestion and provide adequate public transportation, but an investment in Houston's New Start Transit Project means jobs for my constituents through the transportation sector in our communities and around the nation.

I would urge my colleagues to support Chairman OBERSTAR's amendment that any monies appropriated under Title XII be used within 90 days or the use of such funding will be forfeited. This so-called "Use or Lose It" amendment addresses the issue of job creation and the necessity that the Nation must act fast. It is believed that with the inclusion of this language entities will act without delay for fear of forfeiting access to much needed funds. These monies are critical for the renovation and improvement of the Nation's transportation and infrastructure and must be expeditiously used to ignite our transportation system across the nation. This infusement of capital into the Nation's transportation and infrastructure will surely create jobs for Americans.

DeFazio/Nadler amendment

Mr. Chairman, I support the amendment offered by Representative DEFAZIO and Representative NADLER. This amendment would increase transit capital funding by $3 billion. This amendment is important to my District because it would provide more funds in the Ne Starts Program. This would be of benefit to the Houston METRO North and Southeast Light Rail Projects. Houston METRO already has environmental clearance and contractors ready to go to complete these projects. Indeed, these projects can be completed within the 90 day "use or lose" period.

Houston is undergoing a major capital improvement campaign and is endeavoring to modernize its highways and roads namely spending $70 million over the next several years to convert 83 miles of High Occupancy Vehicle (HOV) lanes to High Occupancy/Toll (HOT) lanes on Interstate 45, US 59, and US 290 in Metropolitan Houston. This project is ready to go and its funding will ensure that the roads and highways remain safe, accountable, and efficient. Because the HOV lanes on I–45, US 59, and US 290 offer a good deal of unused capacity, these roadways would be ideal for conversion to HOT lanes, for the twin purposes of managing Houston's traffic and raising revenue for Houston's transportation projects.

Mr. Chairman, given the exigency of the situation and the Nation's current economic crisis, I would urge this Committee and my colleagues to move this bill quickly to the floor and act without delay. The Nation is at a crossroads and is currently sitting in its nadir, as some pundits would argue, the Nation's economy needs to be infused with capital, critical infrastructure and development, and the American people need to be employed with real jobs. H.R. 1 does this. It creates the development of infrastructure, provides Americans with jobs, and tries to correct the economy. I am hopeful that this bill will help alleviate the economic woes this country faces.

These METRO projects have been planned and discussed for over 20 years, now these projects are ready to go within 90 days. All that these projects need is the capital to begin. If this bill, along with these amendments passed, Houston METRO projects can finally be started fulfilling plans that were twenty years in the making and fulfilling plans that I have labored long to bring to fruition.

EDUCATION

Harris County serves a combined total of 6,649 Head Start children per year. The poverty rate for Harris County's population under age 5 is higher than the national average at 28.7%. H.R. 1—The American Recovery & Reinvestment Act of 2009 will provide $1 Billion for Head Start and $1.1 Billion for Early Head Start—these Head Start monies will allow for new monies that can be used to address the disparity in funding for Harris County Head Start programs.

One key provision in the Recovery Plan is the Making Work Pay Credit, which provides a tax credit of $500 per worker for single workers earning up to $100,000 and married couples earning up to $200,000. Attached is a brief report and state-by-state table from the Center on Budget and Policy Priorities on the number of taxpayers that will benefit from this credit.

Also included in the Recovery Plan are provisions to invest in priorities like education that will jumpstart economic growth, such as $14 billion for School Modernization for K–12 schools to modernize and repair tens of thousands of schools and provide them with 21st century classrooms. In addition, provisions are included to help state and local governments avoid painful budget cuts in priorities like education, with investments such as additional funding for Title I and IDEA (Special Education).

H.R. 1 will provide $206 million for the Houston Independent School District (HISD) in 2009 and will provide nearly $300 million for the HISD in 2010. This is important to the City of Houston, because as the fourth largest city in the United States it deserves a first rate school system. Funding under H.R. 1 will allow HISD to revitalize and improve the quality of education for school age children in Houston.

ENERGY

Because Houston is the energy capital of the world, it is important that this bill address the question of clean and renewable energy. Certainly, if America is to recover, it must reinvest in its energy. Energy is the life blood of this country.

H.R. 1 contains the following with respect to energy:

Smart Grid/Advanced Battery Technology/Energy Efficiency ($32 billion)

Transforms the nation's electricity systems through the Smart Grid Investment Program to modernize the electricity grid to make it more efficient and reliable. This will jumpstart smart grid demonstration projects in geographically diverse areas, increase federal matching grants for smart grid technology (20% to 50%) including "Smart Meters" that give consumer more choice in their energy consumption at home, and spur research and development. Build new power lines that can transmit clean, renewable energy from sources throughout the nation.

Creates temporary loan guarantees for up to $80 billion for renewable energy power generation and electric transmission projects that begin in the next two years. These would help ease credit constraints for renewable energy investors and spur new private sector investment over the next three years.

Supports U.S. development of advanced vehicle batteries and battery systems through loans and grants so that America can lead the world in transforming the way automobiles are powered. Also includes other initiatives to promote the use of alternative fuel vehicles by federal state and local governments.

Helps state and local governments make investments for innovative best practices to achieve greater energy efficiency and reduce energy usage, including building and home energy conservation programs, energy audits, fuel conservation programs, building retrofits, and "Smart Growth" planning and zoning. Also encourages states to adopt updated energy-efficient building codes and regulatory policies to encourage utility-sponsored gains in energy efficiency.

Spurs energy efficiency and renewable energy research, development, demonstration, and deployment activities at universities, companies, and national laboratories to foster energy independence, reduce carbon emissions, and cut utility bills.

Makes key investments in carbon capture and sequestration technology demonstration projects to work toward making coal part of the solution and reducing the amount of carbon dioxide emitted from industrial facilities and fossil fuel power plants.

Tax incentives to spur energy savings and green jobs ($20 billion over 10 years)

Three-year extension of the production tax credit (PTC) for electricity derived from wind (through 2012) and for electricity derived from biomass, geothermal, hydropower, landfill gas, waste-to-energy and marine facilities (through 2013). Also permits businesses that place new renewable energy facilities in service during 2009 and 2010 to claim either a 30 percent investment tax credit (ITC) instead of the production tax credit, or apply for a grant of up to 30 percent of the cost of building a new renewable energy facility from the Energy Department. These provisions will help speed up investment in new facilities and will address current renewable energy credit market concerns.

Promotes energy-efficient investments in homes by extending and expanding tax credits through 2010 for purchases such as new furnaces, energy-efficient windows and doors, or insulation. Increases the credit from 10 percent to 30 percent of the cost of the investment and raises the credit cap from $500 to $1,500, helping American families save money on their energy bills.

Establishes an enhanced R&D tax credit for research expenditures in the fields of fuel cells, battery technology, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration, in 2009 and 2010.

Increases incentives to install pumps that dispense alternative fuels including E85, biodiesel, hydrogen, and natural gas.

Repair public housing and make key energy efficiency retrofits to HUD-assisted housing ($7.5 billion)

Establishes a new program to upgrade HUD sponsored low-income housing (elderly, disabled and Section 8) to increase energy efficiency, including new insulation, windows, and furnaces.

Invests in energy efficiency upgrades in public housing, including new windows, furnaces, and insulation to improve living conditions for residents and lower the cost of operating these facilities.

Landmark energy savings at home ($6.2 billion)

Landmark provisions to improve the energy efficiency for more than 1 million modest-income homes through weatherization, expanding the number of families (from 150% to 200% of the federal poverty income levels) and the aid level (from $2,500 to $5,000 per household) to keep up with the rising prices of these upgrades;

This will save modest-income families on average $350 per year on their heating and air conditioning bills.

Green Job Training and Energy Efficient Schools

Provides $500 million to train workers for green-collar jobs.

Creates new modernization, renovation, and repair programs for schools and colleges, with a minimum of 25 percent of the funds focused on green building projects.

Energy sustainability and efficiency grants and loans to help school districts, colleges, local governments, and some hospitals become more energy efficient.

SCIENCE AND TECHNOLOGY

H.R. 1 also addresses science and technology.

Investments in scientific research ($10 billion) National Science Foundation

Provides $3 billion overall for the National Science Foundation, putting the NSF budget on track to double over the next seven years, as called for under the America COMPETES Act (PL 110–69).

Includes $2.5 billion for NSF research and research-related activities. Sustained, targeted investment by NSF in basic research in fundamental science and engineering advances discovery and spurs innovation. Such transformational work holds promise for meeting the economic and environmental challenges facing the country, and competing in an increasingly intense global economy.

The $2.5 billion for research is estimated to support an additional 3,000 new NSF research awards and would immediately engage 12,750 senior personnel, post-docs, graduate students, and undergraduates.

Also includes $100 million for improving instruction in science, technology, engineering, and mathematics (STEM).

Also includes $400 million for the construction and development of major research facilities that perform cutting-edge research.

ARPA–E

Provides $400 million for the Advanced Research Project Agency-Energy (ARPA–E) to support high-risk, high-payoff research into energy sources and energy efficiency in collaboration with private industry and universities.

National Institute of Standards and Technology

Provides $500 million overall for the Commerce Department's National Institute of Standards and Technology (NIST), putting its budget also on track to double over the next seven years, as called for under the America COMPETES Act (PL 110–69).

Includes $300 million for competitive construction grants for research science buildings at colleges, universities, and other research organizations.

Includes $100 million to coordinate research efforts at laboratories and national research facilities by setting standards for manufacturing.

Includes $70 million for the Technology Innovation Program (TIP), which is designed to speed the development of high-risk, transformative research targeted to address key societal challenges, and $30 million for the Manufacturing Extension Partnership (MEP), which is targeted at improving the productivity and competitiveness of small manufacturers.

Certain other key investments in scientific research

$2 billion for the National Institutes of Health (NIH), including $1.5 billion for expanding good jobs in biomedical research to study diseases such as Alzheimer's, Parkinson's, cancer, and heart disease, and $500 million to implement the repair and improvement plan developed by NIH for its campuses.

$600 million for the National Aeronautics and Space Administration (NASA), including $400 million to put more scientists to work doing climate change research.

$1.5 billion for NIH to renovate university research facilities and help them compete for biomedical research grants.

Investments in IT network infrastructure ($37 Billion)

More than 100 high-tech CEOs and business leaders have endorsed the bill's nearly $40 billion in investments in IT network infrastructure, including broadband, health IT, and a smarter energy grid and estimate these investments will create more than 949,000 U.S. jobs, more than half of which will be in small businesses. They stated, "The investments in a smarter energy grid, health care IT . . ., and accelerating broadband deployment . . . will not only stimulate the economy, but will also accelerate longterm growth."

Broadband and wireless services

Provides $6 billion for extending broadband and wireless services to underserved communities across the country, so that rural and inner-city businesses can compete with any company in the world.

For every dollar invested in broadband, the economy sees a tenfold return on that investment.

The stimulative impact of this investment would be: (1) jobs to procure, produce, deliver, install, and maintain new infrastructure; and (2) jobs in sectors of the economy that rely on e-commerce, including the retail, high-tech, education, health care, and real estate sectors.

Smarter energy grid

Provides $11 billion for improving the grid, including transforming the nation's electricity systems through the Smart Grid Investment Program to modernize the grid to make it more efficient and reliable. This will jumpstart smart grid demonstration projects in geographically diverse areas; increase federal matching grants for smart grid technology (to 50% from the current 20%) including "Smart Meters" that give consumers more choice in their energy consumption at home; and spur research and development. The funding will also facilitate the building of new power lines that can transmit clean, renewable energy from sources throughout the nation.

Health Information Technology

Provides $20 billion to accelerate adoption of Health Information Technology (HIT) systems by doctors and hospitals, in order to modernize the health care system, save billions of dollars, reduce medical errors, and improve quality.

Also provides significant financial incentives through the Medicare and Medicaid programs to encourage doctors and hospitals to adopt and use HIT.

Promoting the adoption of Health Information Technology systems will create hundreds of thousands of jobs—many of them high-tech jobs.

The nonpartisan CBO estimates that, as a result of this legislation, approximately 90 percent of doctors and 70 percent of hospitals will be using electronic medical records within the next 10 years.

Mr. Chairman, given the exigency of the situation and the Nation's current economic crisis, I would urge this Committee and my colleagues to move this bill quickly to the floor and act without delay. The Nation is at a crossroads and is currently sitting in its nadir, as some pundits would argue, the Nation's economy needs to be infused with capital, critical infrastructure and development, and the American people need to employed with real jobs. H.R. 1 does this. It creates the development of infrastructure, provides Americans with jobs, and tries to correct the economy. I am hopeful that this bill will help alleviate the economic woes this country faces.

As the Obama administration staked its campaign upon the idea of change and won, I believe that America is ready for a change. We are ready to be lifted from the doldrums of economic morass. We are ready for real change that puts America, its economy, its innovation, and entrepreneurial spirit back in its rightful place. I am hopeful and confident that H.R. 1 does just that and places America back in the spotlight as the sunbeam on the world stage. I strongly urge my colleagues to act quickly and support this bill as vigorously as I do.

Mr. OBERSTAR. Mr. Chairman, how much time remains?

The CHAIR. The gentleman from Minnesota has 1 minute.

Mr. OBERSTAR. And on the other side?

The CHAIR. 3½ minutes.

Mr. OBERSTAR. I reserve the balance of my time.

Mr. SHUSTER. If I can respond to the gentlelady from Texas, I don't believe this cuts anything. It just makes certain that the States aren't able to cut what they have in their budgets. Because, at the end of the day, the idea in the stimulus is to have a net increase in total spending from all levels of government. And if this moves forward, we want to make sure that the States don't reduce what they spend on their transportation projects and use the Federal funds to offset their budget.

Ms. JACKSON-LEE of Texas. Will the gentleman yield for a question?

Mr. SHUSTER. I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. I notice in the summary it says ''highway maintenance.'' But I think I am agreeing with you that what you are suggesting is new maintenance but also new starts. If something is a new start, for example, in rail, that would create new jobs, and that is something that is in the framework of your thought.

Mr. OBERSTAR. Will the gentleman yield for further clarification?

Mr. SHUSTER. I certainly will.

Mr. OBERSTAR. The legislation provides for $1 billion in new starts for transit. And Houston Transit has been moving through the process, and we are working to accelerate the consideration of its project to the Federal Transit Administration; and, Mr. NADLER will soon offer an amendment to increase the funding for transit. So I am quite confident that there will be enough capacity to accommodate the gentlewoman's concern.

Ms. JACKSON-LEE of Texas. If the gentleman will yield, I thank you very much. That is the framework of my message.

The CHAIR. The gentleman from Pennsylvania controls the time.

Mr. SHUSTER. I appreciate the chairman's clarification.

I yield 30 seconds to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the gentleman, and I rise in support of this amendment.

In the full committee, we offered an amendment to have this applied to all accounts, not just transportation accounts, in the bill, which unfortunately failed. But this is a very, very good start in this portion of the bill. I just wish it extended to the entire $825 billion being spent.

Mr. SHUSTER. Mr. Chairman, how much time do I have left?

The CHAIR. The gentleman from Pennsylvania has 1½ minutes.

Mr. OBERSTAR. We have no further speakers on our side.

I just want to say I concur with the gentleman from Iowa that we required a maintenance of effort in all of those projects in our committee that had matching funds because we wanted to assure that they are a stimulus, and we want to keep the pressure on State and local government people to carry these projects out.

So the gentleman's amendment is needed, it is important, it will assure that we put jobs in place by June, and we ought to support this amendment. I thank the gentleman for offering it.

I yield back the balance of my time.

Mr. SHUSTER. I thank the chairman for not opposing the amendment. And just to close, I think this puts teeth in the legislation that is going to help this bill and improve this bill some. I think it needs a lot more improvement, but this is one step in the right direction.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. NADLER OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 111–9.

Mr. NADLER of New York. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. NADLER of New York:

Page 213, line 4, after the first dollar amount, insert ''(increased by $1,500,000,000)''.

Page 213, line 4, after the second dollar amount, insert ''(increased by $1,350,000,000)''.

Page 213, line 10, after the dollar amount, insert ''(increased by $150,000,000)''.

Page 216, line 2, after the dollar amount, insert ''(increased by $1,500,000,000)''.

The CHAIR. Pursuant to House Resolution 92, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER of New York. I yield myself 30 seconds.

Mr. Chairman, this amendment increases transit capital funding by $3 billion to $12 billion. $1.5 billion will go to the Transit Capital Formula Program, which goes to every State, including both urban and rural areas, and $1.5 billion to the New Starts program. The amendment is supported by numerous transportation, labor, and environmental organizations. I have been informed the Transportation Trades Department of the AFL–CIO will be scoring the amendment, and the League of Conservation Voters may be scoring it as well.

This amendment has broad support because people all over the country recognize that investing in transit is one of the smartest things we can do to create jobs here in America, to reduce congestion and dependence on foreign oil, and spur economic growth.

I urge support for the amendment.

I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. LEWIS of California. I yield 1 minute to my colleague from Florida (Mr. MICA).

Mr. MICA. I thank the gentleman.

I am spending all my afternoon supporting some of the amendments from the other side; but let me tell you, the Nadler amendment is one we have to support.

Mr. OBERSTAR as the chairman and I as the ranking Republican, we have been working on an infrastructure proposal since back in September last year to try to get infrastructure going and jobs started in this country, and we are still delayed. And what is most offensive is they took one of the most important parts for rail and transit out of the bill, or actually cut it down, and he is restoring that money. Let me tell you, that is just a little bit of money.

These projects are expensive. Transportation projects in New York, the tunnel across Long Island, $7 billion; the Second Avenue subway tunnel is over $7 billion. Infrastructure projects are expensive, and we are only putting in a small fraction.

Support the Nadler amendment.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 30 additional seconds.

Mr. MICA. I thank the gentleman.

Again, folks, this is about creating jobs. And every billion dollars we put in jobs, ready-to-go projects, is 28,000 to 35,000 jobs. So it makes a big difference.

Mr. NADLER is going to make a decision on how many people will go to work, and it may be in your communities throughout the United States. So they give you a choice right now of a few jobs; he gives you a choice of many jobs with sound investments.

Support the Nadler amendment.

Mr. NADLER of New York. I thank the gentleman.

At this point, Mr. Chairman, I now yield 1 minute to the distinguished chairman of the Transportation Committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding. I need not take the whole minute; the gentleman from Florida spoke well for both sides.

But in our hearing just a week or so ago, we heard very clearly from the major transit agencies in this country. They have options for buses, they have options on rail cars that could be exercised in days. And we heard from the producer companies, the original equipment manufacturers, they can ramp up production up to 35 percent in days, not weeks or months. These initiatives will create jobs.

MARTA, the Atlanta transit agency, said we need 20 new buses, natural gas buses that will clean the air and increase ridership. They will be produced in Minnesota. Muncie, Indiana needs rail cars. The rail cars will be produced in Boise, Idaho. So jobs are being created all over the country, and in Hayward, California, being produced. We need to do this.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume, and it will be very short.

I would love to support the gentleman's amendment. Indeed, if there were an offset within this bill relative to those things that aren't producing jobs, this is an amendment I could get very excited about. In the meantime, it does raise the top line, and everybody should know that. I know that Mr. OBERSTAR loves that, for it helps him out when he is trying to pass the bill down the line when he is short of money. But in the meantime, on this side of the aisle the vast percentage of my Members would prefer that we have an offset before we start raising the line of spending. So I will reluctantly have to oppose the amendment.

I reserve the balance of my time.

Mr. NADLER of New York. Mr. Chairman, I now yield 10 seconds to the distinguished chairman of the Appropriations Committee, the gentleman from Wisconsin.

Mr. OBEY. I urge support for the amendment.

Mr. NADLER of New York. That was less than 10 seconds.

Mr. Chairman, I now yield 45 seconds to the distinguished chairman of the Highway and Transit Subcommittee, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman.

We have had the greatest 1-year increase in transit ridership in 50 years. Americans are loving their transit systems to death. Yet, there is $160 billion deferred maintenance on these systems. 12,000 buses have passed their useful life; they are patched together, they are limping along, they are maintenance heavy, they are dirty. They need to be replaced. There are 10,000 options for new buses, buses made in America. They can't be executed because our transit systems don't have the money.

If we pass this amendment, thousands of those new fuel efficient, cleaner buses will be purchased, putting Americans to work in the bus manufacturing and all through the supply chain, in addition to helping people get to work in a more fuel efficient and more comfortable way.

I urge support of the amendment.

□ 1430

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I rise in strong support of the Nadler amendment and full support for the bill.

With my Texas accent it is hard to say anything in 30 seconds, but with a light rail transit project, the new starts that would come under this amendment, we can put $410 million worth of hiring people to do utility easement work and have light rail in the fourth largest city of the country if this amendment passes. That is why this amendment is important, and I am proud to be here and support it.

Mr. Chair, I rise today in support of Congressman NADLER's amendment to H.R. 1 and the full bill. I ask unanimous consent to place the full statement in the RECORD.

This amendment will increase transit capital funding by $3 billion including $1.5 billion for Capital Assistance Grants, also known as the New Starts program.

It is important that we invest additional capital in the New Starts program simply because these are new projects and they will create new jobs as opposed to just funding existing contracts on existing projects. The latter will not stimulate the economy.

For example, there are two light rail projects in my district that are near the end of the FTA review process and could be under contract with a design-build firm within 90 days.

About $410 million of early work items for the projects are shovel ready because the transit authority has already selected contractors and completed all necessary engineering and design and purchased all necessary rights of way.

These are exactly the kinds of infrastructure projects that make sense for an economic stimulus bill in 2009, creating about 18,000 jobs within 90 to 120 days.

These projects will promote transit ridership which is a far more environmentally friendly way to move people more efficiently.

These projects will also serve economically disadvantaged areas under Community Development Block Grant (CDBG) criteria.

So not only will the projects enhance mobility for transit dependent and lower income persons, but it will rejuvenate the surrounding communities by spurring economic development.

Mr. Chair, Houston METRO has the expertise and experience delivering such projects. They already built and operate one of the most productive light rail lines in the nation.

Therefore, I urge my colleagues to support this amendment to increase New Starts money so that Houston METRO and other transit agencies across the country can start turning dirt, creating jobs, and stimulate this economy.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman, and I am proud to have worked with him to offer this amendment.

This bill must be a jobs bill, a job-creation bill investing in transit is a certain way to create jobs and do things that are much needed in this country.

The CTA Chairwoman Brown told us last week she could spend $500 million tomorrow to make needed improvements. Likewise, Metra commuter rail and Pace Suburban Bus has ready-to-go projects, has new starts that are ready to go, to put people back to work, get them working, get people moving. So to create more jobs, we need to pass the Nadler amendment.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. MCMAHON).

Mr. MCMAHON. Mr. Chairman, I strongly urge all of my colleagues to support the amendment that I have jointly sponsored under the leadership of Congressman NADLER, together with our other colleagues, to increase transit funding in H.R. 1 by $3 billion. Bang for the buck, nothing will help create more jobs than funding transportation infrastructure.

I have to say that my district has some of the longest commute times in the country, and we need this mass transportation infrastructure badly. People travel on average an hour and a half each way to work.

I urge everyone to support this amendment.

My district has some of the longest average commute times in the country—with people travelling well over an hour and a half each way to work. Meanwhile our MTA is seeking to raise our bus and subway fares, cut service and if you can imagine raise the toll to $14, just to go from SI to Brooklyn and back.

Unfortunately my district is far from unique. Americans are demanding more support for mass transit and that is why I encourage all of you to support this important Amendment and to support this bill.

Mr. NADLER of New York. I yield 30 seconds to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Chairman, demand for transit service is on the rise. In 2007, over 10 billion trips were taken on mass transit, a 50-year record. Last year, 2008, we had a 4.4 percent increase; and yet, people around the country are seeing decreases and more pressure is on public transportation and they can't keep up with demand.

With this extra $3 billion in this package, we will put people to work and pursue a green economy and get people around.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. MAFFEI).

Mr. MAFFEI. Mr. Chairman, I rise today in strong support of Congressman NADLER's amendment for increased transit funding.

Just today in my hometown paper, the Syracuse Post-Standard, it was reported that the Central New York Regional Transportation Authority, also known as Centro, is facing a $5 million shortfall. To close their deficit, they are considering raising fares, cutting service and eliminating routes. This cannot be an option, not now when the economy is facing a recession.

So I ask Members to vote in favor of this amendment. It will help ensure citizens in my district, such as Ann Parquette, who is mentioned in the article, can get to their jobs.

I include my full statement in strong support of this amendment and the related article from the Syracuse Post-Standard for the RECORD.

I rise today in strong support of Congressman NADLER's amendment for increased Transit Funding in the American Reinvestment and Recovery Act. Just today, in my hometown paper the Syracuse Post Standard, it was reported that Central New York Regional Transportation Authority, also known as Centro, is facing a $5 million shortfall. To close their deficit, they are considering raising fares, cutting service and eliminating routes.

This cannot be an option—not now when ridership is at an all time high and more working families are absolutely dependent on public transportation. Across the county, from the suburbs to the city of Syracuse, more people need Centro to get them to work and the grocery store. Centro rider Ann Parquette, who rides the bus to work, thinks she will have to quit her job and find a new one closer to home if they eliminate her route. Other riders who can currently afford the $1 fare are not sure if they can make ends meet if that is increased by the 25 or 50% Centro is considering.

When we're facing a recession, we cannot allow cuts that will hit our lowest income workers the hardest. I urge my fellow Members to join me in voting for the Nadler amendment for increased Transit Funding.

[From the Post-Standard, Jan. 28, 2009]

CENTRO PLANS FARE HIKE, SERVICE CUTS

(By S.J. Velasquez)

Centro is proposing to raise bus fares and cut some services in an effort to make up a projected $5 million shortfall in the coming budget year, Centro officials said Tuesday.

Centro wants to increase the Syracuse base fare from $1 to at least $1.25 and possibly to $1.50, officials said. Almost all other fares would also be increased under the proposal, they said.

Frank Kobliski, executive director of Centro, said the changes are needed to make up for a loss in state aid and mortgage tax revenues and rising costs that create the projected deficit.

''The economy is such that we simply cannot put operators in seats and be able to come remotely close to keeping fares at a dollar,'' he said. ''Some cuts are necessary and inevitable.''

This would be the first fare increase in 14 years, he said.

Centro also is proposing to cut three routes and reduce service on three others.

The biggest savings would come from eliminating its Suburban East No. 723 route that takes riders from Minoa, Manlius and DeWitt to ShoppingTown Mall where many catch other buses. Centro officials said that would save $435,000.

″I don't know what I would do,'' said Ann Parquette, 51, of Minoa, who rides that bus twice a day to get to and from her job in the cafeteria at Jamesville-DeWitt Middle School.

''I'd probably quit my job and work at the school out in Minoa,'' she said. 'That'd be my best bet.''

Parquette said she could get a ride to work from friends, but would have no means of getting home.

Another person who could be stuck is Joseph Honor, 41, of Syracuse, a cook at Red Robin restaurant in Fayetteville. For the past three months since his car broke down, Honor has relied on the bus line to get to and from work.

''People work out there and they need a bus,'' he said.

In downtown Syracuse, Centro rider Stephanie LaDue said the increase in fares would be hard for her to afford.

''I pay $20 a week easily right now,'' LaDue said. ''That will be almost $30 dollars for a . . . bus. This is going to be a pain.''

LaDue, a single mother with a 5–month-old daughter, said she uses the bus to get to and from computer classes and support group meetings.

Centro, which has a $58 million budget this year, is losing about $1.6 million in mortgage tax revenue and expects to lose about $1.33 million in state aid, officials said. The rest of the deficit—about $2.07 million—is caused by increases in the cost of supplies and other operating costs.

Kobliski said a 25-cent fare increase would bring in an additional $1 million, but that increasing the base fare by 50 cents wouldn't necessarily bring in another $1 million because Centro would lose riders.

The final decision on whether to increase fares by a quarter or 50 cents will depend on how much state aid and federal economic stimulus money Centro gets, officials said.

Service reductions could save another $1 million, Kobliski said.

Centro officials said they would tap reserve funds and defer some capital expenditures to make up the shortfall.

In addition to the fare increases, Centro is proposing closing the bus system an hour earlier on weekdays in Syracuse and Onondaga County, which would mean no service after 12:30 a.m. The weekend service already ends at 12:30 a.m.

Ridership is at an all-time high, so some may wonder why Centro is facing a shortfall. Ridership pays about 21 percent of the operational costs; the state pays 47 percent; the remaining 32 percent comes from federal, local and other sources.

Centro will hold public hearings in February and then will present the proposals to the Centro board of directors. If approved, the fare increase would go into effect May 4.

Centro plans to advertise the fare increase and service reductions on its Web site www.centro.org, in buses and in the public forums.

Mr. NADLER of New York. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to say that I appreciate the support of this amendment on a broad bipartisan basis, from Mr. MICA, the ranking member of the Transportation Committee, from Chairman OBERSTAR, and from the chairman of the Appropriations Committee, Mr. OBEY. I urge everyone to vote for it. This $3 billion will make a tremendous difference to mass transit, to new starts in every State in the Union.

Mr. WU. Mr. Chair, I rise today in support of the Nadler/DeFazio/Lipinski/McMahon/Ellison amendment to the American Recovery and Reinvestment Act that would further emphasize the need for America to invest in transit projects across this country by committing $3 billion more to transit projects.

Except for education, there is almost no better way to stimulate the economy than to invest in transportation projects. Additionally, to move us forward to a clean energy economy, relieve traffic congestion, and provide for safer roadways, public transit is one of the best investments the federal government can make.

An additional $3 billion for federal transit projects, which would be distributed by adding $1.5 billion to the Transit Capital Assistance formula program and providing $1.5 billion for New Starts, brings the total funding for transit projects in this bill to $12 billion. This amendment would provide adequate resources to invest in the estimated 736 shovel-ready transit projects across the country.

These projects would bring jobs and a more efficient transportation system into many American communities.

I urge support of this worthy amendment.

Mr. HOLT. Mr. Chair, I rise today in support of Nadler, DeFazio, Lipinski, McMahon, Ellison Amendment to the American Recovery and Reinvestment Act. This amendment would increase the overall capital transit funding in H.R. 1 to $12 billion by adding an additional $1.5 billion to the Rail Modernization formula

program and an additional $1.5 billion to the transit New Starts program.

According to the American Public Transportation Association, the $12 billion provided by this bill could help to fund 736 worthy, needed, and fully-screened transit projects that could be started in less than 90 days. Increasing funding for capital transit systems will help states to create new jobs quickly, the precise goal that H.R. 1 seeks to accomplish.

Additionally, this funding will help local transit agencies meet increased demand for public transit nationwide. In the first half of 2008, demand for public transit rose 4.4 percent over the record highs of 2007. In New Jersey, NJ Transit is providing more than 900,000 weekday trips on its trains, buses and light-rail vehicles. Public transit agencies are struggling to keep up with demand, and many of them are considering raising their fares in order to afford necessary improvements to their facilities. This amendment would provide this much needed funding to keep public transportation moving and affordable.

Supporting public transportation, especially passenger rail, should be a central element of our national strategy to slow the rate of global climate change and reduce our dependence on foreign fuels. Passenger rail consumes 21 percent less energy per passenger mile than automobiles and 17 percent less than airplanes. It releases half the amount of greenhouse gases per passenger mile as either air or car travel. Public transportation is an essential component of easing traffic congestion, reducing wear and tear on roads, protecting our environment, and preserving open space in New Jersey and across the country.

This amendment will create jobs, protect our environment, and aid struggling public transit agencies, and I urge my colleagues to support it.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. NEUGEBAUER

The CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 111–9.

Mr. NEUGEBAUER. Mr. Chairman, I have that amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. NEUGEBAUER:

Strike division A (and redesignate remaining provisions accordingly).

The CHAIR. Pursuant to House Resolution 92, the gentleman from Texas (Mr. NEUGEBAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. NEUGEBAUER. Mr. Chairman, I rise in support of an amendment that I have offered that would eliminate the $355 billion worth of discretionary programs that are in this bill. A lot of people would think there are a lot of good things in this bill, a lot of good projects. We have heard a lot of Members talk about that. And there probably are some projects in there that would be good for the communities across our country. But there is just one problem: we don't have $355 billion.

What this amendment does is it says what the American people are saying. They are concerned about the fact that we continued to borrow and spend and borrow and spend. In fact, quite honestly how we got into the situation we are in right now is the fact that individuals and companies and even governments have borrowed and spent more money than they have.

When you ask the American people what do you think is the best way to stimulate the economy, 63 percent of them say you should do it with tax cuts for businesses and individuals.

When you ask them do you think we can spend our way out of this economic situation, 61 percent of Americans say we can't spend our way out of this situation.

I think the fact is that we need to understand what is really at stake here. One of the things is that we are making a decision here in somewhat of a vacuum. We don't even know for some of these projects how much money we are going to spend in 2009 because Congress has not finished its business for the current fiscal year. We also don't know what we are going to spend on a lot of these projects in 2010 because the President of the United States has not brought his budget to this body.

And so we are going to plus up and throw out a lot of money when we already have accounts that have money in them that haven't been spent year to date. So making these decisions in a vacuum is a problem.

The other problem I have with this is we are going to spend about $275,000 on each one of these jobs; $275,000, that is a lot of money to spend for jobs, on top of the fact that we are going to have already a $1.2 trillion deficit this year.

What the American people are observing here is we are throwing a lot of money, TARP money, bailout money, and now we want to spend $825 billion worth of money that we don't have that we are going to charge to our grandsons and our children and future generations, and the American people say stop, wait a minute, what's going on here?

Now there are a lot of projects that maybe our Members think are worthy in here, but think about the fact where we read this week where people lost their jobs in America. All of us are concerned about that. If you are talking about a stimulus package, a lot of the programs that are in this spending won't even be spent until 2010, 2011 and 2012. In fact, the GAO says less than 40 percent of the spending programs in here could actually be spent in the next 18 months.

The other piece of the pie that I think concerns a lot of us is have we fully vetted this? This bill creates several new programs in Congress that haven't even gone through the regular committee process. So we are rushing up to spend a lot of money and create a large deficit for our children without much oversight. I think the American people deserve oversight. If we are going to spend money we don't have, particularly, we owe them the process of looking at how much money we are going to spend on a lot of these projects in the 2009 budget, taking a look at the President's 2010 budget, and then determining if there in fact should be some supplemental appropriations to be put in to stimulate this economy.

But I guarantee you that people back home don't think that planting grass, giving money to the arts, or buying cars for Federal employees are going to do much to help them keep or retain or create jobs in America.

I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, how much time does the gentleman have remaining, and who has the right to close?

The CHAIR. The gentleman from Texas has 1 minute remaining, and the gentleman from Wisconsin has the right to close as a manager in opposition to the amendment.

Mr. OBEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am tempted to ask the Chair what year is this? I thought it was—yeah, I didn't think it was 1933—I thought it was 2009, or something close to it. I guess all I would say is, you know, they don't look like Herbert Hoover, but there are an awful lot of people in this Chamber who think like Herbert Hoover, and I think this amendment illustrates that.

If you vote for this amendment, you'll be knocking out all funding for education funding, including every single dollar in this bill to prevent State and local governments from raising taxes in the middle of a recession in order to avoid laying off teachers, in order to avoid laying off speech therapists, school nurses, and the whole shebang.

You would be cutting out all infrastructure. You would be eliminating $30 billion for highway construction. Those jobs go blewy.

You would be eliminating $19 billion for clean water projects, flood control and environmental restoration. Those jobs go blooey.

You would be eliminating all energy funding in this bill, $32 billion to transform the Nation's energy transmission distribution production systems. So those jobs go blooey. And we also lose the chance to modernize this economy.

All science funding, all of the jobs that would be provided in the science

area by this bill, those jobs are out the window.

All of the jobs that would be created by giving rural America an opportunity to get wired up with real broadband, just like the rest of the country, that would be out the window, too.

This amendment in my view demonstrates that some people recognize the cost of everything and the value of nothing. It is an amendment that we can ill-afford to pass, and I urge defeat of the amendment.

I reserve the balance of my time.

Mr. NEUGEBAUER. I appreciate the gentleman's comments. But I guess the question I have of the gentleman when he closes, number one, where are we going to get the money?

Number two, does the gentleman know what funding is going to be spent in 2009 and 2010 for these projects? Now he may know because in many of the appropriation bills that have come to this floor, he is the only one who has had much input in that process.

So what we are doing, we are making a decision in a vacuum. To coin the term of the gentleman who just spoke, ''kabooey'' goes to the future of our young, next generation because we have left them with a legacy of huge deficits which we do not have the capacity to pay back. If we keep doing this, compounding this, making decisions on a quick basis and mortgaging their future, we are not doing the job that the American people sent us to do.

So what I am saying is there are a lot of these projects that could be brought in under regular order under the 2009 appropriation bill or that could be brought in in 2010.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the fact is this economy is in mortal danger of absolute collapse. We are trying to avoid that by injecting consumer spending into the economy in hopes that it will reinflate the economy at least to some degree. The fact is that the cost of doing nothing would be astronomical. Of course this package costs money. How much will it cost us if the credit markets totally freeze up? How much will it cost us if we lose employment opportunities for another 3 to 4 million Americans?

How much will it cost us in added unemployment compensation, in added welfare payments and all of those items if we don't do something to stave off economic disaster?

This amendment is primitive economically. It does not recognize the reality of a modern economy. I urge its defeat.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. NEUGEBAUER. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 6 OFFERED BY MS. WATERS

The CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 111–9.

Ms. WATERS. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. WATERS:

Page 125, line 6, insert ''(including projects funded under section 6002 of division B of this Act)'' after ''sectors''.

□ 1445

The CHAIR. Pursuant to House Resolution 92, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Mr. Chairman and Members, this is not a complicated amendment. It simply clarifies that funds provided for job training in division A of this bill can be used for programs in division B, in particular, for broadband communications deployment. What are we talking about? We are talking about broadband infrastructure. The broadband package authorizes the National Telecommunications and Information Administration, a part of the Commerce Department, to distribute $2.825 billion for wireless and wireline broadband through a grant program.

This is extremely important. Here we are in 2009. There are many communities throughout this country that are simply underserved. They do not have broadband. We are going to take this opportunity to repair or to build out the broadband infrastructure. We're going to take this opportunity to bring these communities up to date so that there can be more jobs, so that businesses can be supported, and so that families can have access to the kind of technology that will help them pursue jobs and careers and for students to have access to the kind of technology that will help them to communicate with other students and with their teachers, et cetera, et cetera. This is very important.

Now, the job training in this bill is in one section, and of course, broadband infrastructure is described in another section. I simply allow the job training resources to be used on broadband infrastructure. Someone has asked, does this mean that you're taking all of the money in job training for broadband? No. This simply means that we make the opportunity available for this money to be used for broadband infrastructure. Where did I get this idea? I was fortunate enough to witness what could be done in the expansion of broadband opportunities. In part of my district, we ended up with a training class at one of our schools for the laying of fiberoptic. And the young people who took advantage of this opportunity ended up getting trained. They got good jobs. Many of them moved into other communities. They bought homes. These are not simply dead-end jobs. These are careers that can be developed with this kind of training. We know that there is job training and there is job training. There is some of this job training that is kind of classroom oriented. There are some jobs that are so-called trained for that don't really exist.

But this is real. We know that the telecommunications industry must keep up with the expansion. We know that they do some training. We know that they did more training in the past. But to the degree that we can help get this training done, we can create jobs, expand broadband opportunities and truly create these careers.

So, I'm very pleased that approximately $1 billion would go to deployment of wireless service, 25 percent to wireless voice service in underserved areas and 75 percent to advance wireless broadband in underserved areas. Approximately $1.825 billion would go to the deployment of broadband via fiber or other wires, 25 percent to basic broadband in unserved areas, and 75 percent to advance broadband in underserved areas. This is a one-time opportunity to get a lot of young people trained. It is not enough to say that we're going to do job training that may lead to simply some jobs for a short period of time. Some of those jobs may be in construction. But they will only last for as long as the project will last. Some of those jobs that we hope to come on line are not going to come on as quickly as we would like them to. But these opportunities are waiting. These opportunities are waiting, and the telecommunications companies and the contractors who work with them can get this job training up and going immediately. And it's not a long time. In the training that I witnessed for fiber optics, we had people on the job within 3 to 4 months.

The CHAIR. The time of the gentlewoman has expired.

Ms. WATERS. I would ask support for this amendment.

Mr. LEWIS of California. I rise to claim the time in opposition, Mr. Chairman.

The CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. LEWIS of California. And I do so very reluctantly, Mr. Chairman, for the gentlelady from California and I have worked together for many years. I'm not very excited about the job training provisions within this bill. I'm opposing the bill generally. And in the final

analysis, I will end up voting against her bill. But I am not going to spend a lot of time convincing people that she is wrong.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. FLAKE

The CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 111–9.

Mr. FLAKE. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. FLAKE:

Page 212, strike lines 9 through 24.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, every year, we have a debate, it seems, in the appropriations process about whether or not we should continue to subsidize Amtrak. We've been having this debate for 40 years. In 40 years, Amtrak has not turned a profit, and the Federal Government has had to subsidize it. Forty years. Yet here, after appropriating I think it was $1.3 billion in subsidy last year to keep Amtrak running, we're talking about providing another $800 million to Amtrak in this stimulus package.

Now I would argue that this is a mistake for two reasons. First, how can we continue to provide this kind of subsidy for a program that continually does not work? Every time a passenger steps aboard an Amtrak train, the Federal taxpayer spends an average of $210 in subsidy for that passenger. Not every year, not every month, but every time a passenger steps on the train, he or she receives a subsidy on the average of $210 from the Federal Government. Yet here we say Amtrak needs more. We haven't done enough.

We are not preparing it for privatization, or we haven't said, you have to bring your load factor up from less than 50 percent. I think it was some 47 percent last year. The airlines have a load factor around 80 percent. But no, we say, let's just give you more subsidy. Let's keep you going as you are so you don't have to reform. Some reforms supposedly have been put in place, but not reforms that have actually increased the load factor or made Amtrak run any better, but rather it simply put it in need of more subsidies. That is the first reason we ought to oppose it. We're simply continuing and making it longer, stretching the time from which we will see a profitable system.

Second, regardless of the public good argument that you can make or not make in regard to this legislation for Amtrak, you ought to make the argument, or you should make, that this is not stimulus. How in the world is providing another $800 million to a program that continues to fail to turn a profit, a program that we have to continue to subsidize to the tune of $210 per passenger on the average, how can we even argue at all that this is stimulus, that this is somehow good for the economy, that this is the best use for this money, that it's better than letting the taxpayers actually keep it and spend it as they wish, it's better than any other purpose, that we should provide it to a system that is failing, and that is going to stimulate the economy.

I would argue that if you're providing it to a program that continues to run deficits, requiring subsidies of over $1 billion a year, that should tell us, man, we ought to change something here. Maybe we ought to provide stimulus in some other way, some way that would actually stimulate the economy.

Mr. LEWIS of California. Will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from California.

Mr. LEWIS of California. The Members may find it rather amazing to have me rise to be actively supporting an amendment by my colleague from Arizona. The last time I found myself doing that was when I heard in some mix that my friend from Arizona was opposed to subsidies for agriculture, and that is actually in your district. But this one I absolutely climb aboard, and I'm going to ride the train with you all the way.

Mr. FLAKE. Oh, good. I thought I was going to be thrown under the train again. It's nice to have some agreement. But yes. This is simply that if you want to look at it in terms of is this a good idea to continue to subsidize like this? No. Is it stimulus? Certainly not. Certainly not.

I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. OLVER. Mr. Chairman, this amendment by the gentleman from Arizona would strike all of the funding for Amtrak, the National Railroad Passenger Corporation.

I want to remind people that the primary objective of this economic recovery bill is to fund ready-to-go projects that create jobs quickly. And very few programs in this bill do that as fast as Amtrak. Amtrak has $1.3 billion in ready-to-go projects that it can spend out in fiscal 2009 and twice that that can be used in fiscal year 2010. Jobs will be created immediately nationwide and include repairing infrastructure, renovating stations to comply with the Americans with Disabilities Act and rehabilitating or purchasing rolling stock for the company.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. I would simply state, I was just told that I'm going to strike all the funding for Amtrak. It makes it sound like we're taking all the funding for Amtrak. I should point out this takes none of the funding from Amtrak that we've approved in the regular appropriation cycle. I wish it did strike it. But it doesn't. As I mentioned, I think we have already provided in the last appropriation bill $1.3 billion in subsidy. This is, yes, $1.3 billion in subsidy. This is another $800 million in addition to that in the stimulus bill that is supposedly supposed to stimulate the economy.

Let me say something else. Some may argue that we have to have Amtrak because so many people rely on it and that it's their only form of transportation. The actual statistics are that less than one-half of 1 percent of intercity travelers rely on Amtrak for travel, less than one-half of 1 percent. So this is not something that we have to say, oh, we've got to subsidize it again in the form of stimulus because so many people rely on it for transportation.

I would say please adopt the amendment.

I yield back the balance of my time.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida, the chairwoman of the Railroad Subcommittee.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I rise in strong opposition to this amendment.

I just finished a 5-hour hearing where we had both passenger rail and freight rail in a hearing. And we have the second largest committee in infrastructure in the entire Congress because there is such an interest in passenger rail.

My colleague, I got some breaking news for you. There is no form of transportation that pays for itself, none whatsoever, whether we are talking about rail, airlines or cars, none of it. We subsidize all of it. The chairman of the committee had recommended $5 billion for rail. This is a very bad idea. I'm encouraging all of my colleagues to vote ''no.'' Kill this bad idea before it multiplies.

Mr. OLVER. Mr. Chairman, how much time do I have?

The CHAIR. The gentleman from Massachusetts has 3 minutes remaining.

Mr. OLVER. Mr. Chairman, let me remind my colleagues, Amtrak provides intercity passenger rail service over approximately 20,000 miles in 46 States which are owned by private freight railroads. But it also owns and maintains 1,000 miles of track, particularly in the Northeast Corridor, and half of all of Amtrak's passengers are carried in the Northeast Corridor.

□ 1500

Amtrak has been consistently undercapitalized during its 37 years' existence. The Department of Transportation's Inspector General estimates that Amtrak's capital backlog on the Northeast Corridor alone exceeds $10 billion to reach a state of good repair.

On the NEC, some bridges date to the late 1800s. The electric tracking system between New York and Washington was funded by the Works Progress Administration as part of a 1930 stimulus bill, economic stimulus. The speed and the capacity and the safety of the Northeast Corridor rail passenger operations are at risk.

This amendment should be defeated, and I urge that there be a ''no'' vote.

I yield the remainder of my time to the chairman—or the ranking member.

Mr. MICA. Thank you. And I don't feel uncomfortable over on this side.

But let me say that this is the wrong amendment at the wrong time here. We just finished, after 11 years of not having an Amtrak reauthorization, in a bipartisan manner we put together reforms for Amtrak that have been called for. Now we have an opportunity—and we've worked together to reform it—to actually get it moving to provide a difference in transportation alternatives, to provide a difference in energy-efficient transportation, to provide a difference in the environment. So why would we want to stop projects that need the funding now and are ready to go and we've made the reforms?

So I do not support the Flake amendment and urge my colleagues to vote against it. And let's get Amtrak transportation and infrastructure moving in this country.

Mr. OBERSTAR. Mr. Chair, I rise in strong opposition to the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The Flake amendment strikes $800 million in capital grants for Amtrak to repair, rehabilitate, and upgrade its assets and infrastructure.

The gentleman's amendment is misguided. Today, we are in the midst of an intercity passenger rail renaissance. People are demanding greater access to Amtrak as an alternative to our over-congested roads and airways; to address continuing anxieties over the cost of fuel; and to combat global warming.

Indeed, Amtrak served more than 28.7 million passengers last year, the sixth straight fiscal year of record ridership.

The $800 million provided in H.R. 1 will create and sustain family-wage construction and manufacturing jobs and is critical to meeting the national demand for improved Amtrak service. It will help Amtrak overhaul, upgrade, and expand its rolling stock; make required ADA compliance upgrades to Amtrak stations; compete a range of needed station and facility improvements that will brag them to a state-of-good repair; alleviate rail ''chokepoints'' outside the Northeast Corridor; improve trip time and reliability; improve safety features on the network; and increase the pace of the implementation of security improvements across the Amtrak network.

Supporting the Flake amendment would not only kill this investment in our nation's mobility, it would also kill the benefits flowing from this investment, including the creation of thousands of new jobs, helping our beleaguered rail and steel industries, and improving the flow of our nation's freight traffic. Supporting this amendment will only hurt America's efforts as it seeks to recover from the current economic crisis.

I urge my colleagues to join me in opposing the gentleman's amendment.

Mr. HARE. Mr. Chair, I rise today in strong opposition to the amendment submitted by my colleague from Arizona, Mr. FLAKE.

The amendment would slash funding for an essential service to the American people, Amtrak. Amtrak is the main provider of all intercity passenger rail service in the United States and it is a key component of the American economy.

Amtrak is a safe, energy efficient transportation alternative that moves thousands of people and tons of cargo every day. It also employs thousands of Americans across the country. What started as a proposal for a minimum of $5 billion in funding has already been reduced to $1.1 billion in the base bill. Further cuts are unacceptable; they would prevent the development of intercity passenger rail in communities such as the Quad Cities in my home state of Illinois. We are fighting to re-establish the Quad Cities to Chicago route which would help commuters with their work-day travel and make the Quad Cities more desirable for new businesses and economic development. Additionally, the Quad Cities is the only community of its size in the entire country that does not have a four-year institution of higher education. Amtrak service would expedite plans already underway to establish the tech and engineering branch of Western Illinois University in Moline, which is why I offered an amendment to add $500 million for capital assistance for intercity passenger rail service.

In addition to the benefits Amtrak provides my own community, it also impacts the entire nation. For every $1 billion invested in transportation infrastructure, over 40,000 jobs are created and $6.2 billion in economic activity is generated. Federal funding for Amtrak and passenger rail would boost the economy and create jobs all across America.

It is time to invest in America's future. I urge my colleagues to vote no on this amendment and to preserve the transportation and energy future of America's cities.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. KISSELL

The CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 111–9.

Mr. KISSELL. Mr. Chairman, I rise to bring forth an amendment that will be known as the Berry Amendment Extension Act.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. KISSELL:

Page 111, after line 7 insert the following new section:

SEC. 7005. PROCUREMENT FOR DEPARTMENT OF HOMELAND SECURITY.

(a) REQUIREMENT.—Except as provided in subsections (c) through (e), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following, if the item is directly related to the national security interests of the United States:

(1) An article or item of—

(A) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

(B) tents, tarpaulins, or covers;

(C) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(D) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements by vessels in foreign waters.

(2) Emergency procurements.

(e) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code.

(f) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(g) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

(h) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subsection (b)(1), if the Secretary of Homeland Security applies an exception set forth in subsection (c) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the

General Services Administration know as FedBizOps.gov (or any successor site).

(i) TRAINING DURING FISCAL YEAR 2008.—

(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that each member of the acquisition workforce in the Department of Homeland Security who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2009 on the requirements of this section and the regulations implementing this section.

(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition work force developed or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—No provision of this section shall apply to the extent the Secretary of Homeland Security, in consultation with the United States Trade Representative, determines that it is in inconsistent with United States obligations under an international agreement.

(2) REPORT.—The Secretary of Homeland Security shall submit a report each year to Congress containing, with respect to the year covered by the report—

(A) a list of each provision of this section that did not apply during that year pursuant to a determination by the Secretary under paragraph (1); and

(B) a list of each contract awarded by the Department of Homeland Security during that year without regard to a provision in this section because that provision was made inapplicable pursuant to such a determination.

(k) EFFECTIVE DATE.—This section applies with respect to contracts entered into by the Department of Homeland Security after the date of the enactment of this Act.

The CHAIR. Pursuant to House Resolution 92, the gentleman from North Carolina (Mr. KISSELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. KISSELL. Mr. Chairman, the Berry Amendment has been in effect for over 60 years and has allowed the Department of Defense to purchase uniforms and other textile apparels as needed for our military to be made and manufactured here in the United States.

We know that textiles has brought forth the industrial revolution to the United States from its very beginnings, but not any industry has been hurt any more than textile has in the last few years in terms of lost employment.

Over 60,000 jobs have been lost throughout the Nation in the last year; over 8,000 of those jobs in my home State of North Carolina, over 44 factories have closed. We have thousands of Americans that are ready, willing and able to work, and we're being asked to consider a recovery and reinvestment program to put Americans to work.

This amendment would simply extend the Berry Act to be able to have Homeland Security to purchase uniforms for the TSA to be made in the United States. It would accomplish what we're looking for in the Recovery and Reinvestment Act, it would put Americans to work, and furthermore, it would keep Americans working.

We know that we have lost so many jobs in this area. We have the people that are ready, willing and able to work. I worked in textiles for 27 years. I watched the jobs leave and good people be left wondering where their meals are coming from and how they're going to take care of their families. This is an opportunity to put Americans to work and keep them at work. And what could be better than using our money, our taxpayers' money for that purpose and to put uniforms on the people that serve us?

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from California is recognized.

Mr. LEWIS of California. It is not my intention to take much of that time, but I would yield 30 seconds to Mr. WESTMORELAND.

Mr. WESTMORELAND. Mr. KISSELL, I would yield to you. Do you think it's wise for your constituents that you're trying to help to spend $225,000 per job that pays $50,000?

Mr. KISSELL. That is an incorrect figure, sir; it is less than that. Americans are competitive, and if we're going to spend American taxpayers' money, let's put Americans to work.

Mr. WESTMORELAND. Mr. KISSELL, do you think it's worth your constituents saying that your district would pay $2 billion to create the amount of jobs——

The CHAIR. The gentleman's time has expired.

Mr. KISSELL. I recognize the gentleman from North Carolina, Mr. DAVID PRICE, for 1 minute.

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of the amendment of my North Carolina colleague, Mr. KISSELL. It would apply to the Department of Homeland Security purchasing rules similar to those required of the Defense Department under the Berry Amendment, requiring DHS to purchase clothing and other textile products grown, reprocessed, reused or produced in the U.S. and its possessions.

The proposed amendment would give the Secretary of Homeland Security some flexibility to waive the domestic source requirements in cases where there are inadequate domestic sources to meet the Department's needs. The amendment also makes clear that it would not apply when inconsistent with U.S. obligations under international agreements.

I, nevertheless, have some reservations about how the amendment might restrict the Department in carrying out its Homeland Security mission. The Department is already subject to ''buy American'' requirements. This amendment would go significantly further in requiring 100 percent U.S. content of products, a target that could be impractical or unreasonably costly in some circumstances.

However, I appreciate my colleague's intentions with this amendment. I will be happy to support the amendment with the understanding that some modifications may be required to ensure that it does not pose an undue burden on the Department and it does not compromise the ability of the Department to carry out its Homeland Security mission. I look forward to working with the gentleman to make any needed refinements going forward.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania.

Mr. TIM MURPHY of Pennsylvania. In this $835 billion bill being described as a ''jobs'' bill, it's good to see Representative KISSELL was able to offer this amendment to ensure American cloth is used for these uniforms. His arguments are compelling that we should support U.S. jobs.

I offered a similar amendment to the health information technology portion; $20 billion spending there. It was stripped out after the Energy and Commerce Committee passed it unanimously and then rejected by the Rules Committee.

This bill also has a lot of other spending which is not protected for U.S. jobs; $600 million for cars—no guarantee they're U.S. cars; $400 million for fuel-efficient buses. Guarantees for Americans? Not so much. How about $871 million for computers at the State Department, Agriculture and States? No. Nine hundred million for a new computing center for the Social Security Administration? Not there. Two hundred million for scientific equipment for the U.S. Geological Survey? Nope. Five hundred million for new detection systems for the Department of Homeland Security? Absent. How about $6.5 billion for broadband? No guarantee made in the USA. How about $7.7 billion for Federal building construction? Not there.

If this is an American jobs bill, shouldn't we have included ''buy American'' clauses for these other areas as well? It's disappointing and frustrating that what happened with this bill in the Energy and Commerce Committee was actively removed, and then it was refused by the Rules Committee.

I'm glad that we're going to be supporting American textiles. I'm happy we're going to be supporting American steel. In a jobs bill, I'm frustrated that there are no guarantees in here that so many of these other jobs aren't going to happen in the United States.

I worry that of these billions of dollars being spent, much of these parts

for computers, services and materials are going to be made overseas. That's not about American jobs.

Mr. KISSELL. Mr. Chairman, I recognize the gentleman from North Carolina, HOWARD COBLE, for 2 minutes.

Mr. COBLE. I thank the gentleman for yielding.

Mr. Chairman, this amendment will immediately help textile and apparel companies because it will cover all uniforms purchased by the Transportation Security Administration employees.

The program can easily be expanded by the Obama administration to cover FEMA, U.S. Customs, Border Protection, and U.S. Immigration Service, nearly 100,000 uniformed employees in all.

And as an aside, my friend from North Carolina has already mentioned it, but the apparel and textile sector has been plagued as a result of the dismal economic climate that we face now. They've lost over 60,000 jobs during the last 12 months. North Carolina alone has lost 8,000 textile and apparel jobs. Forty-four textile plants in America were closed during the past year, 14 in North Carolina.

And not unlike my friend, Mr. KISSELL, I, too, come from a textile family. My mama was a textile worker; sewed pockets in overalls at the old Blue Bell plant in Greensboro. So I know the significance of a textile check subsidizing the family income.

I urge support of this amendment, and I urge my colleagues to support it as well.

Mr. KISSELL. Mr. Chairman, may I inquire as to the time remaining?

The CHAIR. The gentleman from North Carolina has 30 seconds.

Mr. KISSELL. I would just like to conclude by saying we're going to put Americans to work making uniforms for those who protect us. It's a good use of tax money.

Mr. THOMPSON of Mississippi. Mr. Chariman, first, I want to thank the Representative from North Carolina, Mr. KISSELL for his amendment. The original Berry amendment covering procurement for the United States Military has ensured that U.S. troops wore military uniforms made from U.S. textiles and manufactured by U.S. factories since the beginning of World War II.

As we know, things have changed dramatically since 1941. Since 2003, the Department of Homeland Security has also been working hard to provide our citizens with added security both at home and abroad. With over 100,000 uniformed employees, I believe that it is imperative that Berry admendment be extended to include uniform and textile purchases at the Department of Homeland Security and offer my overwhelming support for this amendment.

Recent press reports have shown there are numerous questions of security and safety related to the current procurement process for these items. From the case of Customs and Border Protection uniforms and badges being manufactured in Mexico, to the most recent case of Transportation Security Officers reporting allergic reactions to the formaldehyde used in the production of their new uniforms, we can see the added benefit to not only the U.S. textile and manufacturing industry, but in ensuring that these uniformed employees, receive the quality that they deserve. I, like others, am deeply concerned that we could have people crossing the border illegally wearing CBP or TSA uniforms manufactured in foreign countries.

Chairman, as you know, manufacturing as a whole has been on a steady decline. My own state of Mississippi, much like many others, such as North Carolina, have been negatively impacted by the increase in overseas production of goods. I believe that this legislation is not only about security and safety, but also a way to help those communities that rely on the textile and manufacturing industry.

While the amendment by Mr. KISSELL is a great step to ensuring that all DHS uniforms and textile purchases are made with U.S. components and in U.S. factories, I also believe that it should also be ultimately made permanent during the 111th Congress through the DHS Authorization process.

Thank you for the opportunity to express my support for this important amendment and I encourage all of my colleagues to support this amendment.

Mr. KISSELL. Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from North Carolina (Mr. KISSELL).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. PLATTS

The CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 111–9.

Mr. PLATTS. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 Offered by Mr. PLATTS:

Page 35, after line 5, insert the following:

PART 4—FURTHER ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

SEC. 1261. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This part may be cited as the ''Whistleblower Protection Enhancement Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents for this part is as follows:

PART 4—FURTHER ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

SEC. 1262. CLARIFICATION OF DISCLOSURES COVERED.

(a) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction as to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation''; and

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction as to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''.

(b) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—Title 5, United States Code, is amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214 and in subsections (a) and (e)(1) of section 1221 by inserting ''or 2302(b)(9)(B)–(D)'' after ''section 2302(b)(8)'' each place it appears.

SEC. 1263. DEFINITIONAL AMENDMENTS.

(a) DISCLOSURE.—Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking ''and'' at the end;

(2) in subparagraph (C)(iii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) 'disclosure' means a formal or informal communication, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

''(i) any violation of any law, rule, or regulation; or

''(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.''.

(b) CLEAR AND CONVINCING EVIDENCE.—Sections 1214(b)(4)(B)(ii) and 1221(e)(2) of title 5, United States Code, are amended by adding at the end the following: ''For purposes of the preceding sentence, 'clear and convincing evidence' means evidence indicating that the matter to be proved is highly probable or reasonably certain.''.

SEC. 1264. REBUTTABLE PRESUMPTION.

Section 2302(b) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes

of paragraph (8), a determination as to whether an employee or applicant reasonably believes that such employee or applicant has disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to or readily ascertainable by the employee or applicant could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.''.

SEC. 1265. NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.

(a) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (x), by striking ''and'' at the end;

(2) by redesignating clause (xi) as clause (xii); and

(3) by inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement; and''.

(b) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(1) in paragraph (11), by striking ''or'' at the end;

(2) by redesignating paragraph (12) as paragraph (14); and

(3) by inserting after paragraph (11) the following:

''(12) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosures to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 and following) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.';

''(13) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary factfinding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; or''.

SEC. 1266. EXCLUSION OF AGENCIES BY THE PRESIDENT.

Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency; or

''(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

SEC. 1267. DISCIPLINARY ACTION.

Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

''(3)(A) A final order of the Board may impose—

''(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

''(ii) an assessment of a civil penalty not to exceed $1,000; or

''(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under such paragraph (8) or (9) (as the case may be) was the primary motivating factor, unless that employee demonstrates, by a preponderance of the evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

SEC. 1268. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON REVOCATION OF SECURITY CLEARANCES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of security clearance revocations, taking effect after 1996, with respect to personnel that filed claims under chapter 12 of title 5, United States Code, in connection therewith. The study shall consist of an examination of the number of such clearances revoked, the number restored, and the relationship, if any, between the resolution of claims filed under such chapter and the restoration of such clearances.

(b) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the study required by subsection (a).

SEC. 1269. ALTERNATIVE RECOURSE.

(a) IN GENERAL.—Section 1221 of title 5, United States Code, is amended by adding at the end the following:

''(k)(1) If, in the case of an employee, former employee, or applicant for employment who seeks corrective action (or on behalf of whom corrective action is sought) from the Merit Systems Protection Board based on an alleged prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D), no final order or decision is issued by the Board within 180 days after the date on which a request for such corrective action has been duly submitted (or, in the event that a final order or decision is issued by the Board, whether within that 180-day period or thereafter, then, within 90 days after such final order or decision is issued, and so long as such employee, former employee, or applicant has not filed a petition for judicial review of such order or decision under subsection (h))—

''(A) such employee, former employee, or applicant may, after providing written notice to the Board, bring an action at law or equity for de novo review in the appropriate United States district court, which shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury; and

''(B) in any such action, the court—

''(i) shall apply the standards set forth in subsection (e); and

''(ii) may award any relief which the court considers appropriate, including any relief described in subsection (g).

An appeal from a final decision of a district court in an action under this paragraph may, at the election of the appellant, be taken to the Court of Appeals for the Federal Circuit (which shall have jurisdiction of such appeal), in lieu of the United States court of appeals for the circuit embracing the district in which the action was brought.

''(2) For purposes of this subsection, the term 'appropriate United States district court', as used with respect to an alleged prohibited personnel practice, means the United States district court for the district in which the prohibited personnel practice is alleged to have been committed, the judicial district in which the employment records relevant to such practice are maintained and administered, or the judicial district in which resides the employee, former employee, or applicant for employment allegedly affected by such practice.

''(3) This subsection applies with respect to any appeal, petition, or other request for corrective action duly submitted to the Board, whether pursuant to section 1214(b)(2), the preceding provisions of this section, section 7513(d), or any otherwise applicable provisions of law, rule, or regulation.''.

(b) REVIEW OF MSPB DECISIONS.—Section 7703(b) of such title 5 is amended—

(1) in the first sentence of paragraph (1), by striking ''the United States Court of Appeals for the Federal Circuit'' and inserting ''the appropriate United States court of appeals''; and

(2) by adding at the end the following:

''(3) For purposes of the first sentence of paragraph (1), the term 'appropriate United States court of appeals' means the United States Court of Appeals for the Federal Circuit, except that in the case of a prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D) (other than a case that, disregarding this paragraph, would otherwise be subject to paragraph (2)), such term means the United States Court of Appeals for the Federal Circuit and any United States court of appeals having jurisdiction over appeals from any United States district court which, under section 1221(k)(2), would be an appropriate United States district court for purposes of such prohibited personnel practice.''.

(c) COMPENSATORY DAMAGES.—Section 1221(g)(1)(A)(ii) of such title 5 is amended by striking all after ''travel expenses,'' and inserting ''any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1221(h) of such title 5 is amended by adding at the end the following:

''(3) Judicial review under this subsection shall not be available with respect to any decision or order as to which the employee, former employee, or applicant has filed a petition for judicial review under subsection (k).''.

(2) Section 7703(c) of such title 5 is amended by striking ''court.'' and inserting ''court, and in the case of a prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D) brought under any provision of law, rule, or regulation described in section 1221(k)(3), the employee or applicant shall have the right to de novo review in accordance with section 1221(k).''.

SEC. 1270. NATIONAL SECURITY WHISTLEBLOWER RIGHTS.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended by inserting after section 2303 the following:

''§ 2303a. National security whistleblower rights

''(a) PROHIBITION OF REPRISALS.—

''(1) IN GENERAL.—In addition to any rights provided in section 2303 of this title, title VII of Public Law 105–272, or any other provision of law, an employee or former employee in a covered agency may not be discharged, demoted, or otherwise discriminated against (including by denying, suspending, or revoking a security clearance, or by otherwise restricting access to classified or sensitive information) as a reprisal for making a disclosure described in paragraph (2).

''(2) DISCLOSURES DESCRIBED.—A disclosure described in this paragraph is any disclosure of covered information which is made—

''(A) by an employee or former employee in a covered agency (without restriction as to time, place, form, motive, context, or prior disclosure made to any person by an employee or former employee, including a disclosure made in the course of an employee's duties); and

''(B) to an authorized Member of Congress, an authorized official of an Executive agency, or the Inspector General of the covered agency in which such employee or former employee is or was employed.

''(b) INVESTIGATION OF COMPLAINTS.—An employee or former employee in a covered agency who believes that such employee or former employee has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General and the head of the covered agency. The Inspector General shall investigate the complaint and, unless the Inspector General determines that the complaint is frivolous, submit a report of the findings of the investigation within 120 days to the employee or former employee (as the case may be) and to the head of the covered agency.

''(c) REMEDY.—

''(1) Within 180 days of the filing of the complaint, the head of the covered agency shall, taking into consideration the report of the Inspector General under subsection (b) (if any), determine whether the employee or former employee has been subjected to a reprisal prohibited by subsection (a), and shall either issue an order denying relief or shall implement corrective action to return the employee or former employee, as nearly as possible, to the position he would have held had the reprisal not occurred, including voiding any directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information that constituted a reprisal, as well as providing back pay and related benefits, medical costs incurred, travel expenses, any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs). If the head of the covered agency issues an order denying relief, he shall issue a report to the employee or former employee detailing the reasons for the denial.

''(2)(A) If the head of the covered agency, in the process of implementing corrective action under paragraph (1), voids a directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information that constituted a reprisal, the head of the covered agency may re-initiate procedures to issue a directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information only if those re-initiated procedures are based exclusively on national security concerns and are unrelated to the actions constituting the original reprisal.

''(B) In any case in which the head of a covered agency re-initiates procedures under subparagraph (A), the head of the covered agency shall issue an unclassified report to its Inspector General and to authorized Members of Congress (with a classified annex, if necessary), detailing the circumstances of the agency's re-initiated procedures and describing the manner in which those procedures are based exclusively on national security concerns and are unrelated to the actions constituting the original reprisal. The head of the covered agency shall also provide periodic updates to the Inspector General and authorized Members of Congress detailing any significant actions taken as a result of those procedures, and shall respond promptly to inquiries from authorized Members of Congress regarding the status of those procedures.

''(3) If the head of the covered agency has not made a determination under paragraph (1) within 180 days of the filing of the complaint (or he has issued an order denying relief, in whole or in part, whether within that 180-day period or thereafter, then, within 90 days after such order is issued), the employee or former employee may bring an action at law or equity for de novo review to seek any corrective action described in paragraph (1) in the appropriate United States district court (as defined by section 1221(k)(2)), which shall have jurisdiction over such action without regard to the amount in controversy. An appeal from a final decision of a district court in an action under this paragraph may, at the election of the appellant, be taken to the Court of Appeals for the Federal Circuit (which shall have jurisdiction of such appeal), in lieu of the United States court of appeals for the circuit embracing the district in which the action was brought.

''(4) An employee or former employee adversely affected or aggrieved by an order issued under paragraph (1), or who seeks review of any corrective action determined under paragraph (1), may obtain judicial review of such order or determination in the United States Court of Appeals for the Federal Circuit or any United States court of appeals having jurisdiction over appeals from any United States district court which, under section 1221(k)(2), would be an appropriate United States district court. No petition seeking such review may be filed more than 60 days after issuance of the order or the determination to implement corrective action by the head of the agency. Review shall conform to chapter 7.

''(5)(A) If, in any action for damages or relief under paragraph (3) or (4), an Executive agency moves to withhold information from discovery based on a claim that disclosure would be inimical to national security by asserting the privilege commonly referred to as the 'state secrets privilege', and if the assertion of such privilege prevents the employee or former employee from establishing an element in support of the employee's or former employee's claim, the court shall resolve the disputed issue of fact or law in favor of the employee or former employee, provided that an Inspector General investigation under subsection (b) has resulted in substantial confirmation of that element, or those elements, of the employee's or former employee's claim.

''(B) In any case in which an Executive agency asserts the privilege commonly referred to as the 'state secrets privilege', whether or not an Inspector General has conducted an investigation under subsection (b), the head of that agency shall, at the same time it asserts the privilege, issue a report to authorized Members of Congress, accompanied by a classified annex if necessary, describing the reasons for the assertion, explaining why the court hearing the matter does not have the ability to maintain the protection of classified information related to the assertion, detailing the steps the agency has taken to arrive at a mutually agreeable settlement with the employee or former employee, setting forth the date on which the classified information at issue will be declassified, and providing all relevant information about the underlying substantive matter.

''(d) APPLICABILITY TO NON-COVERED AGENCIES.—An employee or former employee in an Executive agency (or element or unit thereof) that is not a covered agency shall, for purposes of any disclosure of covered information (as described in subsection (a)(2)) which consists in whole or in part of classified or sensitive information, be entitled to the same protections, rights, and remedies under this section as if that Executive agency (or element or unit thereof) were a covered agency.

''(e) CONSTRUCTION.—Nothing in this section may be construed—

''(1) to authorize the discharge of, demotion of, or discrimination against an employee or former employee for a disclosure other than a disclosure protected by subsection (a) or (d) of this section or to modify or derogate from a right or remedy otherwise available to an employee or former employee; or

''(2) to preempt, modify, limit, or derogate any rights or remedies available to an employee or former employee under any other provision of law, rule, or regulation (including the Lloyd-La Follette Act).

No court or administrative agency may require the exhaustion of any right or remedy under this section as a condition for pursuing any other right or remedy otherwise available to an employee or former employee under any other provision of law, rule, or regulation (as referred to in paragraph (2)).

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'covered information', as used with respect to an employee or former employee, means any information (including classified or sensitive information) which the employee or former employee reasonably believes evidences—

''(A) any violation of any law, rule, or regulation; or

''(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

''(2) the term 'covered agency' means—

''(A) the Federal Bureau of Investigation, the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National

Geospatial-Intelligence Agency, the National Security Agency, and the National Reconnaissance Office; and

''(B) any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii)(II) to have as its principal function the conduct of foreign intelligence or counterintelligence activities;

''(3) the term 'authorized Member of Congress' means—

''(A) with respect to covered information about sources and methods of the Central Intelligence Agency, the Director of National Intelligence, and the National Intelligence Program (as defined in section 3(6) of the National Security Act of 1947), a member of the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, or any other committees of the House of Representatives or Senate to which this type of information is customarily provided;

''(B) with respect to special access programs specified in section 119 of title 10, an appropriate member of the Congressional defense committees (as defined in such section); and

''(C) with respect to other covered information, a member of the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, or any other committees of the House of Representatives or the Senate that have oversight over the program which the covered information concerns; and

''(4) the term 'authorized official of an Executive agency' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall, with respect to any employee or former employee in an agency, include the head, the general counsel, and the ombudsman of such agency.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by inserting after the item relating to section 2303 the following:

''2303a. National security whistleblower rights.''.

SEC. 1271. ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS.

(a) CIVILIAN AGENCY CONTRACTS.—Section 315(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265(c)) is amended—

(1) in paragraph (1), by striking ''If the head'' and all that follows through ''actions:'' and inserting the following: ''Not later than 180 days after submission of a complaint under subsection (b), the head of the executive agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:''; and

(2) by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph (3):

''(3) If the head of an executive agency has not issued an order within 180 days after the submission of a complaint under subsection (b) and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted his administrative remedies with respect to the complaint, and the complainant may bring an action at law or equity for de novo review to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.''.

(b) ARMED SERVICES CONTRACTS.—Section 2409(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''If the head'' and all that follows through ''actions:'' and inserting the following: ''Not later than 180 days after submission of a complaint under subsection (b), the head of the agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:''; and

(2) by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph (3):

''(3) If the head of an agency has not issued an order within 180 days after the submission of a complaint under subsection (b) and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted his administrative remedies with respect to the complaint, and the complainant may bring an action at law or equity for de novo review to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.''.

SEC. 1272. PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(1) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(2) by inserting after section 2303a (as inserted by section 1270) the following:

''§ 2304. Prohibited personnel practices affecting the Transportation Security Administration

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

''(1) the provisions of section 2302(b)(1), (8), and (9);

''(2) any provision of law implementing section 2302(b)(1), (8), or (9) by providing any right or remedy available to an employee or applicant for employment in the civil service; and

''(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.

''(c) EFFECTIVE DATE.—This section shall take effect as of the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and by inserting the following:

''2304. Prohibited personnel practices affecting the Transportation Security Administration.

''2305. Responsibility of the Government Accountability Office.

''2306. Coordination with certain other provisions of law.''.

SEC. 1273. CLARIFICATION OF WHISTLEBLOWER RIGHTS RELATING TO SCIENTIFIC AND OTHER RESEARCH.

(a) IN GENERAL.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(f) As used in section 2302(b)(8), the term 'abuse of authority' includes—

''(1) any action that compromises the validity or accuracy of federally funded research or analysis;

''(2) the dissemination of false or misleading scientific, medical, or technical information;

''(3) any action that restricts or prevents an employee or any person performing federally funded research or analysis from publishing in peer-reviewed journals or other scientific publications or making oral presentations at professional society meetings or other meetings of their peers; and

''(4) any action that discriminates for or against any employee or applicant for employment on the basis of religion, as defined by section 1273(b) of the Whistleblower Protection Enhancement Act of 2009.''.

(b) DEFINITION.—As used in section 2302(f)(3) of title 5, United States Code (as amended by subsection (a)), the term ''on the basis of religion'' means—

(1) prohibiting personal religious expression by Federal employees to the greatest extent possible, consistent with requirements of law and interests in workplace efficiency;

(2) requiring religious participation or nonparticipation as a condition of employment, or permitting religious harassment;

(3) failing to accommodate employees' exercise of their religion;

(4) failing to treat all employees with the same respect and consideration, regardless of their religion (or lack thereof);

(5) restricting personal religious expression by employees in the Federal workplace except where the employee's interest in the expression is outweighed by the government's interest in the efficient provision of public services or where the expression intrudes upon the legitimate rights of other employees or creates the appearance, to a reasonable observer, of an official endorsement of religion;

(6) regulating employees' personal religious expression on the basis of its content or viewpoint, or suppressing employees' private religious speech in the workplace while leaving unregulated other private employee speech that has a comparable effect on the efficiency of the workplace, including ideological speech on politics and other topics;

(7) failing to exercise their authority in an evenhanded and restrained manner, and with regard for the fact that Americans are used to expressions of disagreement on controversial subjects, including religious ones;

(8) failing to permit an employee to engage in private religious expression in personal work areas not regularly open to the public to the same extent that they may engage in nonreligious private expression, subject to reasonable content- and viewpoint-neutral standards and restrictions;

(9) failing to permit an employee to engage in religious expression with fellow employees, to the same extent that they may engage in comparable nonreligious private expression, subject to reasonable and content-neutral standards and restrictions;

(10) failing to permit an employee to engage in religious expression directed at fellow employees, and may even attempt to persuade fellow employees of the correctness of their religious views, to the same extent as those employees may engage in comparable speech not involving religion;

(11) inhibiting an employee from urging a colleague to participate or not to participate in religious activities to the same extent that, consistent with concerns of workplace efficiency, they may urge their colleagues to engage in or refrain from other personal endeavors, except that the employee must refrain from such expression when a fellow employee asks that it stop or otherwise demonstrates that it is unwelcome;

(12) failing to prohibit expression that is part of a larger pattern of verbal attacks on fellow employees (or a specific employee) not sharing the faith of the speaker;

(13) preventing an employee from—

(A) wearing personal religious jewelry absent special circumstances (such as safety concerns) that might require a ban on all similar nonreligious jewelry; or

(B) displaying religious art and literature in their personal work areas to the same extent that they may display other art and literature, so long as the viewing public would reasonably understand the religious expression to be that of the employee acting in her personal capacity, and not that of the government itself;

(14) prohibiting an employee from using their private time to discuss religion with willing coworkers in public spaces to the same extent as they may discuss other subjects, so long as the public would reasonably understand the religious expression to be that of the employees acting in their personal capacities;

(15) discriminating against an employee on the basis of their religion, religious beliefs, or views concerning their religion by promoting, refusing to promote, hiring, refusing to hire, or otherwise favoring or disfavoring, an employee or potential employee because of his or her religion, religious beliefs, or views concerning religion, or by explicitly or implicitly, insisting that the employee participate in religious activities as a condition of continued employment, promotion, salary increases, preferred job assignments, or any other incidents of employment or insisting that an employee refrain from participating in religious activities outside the workplace except pursuant to otherwise legal, neutral restrictions that apply to employees' off-duty conduct and expression in general (such as restrictions on political activities prohibited by the Hatch Act);

(16) prohibiting a supervisor's religious expression where it is not coercive and is understood to be his or her personal view, in the same way and to the same extent as other constitutionally valued speech;

(17) permitting a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers, as determined by its frequency or repetitiveness, and severity;

(18) failing to accommodate an employee's exercise of their religion unless such accommodation would impose an undue hardship on the conduct of the agency's operations, based on real rather than speculative or hypothetical cost and without disfavoring other, nonreligious accommodations; and

(19) in those cases where an agency's work rule imposes a substantial burden on a particular employee's exercise of religion, failing to grant the employee an exemption from that rule, absent a compelling interest in denying the exemption and where there is no less restrictive means of furthering that interest.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to create any new right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 1274. EFFECTIVE DATE.

This part shall take effect 30 days after the date of the enactment of this Act, except as provided in the amendment made by section 1272(a)(2).

The CHAIR. Pursuant to House Resolution 92, the gentleman from Pennsylvania (Mr. PLATTS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. PLATTS. Mr. Chairman, the amendment that I'm offering with my colleague from Maryland (Mr. VAN HOLLEN) would insert the text of the Whistleblower Protection Enhancement Act—H.R. 985 in the last session—into the underlying legislation.

H.R. 985 passed by a bipartisan vote of 331–94 in 2007. This amendment strengthens the inadequate protections currently afforded to Federal employees who report illegalities, gross mismanagement and waste, and specific dangers to the public health and safety.

As proposed, the underlying bill includes whistleblower protections for the employees of recipients of Federal funds approved through this bill, including State and local employees and government contractors. Federal employees responsible for overseeing the hundreds of billions of dollars in spending in this bill, however, will remain inadequately protected unless this amendment is adopted.

In 1989, as a result of findings that the civil service protections of the time were inadequate, Congress and the first Bush administration enacted into law the original Whistleblower Protection Act (WPA). In response to decisions by the Merit Systems Protection Board and the Federal Circuit Court weakening the WPA, Congress adopted additional whistleblower protections in 1994.

Unfortunately, we are once again back to where we started. Since the 1994 amendments were adopted, more than 200 whistleblower cases have come before the Federal Circuit Court; however, only three whistleblowers have prevailed.

The Federal Circuit Court has weakened whistleblower protections by requiring that for a Federal employee to reasonably believe there is evidence of waste, fraud or abuse, he or she must overcome with ''irrefragable proof'' the presumption that the agency was acting in good faith. This is an unheard of legal standard defined in the dictionary as ''impossible to refute.''

With the enactment of this amendment, the court and administrative decisions that undermine whistleblower protections would be overturned. This amendment replaces the irrefragable proof standard with a reasonable belief standard, grants employees the right to a jury trial in Federal court if the head of an agency does not take action within 180 days, and ends the Federal Circuit Court's monopoly jurisdiction.

Given the amount of money involved in the underlying legislation, Federal whistleblower protections will be that much more important to ensure effective oversight and accountability. As such, I urge adoption of this amendment.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Chairman, I would like to commend Mr. PLATTS, Mr. WAXMAN, Mr. TOWNS, Mr. TIERNEY, Mr. BRALEY and Mr. PRICE for their work on this important issue.

This economic recovery package contains about $550 billion in public funds to support important national priorities. We need to make sure these funds are effectively spent and that they're not lost through any waste, fraud or abuse.

The underlying bill provides protection for whistleblowers at the State and local level. What this amendment does is to make sure that our Federal employees also have whistleblower protections so if they see waste, fraud or abuse, they can report it without fear of retaliation or harm.

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And as Mr. PLATTS has said, what we're doing is simply putting the Whistleblower Protection Act that passed this body by a vote of 331–94 into this bill to make sure that these public funds are safeguarded and that we ensure accountability in the process. I think all of us would agree, regardless of our position on whether or not we should be putting any particular amount into public investment, we want that money safeguarded and protected against waste, fraud, and abuse. That's what this amendment is about.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Texas is recognized for 5 minutes in opposition.

Mr. REYES. Mr. Chairman, although I am not opposed to this amendment, I am concerned. I rise to speak about those concerns.

Mr. Chairman, today I rise to address briefly the Platts amendment. This

amendment will make the changes to the law and procedures for whistleblowers, including national security whistleblowers. As chairman of the Intelligence Committee, this is a subject of great interest to me, and I thank both Mr. PLATTS and Mr. VAN HOLLEN for working to address my concerns.

I do believe that the procedure and process for national security whistleblowers deserve a fresh look. I voted for this bill when it came to the floor last Congress.

My concern, Mr. Chairman, is that there's a process to be followed here. This is an important issue, and I don't want it to get lost in the shuffle in the context of this critical stimulus bill. Rather than attach the amendment to a fast-moving appropriations bill where it essentially becomes a footnote, it should instead be subject to regular order, which will allow it to be refined and perfected.

As someone who spent his career as a Federal employee, I believe in strong whistleblower protections. I just think that this is a vital issue that needs to be done right. I don't want to rush to a solution.

The gentleman from Maryland (Mr. VAN HOLLEN), one of the sponsors of the amendment, has agreed that we will take care to address some of these specific concerns related to classified information and national security whistleblowers in conference. I want to thank him for that commitment, and I look forward to working with both Mr. VAN HOLLEN and Mr. PLATTS on this very important issue.

At this time, Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my distinguished chairman of the Intelligence Committee.

I am opposed to the amendment in its current form. I'm encouraged that Representatives VAN HOLLEN and PLATTS have indicated that they are willing to work with those of us on the Intelligence Committee to address some of the concerns that we have.

Why would we be concerned? I am strongly in favor of whistleblower reform, and I think that we need to open up the process for whistleblowers in the intelligence community so that we in the Intelligence Committee sometimes can have a better understanding of what's going on in the intelligence community. But this amendment makes some grievous errors.

First, it has nothing to do with economic stimulus. As the chairman stated, this should have gone through regular order, but that's not where we are today. I understand that a cottage industry seems to have developed in pundits and speculation on intelligence programs, but it's hard to see how this has anything to do with stimulating the economy.

The amendment makes significant and potentially problematic changes to the existing intelligence community whistleblower statute. Most notably, it would effectively allow individual employees to judge what classified programs they can and cannot discuss with Members outside the Intelligence Committees. This not only defeats the purpose of having an Intelligence Committee, it also significantly increases the risk that other committees of the House will receive and potentially act on bad information that they will be unable to fully and fairly evaluate. The House Intelligence Committee is the only committee in the House that deals with sources and methods, and it should stay that way.

I am encouraged that we are going to be able to work with the sponsors of this amendment through the process and make the necessary changes so that when it comes back from a conference committee that it will have addressed our concerns and it will reform the whistleblower statute effectively.

Mr. PLATTS. Mr. Chairman, I appreciate the chairman and ranking member's and Intelligence Committee's concerns. I look forward to working with them.

Mr. Chairman, I yield 30 seconds to the distinguished Member from Iowa (Mr. BRALEY).

Mr. BRALEY of Iowa. Mr. Chairman, I am very delighted, as the floor manager for the Whistleblower Protection Enhancement bill of 2007, to be here to speak in strong support of the Van Hollen-Platts amendment. There is no greater deterrent to waste, fraud, and abuse in the Federal Government than by providing strong remedies to Federal whistleblower, and this amendment does just that.

I'm also very pleased that the amendments I introduced in committee that were incorporated into the overall bill are going to be a strong part of the overall deterrent impact, and I urge my colleagues in the House to vote for this measure and give the Federal Government more teeth in enforcing the bill.

Mr. REYES. Mr. Chairman, I reserve the balance of my time.

Mr. PLATTS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of the amendment by my colleagues from Maryland and Pennsylvania. I voted for similar legislation in 2007 because I support the gentlemen's goal of adding these whistleblower protections for government workers.

However, as drafted, the amendment appears to be at odds with some Transportation Security Agency screener employment requirements and might have the unintended effects of reducing TSA's capacity to react to possible threats. So while I support this amendment, I do so with the understanding that we may need to perfect it in conference to ensure there are no unintended consequences.

Mr. PLATTS. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR (Mr. BRALEY of Iowa). The gentleman has 30 seconds remaining.

Mr. PLATTS. Mr. Chairman, I yield the remaining 30 seconds to the gentlewoman from Maine (Ms. PINGREE).

Ms. PINGREE of Maine. Mr. Chairman, I just want to add my support to this measure and thank the Members of this body who have worked so hard to bring this here previously and have also seen the wisdom of adding this into the stimulus package.

We have all been asked so many times how we're going to make sure this money is well spent, how we're going to make sure that our constituents get the value for which is in this. And I think this is the best protection that we have making sure that those people who have the information are there to tell us that.

I want to tell one quick story.

In 2004, Bunnatine Greenhouse, the highest-ranking civilian contracting officer at the Army Corps of Engineers, exposed a pattern of favoritism.

The Acting CHAIR. The time of the gentlewoman has expired.

Ms. PINGREE of Maine. I can't finish my story, but I want you to know that she is one of the many workers that will be protected under this law, and I look forward to everyone's support.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. REYES. Mr. Chairman, again I rise to thank both sponsors of this amendment, Mr. VAN HOLLEN and Mr. PLATTS, for agreeing to work with us.

Mr. Chairman, I yield the balance of my time to Mr. VAN HOLLEN.

Mr. VAN HOLLEN. I thank Mr. REYES, the chairman of the Intelligence Committee, and the ranking member, Mr. HOEKSTRA. I again want to remind the House this is a bill that has been voted on here before. It passed with a bipartisan majority of 331–94. Nevertheless, Mr. PLATTS and I have agreed to address the concerns that have been raised by the Intelligence Committee. We will do that in consultation with the Senate and conference committee to make sure that we're all on the same page in agreement with respect to this national security component.

Mr. TOWNS. Mr. Chair, I rise in strong support of the bipartisan Platts/Van Hollen amendment. This amendment is identical to H.R. 985, the Whistleblower Protection Act of 2007, which passed the House with an overwhelming vote of 331 to 94, and which was reported by the Oversight and Government Reform Committee by a vote of 28 to 0.

The reason this measure enjoyed such strong, bipartisan support in the last Congress is that it was carefully crafted with input from both sides of the aisle. It is truly the result of

bipartisan consultation and agreement on this issue. And I want to thank Representatives PLATTS and VAN HOLLEN for their hard work on this measure.

The amendment addresses several court decisions which have ignored the intent of Congress and created loopholes which undermine the current whistleblower statute's effectiveness and unreasonably limit the nature of disclosures protected under current law.

In addition, the amendment makes clear that national security workers, employees of the Transportation Security Administration, employees of government contractors, and workers who attempt to protect the integrity of federal science are all entitled to protection from retaliation for blowing the whistle.

Protecting whistleblowers is not a Democratic or Republican issue. It is an issue of importance to all Americans, because they are one of our most potent weapons against waste, fraud, and abuse. Ensuring that those who blow the whistle are protected from retaliation benefits all Americans.

I urge members to support this amendment.

Mr. BRALEY of Iowa. Mr. Chair, as the Floor Manager of the Whistleblower Protection Enhancement Act of 2007 last Congress, I rise today in strong support of the Platts/Van Hollen amendment to H.R. 1, the American Recovery and Reinvestment Act. This amendment, which would insert the text of H.R. 985, the Whistleblower Protection Enhancement Act from the 110th Congress, will strengthen protections for Federal employees who speak out against waste, fraud, and abuse. I'm glad that the amendment includes provisions I added last Congress to ensure that whistleblowers are protected by remedies that deter retaliation against them, and I believe the amendment is a critical addition to the strong oversight and accountability provisions already included in the underlying economic stimulus bill.

H.R. 985 passed the House with strong, bipartisan support in early 2007. While a similar bill also passed the Senate, unfortunately these enhanced whistleblower protections were not enacted into law. The inclusion of the Whistleblower Protection Enhancement Act in H.R. 1 gives us a chance to swiftly enact strong and urgently needed federal whistleblower protections. It will also help ensure that the taxpayer dollars allocated by this important economic stimulus bill are spent wisely and responsibly.

Whistleblowers have long been instrumental in alerting the public and the Congress to wrongdoing in Federal agencies. In many cases, the brave actions of whistleblowers have led to positive changes that have resulted in more responsible, safe, and ethical practices. In some instances, the actions of whistleblowers have even saved lives. Unfortunately, despite the importance of whistleblowers in ensuring government accountability and integrity, court decisions by the U.S. Court of Appeals for the Federal Circuit have undermined whistleblower protections and have unreasonably limited the scope of disclosures protected under current law.

Hearings held in the Committee on Oversight and Government Reform last Congress highlighted the need for expanded protections for workers who shed light on wrongdoing by government agencies and departments. Several hearings held by the Committee helped uncover waste and fraud in government contracting, both here in the United States, and in Iraq—waste and fraud which led to the loss of billions of taxpayer dollars, and jeopardized the safety of Americans here at home, and those serving abroad. At another hearing we learned that some officials in the Bush Administration sought to manipulate Federal climate science, compromising the health and safety of American families and the future of the planet, solely for political gain. Perhaps the starkest reminder of the need to protect those who refuse to remain silent in the face of government wrongdoing came at the Committee's March 2007 hearing at Walter Reed Army Medical Center, at which we learned about the terrible living conditions and bureaucratic hurdles that soldiers endured there. At the hearing, it became clear that nobody dared to complain about the squalid living conditions and inadequate care at what was supposed to be the best military medical facility in the world because of a fear of retribution. Because of this fear, it took an expose by a newspaper in order for action to be taken on these severe and systemic problems, and many of our nation's heroes had to suffer there for far too long.

The inclusion of the Whistleblower Protection Enhancement Act in H.R. 1 will make important changes to existing law to strengthen protections for government workers who speak out against illegal, wasteful, and dangerous practices. This bill protects all federal whistleblowers by clarifying that any disclosure pertaining to waste, fraud, or abuse, "without restriction as to time, place, form, motive, context, or prior disclosure," and including both formal and informal communication, is protected. The bill also gives whistleblowers access to timely action on their claims, allowing them access to federal district courts if the Merit Systems Protection Board does not take action on their claims within 180 days. In addition, the bill clarifies that national security workers, employees of government contractors, and those who blow the whistle on actions that compromise the integrity of federal science, are all entitled to whistleblower protection.

I'm also very pleased that this amendment includes language which I added to the Whistleblower Protection Enhancement Act in the 110th Congress to deter retaliation against federal whistleblowers. The provisions I added in the Oversight Committee mark-up of the bill will ensure that federal employees are protected by a right to a jury trial in whistleblower cases, and that federal employees are able to recover compensatory damages, including attorney's fees, interest, reasonable expert witness fees, and costs. These provisions are essential to ensuring that whistleblowers who face retaliation receive the fair hearings and justice that they deserve.

The passage of these important whistleblower protections is very timely and appropriate, as we prepare to make a historic investment in the American economy and American workers. I'm proud to be voting for the American Recovery and Reinvestment Act today to jumpstart the economy, create millions of jobs, and make critical investments in renewable energy, healthcare, education and technology, and infrastructure. An important component of this legislation is an unprecedented level of transparency, oversight, and accountability, including the creation of a Recovery Act Accountability and Transparency Board, increased resources for the Government Accountability Office and Inspectors General, and protections for state and local whistleblowers. The addition of the Whistleblower Protection Enhancement Act through the Platts/Van Hollen amendment will augment these important oversight and accountability provisions, and will help ensure the effectiveness and integrity of the stimulus bill. This amendment will not only protect federal whistleblowers, but will also protect American taxpayers.

In closing, I strongly urge my colleagues to vote in support of the Platts/Van Hollen amendment to the American Recovery and Reinvestment Act today. This amendment will ensure the wise use of taxpayer funds, the integrity of federal agencies and programs, and essential protections for federal whistleblowers now and far into the future.

Mr. THOMPSON of Mississippi. Mr. Chair, I rise today in support of the Amendment offered by Mr. PLATTS and Mr. VAN HOLLEN, which clarifies and expands whistleblower protections to federal employees and contractors.

In particular, I would like to speak in support of the provision to grant the Transportation Security Officers (TSOs) of the Transportation Security Administration the whistleblower protections they so rightly deserve. Mr. Chairman, our TSOs are not second class citizens and should not be treated as such.

In the 110th Congress, The Committee on Homeland Security worked to give a broad range of rights to TSOs in section 408 of H.R. 1. Whistleblower protections were a key part of this effort. Yet, when it came time to vote on our Conference Report, these protections were stripped from the final product. I am therefore pleased to stand here today, in full support of this important and long overdue measure.

In 2001, when the Transportation Safety Administration (TSA) was created, Congress provided the TSA Administrator the power to set TSO compensation, leave, and other basic employment rights. While this initial vesting authority helped establish TSA, it continues to breed confusion and low marks for management. The time for personnel experiments is now over. TSOs deserve to be treated like every other employee—fairly and equitably.

This amendment takes an important first step to restore the basic rights of the TSO workforce by providing them with the same whistle-blowing rights as other federal workers.

If you do not set up a system where employees are protected, there is a disincentive to report offenses and the system remains inefficient and hinders transportation security. In the end, the American public may end up paying the price in terms of its security.

Finally, I would be remiss if I did not remind my colleagues that granting whistleblower rights to TSOs is not the end of our efforts; it must be the beginning of a sustained push for the rights of TSOs, so they are on par with their colleagues. We still have more work to

do for the TSO workforce, such as fully providing them with collective-bargaining rights.

Providing basic employment protections and rights is critical to instill confidence in the workforce. These rights go a long way for the morale and the health of the workforce. In fact, earlier this week, an article was published that cited low marks for TSA management by the workforce on recognition and rewards for performance and promotion practices. I am submitting the article for inclusion in the RECORD. We are obligated to provide the most basic labor protections to our front line workers who perform an important job and work to keep us all safe; rights that are afforded to thousands of workers.

As the Chairman of the Homeland Security Committee, I look forward to working with my colleagues to provide not only these important protections but full rights for this valuable and worthy workforce.

Again, I commend my colleagues today on this important amendment and encourage its passage and inclusion into H.R. 1.

[From Government Executive.com, Jan. 26, 2009]

TSA EMPLOYEES GIVE MANAGEMENT LOW MARKS

(By Alyssa Rosenberg)

Transportation Security Administration employees gave agency management low marks for recognizing and rewarding performance and encouraging creativity and fairness in the workplace, according to a 2008 internal survey TSA conducted and the American Federation of Government Employees recently released.

From April 29 to June 27 of last year, 16,116 agency employees responded to the survey. Of that total, 21 percent of respondents said the process for rewarding and recognizing employees was fair, with 29 percent reporting that pay raises depend on job performance. Twenty-one percent of employees surveyed said the promotions process was fair and transparent, and 25 percent said differences in performance were recognized in a meaningful way.

The results, compiled by TSA's Office of Human Capital, were an improvement from previous years. In 2006, the first year the question was asked, 18 percent said the rewards and recognition process was fair, and in 2004, only 8 percent of TSA employees said pay depended on performance. In 2006, 17 percent of employees surveyed said the promotions process was fair, and 20 percent believed differences in job performance were recognized.

''We're looking to see the trends continue up,'' said Elizabeth Buchanan, TSA's deputy assistant administrator for human capital. ''I'm not sure there's some absolute value we'd like to get to.'' A disclaimer noted that survey results were for official use only. Government Executive obtained the survey documents from AFGE, which, along with the National Treasury Employees Union, is organizing TSA workers to obtain collective bargaining rights.

TSA is not the only agency that has received mediocre scores on some of these questions. In the 2008 Federal Human Capital Survey, 28.5 percent of respondents governmentwide said they agreed or strongly agreed that pay raises depend on how well employees perform their jobs, a half of a point lower than TSA's score in the internal survey.

Buchanan said the 2008 survey did not reflect all the changes that have been made to TSA's pay-for-performance system, and she believes the next survey will provide more meaningful data on pay perceptions.

The 2008 respondents were more satisfied with benefits than with pay, with 36 percent saying they thought their salaries were fair and competitive with similar jobs in other fields, while 62 percent said their benefits ''have a strong impact'' on their decisions to stay at the agency. Bill Lyons, a national organizer for AFGE involved with the union's efforts to organize TSA workers, said employee perceptions of arbitrary enforcement of pay and work rules were due partly to lax oversight by TSA of airport federal security directors.

''One officer said to me, 'Bill, I walk into the airport every day and it's like I'm walking into Pandora's box. I don't know what's going to be there,' '' Lyons said. ''The federal security directors, I believe they each think their airport is their own little empire, and [their attitude is] 'I can do whatever I want to do, whatever the directive is coming out of D.C.' ''

Half the survey's respondents said their supervisor or team leader gave them useful suggestions for improving job performance, but only 38 percent said those supervisors modeled fair, inclusive and transparent behaviors themselves.

Buchanan said she hoped some new programs would improve perceptions of management and consistent enforcement of agency directives. About 60 percent of the TSA workforce has participated in two training programs called COACH and ENGAGE, which aim to improve employees' confidence and increase the strength of communication between security officers and their supervisors.

She also noted that a new peer review program, which has been launched in the nation's largest airports, already has addressed 32 cases in which employees felt they were being treated unfairly by management. As part of the program, panels of three peer employees and two supervisors hear complaints. If they conclude that an employee has been treated unfairly, they can overturn a federal security director's decision. Buchanan said TSA planned to roll out the program at all airports, but was still figuring out the time frame.

Those initiatives are designed to address a gap in perception between how TSA employees feel about their work, and how they think the agency views them. Ninety-four percent of survey respondents said their work is important, but only 22 percent said they feel personally empowered on the job and 48 percent believed TSA values their work.

Despite those frustrations, 66 percent of respondents reported that they were proud to work for TSA, and 64 percent registered overall job satisfaction. Seventy-eight percent of respondents said they were likely to stay at TSA for another year, and only 6 percent said they were likely to retire by the middle of 2009.

''A lot of people took this job out of wanting to dedicate themselves to the mission of protecting and serving the flying public,'' Lyons said. ''They look at it as a way of serving their country.''

Mr. REYES. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PLATTS).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. TEAGUE

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 111–9.

Mr. TEAGUE. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. TEAGUE:

At the end of section 1226 (page 25, after line 21), insert the following:

(8) The website shall provide, by location, links to and information on how to access job opportunities created at or by entities receiving funding under this Act, including, if possible, links to or information about local employment agencies; state, local and other public agencies receiving funding; and private firms contracted to perform work funded by this Act

The Acting CHAIR. Pursuant to House Resolution 92, the gentleman from New Mexico (Mr. TEAGUE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. TEAGUE. Mr. Chairman, this stimulus bill is about one thing first and foremost: creating jobs. My amendment is about connecting out-of-work Americans to those jobs.

Just 2 days ago, on Monday, major companies across America laid off 70,000 workers. The United States economy has dropped nearly 2.6 million jobs since the recession began in December of 2007, raising the unemployment rate to 7.2 percent last month. Experts worry that the economy could now be losing as many as 600,000 jobs a month.

Now, if you're reading about this recession in the newspaper, it's numbers on a page. But for each and every one of those job losses, there's an economic crisis at a kitchen table somewhere in America, including quite a few kitchen tables in Southern New Mexico.

So what we are doing is working with President Obama to put forward an economic recovery package to spur the economy and create jobs. With $30 billion for highways and bridges, we are creating 850,000 jobs. With $10 billion for rail and mass transit, we are creating 200,000 jobs. And with $16 billion for clean water and flood control, we're creating 375,000 jobs.

On top of that are the jobs created by investments in our schools and renewable energy and more jobs from the stimulus provided by the tax cut to 95 percent of Americans.

To add to all of this, I'm offering a commonsense amendment to help connect people to the new jobs we are creating. H.R. 1 requires the creation of a Web site, Recovery.gov, to ensure greater accountability and transparency in the government's economic recovery program.

Well, that's a good idea. We need to keep a firm eye on all this money to make sure it is well spent. But if we're

going to have this Web site, it has also got to do something to help the people that this bill is all about: the folks trying to find a job.

My amendment would simply require Recovery.gov to provide information about the jobs created by this bill that would be useful to job seekers.

What my amendment basically says is this: If you're out of work or if you're looking for a job, if you're trying to provide for your family, we want to help. If you're willing to work, we want to do all we can to help you get a job.

I want to thank the chairwoman of the Rules Committee, Louise Slaughter, for making this amendment in order. And I also want to thank the chairman of the Appropriations Committee, Mr. OBEY, for his assistance. This is my first amendment as a Member of Congress, and it was an honor to work with you both.

Mr. Chairman, I reserve the balance of my time.

Mr. WESTMORELAND. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from Georgia is recognized.

Mr. WESTMORELAND. Mr. Chairman, I appreciate the gentleman from New Mexico and I think his sincere effort to try to do what would promote these jobs, and I believe that he had the best intent. But as you will find in this body, sometimes the best intent actually hinders what you're trying to do.

I would just like to ask the gentleman if he has given any concern as to how much bureaucracy and red tape this is going to put on the ability of these Americans that these jobs are creating to go to work.

As Chairman OBERSTAR stated when he made comments earlier today, these are shovel-ready jobs ready to go. He's going to have oversight in 30 days to bring these people to where they can employ.

I would like to ask the gentleman from New Mexico, and I will yield to him the time, if he has given any study into how long it would take to put this stuff on the Web that might hinder the ability of these people to go to work immediately.

Mr. TEAGUE. Mr. Chairman, this amendment has not been scored by the Congressional Budget Office, but what we're doing is just putting some extra information on the Web site, information that's useful to Americans trying to get a job and go to work. Certainly whatever cost would be incurred would be small compared to the expense of establishing the Web site in the first place. It will be a minimum amount.

Mr. WESTMORELAND. Reclaiming my time, Mr. Chairman, what he has actually asked to do is that the companies that are receiving this put information on the Web site also.

This bill was intended to put people to work immediately. And right now, and the gentleman from New Mexico, who, I'm assuming, is going to vote for this bill, understands that we are spending approximately $225,000 or $250,000 for each job that this bill creates that will pay $50,000. And I just would like to ask him one further question.

Do you feel like it's right to put more burden on the small businesses that are going to be taking this money to try to get it to where they can stimulate the economy and create these jobs rather than doing the bureaucratic paperwork that this amendment would require them to do?

□ 1530

Mr. TEAGUE. Yes. Mr. Chairman, my amendment is just about creating jobs.

Mr. WESTMORELAND. Well, one last question, do you have any idea as to how many jobs this would create, your amendment would create?

Mr. TEAGUE. Yes. This particular amendment is about connecting people looking for a job to the jobs, and I think it's a necessary part.

Mr. WESTMORELAND. Well, I thank the gentleman for that.

Reclaiming my time, I think this would really be a hindrance in doing what has been stated so far today in getting these jobs and get them immediately. We need help immediately.

Now, I have some problems with whether this is really going to create jobs or not, but, just in case it did, just in case the stimulus package was going to do, because I have heard the same thing from Chairman OBEY about the importance of doing this right now, it's the same argument we heard for the $700 billion in the bailout program that is not unfrozen credit right now and has done nothing but made sure the fat cats in New York have balanced their balance sheets.

So with that, you know, I just want to take this opportunity to say that while I think the intentions were good on this amendment, I think it's going to do more harm than good. And there are so many times that I have seen up here that people offered amendments, we passed bills without looking at the final end use of it, not talking to the end users, and I don't think that any businesses that are going to be established to try to create some of these jobs would want to try to spend as much time as it would take to go about trying to make sure this amendment was put into law.

I yield back the balance of my time.

Mr. TEAGUE. If we are having a Web site, let's make it work for all Americans looking for a job.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Mexico (Mr. TEAGUE).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. CAMP

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part B of House Report 111–9.

Mr. CAMP. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. CAMP:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Recovery Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—TAX PROVISIONS

SEC. 100. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

SEC. 101. 10 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 5 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(A) is amended by inserting ''(5 percent in the case of any taxable year beginning in 2009 or 2010)'' after ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 102. 15 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 10 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REDUCTION IN 15 PERCENT RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, '10 percent' shall be substituted for '15 percent' in the tables under subsections (a), (b), (c), (d), and (e). The preceding sentence shall be applied after application of paragraph (1).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Alternative Minimum Tax Relief For Individuals

SEC. 111. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended—

(1) by striking ''or 2008'' and inserting ''2008, 2009, or 2010'', and

(2) by striking ''**2008**'' in the heading thereof and inserting ''**2010**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 112. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNTS FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($69,950 in the case of taxable years beginning in 2008)'' in subparagraph (A) and inserting ''($55,000 in the case of taxable years beginning in 2009 or 2010)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($38,750 in the case of taxable years beginning in 2009 or 2010)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle C—First-Time Homebuyer Credit

SEC. 121. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT.

(a) EXTENSION OF CREDIT.—Subsection (i) of section 36 (as redesignated by subsection (d)) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) REPEAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 is amended by striking ''an individual who is a first-time homebuyer of a principal residence'' and inserting ''an individual who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Section 36(b)(1)(A) is amended by inserting ''with respect to any taxpayer for any taxable year'' after ''subsection (a)''.

(B) Section 36(c) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(C) The heading of section 36 (and the item relating to such section in the table of sections for subpart C of part IV of subchapter A of chapter 1) are amended by striking ''**first-time homebuyer**'' and inserting ''**homebuyer**''.

(c) REPEAL OF RECAPTURE RULES.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(d) DOWNPAYMENT REQUIREMENT.—Section 36 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DOWNPAYMENT REQUIREMENT.—No credit shall be allowed under subsection (a) to any taxpayer with respect to the purchase of any residence unless such taxpayer makes a downpayment of not less 5 percent of the purchase price of such residence. For purposes of the preceding sentence, an amount shall not be treated as a downpayment if such amount is repayable by the taxpayer to any other person.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to residences purchased after December 31, 2008.

(2) DOWNPAYMENT REQUIREMENT.—The amendment made by subsection (d) shall apply to residences purchased after the date of the enactment of this Act.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 131. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 132. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 136. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and

shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 137. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

SEC. 141. DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of a qualified small business for a taxable year beginning in 2009 or 2010, 20 percent of the lesser of—

''(i) the qualified small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—

''(1) QUALIFIED SMALL BUSINESS.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business' means any taxpayer for any taxable year if the annual average number of employees employed by such taxpayer during such taxable year was 500 or fewer.

''(B) AGGREGATION RULE.—For purposes of subparagraph (A), any person treated as a single employer under subsection (a) or (b) of section 52 (applied without regard to section 1563(b)) or subsection (m) or (o) of section 414 shall be treated as 1 taxpayer for purposes of this subsection.

''(C) SPECIAL RULE.—If a taxpayer is treated as a qualified small business for any taxable year, the taxpayer shall not fail to be treated as a qualified small business for any subsequent taxable year solely because the number of employees employed by such taxpayer during such subsequent taxable year exceeds 500. The preceding sentence shall cease to apply to such taxpayer in the first taxable year in which there is an ownership change (as defined by section 382(g) in respect of a corporation, or by applying principles analogous to such ownership change in the case of a taxpayer that is a partnership) with respect to the stock (or partnership interests) of the taxpayer.

''(2) QUALIFIED SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business income' means the excess of—

''(i) the income of the qualified small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of a qualified small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 146. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

SEC. 151. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED HEALTH INSURANCE COSTS OF INDIVIDUALS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. COSTS OF QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount paid during the taxable year for coverage for the taxpayer, his spouse, and dependents under qualified health insurance.

''(b) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified

health insurance' means insurance which constitutes medical care; except that such term shall not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(c) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a). Any amount taken into account in determining the credit allowed under section 35 shall not be taken into account for purposes of this section.

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence the following new paragraph:

''(22) COSTS OF QUALIFIED HEALTH INSURANCE.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and inserting before such item the following new item:

''Sec. 224. Costs of qualified health insurance.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income

SEC. 161. TEMPORARY EXCLUSION OF UNEMPLOYMENT COMPENSATION FROM GROSS INCOME.

(a) IN GENERAL.—Section 85 is amended by adding at the end the following new subsection:

''(c) EXCLUSION OF AMOUNTS RECEIVED IN 2008 AND 2009.—Subsection (a) shall not apply to any unemployment compensation received in 2008 or 2009.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 2007.

Subtitle G—No Impact on Social Security Trust Funds

SEC. 171. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) ESTIMATE BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i).

(b) TRANSFER OF FUNDS.—If, under subsection (a), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS

SEC. 200. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers Act''.

SEC. 201. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 201(a) of the Assistance for Unemployed Workers Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 202. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''Additional Eligibility Requirements

''(g)(1) IN GENERAL.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act for any week—

''(A) in the case of any individual described in paragraph (2), that such individual—

''(i) have a secondary school diploma or its recognized equivalent; or

''(ii) be making satisfactory progress in a program that leads to a secondary school diploma or its recognized equivalent; and

''(B) in the case of any individual described in paragraph (3), that such individual participate in reemployment services or in similar services (or, if such services were ongoing as of when such individual most recently exhausted regular compensation before seeking emergency unemployment compensation, that such individual continue to participate in such services), unless the State agency charged with the administration of the State law determines that—

''(i) such individual has completed such services as of a date subsequent to the commencement of emergency unemployment compensation; or

''(ii) there is justifiable cause for such individual's failure to participate in such services.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1)(A) APPLIES.—The requirements of paragraph (1)(A) shall apply in the case of any individual who was under age 30 at the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation.

''(3) INDIVIDUALS TO WHOM PARAGRAPH (1)(B) APPLIES.—The requirements of paragraph (1)(B) shall apply in the case of any individual who, as of the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation, was identified under the State profiling system (described in section 303(j) of the Social Security Act) as being a claimant who—

''(A) was likely to exhaust regular compensation; and

''(B) would need job search assistance services to make a successful transition to new employment.

''(4) EFFECTIVE DATE.—This subsection shall apply in the case of any individual filing an initial application for emergency unemployment compensation after the end of the 3-month period beginning on the date of the enactment of this subsection.''.

SEC. 203. SPECIAL TRANSFERS.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''Special Transfer in Fiscal Year 2009 for Benefits

''(f)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the Federal unemployment account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the

same ratio as determined under subsection (f)(2) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(B) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

TITLE III—NO TAX INCREASES TO PAY FOR SPENDING

SEC. 301. NO TAX INCREASES TO PAY FOR SPENDING.

(a) FINDINGS.—The Congress finds that—

(1) according to the economic forecast released by the non-partisan Congressional Budget Office on January 7, 2009, unemployment in the United States is expected to be above the level estimated for calendar year 2008 until the year 2015, and

(2) raising taxes on families and employers during times of high unemployment delays economic recovery and the creation of new jobs.

(b) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) outlays from the Treasury of the United States that occur as a result of any provision of this Act shall not be offset through the enactment of new legislation that results in increases in revenues to the Treasury of the United States, but, if such outlays are offset, such offsets shall be through the enactment of legislation that results in a reduction in other outlays, and

(2) the effective rate of tax imposed on individuals or businesses shall not be increased, whether by operation of a provision of existing law or the enactment of new legislation, during any year in which unemployment is projected to exceed the level of unemployment for calendar year 2008.

The Acting CHAIR. Pursuant to House Resolution 92, the gentleman from Michigan (Mr. CAMP) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CAMP. I yield myself 4 minutes.

Just briefly, I want to outline a summary of the Camp-Cantor substitute to H.R. 1. This legislation would provide and reduce the income taxes of every American who pays income taxes and also provide for a maximum family benefit of about $3,400 a year. This bill also contains a health insurance premium deduction which helps bring fairness to the tax treatment of health insurance by providing a new deduction for those who do not receive tax-preferred employer-sponsored coverage, regardless of whether they itemize or take the standard deduction.

We also provide help for America's small businesses and employers by creating a 20 percent deduction for small business income. Now this is a group that employs nearly half of all private-sector employees in America and created nearly 80 percent of the new jobs in the United States in recent years.

We also have bonus depreciation and small business expensing, providing employers, both large and small, enhanced incentives to make the critical investments they need to grow our economy and create jobs. We expand the net operating loss carry-back to 5 years rather than 2. We also repeal the 3 percent withholding requirement for government contracts.

And to stabilize home values, we help reduce housing inventory by extending the $7,500 home buyer tax credit through December 2009. We do require that there be a 5 percent down payment so we don't get into the problems that we are facing again, and also eliminate the complicated recapture rules that currently require home buyers to pay the government back if they claim the credit.

We also provide unemployment assistance. We exempt unemployment benefits from Federal income tax for 2008 and 2009, and we extend unemployment benefits, as the base bill does, through December 2009 with a phaseout through mid 2010.

We also require that younger long-term unemployed are required to pursue a GED or other training, which would certainly help as they move into more training and into the job market. I would also say that, and during debate last night, I mentioned the recent CBO studies that show that tax cuts actually impact the economy more quickly than government spending.

CBO is the Congressional Budget Office, it's nonpartisan, and they help analyze and score the various legislative proposals that we have in the Congress. Not only have CBO and economists from every political stripe confirmed that tax cuts impact the economy more quickly than big government spending, we even have an analysis by President Obama's nominated senior economic adviser that shows that tax cuts provide more immediate growth and job creation in the economy than does spending.

So tax cuts provide a bigger bang for the buck. When the methods and economic models developed by the President's top economic adviser are applied to the Republican plan, it shows the Republican plan could create as many as 6.2 million jobs over the next 2 years. That's more than double the plan, the base bill that we have before us.

Now, let's be clear about where these estimates come from. They come from the President's senior economic adviser. The President's nominee to chair the Council of Economic Advisers, Dr. Christina Romer, and her peer reviewed research. This isn't just her statement, this is a statement that's been reviewed by peers and economic analysts from around the country. So even in applying Dr. Romer's most conservative estimate, her analysis, along with that of Jared Bernstein, Vice President BIDEN's senior economic adviser, shows the Republican plan results in about 6.2 million jobs over 2 years. The cost of our bill is $478 million, so nearly twice the job creation for half the cost.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I would yield myself an additional 30 seconds.

I just want to repeat, the analysis and estimates I am giving you are taken directly from public analysis of the President's senior economic advisers. Republicans didn't develop these ourselves. We are applying their methodology and their analysis to our legislation.

So with the results of the peer-reviewed research, we find that our plan would create 6.2 million jobs. Our bill will create more at a substantially lower cost.

I reserve the balance of my time.

Mr. RANGEL. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from New York is recognized for 30 minutes.

Mr. RANGEL. Mr. Chairman, I yield myself 5 minutes and ask unanimous consent that the remainder of the time be allowed to be controlled by RICHARD NEAL, a distinguished member of the Ways and Means Committee.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Chairman, not only does the other side reject this plea of our newly elected President, but for whatever political reasons insist on sticking their thumb in the eyes of millions of Americans, 11 million of them unemployed. Ninety-five percent of all of our taxpayers are being asked to have this tax cut be rejected, people who work every day, people who dream, people who aspire, are now going to be told that some people in the House of Representatives voted against the President's bill and the bill that's before us on this historic day.

I don't know what occasion it was, but the late Jack Kennedy once made a remark that sometimes, just sometimes your party asks too much of you. And for Members of the other side that are being asked in this substitute to vote against exciting infrastructures that would take us into a modern technology to be competitive, that would deny poor folks money for energy, for air conditioning and heat, food stamps, health information technology, why they would ask you to vote against this I will never but never know.

And then as a substitute for this, not only do we remove the tax benefits from the low and the middle class, but to find some category of doctors, lawyers, consultants and lobbyists and

just say, across the board, they have decided not to give you the 20 percent tax cut, because you know it's not going to happen, but just to suggest it so you might get famous in the future.

It just seems to me that there should be some compassion for working families that have children. There should be some understanding that people who work each and every day, and still come out under the poverty line or close to it, are entitled to the earned income tax credit so that they can meet their basic needs of rent, paying their mortgage, food, clothing. Every community, not Democrats, but Democrats and Republicans are feeling the impact of these fiscal crises that we are going through.

Banks don't cry, fiscal institutions don't cry, but people in the neighborhood cry when they lose their job, lose their dignity and they will have to tell their kids that they are pulling them out of college, all the provisions that we put in, and especially those that provide incentives for teachers and kids and school construction.

How could you do it? What were you thinking, and just how are you going to explain it when you get back home?

I really think that this goes beyond politics because I don't think the people back home should be made to pay for political decisions that are being made here, but there is a particular part in this bill that the House and Senate wanted in there, and that was a $6 billion tax benefit for crises that exist in our cities and in our rural areas, which allows local governments, based on census tracts, not based on your party line, not whether you are a Democrat or a Republican, but just based on unemployment, based on how many people are poor, how many people are feeling the pain of this crisis.

Oh, I know Wall Street in my district is inconvenient and the banking CEOs have been inconvenient, but the people that are suffering are American people, are middle class people. That's the dream that we have in this country, not to be rich and certainly not to be homeless.

But we even had a provision for the work-opportunity training program. It came from one of your Members that said, what about the veterans, they came out feeling that they were going to be accepted as the heroes that we all believe they are, and yet have extended unemployment. What do you say when you go home and tell them that that too has been stripped from the bill, as have kids that have special problems?

It's painful to believe that this is being discussed in a political way, because I would like to believe that it's America that's in trouble, not a party that's in trouble. And people are going to evaluate what's in this paper. I congratulate the Republicans for their honesty.

This thing is talking about cutting away tax benefits for our working poor people. And so it seems to me that people to learn more about this might contact their Representatives, Democrat or Republican, and I am confident at the end of the day that Congress will do the right thing, not by their party but by their country.

Mr. CAMP. I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding, and I listened carefully to the distinguished chairman of the Ways and Means Committee. We agree there are people who are suffering.

But, Mr. Chairman, the people who are going to suffer the most are children and grandchildren who are about to inherit $1.2 trillion of additional debt burden for a piece of legislation that has not received one, not one congressional hearing and will have little to no economic stimulus.

Now, Mr. Chairman, something else I agree on with my friends on the other side of the aisle, this Nation needs a stimulus bill, but we need an economic stimulus bill, not a big government stimulus bill. That's why, Mr. Chairman, I am proud to rise in support of the Republican alternative that will help preserve jobs, that will help grow job opportunities in small businesses all across America. I am proud to support an alternative that will expand the paycheck of working Americans so that they can pay for their mortgages, so that they can send their kids to college, so that they can pay their health care premiums.

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I am proud to support an alternative that helps the unemployed at this time of need, that will help reduce the housing glut from the market and, perhaps, even more importantly, Mr. Chairman, doesn't send the bill to our children and our grandchildren.

What our Democrat colleagues send us is a bill that, even if you were a Keynesian, doesn't help stimulate economic growth. Only 3 or 4 percent of this is about traditional infrastructure. Instead, we have $50 million for the National Endowment for the Arts, $1 billion for Amtrak, an extra $1 billion to follow up the Census. Over half of this bill is on traditional big government.

We know what Rahm Emanuel, the former chairman of the DNC has said: never waste a crisis. They are not wasting it. They are building big government.

Mr. NEAL of Massachusetts. I yield myself such time as I may consume.

Before I yield to Mr. LEVIN, I want to challenge something that the gentleman from Texas has said. I want everybody to remember what it was like on January 19, 2001, when I hear the Republicans complaining about debt and deficits. We were looking at a $5.7 trillion surplus. The debt had come down and the deficits had been eliminated.

Now their argument is—frankly, a stale one, but they cling to it—that tax cuts pay for themselves as we look at now a debt of almost $10 trillion. And I hear these protestations of what this legislation will do after they were in control of two branches of government, two Chambers of the House, and the Presidency, and they rolled up these extraordinary deficits and debts.

Reminder. The war in Iraq, which is going to cost almost $2 trillion before it comes to conclusion. And they pontificate on this House floor about the debt?

With that, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. I am really saddened to hear the Republican substitute. We have new challenges, and now we hear again the same old song; tax breaks, tax reductions. But the way they tailor it, a family with $30,000 would get what, less than 10 percent of a family that is making three times that? Unbalanced tax cuts.

Mr. CAMP, if I might, you and I have known each other for a long time. We are going to go back to Michigan. I think perhaps you won't go until the weekend. And here's what you're going to have to defend by trying to defeat our package. A reduction in health and education benefits for the State of Michigan of $2.2 billion, when our colleges are in trouble in terms of enrollment and our schools are in trouble in terms of providing a good education and school construction.

You're going to have to go back to Michigan and say to at least 25,000 families that health care provided under the Democratic approach—and I hope it's a bipartisan approach—would be eliminated. And you're going to have to go back, and I use you, Mr. CAMP, and it's true throughout this country.

ANNOUNCEMENT BY THE ACTING CHAIR

Mr. CAMP. Mr. Chair, I would ask that the remarks be addressed to the Chair.

The Acting CHAIR. Members should address their remarks to the Chair.

Mr. LEVIN. I will do that. Because what I was saying about Michigan would be true throughout this country. Infrastructure in Michigan, we are providing over $1 billion. This is for Michigan.

The Acting CHAIR. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I yield the gentleman 30 seconds.

Mr. LEVIN. Your bill would eliminate that, when we need to build roads, fix bridges. And we talk about the auto industry and the need for a new industry with electric vehicles. And your proposal on the Republican side would eliminate $2 billion for battery development.

It's really a sad day for you to come here with the same old tune.

The Acting CHAIR. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I yield 15 seconds to the gentleman from Michigan.

Mr. LEVIN. The families today are in fear. I want to make this point. They are afraid, not only of losing their jobs, but education for their kids, and health care.

Our proposal addresses these fears. Yours ignores them. I urge its defeat.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. The Chair would remind Members not to direct their remarks to each other in the second person, but rather to address the Chair.

Mr. CAMP. I thank the Chair for that admonition. I would yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chair, I will keep my remarks within 2 minutes.

Mr. Chair, we can do better than that. We need to do better than that. Our country is losing tens of thousands of jobs every single week. We thought we were going to have bipartisanship here. That is what we were promised. None of that has occurred here.

Mr. Chair, the most favorable measurement, the most favorable way to look at this package, 12 percent of this package is aimed at keeping jobs, at creating jobs. Twelve percent of this package goes toward creating or keeping jobs. All the rest of it is spending. Just plain, old spending. Spending, most of which occurs 2, 3, 4, 5 years from now, not during this recession.

It's not enough for us to come here and criticize. So we have come here with our own ideas. We have come here to propose an alternative. And when you look at the way our bill works, the measuring stick used by President Obama's own economic advisor says that our bill that we have here creates twice as many jobs—6.2 million—for half the costs.

So we have not only said this is a bad bill that we are considering, but here's a better way. Twice as many jobs, half the cost for taxpayers, 6.2 million jobs. This is a bill that should pass—the Republican substitute.

Unfortunately, since there was no bipartisanship, no inclusion, we could have made a better bill that would pass into law, but it's not. So here we are with our alternatives. Using the President's own measuring stick on how you create, this creates more at less price, less cost to the taxpayers.

But, unfortunately, because one party rules government and because one party is ruling it completely on their own, we will have missed this opportunity to create more jobs, save taxpayers' money, and not waste all of this spending.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

The Bush tax cuts don't expire until 2010. There will be sufficient opportunity for us to discuss many of the issues raised by the gentleman from Wisconsin. We will have plenty of time to discuss those.

Mr. RYAN of Wisconsin. Would the gentleman care to yield?

MR. NEAL of Massachusetts. With that, I'd like to recognize the gentleman from Wisconsin (Mr. KIND) for 2 minutes.

Mr. KIND. I thank my good friend for yielding me this time. In a second, I want to address the issue about the expiration of the Bush tax cuts.

First, it's just not accurate to claim that we have been operating under a very closed process. I know the leadership on the Democratic side and certainly the chairmen of the Appropriations Committee and the Ways and Mean Committee were open to suggestions for good ideas to be included in this economic recovery and investment act.

In an unprecedented fashion, the newly-elected President, President Obama, visited Capitol Hill to meet directly with both Senate and House Republicans to hear their thoughts about the recovery package.

Mr. CAMP. Would the gentleman yield?

Mr. KIND. I have very limited time. Maybe you can get some time on your own.

That is why I am proud to be able to stand and support this economic recovery package and commend the chairmen of the Appropriations and Ways and Means Committee for the package they put together because I believe it is bold, I believe it's going to be fast-acting, I believe it's going to create jobs, but I also believe it's going to end, which is an important feature of what we are trying to do, contrary to what they are trying to do with their substitute, so that we don't continue to incur unfunded liabilities out into the future. In fact, I reluctantly oppose the substitute because it undermines the help and support that so many struggling working families need in this country right now.

For instance, their substitute would eliminate the Making Work Pay tax credit that will provide tax relief to 95 percent of Americans in this country. In fact, it effectively eliminates 23 million low-income families from any tax relief whatsoever.

It also eliminates tax relief for families with over 16 million children by doing away with the expansion of the child tax credit that we have included in our bill. It would also eliminate the American Opportunity tax credit that will provide tax relief for more than 4 million students.

But, in a very clever way, they indefinitely extend the Bush tax cuts, which are universally recognized today as benefiting the most wealthy by saying that we cannot do any tax reform in this country—

The CHAIR. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I'd like to recognize the gentleman for an additional 30 seconds.

Mr. KIND. They say that we cannot do any meaningful tax reform in this country so long as the unemployment rate does not dip below the 2008 numbers, which would be anywhere from 4.8 percent to a little over 5 percent. And everyone knows that that will be years from now, under the best circumstances, before that unemployment rate drops below that number.

So, in a clever way they are adding to this unfunded obligation for an indefinite numbers of years out, increasing the debt burden that our Nation currently has, and jeopardizing our children's future by extending those tax cuts indefinitely.

I encourage my collages to oppose this substitute of support H.R. 1.

Mr. CAMP. Mr. Chairman, I yield myself 15 seconds. I would just say that we offered 19 amendments in the committee. None of them were accepted. I think we did get a GAO study accepted. But none of our substantive amendments were.

And I would just say to my good friend from Michigan, who asked how I could go home, I would ask him how he can go home and provide half the jobs at twice the cost.

With that, I yield 1 minute to the distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Thank you. Mr. Chairman, this is a good Republican alternative. It preserves some of the best features of the underlying bill, like extending increased small business expensing and bonus appreciation, and repealing the onerous 3 percent withholding requirement for government contractors. In addition, it eliminates hundreds of billions of dollars in wasteful spending and adds fast-acting tax relief to help our economy now.

It improves on the underlying bill by extending assistance to laid-off small business employees by allowing all individuals to deduct the cost of their health insurance premiums. And, unlike the underlying bill, it cuts taxes for all taxpayers and protects middle-class families from a huge tax increase under the alternative minimum tax.

Mr. Chairman, this is real economic stimulus. I urge an ''aye'' vote.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 2 minutes to a member of the Ways and Means Committee, the gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding. Recovery, reinvestment. That was what President Obama promised the American public when he went throughout the country

and talked about how he would change this country and take it into a new direction.

After years of deficits and lack of accountability, President Obama told the country that he promised an open government, transparent process, and responsible policymaking so that the American people would know that we were taking America back to soundness.

Jobs, jobs, jobs. That is what President Obama has talked about, that is what he promised. And that is what this legislation that is on the floor, the bill that stands before you, tries to do, is focus on creating jobs directly by helping States that are saying they are going to cut their budgets instead of create jobs, by helping American businesses that are saying we are about to fire employees, and instead provide them with tax cuts to let them keep jobs and create new ones, and also by telling the American public we will fulfill President Obama's promise of a direct tax cut to 95 percent of America's working families.

On the other hand, we have a substitute amendment that we are presented here today that would go back to what we had under Bush policies.

□ 1600

It is much of what we saw before, tax policies that are skewed to those who are wealthier, to let it then trickle down to those who work very hard. Why else would you have most of the benefits going to the top fifth Americans who are those who are hurt the least by this economic downturn? Why would this bill cut, eliminate, the entire amount of the Making Work Pay tax credit that President Obama proposed would go to 95 percent of working Americans? Why would this Republican substitute eliminate any tax relief whatsoever for 23 million families in America who happen to be our more modest income earning Americans? They work, nonetheless, but they would be cut out.

We need to move forward with investment and recovery. I urge Members to vote against the Republican substitute.

Mr. CAMP. Mr. Chairman, at this time I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Chairman, I thank the gentleman for yielding.

I think we have a ''stop the presses'' moment. I think there is new news that has come upon this Congress that we can celebrate, take this bill out of the record and hit the reset button, because the good news is that President Obama's own economic team or those that are poised to become that economic team have said there is good news for a new idea. And the new idea is this substitute that is offered by Mr. CAMP and Mr. CANTOR that says for half the cost it can have twice the impact. That is powerful. And if we are truly in a spirit of bipartisanship, if we are truly, as the President says, in a moment where authorship doesn't matter, then we need to stop the presses.

Mr. Chairman, we can create 6.2 million jobs in 2 years based on this substitute. And where I come from, that is good every day all the time.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to recognize at this time the gentleman from New Jersey, a valuable member of the Ways and Means Committee, Mr. PASCRELL, for 2 minutes.

Mr. PASCRELL. Mr. Chairman, in Italian we say ''tutti possible,'' anything is possible on this floor.

We passed in 2008, eliminated the AMT tax, but we paid for it. You missed something. You left out a paragraph: We paid for it. And we are going to handle it again.

For the last 8 years, we have passed a number of tax cuts for big business and the wealthiest 1 percent of the Americans. We were warned in the summer of 2001, not 2003, 2006; 2001, we were warned what was going to happen. We could not pay for those tax cuts in 2001, 2003, and 2005, and today we are being lectured about deficit. Not only look at the results of November; look at the American people, where they stand today on this tax cut, Democrats, Republicans, Independents across the board.

This substitute eliminates the Making Work Pay tax credit, it eliminates the child tax credit, it eliminates the American Opportunity tax credit for more than 4 million students. It eliminates approximately $40 billion in tax benefits to assist State and local governments in financing their infrastructure needs. They can't do it because they don't have the money to do it. This is not make work; this is important work for the American people.

This substitute continues the practice of providing tax cuts for the wealthiest Americans, and it ain't going to happen anymore. There is a new day and a new culture even on this floor. Even though everything and anything is possible here, that ain't possible.

Mr. CAMP. At this time I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. I thank the gentleman for yielding. I rise in support of the Republican alternative to H.R. 1.

Mr. Chairman, our Nation is in recession and millions of American families are hurting. Many have lost their jobs. Many now worry that they will be next. And it is absolutely right that this Congress is taking decisive action in the early days of 2009. But the bill the House Democrats have brought to the floor is not about stimulating the economy. The only thing this Democrat bill will stimulate is more government and more debt. Under the guise of stimulus, House Democrats have brought a partisan bill to the floor. It is merely a wish list of longstanding liberal Democrat priorities that have little to do with putting our economy back on its feet.

Millions of Americans are asking today, what does $50 million to the National Endowment for the Arts have to do with creating jobs? What is $400 million for climate change research going to do to put people back to work in Indiana? And what is $335 million for sexually transmitted disease education going to do to get this country working again?

Most House Republicans will oppose this bill tonight for one reason: It won't work. More big government spending on liberal programs won't cure what ails the American economy. House Republicans have a better solution: Fast-acting tax relief for working families, small businesses, and family farms.

According to analysis and economic models used by President Obama's top economic advisers when applied to our plan, we come with one conclusion: Twice the jobs, half the cost with the Republican alternative.

Now, Democrats also said that we are going to pass temporary and targeted stimulus legislation. But as I close, let me remind the American people and anyone gathered here, Mr. Chairman, what we keep hearing. From the Speaker of the House that I greatly respect to other colleagues that have come to the floor, we have heard that this bill is about ''taking America in a new direction.'' Well, I say with great respect, Mr. Chairman, I thought this was about creating jobs.

This long litany, $136 billion in program spending, is simply about trying to reorder the budget priorities according to the whims of a Democrat majority. What we ought to be doing is coming together across this middle aisle, across the partisan divide, as our new President has challenged us to do, bring the best ideas, the best minds, the best solutions. This Republican alternative is the best solution. I urge its support.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to recognize the distinguished gentleman from Oregon, a member of the Ways and Means Committee, who really does know something about infrastructure and environmental undertakings, Mr. BLUMENAUER, for 2 minutes.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy and his leadership in this area.

I listened to my friend from Indiana wondering what could possibly have economic impact investing in the arts or climate change. Well, I don't know what is going on in Indiana, but if you talk to the arts groups in Oregon or in

Massachusetts or in New York or Illinois, they will tell you that investments there will produce economic activity in areas that are strained and underserved. Investment in climate change and energy research creates jobs, and business is crying out for it, large and small.

But I am pleased that they have come forward with their alternative. Listen closely to what the Republicans say: ''If we assume what some economic model applies to the way we would like our legislation to work, it would be twice the jobs for half the cost.'' These are the same people that told us the Bush tax cuts were going to lead to nirvana. These are the people that said that the Clinton economic programs would lead to disaster; they were dead wrong about the economy in the Clinton era. Look at the results of their models when they have been put into place: Exploding deficits, problems with the economy.

I am glad, however, that they have offered this alternative, because it puts in clear relief what their priorities are: Reduce tax relief for 95 percent of the American public and give more to the few who need it the least. Take money away from 4 million students who would have this tax relief. My favorite of their proposals is to actually continue to game the alternative minimum tax to purposely push more people into it with tax gimmicks rather than work with us in fundamental tax reform that doesn't subject more people to the ATM and give us this yearly charade.

I look forward to the leadership of Chairman NEAL in Select Revenue, where we will fix the AMT. I strongly urge the rejection of the misguided Republican priorities, taking away the infrastructure investments that would make so much difference for our communities and undercut our American families.

Mr. CAMP. I yield myself 15 seconds.

We hold harmless in our legislation on the AMT, and we reduce taxes on 100 million American families, every American family that pays taxes.

With that, I would yield 1 minute to the distinguished minority leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Let me thank my colleague from Michigan for yielding and congratulate him and our Republican whip, ERIC CANTOR, for the proposal that they have on the floor.

I think that the plan that we have on the floor, our alternative, is rooted in the principle that fast-acting tax relief will create more jobs in America than a lot of slow-moving government programs. The bill that we have on the floor, the underlying bill, has as an example 32 brand new government programs that spend $136 billion.

Now, we all know how long it takes to get a new program up, the bureaucracy that has to be hired, before we could ever get that money out into the economy. We also know there is a lot of other spending in this bill that while it may be well-meaning, it may be well-intentioned, we know it is not going to create jobs. And sending 300 plus million dollars to the Center for Disease Control to do whatever is not going to create new jobs in America. We are going to build bigger bureaucracies.

Or, we could talk about the $650 million that is going to be spent with digital TV coupons. Now this looks like a slush fund to me because about 94 percent of the old TVs that need these boxes to receive signals have already been purchased; so only about 6 percent of the TVs in America actually need these boxes. So that would be about $30 million, $40 million, maybe $50 million. What is the other $600 million going to be used for?

The point is, is that the underlying bill, while it certainly has some good provisions, has a lot of wasteful spending, a lot of slow-moving government spending in it.

When I gave Ms. PELOSI the gavel on the opening day as Speaker of the House, I told her the Republicans would not come to the floor and just be the party of ''no''; that we would try to be the party of better ideas. And last week when we had the SCHIP bill on the floor, we brought a proposal out here which we thought was a better idea. Today, in this debate, we think that we have a better idea.

President Obama has made clear that he believes that the goal here should be to preserve jobs in America and to create new jobs in America. And I think that the proposal that we have that puts more money back in the hands of American families and small businesses, that helps homeowners and people who want to buy a home, that takes away the tax liability for those who are unemployed and getting unemployment insurance, that this bill in fact will be better for the American people, that better meets the goal that the President himself has outlined.

And we want to work with the President. We have made clear to him that he has reached out, and we are reaching out to him, because at the end of the day, the American people need a plan that works. We all know our economy is in a difficult strait. We all know that people are losing their jobs, tens of thousands of them, every week. And so we have to act and we have to help our ailing economy. The question is, how do we do it best? And we believe this fast-acting tax relief is the way to get it done.

Then we find out today that our proposal will create 6.2 million jobs over the next 2 years, about twice as many as the underlying bill and at about half the cost.

Remember, at the end of the day this bill that we are going to pass is not being paid for by taxpayers today; it is going to be paid for by our kids, our grandkids, and their kids. We have to be cognizant of the debt that we are putting on them. And so I would urge my colleagues to support the Republican substitute, support a bill that will create 6.2 million jobs, twice as many as the underlying bill at about half the cost.

Mr. NEAL of Massachusetts. Mr. Chairman, I would remind all that for 6 years we tried the prescription that was offered by the minority leader and his party, the slowest economic growth that America has had since World War II.

With that, I would like to recognize the gentleman from North Dakota, a member of the Ways and Means Committee, Mr. POMEROY, for 2 minutes.

Mr. POMEROY. We have all looked at the continued practices of some on Wall Street with utter amazement. After crashing their companies, taking their part in tanking our economy, the excesses that we have continued to see have appalled us all.

I guess if there is a legislative equivalent of not getting the message, like those that continue those utterly disgraced practices on Wall Street, it would be a proposal that would continue an economic policy of trying to shift the tax cuts disproportionately to the wealthiest, stiff the working poor, and hope somehow that the largesse trickles down and the economy comes back.

□ 1615

We should have learned our lesson. This has been the fiscal policy of the Republican Party in the House for the last decade. And what harm, what harm we have seen. Oh, it has not been harmful for everybody because if you were at the top, the top of this income pyramid, you did very, very well. But average taxpayers saw their earnings decline and stagnate, leading to greater levels of debt and the hardship we see today.

So I am fairly astounded that we see a substitute that goes back to the tired old Republican formula of letting the top have everything and the others get shortchanged. Under their proposal, the top 20 percent of households, and only the top 20 percent get the full tax cuts, and they are not proportionally spread at all. Married couple, two children, incomes over $100,000, they get almost $3,500 under the Republican substitute, 17 times the $200 tax cut the couple making $30,000 would receive. Vote for fair tax relief; reject this substitute.

Mr. CAMP. I yield 3 minutes to the distinguished gentleman from Michigan (Mr. MCCOTTER).

Mr. MCCOTTER. We in Michigan in my community are listening to this debate very closely. We are listening very closely because one of the things that

we are painfully aware of is how our Nation does not want to see double digit unemployment, does not want to see families lose their homes, their jobs and their nest eggs. We are listening very closely because in Michigan we are living your nightmare now: 10.6 percent unemployment, foreclosures skyrocketing, people's nest eggs eroding. And in Michigan, they were heartened by President Obama's request to work with the Republican minority. It was a request he did not have to make. Legislation can pass this Chamber without a single Republican vote. And yet in raising the tone, the tenor, the decorum in Washington, he reached out to House Republicans, and we responded by putting forward our solutions.

Do we expect the President or even the Democratic majority to accept all of them? No, that would be unfair on our part. But what would be equally unfair is for them not to be fairly considered at all by the Democratic majority.

We believe that there is merit in our proposal as it provides twice the jobs at half the cost. It could be incorporated into a responsible bill within President Obama's framework that he laid out for a temporary stimulus package.

The three elements were a sane, humane strengthening of the social safety net, tax relief for working families and small businesses, and accelerated, responsible infrastructure that would have a permanent benefit to the economy as we worked on the deeper, underlying problems.

What we have before us today, unfortunately, is a missed opportunity. It is an opportunity I hope we will get to rectify should the legislation come back because at the present time this legislation is not an immediate economic growth stimulus. It is, in fact, a wasteful government spending bill. We can do better together. I trust we will because as the families in my community understand, Congress cannot continue governing like gamblers in the hole spending other people's money. We will have to make difficult decisions, but we will have to do them together.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. HIGGINS), a new member of the Ways and Means Committee.

Mr. HIGGINS. Mr. Chairman, the Republican substitute would eliminate $550 billion in targeted investments, including tens of billions of dollars for road and bridge construction for economically distressed areas throughout the Nation and for cities like Buffalo, Lackawanna, Dunkirk and Jamestown, New York.

This past Monday, American companies announced more than 70,000 job cuts, including 20,000 cuts at Caterpillar. Caterpillar makes heavy equipment for road and bridge construction in America and throughout the world. The American Recovery and Reinvestment Act will jump start the economy and stave off a deeper and longer recession with road and bridge construction that will create hundreds of thousands of jobs immediately and help American companies like Caterpillar create a demand for the machinery that will be required to build new bridges and roads and energy-efficient buildings for the 21st century.

With these investments and a tax cut for 95 percent of America's working families, I urge support of the American Recovery and Reinvestment bill for 2009.

Mr. CAMP. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Chairman, I thank my friend for yielding and want to say it has been a great privilege to work with him and Mr. CANTOR and others as part of this very important stimulus working group.

I would like to share an analysis of a plan that is virtually identical to the one that is before us right now. This is the analysis: ''Large-scale construction projects of any type require years of planning and preparation. Even those that are on the shelf generally cannot be undertaken quickly enough to provide timely stimulus to the economy.

''Some of the candidates for public works, such as grant-funded initiatives to develop alternative energy sources, are totally impractical for countercyclical policy, regardless of whatever other merits they may have.''

Mr. Chairman, those are the words of our good friend, the former director of the Congressional Budget Office, the new director of President Obama's Office of Management and Budget, Peter Orszag.

We have heard many, many people in this administration and who have served in past administrations, give an analysis that spending is not the answer. We need to get this economy growing.

When I heard my friend from North Dakota (Mr. POMEROY) say that the well-to-do are going to be the beneficiaries and everyone else is shortchanged, I am reminded of a particular item that we have in this job creation growth alternative that is designed to ensure that people can keep their homes and have a vested interest in it. We have a $7,500 credit that is designed to encourage people not to treat their homes as rental units where we have seen in the past zero percent down and virtually no interest rate.

What we need to do is we need to have an incentive for those down payments to be made. Support this alternative.

Mr. NEAL of Massachusetts. As a member of a very small alumni association here called former mayors, let me assure the gentleman from California that mayors will know how to get this money out the door as the President has prescribed.

I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, this debate should not be about Democrat or Republican, liberal or conservative, Blue Dogs, yellow dogs, or deficit hawks. Our economy is failing. Millions of jobs have been lost. We need to act now. H.R. 1 is only a first step, but it is an important first step.

What about the stimulus. What we are doing here is like using battery cables to jump start a car with a dead battery. We are not buying a new battery or buying a new car, we are simply jump starting the battery of a dead economy. We are still going to have to buy a new battery; and eventually, we are going to have to buy a new fuel-efficient car.

Right now if we want to move forward, we better get out those jumper cables and put them on the battery.

Vote for the stimulus, H.R. 1.

Mr. CAMP. I yield 1½ minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chair, $350 billion last week and now with what we are going to add this week, it is about $1.2 trillion. The reason that is significant, that is basically the amount that every individual taxpayer paying together in 2008 paid into the U.S. Treasury.

We could give every taxpayer, individual taxpayer in America, all of their money back for last year. You want to see the economy explode, try that. That would be extraordinary.

Now we did too much deficit spending in the last 6 years when we were in the majority, and now the Democratic majority is doing the same thing. You can spend a country out of existence. Iceland just did it. The Soviet Union fell because they spent too much money trying to catch up with us. And we can do the same thing.

We owe more than this to our children and our grandchildren. In fact, when we elected a President who promised change, I really hoped we were going to have change and get away from the deficit spending of the last 8 years. But instead of getting change, what we are getting with the original bill here is much, much, much, much more of the same. We need to quit spending ourselves out of existence.

Mr. NEAL of Massachusetts. Mr. Chairman, at this time I would like to recognize the chairman of the Appropriations Committee, Mr. OBEY, for 4 minutes.

Mr. OBEY. Mr. Chairman, this amendment in many ways is similar to the Neugebauer amendment, and I would say the same things about it that I said about that amendment.

This essentially throws millions of jobs out the window. All of the jobs for

school teachers, for speech therapists and school nurses and the like that would be saved by the State stabilization fund to protect education, all of those jobs out the window by this amendment.

All of the jobs that would come from remodeling and repairing and refurbishing old, worn-out schools under the new modernization program, out the window with those jobs.

All of the infrastructure funding for highway construction, out the window. We heard the Republicans lecture us for 2 days about the importance of that. Now they want to throw it overboard.

All of the jobs that would come from increasing our clean water revolving fund project list and the sewer and water programs around the country, all of those jobs, out the window.

All of the jobs that would come from modernizing our energy grid, out the window.

All of the jobs that come from investing in new science and technology, out the window.

And then all of the help that goes to people through programs like food stamps, out the window.

Mr. Chairman, I want to predict what is going to happen on that side of the aisle on this vote. I predict that just as happened in committee when we got no minority party support for the bill that we produced in committee, when this bill comes to a vote today, virtually all of our Republican friends will vote ''no.'' The bill will then go to the Senate, and after they gauge whether or not that bill can be killed or not, then if the bill comes back from the conference committee and it is obvious that the bill cannot be killed, at that point you will see a significant number of our friends from the Republican side switch and vote ''aye.''

It is an old playbook, Mr. Chairman. That is exactly what they did to FDR on Social Security when they tried to kill it in its crib. And then when they couldn't beat it, they finally joined the parade. That is the same thing that they did to LBJ on Medicare. When they tried to kill and after they couldn't kill it, in the end they went along so that people wouldn't know that they tried to kill it in the first place.

I would hope that sooner or later we could cut through that gamesmanship. I would hope that we would recognize, as Martin Luther King said a long time ago which our President reminded us of in his inaugural, I would hope that we would remember the urgency of now. Every week that we temporize, 100,000 or more Americans lose their jobs. That doesn't just hurt those working Americans, it hurts their families. It hurts the economy, it hurts the neighborhood. It hurts everybody in this society. And it hurts the global economy as well. Sooner or later we have to recognize this is not Herbert Hoover time. The time for action is now.

Mr. CAMP. Mr. Chairman, I yield 4 minutes to the distinguished minority whip, a leader on developing the substitute, the gentleman from Virginia (Mr. CANTOR).

□ 1630

Mr. CANTOR. I thank the ranking member, the gentleman from Michigan.

As the economy sinks further into recession, all of us understand that this House needs to take concrete action to lift us and help lift America's families out of this crisis. We Republicans support this alternative because we believe it is a true stimulus bill. It does not take us headlong into soaring debt and lead to future tax increases. This alternative is based on the premise that if we're going to pass a stimulus bill, it has to be focused like a razor's edge on the protection, preservation and creation of jobs.

Mr. Chairman, we cannot support the majority's alternative, although we do understand that this is a work in progress, although we do understand, and we've spoken with the President, who says he has no pride of authorship. He wants us to continue to be part of the process. He wants this to be a stimulus bill.

Mr. Chairman, this bill is not that. With the amount of spending in this bill, we could dedicate it solely to job creation. Much of what the other side has continued to say and continues to promote perhaps may be laudable goals and good programs. But when you have $136 billion of additional new programs in this bill, you have got to ask, how stimulative are these new programs? What about the small businesses, the entrepreneurs and the self-employed that are out there who don't want more government programs? They just need a break. They need to know their government will not keep borrowing money and laying debt onto our children to the tune of trillions of dollars a year. They want meaningful incentives so they can get back off the sidelines, put capital to work and create jobs.

Mr. Chairman, the Congressional Budget Office has already opined several times on the lack of stimulus in the majority's bill. In fact, some estimates say only 12 cents on the dollar could arguably be stimulative. Mr. Chairman, there are additional voices who have spoken out, Democrats and Republicans, Christine Romer, the incoming head of the Council of Economic Advisers for the Obama White House, says in her analysis, if it is applied, as we have applied it, as some of the folks who have used her analysis in her formula on to your bill, that our alternative creates twice as many jobs at half the cost. And that is what we ought to be about in this House is trying to figure out how we can do things that work at less cost to the taxpayer.

I also say, Mr. Chairman, Alice Rivlin, the economic expert from the Clinton administration, she also opined and said, You know what—the majority's bill has terrific amounts of spending in it. And they may be laudable. But they're long-term investment programs. So she says we need to separate out these long-term investment programs from what is stimulative.

We have regular order in this Congress so that the American people can participate, we can be deliberative and we can get it right on the long-term programs. Right now, Mr. Chairman, we ought to be about protecting the jobs that are out there and creating new ones, again, focused like a laser.

The Republican plan does this without all the spending and waste. And we can create the jobs at half the cost.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to reserve the balance of my time until the gentleman from Michigan is prepared to close.

Mr. CAMP. At this time, I yield 1½ minutes to the distinguished gentleman from Florida.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, we clearly need to pass a stimulus package, a plan that will help our economy. Unfortunately, this plan spends lots of money but very little to incentivize the economy. It does very little to incentivize small businesses, small businesses which are the job creators in our country. Frankly, less than 10 percent of the money in this spending bill goes to infrastructure projects. And we hear a lot of talk about the infrastructure projects. I agree with that. But less than 10 percent of the bill goes to infrastructure projects. Most of them, unfortunately, Mr. Chairman, go to create a larger Federal bureaucracy with little accountability and nearly no oversight. Does that sound familiar?

This House last week was here passing legislation that the Senate already said they weren't going to do to try to cover up and fix up the embarrassment of the TARP legislation, of that bailout legislation, that had no accountability and no oversight. This bill is more of the same. This is Son of TARP, except it's even bigger, with little money and accountability, with little oversight, with less than 10 percent for infrastructure and with very little to help the job creators, the small businesses in our great country.

We need better accountability. We need more oversight. We need more for infrastructure. We need more to help the small businesses and less to just send it to create a larger Federal bureaucracy with no oversight. Again, as embarrassed as some people were about TARP, this is Son of TARP. We are going to read the scandals.

Don't pass this legislation.

Mr. CAMP. At this time I yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Thank you, Mr. CAMP.

I think that the Democrats have lost perspective, Mr. Chairman. I want to put things in perspective. With the bailout bill, the Wall Street bailout bill added to this stimulus bill, we're spending over $1.5 trillion. The interstate highway system only cost $425 billion. The race to the Moon cost $237 billion. We're spending $1.5 trillion. President Obama did promise economic recovery. Unfortunately, congressional Democrats are going to destroy his vision of stimulus.

This act is not bold. It is not quick acting. It is the old policy of borrowing and spending. And we're thinking that more borrowing and more spending is going to get us out of this crisis that we're in now. Mr. CAMP's amendment is the last best chance for economic stimulus for the next 2 years of a Democrat-controlled government. This Democrat bill is not a stimulus. It is just another wasted bailout.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to yield myself the balance of my time.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. NEAL of Massachusetts. Thank you, Mr. Chairman.

I stand in opposition to the Camp amendment that is being offered at the moment.

While you might hear that the Republican amendment today includes a 2-year patch for the AMT, let me tell you that this patch results in zero taxpayers being helped. I repeat, zero taxpayers being helped.

I think the Republican minority would agree that I have earned a Ph.D. on AMT during my time in the House. I asked the Joint Committee on Taxation—for the viewing audience, they are not Republicans. They are not Democrats. They're professionals. I asked them to analyze the Republican amendment and tell me how many taxpayers would pay AMT under current law without any patch and under my friend Mr. CAMP's amendment. Oddly enough, there will be 26 million families paying AMT this year with or without the Camp amendment and 28 million families paying AMT next year with or without the Camp amendment. That is because this patch falls far short of what would be needed to protect the middle class from the takeback effect of the AMT.

Now this budgetary trick was used in 2001 to mask the true cost of the Bush tax cuts. Without the AMT patch, middle-income taxpayers lost two-thirds of their promised Bush tax cuts to AMT, again, Joint Committee on Taxation. And the same thing will happen under Mr. CAMP's amendment. If Mr. CAMP's amendment is enacted, middle-income families, including 49,000 in my friend's, Mr. CAMP's, district will not see the lower 5 percent rate or the 10 percent rate that he promises. Twenty-six million families will pay higher taxes this year under the Camp proposal because of alternative minimum tax.

We will enact a patch this year so that those 26 million families will be protected from higher taxes. I guarantee you that. In fact, the Senate has already added it to their stimulus bill. But let's not fool ourselves today by voting for an AMT fig leaf and even steeper rate cuts which will leave the middle-income worker holding the bag.

I urge opposition to the Republican amendment.

I yield back the balance of my time.

Mr. CAMP. I yield myself the balance of my time.

The CHAIR. The gentleman from Michigan is recognized for 3 minutes.

Mr. CAMP. Mr. Chairman, I would commend Mr. NEAL for his work on the AMT. I just wish you had included it in your underlying bill. But let me just say, look, the CBO, the Congressional Budget Office, is nonpartisan. It has said that, and economists alike have said that tax cuts impact the economy more quickly than government spending. And what we need to do is act quickly and effectively.

We even have an analysis by the senior adviser to the new President who says that tax cuts will actually have more immediate growth, more job creation and a bigger bang for the buck than we'll see with government spending. And when we use the same methods and economic models that they have used to analyze our legislation, we get twice as many jobs for half the cost because of the great generative power of tax relief. It is something that certainly both President Kennedy and President Reagan recognized to create economic growth.

Let's be clear about what tax relief actually does. The U.S. economy had significant job growth after the tax cuts in the early part of this decade. Between 2003 and 2008, the economy added almost 8 million jobs. As this chart shows, it's according to the Department of Labor, Bureau of Labor Statistics, the U.S. economy added these jobs even after dealing with the impact of 9/11, two wars, rising energy prices and government spending.

Now everyone knows that over the last year, the U.S. economy has lost a significant number of jobs, but it took an unprecedented crisis in the housing and financial markets and a world economic slowdown to really knock the economy and the jobs that the economy creates off its feet.

So our estimate of the number of jobs that could be created by these tax relief measures, as we readily acknowledge, cannot fully account for all of the potential impacts on the economy, just as the President's senior advisers note in their analysis the same thing. But we do know the U.S. economy was in recession when Congress enacted the 2001 and 2003 tax relief measures. The U.S. economy responded by growing rapidly and adding almost 8 million jobs. And the families and the prosperity that was created from those 8 million jobs followed.

So the tax relief, the approach we have taken in our bill to emphasize more tax relief minimizes the wasteful government spending that we see in the Democrat, or the present majority's approach, and really shows that it's a proven formula for stimulating the economy, creating jobs and lifting this economy out of a recession.

Mr. STARK. Mr. Chair, I rise in opposition to this wrong-headed substitute amendment offered by my Republican colleagues.

The Camp/Cantor amendment eliminates two key health care provisions in the American Recovery and Reinvestment Act. First, it deletes the entire investment in health information technology. Second, it eliminates the provisions designed to temporarily provide health insurance for workers who've lost their jobs in this economic crisis.

For years, I've heard my Republican colleagues laud the need to invest in health information technology. Yet, when a bill comes before them that finally meets that goal, what do they do? They delete it.

According to the nonpartisan Congressional Budget Office, H.R. 1 will dramatically increase physician use of health IT from 5 percent today to 90 percent. It will also increase hospital adoption rates from about 10 percent today to 70 percent.

CBO further tells us that the steps this bill takes to increase adoption will reduce what both the public and private sectors pay for health care by lowering administrative overhead costs, reducing the number of unnecessary tests and procedures, and decreasing many avoidable medical errors.

Specifically, CBO says the federal government will save $12 billion across government health programs and consumers will save billions more via lower premiums for private insurance.

With regard to health care coverage, I've also listened to my Republican colleagues for decades as they insist that any effort toward expanding health coverage build on what works in the private sector. COBRA continuation coverage does just that.

COBRA coverage enables people who have lost their jobs to maintain their private health insurance coverage through their former employer for a limited period of time—at their own cost—until they get a new job with health benefits.

All we do in H.R. 1 is provide a temporary 65 percent subsidy for up to 12 months for workers who have been involuntarily terminated in this recession. Many of these people are surviving on unemployment compensation—the monthly value of which is often less than the standard monthly family COBRA premium of more than $1000.

The Joint Committee on Taxation estimates that some 7 million Americans will be able to maintain their health coverage if this provision is enacted.

What does the Republican substitute do to this provision? It deletes it.

Clearly, my Republican colleagues are turning their back on this historic opportunity to modernize America's health IT system and reduce overall health spending. They are also telling America's workers that their health care needs are their own problem—even though this recession is a direct result of the lax oversight they and President Bush proceeded over for the past decade.

I urge my colleagues to vote "no" on this mean spirited substitute amendment.

Mr. CAMP. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. CAMP).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. CAMP. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

The CHAIR. The Committee will rise informally.

The Speaker pro tempore (Ms. LEE of California) assumed the chair.

SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 181. To amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The Committee resumed its sitting.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 111–9 on which further proceedings were postponed, in the following order:

Amendment No. 5 by Mr. NEUGEBAUER of Texas.

Amendment No. 7 by Mr. FLAKE of Arizona.

Amendment No. 11 by Mr. CAMP of Michigan.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

□ 1645

AMENDMENT NO. 5 OFFERED BY MR. NEUGEBAUER

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 302, not voting 2, as follows:

[Roll No. 42]

AYES—134

Aderholt
Akin
Alexander
Austria
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Carter
Cassidy
Chaffetz
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dreier
Duncan
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Latham
Latta
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Nunes
Olson
Paul
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Wamp
Westmoreland
Wilson (SC)
Wittman
Wolf

NOES—302

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bordallo
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Childers
Christensen
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Frelinghuysen
Fudge
Gerlach
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Heller
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee (CA)
Lee (NY)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Norton
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Pierluisi
Pingree (ME)
Platts
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Rogers (AL)
Rooney
Ros-Lehtinen
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Whitfield
Wilson (OH)
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—2

Brown-Waite, Ginny
Solis (CA)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There are 2 minutes remaining on this vote.

□ 1710

Mr. DICKS, Ms. TITUS, Messrs. SCHAUER, McDERMOTT, Ms. EDWARDS of Maryland, Mrs. NAPOLITANO, Messrs. PALLONE, DONNELLY of Indiana, BILIRAKIS, JONES, ROONEY, WALDEN,

PAULSEN, LARSON of Connecticut, Mrs. BACHMANN, and Mrs. McMORRIS RODGERS changed their vote from ''aye'' to ''no.''

Messrs. BACHUS, ROYCE, and McHENRY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. FLAKE

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 116, noes 320, not voting 2, as follows:

[Roll No. 43]

AYES—116

Akin
Austria
Bachmann
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bono Mack
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Carter
Chaffetz
Coble
Coffman (CO)
Conaway
Culberson
Davis (KY)
Deal (GA)
Dreier
Duncan
Flake
Fleming
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hunter
Inglis
Issa
Jenkins
Johnson, Sam
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Latta
Lewis (CA)
Linder
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Marchant
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McMorris Rodgers
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Pitts
Poe (TX)
Posey
Price (GA)
Radanovich
Reichert
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Royce
Ryan (WI)
Scalise
Sensenbrenner
Sessions
Shadegg
Smith (NE)
Smith (TX)
Stearns
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Wamp
Westmoreland
Wilson (SC)

NOES—320

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Alexander
Altmire
Andrews
Arcuri
Baca
Bachus
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bonner
Boozman
Bordallo
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Buchanan
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Castor (FL)
Chandler
Childers
Christensen
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Faleomavaega
Fallin
Farr
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Frelinghuysen
Fudge
Gerlach
Giffords
Gonzalez
Goodlatte
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee (CA)
Lee (NY)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luján
Lynch
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Norton
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pierluisi
Pingree (ME)
Platts
Polis (CO)
Pomeroy
Price (NC)
Putnam
Rahall
Rangel
Rehberg
Reyes
Richardson
Rodriguez
Rogers (AL)
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stark
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Whitfield
Wilson (OH)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—2

Brown-Waite, Ginny
Solis (CA)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There is 1 minute remaining in this vote.

□ 1718

Mr. MASSA changed his vote from ''aye'' to ''no.''

Mr. CAMP changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 11 OFFERED BY MR. CAMP

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. CAMP) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 170, noes 266, not voting 2, as follows:

[Roll No. 44]

AYES—170

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey

Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Young (AK)
Young (FL)

NOES—266

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bordallo
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Norton
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pierluisi
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Upton
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth

NOT VOTING—2

Brown-Waite, Ginny
Solis (CA)

□ 1730

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIR. All business before the Committee being completed, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. TAUSCHER) having assumed the chair, Mr. TIERNEY, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes, pursuant to House Resolution 92, he reported the bill, as amended by that resolution, back to the House with sundry further amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any further amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. LEWIS of California. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LEWIS of California. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Lewis of California moves to recommit the bill H.R. 1 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendments:

Page 48, strike lines 1 through 5.

Page 49, strike line 9 and all that follows through page 50, line 22.

Page 52, strike lines 5 through 8.

Page 54, line 17, after the first dollar amount insert ‘‘(reduced by $200,000,000)’’.

Page 54, line 19, strike ‘‘and’’ and all that follows through ‘‘modernization’’ on line 21.

Page 57, line 16, after the dollar amount insert ‘‘(increased by $24,255,000,000)’’.

Page 57, strike the proviso beginning on line 22.

Page 62, line 14, after the dollar amount insert ‘‘(reduced by $6,600,000,000)’’.

Page 62, strike line 23 and all that follows through page 63, line 7 (and redesignate the subsequent paragraphs accordingly).

Page 63, strike lines 12 through 16 (and redesignate the subsequent paragraphs accordingly).

Page 63, strike lines 21 through 24 (and redesignate the subsequent paragraphs accordingly).

Page 64, strike lines 5 through 13.

Page 65, strike lines 3 though 20.

Page 65, strike line 21 and all that follows through page 67, line 3.

Page 67, line 12, after the dollar amount insert ‘‘(reduced by $400,000,000)’’.

Page 67, strike line 13 and all that follows through ‘‘less’’ on line 16.

Page 74, strike line 17.

Page 74, line 23, after the dollar amount insert ‘‘(reduced by $6,700,000,000)’’.

Page 75, line 2, strike ‘‘; of’’ and all that follows through ‘‘Act’’ on line 15.

Page 75, line 15, strike ‘‘*further*’’.

Page 76, strike line 9 and all that follows through page 103, line 14..

Page 122, strike line 7 and all that follows through page 123, line 3.

Page 123, line 13, after the dollar amount insert ‘‘(reduced by $1,950,000,000)’’.

Page 123, strike line 18 and all that follows through page 124, line 9 (and redesignate the subsequent paragraphs accordingly).

Page 124, line 24, insert ‘‘and’’ after the semicolon.

Page 125, line 3, strike ‘‘; and’’ and insert a colon.

Page 125, strike lines 4 through 18.

Page 129, line 25, after the dollar amount insert (reduced by $550,000,000)’’.

Page 130, line 1, strike ‘‘, of’’ and all that follows through ‘‘2009,’’ on line 2, and insert ‘‘(reduced by $250,000,000)’’.

Page 130, line 20, strike ‘‘, of’’ and all that follows through ‘‘2009,’’ on line 21, and insert ‘‘(reduced by $300,000,000)’’.

Page 133, line 16, strike ‘‘, of’’ and all that follows through ‘‘2009’’ on line 17, and insert ‘‘(reduced by $750,000,000)’’.

Page 134, strike line 20 and all that follows through page 139, line 2.

Page 139, strike lines 4 through 11.

Page 139, line 16, strike ‘‘, of’’ and all that follows through ‘‘2009’’ on line 17, and insert ‘‘(reduced by $1,000,000,000)’’.

Page 139, line 24, after the dollar amount insert ‘‘(reduced by $1,600,000,000)’’.

Page 140, line 1, after the dollar amount insert ‘‘(reduced by $500,000,000)’’.

Page 140, line 2, strike ‘‘, of’’ and all that follows through ‘‘2009’’ on line 3.

Page 140, line 4, after the dollar amount insert ‘‘(reduced by $550,000,000)’’.

Page 140, line 6, strike ‘‘, of’’ and all that follows through ‘‘2009’’ on line 7.

Page 140, line 19, after the dollar amount insert ‘‘(reduced by $500,000,000)’’.

Page 140, line 21, strike ‘‘of which’’ and all that follows through ‘‘and’’ on line 22.

Page 141, line 5, strike ‘‘years 2009 and 2010’’ and insert ‘‘year 2009’’.

Page 141, line 11, after the dollar amount insert ‘‘(reduced by $50,000,000)’’.

Page 141, line 12, strike ‘‘, of’’ and all that follows through ‘‘2009’’ on line 14.

Page 141, line 25, strike ‘‘, of’’ and all that follows through ‘‘’2009’’ on page 142, line 1, and insert ‘‘(reduced by $100,000,000)’’.

Page 142, strike line 5 and all that follows through page 144, line 3.

Page 145, strike line 22 and all that follows through page 157, line 10.

Page 157, line 17, after the first dollar amount insert ''(reduced by $6,500,000,000)''.

Page 157, line 17, after the second dollar amount insert ''(reduced by $2,750,000,000)''.

Page 157, line 19, strike ''of which $2,750,000,000'' and insert ''which''.

Page 157, line 21, strike '', and'' and all that follows through ''2011'' on line 23.

Page 157, line 24, after the dollar amount insert ''(reduced by $2,750,000,000)''.

Page 157, line 25, strike ''of'' the second place it appears.

Page 158, line 1, strike the dollar amount.

Page 158, line 2, strike the second comma and all that follows through ''2011'' on line 5.

Page 158, line 5, after the dollar amount insert ''(reduced by $1,000,000,000)''.

Page 158, line 7, strike ''of which $1,000,000,000'' and insert ''which''.

Page 158, line 9, strike '', and'' and all that follows through ''2011'' on line 11.

Page 158, strike lines 14 through 21.

Page 159, line 2, after the dollar amount insert ''(reduced by $533,000,000)''.

Page 159, line 3, after the dollar amount insert ''(reduced by $500,000,000)''.

Page 159, line 4, strike ''of which $500,000,000'' and insert ''which''.

Page 159, line 6, strike '', and'' and all that follows through ''2011'' on line 8.

Page 159, line 10, after the dollar amount insert ''(reduced by $33,000,000)''.

Page 159, line 12, strike ''of which $33,000,000'' and insert ''which''.

Page 159, line 14, strike '', and'' and all that follows through ''2011'' on line 16.

Page 159, line 21, after the dollar amount insert ''(reduced by $25,000,000)''.

Page 160, strike the proviso beginning on line 9.

Page 160, line 19, after the first dollar amount insert ''(reduced by $7,300,000,000)''.

Page 160, line 19, after the second dollar amount insert ''(reduced by $7,000,000,000)''.

Page 160, line 20, strike ''of which'' and all that follows through ''$6,000,000,000'' on line 21, and insert ''which''.

Page 160, line 22, strike '', and'' and all that follows through ''2011'' on line 24.

Page 160, line 25, after the dollar amount insert ''(reduced by $300,000,000)''.

Page 161, line 1, strike ''of which $300,000,000'' and insert ''which''.

Page 161, line 3, strike '', and'' and all that follows through ''2011'' on line 5.

Page 161, strike the proviso beginning on line 10.

Page 162, line 4, after the first dollar amount insert ''(reduced by $350,000,000)''.

Page 162, line 4, after the second dollar amount insert ''(reduced by $250,000,000)''.

Page 162, line 6, strike '', of'' and all that follows through ''2009'' on line 7.

Page 162, line 16, after the dollar amount insert ''(reduced by $100,000,000)''.

Page 162, line 18, strike '', of'' and all that follows through ''2009'' on line 19.

Page 162, line 19, after the dollar amount insert ''(reduced by $17,387,500)''.

Page 162, line 20, after the dollar amount insert ''(reduced by $57,290,500)''.

Page 162, line 21, after the dollar amount insert ''(reduced by $25,322,000)''.

Page 163, line 2, after the dollar amount insert ''(reduced by $245,000,000)''.

Page 163, line 5, after the dollar amount insert ''(reduced by $245,000,000)''.

Page 163, line 6, strike '', of'' and all that follows through ''2009'' on line 7.

Page 164, strike line 16 and all that follows through page 192, line 9 (and redesignate the subsequent sections accordingly).

Page 192, line 12, strike the dash and all that follows through ''(1)'' on line 13.

Page 192, line 14, strike ''; and'' and all that follows through line 16, and insert a period.

Page 195, strike line 18 and all that follows through page 197, line 22.

Page 208, line 2, after the dollar amount insert ''(increased by $36,000,000,000)''.

Page 219, strike line 1 and all that follows through page 220, line 5.

Page 222, line 6, after the dollar amount insert ''(reduced by $750,000,000)''.

Page 222, line 11, strike ''of which—'' and all that follows through the dollar amount on line 12, and insert ''which''.

Page 223, line 11, strike ''; and'' and insert a colon.

Page 223, strike line 12 and all that follows through page 224, line 18.

Page 237, strike line 12 and all that follows through page 251, line 4 (and conform the table of contents in section 2 accordingly).

Page 622, strike line 3 and all that follows through page 633, line 10 (and redesignate the subsequent section accordingly).

Page 639, strike line 7 and all that follows through page 641, before line 17 (and redesignate the subsequent sections accordingly).

Mr. LEWIS of California (during the reading). I ask unanimous consent that the motion be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. OBEY. I reserve a point of order on the amendment.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from California is recognized for 5 minutes.

Mr. LEWIS of California. The motion that I have is a very simple motion to invest an additional $36 billion in highways and an additional $24 billion in the Army Corps of Engineers construction, and reduce the overall costs of the bill by almost $104 billion.

My friends, the more that people learn about this bill, the more they are questioning the price tag and its effectiveness. Not just our political leaders, but our colleagues on both sides of the aisle, our newspapers, and our constituents.

This motion funds high-priority, immediate job-producing activities like highway construction and the Army Corps of Engineers water projects. These are absolutely ''shovel-ready'' infrastructure investments that will put Americans back to work now.

The Corps of Engineers projects have been vetted, authorized, studied, planned and, in many cases, started. The added $24 billion in that motion will put people to work right away and will result in much needed improvement to our Nation's ports, levees, dams, and flood control measures. The same can be said for the additional $34 billion in highway funds in this motion.

Our objective, Madam Speaker, is to put people to work right away. The additional $34 billion in highway funds in this motion begin to play that role. We are not pulling a number out of the sky, but responding to our States.

About 6 months ago, our States were asked, and I quote, ''What can you do in 180 days if you had the funds?'' Our States responded, We can do at least $64 billion worth of work that will yield greater safety, plus additional economic opportunity for our communities.

In addition to redirecting $60 billion into immediate job-creating programs, this motion will save taxpayers by reducing the overall cost of the bill by almost $104 billion.

This motion does not strike all funds in the bill, but only strikes the untested, newly authorized or newly funded programs, but all funding that will not be available until fiscal year 2010, and later. It will also strike the most questionable job-creating programs in the underlying bill.

This is our chance to make a wise decision to step back and give a hard look and make sure that the package we want to send to the President is really going to make a positive impact on the economy and not do more harm to the American people. This is our chance to send a more balanced bill forward, a bill with tax cuts, with relief for States, and with some purposeful, targeted spending guaranteed to put Americans back to work.

Madam Speaker, I yield to the T&I ranking member and the coauthor of this motion, the gentleman from Florida (Mr. MICA), the remaining time.

The SPEAKER pro tempore. The gentleman is recognized for 1½ minutes.

Mr. MICA. Madam Speaker and my colleagues, in the last few hours, our new President reached out across the aisle and he came to the Republican conference and he asked us not to be Republicans, he asked us not to be Democrats, but he asked us to be Americans. He cited the urgency of the time and the challenge that we face. And that is why I am over on this side right now. I have done this one other time. It may have been after 9/11.

My colleagues, we face an economic 9/11. My side gave me the opportunity to offer a motion to recommit. I didn't want to play any games with that because I know that there are men and women out there, fathers and mothers, people who want a job and deserve a job and need a job, and what are we going to offer them?

These are the headlines: Top Companies Slash 70,000; Job Cuts Deepen Across America. You have seen them. You have seen them in your own State, in your own district.

Now you're going to have to go back tomorrow or this week and look those people in the face and say, I had an opportunity to vote for more jobs. And that is exactly what this motion does.

I didn't play games picking out or I haven't criticized any project. In fact, I

came here and I spoke for two Democrat amendments and against one Republican amendment so far on this legislation, because this is about creating jobs. Whether we are going to create—we are going to take $825 million.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MICA. I ask unanimous consent for 1 additional minute.

Mr. OBEY. I ask unanimous consent that the gentleman be given 1 additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. MICA. We are going to be asked the question, What did we do? And I wanted to have the opportunity. I have worked my heart out with Mr. OBERSTAR. You all should thank Mr. OBERSTAR for what he has done in a bipartisan fashion.

But, again, we have got to go back and say there is 7 percent of this on infrastructure out of $825 billion. We have an opportunity to double the amount of infrastructure money. No games being played. I didn't single out or deride any program. I just said any new or unauthorized project or program in this would be eliminated. You have the votes to do those later on if you want to do them. Right now, we have got to get the most people we can to work as soon as possible. And I know you believe that in your heart too.

So this isn't some game, some political charade. I came across the aisle, asking you to support a measure that will put our people—your people and my people—to work sooner rather than later. Thank you.

Mr. OBEY. Madam Speaker, I withdraw my reservation and rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. OBEY. Madam Speaker, this amendment is a perfect example of how people can fall off both sides of the same horse at the same time. If you take a look at what the criticism has been of this bill all week long, you will remember that the other side has constantly said that we are just throwing money at the problem. That it can't possibly be spent.

Yet, they would add some $25 billion to the Corps budget, despite the fact that the Corps has told us that they can only push out the door about $4 billion in new projects. They have told us for days now. They have criticized us and lacerated us with criticism because they said that we had money in here for infrastructure that couldn't possibly be spent out in the next 2 years. And now they are adding $36 billion more.

What this amendment does, as we understand it, is to add $36 billion for highways and $25 billion to the Corps. And if they were standing alone, I might not object. But they pay for it with $160 billion in cuts in other parts of the bill.

They crush broadband, for instance; something which is essential if every community in this country is going to compete for jobs and for an economic future. They cut the science programs in the National Science Foundation that will put hundreds of thousands of people to work in the scientific area. They eliminate the Federal Buildings Energy Retrofit Program. Those jobs are all gone.

They have attacked us for putting things in a bill that don't belong in a jobs bill. Yet, they cut job training funds in half and they cut displaced workers by half a billion dollars. We should be doubling those funds, not cutting them.

□ 1745

They eliminate the green jobs initiatives in this bill. They take one-half billion dollars out of community health centers. They cut in half the amount of money that we are devoting to try to develop the added primary care physicians and nurses that we will need given what is happening to the health care crisis in this country. They take $750 million out of the National Institutes of Health, wiping out the jobs of thousands of scientists who right now are not being put to good use because we only fund 20 percent of approved science at NIH. And, lastly, they guarantee that there will be substantial tax increases at the State level because they gut the State stabilization fund which is designed to help States so that they wind up not having to raise taxes, so that they don't wind up having to cut key education services.

How many of us have gone home and cried for years about the fact that the Federal Government has not met its promises on special education? And yet they wipe out the advances we have made in special education. This is an unbalanced approach to a serious problem. I urge a ''no'' vote.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 159, noes 270, not voting 3, as follows:

[Roll No. 45]

AYES—159

Aderholt
Akin
Alexander
Altmire
Arcuri
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Bright
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Childers
Coble
Cole
Conaway
Crenshaw
Davis (KY)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Ellsworth
Emerson
Fallin
Fleming
Foxx
Frelinghuysen
Gallegly
Gerlach
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
King (IA)
King (NY)
Kirk
Kline (MN)
Kratovil
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (MI)
Miller, Gary
Minnick
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Posey
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Whitfield
Wilson (SC)
Wittman
Young (AK)
Young (FL)

NOES—270

Abercrombie
Ackerman
Adler (NJ)
Andrews
Baca
Baird
Baldwin
Barrett (SC)
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Broun (GA)
Brown, Corrine
Butterfield
Campbell
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chaffetz
Chandler
Clarke
Clay
Cleaver
Clyburn
Coffman (CO)
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Forbes
Fortenberry
Foster
Frank (MA)
Franks (AZ)
Fudge
Garrett (NJ)
Giffords
Gingrey (GA)
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes

Hoekstra
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kingston
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Lamborn
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Linder
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (FL)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Poe (TX)
Polis (CO)
Pomeroy
Price (GA)
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rogers (MI)
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shadegg
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sullivan
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth

NOT VOTING—3

Brown-Waite, Ginny
Doggett
Solis (CA)

☐ 1803

Messrs. HONDA, GINGREY of Georgia, KINGSTON, FRANKS of Arizona, and LINDER changed their vote from ''aye'' to ''no.''

Messrs. PENCE, MELANCON, KING of Iowa, and WITTMAN changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 188, not voting 1, as follows:

[Roll No. 46]

YEAS—244

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—188

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Ellsworth
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—1

Brown-Waite, Ginny

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain on this vote.

☐ 1811

Ms. LORETTA SANCHEZ of California changed her vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Mr. OBEY. Madam Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1, to include corrections in spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 557

Mr. COHEN. Madam Speaker, I rise to request that my name be removed as a cosponsor of H.R. 557.

The SPEAKER pro tempore (Ms. CLARKE). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

□ 1815

CONGRATULATING THE CARL SANDBURG MARCHING EAGLES

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, I rise today to salute the talented young men and women of the Carl Sandburg High School Marching Eagles who recently traveled from Orland Park, Illinois, to play in President Barack Obama's inaugural parade.

I have seen these talented performers entertain the crowds back home, and I knew that they would make us proud. And they did. With expert precision and harmony borne of tireless practice, the Eagles marched down Pennsylvania Avenue, putting on an impressive show for the whole world to see. I was especially entertained to learn that when they passed before our new President and First Lady, they played a song to remind the two of home, "Chicago."

Over 150 students came down from Illinois for this historic event, along with many school faculty, volunteer chaperones, family members and friends. In reality, though, the whole community was with them in spirit, having come together throughout the past months for bake sales and donation drives in support of the band's trip to Washington. This was an extra-special event for all of Orland and the surrounding communities.

Mr. Speaker, I would like to offer the band members from Carl Sandburg High my sincere congratulations on a job well done. And I would like to thank all the volunteers and staff who worked so hard to make this event a reality. This was one performance that will certainly have a place in the history books.

HOUR OF MEETING ON TUESDAY, FEBRUARY 3, 2009

Mr. COHEN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at 12:30 p.m. on Tuesday, February 3, for morning-hour debate.

The SPEAKER pro tempore (Mr. ADLER of New Jersey). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONDITIONAL ADJOURNMENT TO FRIDAY, JANUARY 30, 2009

Mr. COHEN. Mr. Speaker, I ask unanimous consent that when the House adjourns today on a motion offered pursuant to this order, it adjourn to meet at 9:00 a.m. on Friday, January 30, 2009, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 26, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

RECOGNIZING THE OUTSTANDING AGRICULTURALISTS OF 2008

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Mr. Speaker, I rise today to recognize the outstanding achievements and lifelong contributions of three Texans to our Nation's agricultural industries.

Recently, Mr. Richard Ligon of Graham, Mr. Woody Anderson of Colorado City and Mr. Sam Curl of Pecan Plantation were each named an outstanding agriculturalist during Texas Tech's College of Agricultural Sciences and Natural Resources annual pig roast award dinner. This award is truly special because honorees are nominated and selected by people who know them best, their peers, coworkers and business partners.

These three men are pioneers in their field and throughout their lives they have helped to shape the way we manage the business of farming and ranching, produce food and agricultural products and educate the next generation of leaders in the agricultural community.

Mr. Speaker, I am pleased to congratulate these men on their well-deserved recognition. It is my great honor to extend on behalf of all Americans who eat food and wear clothes our many thanks for their years of service and tireless innovation. Our lives have all been enriched by what they do and their work.

BIPARTISAN OPPOSITION TO THE STIMULUS PACKAGE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I want to be the first to say how much I appreciate the bipartisan results of this last vote on a bill which had been called a "stimulus package." Many of us understood this was not going to help our economy because there was too much government spending, not enough tax cuts and too much money that was going to be put in a budget that was going to last forever and ever.

I am so proud of the fact that we had bipartisan opposition to this legislation instead of bipartisan support for it. It was very important that we let the American people understand that some of us do have principles and we stand on those principles. This was not a political vote. It was a philosophical vote. That is what the President said he would respect, and I take him at his word.

We voted "no" because of philosophical differences. We believe that we should return more money to the American people and not put more money in government coffers and not mortgage our children, our grandchildren and great grandchildren. My granddaughter Rana asked me recently, why do you want to put little children in debt? And I said that I don't want to do that. The less we put them in debt the better off this country will be.

DRIVING FORWARD WITH THE DEMOCRATS

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, today's vote and today's debate reminded me much of when I was 16 years old and my father took me to teach me how to drive a car. It was very simple. He said, "When you want to go forward, son, you do like politics and you put the 'D' on the transmission and you go into drive, you go forward. And if you want to go in reverse you go to 'R' and you go backwards." And it's the same thing in politics, and the debate today was the same. If you want to go forward, you go with the Democrats. If you want to go backwards, you go with the Republicans.

Today, Mr. Speaker, America went forward.

CHANGING THE SIZE OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Ms. SLAUGHTER. Mr. Speaker, I send to the desk a resolution and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The text of the resolution is as follows:

H. RES. 97

Resolved, That clause 11(a)(1) of rule X is amended by—

(1) striking "21" and inserting "22"; and
(2) striking "12" and inserting "13".

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE GOOD, THE BAD AND THE UGLY OF THE BUSH ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week this Nation and the entire world turned a new page. Instead of a foreign policy based on preemptive strikes, military might and bullying, the United States, led by President Obama, will return to our national ideals of diplomacy and international cooperation. Like most Americans, I'm heartened by the prospect and look forward to the chance for peace and justice throughout our world. Besides, our policies have nowhere to go but up.

In a groundbreaking study, the Council for a Liveable World has outlined the good, the bad and the ugly of the past administration. Sadly, the list of the ''goods'' is much shorter than the ''bads'' and the ''uglies.''

On the good list, the Bush administration did not resume nuclear testing and did not withdraw the U.S. signature from the Comprehensive Nuclear Test-Ban Treaty. Second, there was no war in Iran.

Sadly, Mr. Speaker, the foreign policy missteps of the past administration make a much longer list. Some of these wrong-headed policies may take years to fix. Some have seriously undermined the true ideals of America and its commitment to peace. The list goes on and on.

Here are some of the so-called ''greatest hits'' of the past 8 years. The administration refused to request congressional ratification of the Comprehensive Nuclear Test-Ban Treaty. The United States-India nuclear deal that undermined longstanding antiproliferation efforts was approved. The nuclear nonproliferation treaty was undermined by the administration's walking back from key promises the United States made in 1995 and 2000. The war in Iraq still continues after 6 years. There were virtually no negotiations with Iran. There were 8 years of unilateralism. The military budget skyrocketed by 86 percent. The United States has failed to pay all its dues to the United Nations. In March 2008, the United States was $1.6 billion behind in its treaty obligations which could have a negative impact on key U.N. operations including jeopardizing the 19 U.N. peacekeeping missions around the world. Finally, Cold War-era weapons systems continue to be funded such as the F–22 Raptor, *Virginia*-class submarine and the V–22 Osprey. None of them have any purpose in the current security environment.

Now we can't let the mistakes of the past get in the way of progress or hope for a more secure and peaceful world. I was very encouraged and inspired by Secretary of State Hillary Clinton's testimony before the Senate when she said that if she were confirmed, which she has been, the State Department will be firing on all cylinders to provide forward-looking, sustained diplomacy in every single part of the world.

□ 1830

Talk about a breath of fresh air.

''Our incoming President Obama can count on me,'' she said. And I say he can count on me, as well, and countless Members of Congress to promote and advance a foreign policy founded on smart security, founded on diplomacy, and founded on cooperation.

The world is waiting with great hope and expectations. On January 20, it was the beginning of a change in Washington, and its results will be felt far beyond our borders.

TAX REDUCTION FOR INDIVIDUALS AND THE PRIVATE SECTOR IS THE ANSWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the week has ended, Republicans are going on a retreat, I presume the Democrats are going home, and there aren't many of us left in the Chamber. And sometimes I feel a little bit like some of my colleagues, like a voice hollering in the wilderness because it doesn't seem as though we're getting much attention on the issues that we raise.

In the late 1970s, we ended up with hyperinflation. Inflation was running at about 12, 14 percent; unemployment was running about 12 percent. And Mr. Carter brought a man in named Mr. Volcker to do something about the runaway inflation and the unemployment.

And Mr. Volcker came in to stop the inflation by raising interest rates, and he raised interest rates to 21.5 percent. He put a hammer on the entire economy of the United States. Businesses went under, the real estate industry went under. My business, we had $11 million in pending sales in real estate, we were only able to close on $1 million. We had to put 10 or 11 people out of work because you couldn't buy anything with interest rates being at 21.5 percent.

So what happened is the American people elected a man named Ronald Reagan, who came in and he said America could do better and would do better. And the way to do it was to give the American people some of their money back so they could spend it to buy things that they needed, thereby creating products, thereby creating jobs, and thereby helping economic growth. And within about 3 years, the economy turned around, and we had one of the largest and longest periods of economic growth in the last 100 years. And it was because we cut taxes for business, we cut taxes for individuals, and we stimulated economic growth.

Now we're heading down that path that we headed on down in the 1970s. Today we added $825 billion to the deficit. We had a $700 billion bailout for the banks and Wall Street not too long ago added to the deficit. The total in the last month or so added in spending was $1.539 trillion, and CBO says it's more than that. This is only going to cause more problems down the road. It's not, in my opinion, going to solve the problem of joblessness. It's going to add to the necessity for more spending.

This isn't the end of spending. This was asked on television I think earlier today: Is this going to solve the problem; is this the end of additional spending? It will not be. There are going to be trillions more added to the request for spending in the not-too-distant future. The President, the Vice President, and his chief economic advisor said that we're going to need more, that this was a good step first—a good first step, $1.5 trillion?

We're going to have more, and it's going to cause more economic problems down the road in the form of higher inflation, thereby, higher prices; and we're going to end up with somebody coming in to try to do something about the inflation, like Mr. Volcker did before, to put the hammer on it by raising interest rates, which will put a real hammer again on the economy of this country.

We're not solving these problems. We're not solving the problems of joblessness. We're not going to create new jobs with this plan we just passed today. We're going to create more government, not less. We're going to move this government toward socialism and away from the free enterprise system.

And the kids that are growing up today are going to be saddled with our debt. They're going to pay for it with higher taxes, higher spending down the road, inflation, and a lower standard of living. And this is something that we need not do.

There is still time to reverse this by realizing that the way to stimulate economic growth is by cutting taxes, not increasing spending, by cutting spending, not increasing spending. And if we do that, we will put this country on the road to economic recovery, which is the right approach. Not more

government spending, not trillions more; that's only going to exacerbate the problem.

So, Mr. Speaker, the week has ended. We've spent all this money, we haven't solved the problem, and we're going to continue down the road we're on. I hope my colleagues, before it's too late, will realize free enterprise and lower taxes and less spending is the way to solve this problem, not socialism, more government, and more taxes.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
January 26, 2009.

Hon. NANCY PELOSI,
Office of the Speaker, H–232, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: With my recent appointment to the House Committee on Standards of Official Conduct, I resign, effective immediately, from the House Committee on the Budget. It has been both a privilege and an honor to serve on this committee for the last four years representing the people of Texas and our great Nation.

Thank you for your attention to this matter.

Respectfully,
K. MICHAEL CONAWAY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

SECRETARY OF TREASURY GEITHNER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, the House of Representatives voted last week, disapproving of the release of the second tranche of Wall Street bailout—called TARP moneys—to the U.S. Treasury. I disapproved, along with a majority of our colleagues here, on sending more money over there. Of course our vote made no difference.

It is really amazing how this unusual procedure was adopted in the original bill passed last year that basically took away our rights as Members of this House. So the money was released to Treasury, and what happens over there becomes more troubling every day.

Now, the Senate basically gave the newly named Secretary of Treasury a pass, even though Mr. Geithner failed to pay his taxes. He didn't fail to pay $100 or $200 or $10,000 or $20,000—I think it was well over $34,000, and he's the person now responsible for overseeing the Internal Revenue Service and the entire bailout.

In addition, as the administration seeks to reduce the influence of lobbyists, as the Secretary issues statements on reducing the influence of lobbyists on Treasury policy and directing TARP funds, how could he then, as Secretary of Treasury, hire a lobbyist—a lobbyist who had been hired by Goldman Sachs—and put that lobbyist as his Chief of Staff? In case you really didn't know it, Goldman Sachs used to be one of those Wall Street gambling houses that lost all of their investors' money. And then, when they got in trouble, they did something very clever; overnight they became a bank holding company, which means they came under the protections of the insurance fund that other banks that had been responsibly managed had paid into for decades. But they were powerful enough to ride right over them and to land themselves there, and then put their hand out for $10 billion of bailout money. Now that's a real clever score.

Now, we can be pretty certain that Treasury's Chief of Staff will welcome his old friends and colleagues to the Treasury as the bailout funds and other banking issues come up. Wouldn't surprise me at all. But isn't that what President Obama is really trying to prevent?

On top of this, Secretary Geithner received nearly a half a million dollars—half a million dollars—in severance from the Federal Reserve Bank of New York when he left.

Now, we know that the New York Fed and the Treasury are very connected—it's like an umbilical cord tying the two together—and they just circulate their people up and down between New York and Washington, and then the people of the other States have to pay for the wrongdoing they get into about every 10, 15 years or so. USA Today reports the Government Accountability Office has questioned Treasury's policies in a December report, saying the Department didn't have a plan to monitor conflicts of interest. Of course they say they will work to address this, but can we be sure that conflicts of interest have been scrubbed clean? No, of course not.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. KAPTUR. Thank you, Mr. Speaker.

SOMBER ANNIVERSARY WEEK FOR NASA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. OLSON) is recognized for 5 minutes.

Mr. OLSON. Mr. Speaker, I ran for this office and serve in this Chamber with great hope for our future, but on this occasion it is fitting that we take a moment to remember a very important part of our past.

The success of our Nation's space program rests not just in technology and rockets, but in the ingenuity, innovation and bravery of its people. And I am proud to represent many of the thousands of dedicated workers who support our manned space program at the Johnson Space Center, an important component of our nation-wide NASA family.

But today I rise to specifically recognize the 17 brave men and women who paid the ultimate cost to further the exploration of space. It's an odd quirk of history that NASA commemorates the anniversary of three of its most tragic episodes during the same calendar week. Yesterday, January 27, was the 42nd anniversary of the Apollo I fire that took the lives of the crew of Gus Grissom, Ed White and Roger Chaffee.

Today, January 28, is the 23rd anniversary of the Challenger disaster and her crew, Commander Dick Scobee, pilot Michael Smith, mission specialists Judy Resnick, Ellison Onizuka and Ron McNair, and payload specialists Gregory Jarvis and Christa McAuliffe, the first teacher in space.

This Sunday, February 1, is the sixth anniversary of the loss of the Shuttle Columbia and her crew of Commander Rick Husband, pilot William McCool, mission specialists David Brown, Laurel Clark and Dr. Kulpana Chawla, payload specialist Michael Anderson and payload specialist Ilan Ramon. One mission was on the pad, one had just launched, and one was coming home. Yet all three crews willingly took the risks inherent in space flight to help push man and science farther into the future.

I will never forget President Reagan's stirring words when he addressed the American people following the Challenger tragedy. He said, ''We will never forget them nor the last time we saw them this morning, as they prepared for their journey and waived goodbye and slipped the surly bonds of Earth to touch the face of God.''

During this anniversary week, we must never forget and never stop exploring.

FEDEX: SETTING A GREAT EXAMPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. In the Tuesday newspapers and the Tuesday news, we had the distressing report that corporate giants, major corporations, had slashed over 70,000 jobs in America. This type of action, where 7,000 people lost their jobs at American Express and Home Depot—up to 53,000 people at Citigroup lost their jobs over the last few years—have caused great distress to many citizens. We've got more unemployed, going over 7 percent now.

But these job cuts aren't absolutely necessary to be made. Employment is

disappearing from every job sector, from home building to mortgages, finance to banking, manufacturing to retail. The toll on the economy and on individuals has substantially worsened. And as President Obama stated in his inaugural address, our economy is badly weakened, the challenges we face are real, and they will not be met easily or in a short span of time.

We took action today, and we will take additional action to try to help the people who are unemployed with additional unemployment compensation and health care and whatever other benefits we can help with.

But a particular industry in my community of Memphis, Tennessee, the lead corporate citizen, Federal Express, has set an example that I wish the other corporate leaders that have cut so many jobs recently and have cuts in the past would follow. Fred Smith of Federal Express chose not to hurt people, but to take the cut as a group. They chose to have benefits and pay cuts rather than additional layoffs. With 14,000 salaried employees in Memphis and 36,000 worldwide, they decided each of these people would see a 5 percent pay cut.

□ 1845

They could have easily just cut 5 percent off the payroll, 5 percent of the people. But instead they kept all of those employees and had them all share the burden of a 5 percent pay cut.

The executives of Federal Express will take a pay cut of 7.5 percent. And the president, chairman, and CEO, Frederick W. Smith, will take a 20 percent cut in pay.

This is the type of leadership that I wish other corporations would look at, follow, and emulate, and spare their employees the loss of a job and instead share it throughout the corporate ranks.

This follows the $1 billion in cost reductions already in place at Federal Express, from executive bonus suspensions to personnel reductions at FedEx Freight and FedEx Office. In total, the company is cutting costs by approximately $800 million over the next 18 months without having to resort to layoffs.

I want to commend FedEx Chairman and CEO Frederick W. Smith for seeking other cost-cutting alternatives first and finding ways to help hard-working Memphis and other citizens around the world who work for FedEx keep their jobs. One can see easily why FedEx has been a leader in business creativity for over 30 years, has made the Fortune Magazine list of ''100 Best Companies to Work For'' in 11 of the past 12.

Fred Smith and Federal Express are leaders in corporate America. They're leaders in my community. And I hope that corporate America will look to them for their leadership. We cannot afford to have increasing unemployment rates, and as we have taken action today, corporate America should as well. And Fred Smith and Federal Express set the lead.

PUBLICATION OF THE RULES OF THE COMMITTEE ON AGRICULTURE, 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. PETERSON) is recognized for 5 minutes.

Mr. PETERSON. Mr. Speaker, pursuant to Rule XI, clause 2(a) of the Rules of the House, a copy of the Rules of the Committee on Agriculture, which were adopted at the organizational meeting of the Committee on January 28, 2009.

Appendix A of the Committee Rules will include excerpts from the Rules of the House relevant to the operation of the Committee. Appendix B will include relevant excerpts from the Congressional Budget Act of 1974. In the interests of minimizing printing costs, Appendices A and B are omitted from this submission.

RULES OF THE COMMITTEE ON AGRICULTURE—111TH CONGRESS

RULE I.—GENERAL PROVISIONS

(a) *Applicability of House Rules.*—(1) The Rules of the House shall govern the procedure of the Committee and its subcommittees, and the rules of the Committee on Agriculture so far as applicable shall be interpreted in accordance with the Rules of the House, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable privileged motions in the Committee and its subcommittees. (See Appendix A for the applicable Rules of the U.S. House of Representatives.)

(2) As provided in clause 1(a)(2) of House Rule XI, each subcommittee is part of the Committee and is subject to the authority and direction of the Committee and its rules so far as applicable. (See also Committee rules III, IV, V, VI, VII and X, *infra.*)

(b) *Authority to Conduct Investigations.*—The Committee and its subcommittees, after consultation with the Chairman of the Committee, may conduct such investigations and studies as they may consider necessary or appropriate in the exercise of their responsibilities under Rule X of the Rules of the House and in accordance with clause 2(m) of House Rule XI.

(c) *Authority to Print.*—The Committee is authorized by the Rules of the House to have printed and bound testimony and other data presented at hearings held by the Committee and its subcommittees. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee and its subcommittees shall be paid from applicable accounts of the House described in clause 1(i)(1) of House Rule X in accordance with clause 1(c) of House Rule XI. (See also paragraphs (d), (e) and (f) of Committee rule VIII.)

(d) *Vice Chairman.*—The Member of the majority party on the Committee or subcommittee designated by the Chairman of the full Committee shall be the vice chairman of the Committee or subcommittee in accordance with clause 2(d) of House Rule XI.

(e) *Presiding Member.*—If the Chairman of the Committee or subcommittee is not present at any Committee or subcommittee meeting or hearing, the vice chairman shall preside. If the Chairman and vice chairman of the Committee or subcommittee are not present at a Committee or subcommittee meeting or hearing the ranking Member of the majority party who is present shall preside in accordance with clause 2(d), House Rule XI.

(f) *Activities Report.*—(1) The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending on January 3 of such year. (See also Committee rule VIII (h)(2).)

(2) Such report shall include separate sections summarizing the legislative and oversight activities of the Committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the Committee pursuant to clause 2(d) of House Rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by the Committee, and any recommendations made or actions taken with respect thereto.

(g) *Publication of Rules.*—The Committee's rules shall be published in the Congressional Record not later than thirty days after the Committee is elected in each odd-numbered year as provided in clause 2(a) of House Rule XI.

(h) *Joint Committee Reports of Investigation or Study.*—A report of an investigation or study conducted jointly by more than one committee may be filed jointly, provided that each of the committees complies independently with all requirements for approval and filing of the report.

RULE II.—COMMITTEE BUSINESS MEETINGS—REGULAR, ADDITIONAL AND SPECIAL

(a) *Regular Meetings.*—(1) Regular meetings of the Committee, in accordance with clause 2(b) of House Rule XI, shall be held on the first Wednesday of every month to transact its business unless such day is a holiday, or Congress is in recess or is adjourned, in which case the Chairman shall determine the regular meeting day of the Committee, if any, for that month. The Chairman shall provide each member of the Committee, as far in advance of the day of the regular meeting as practicable, a written agenda of such meeting. Items may be placed on the agenda by the Chairman or a majority of the Committee. If the Chairman believes that there will not be any bill, resolution or other matter considered before the full Committee and there is no other business to be transacted at a regular meeting, the meeting may be cancelled or it may be deferred until such time as, in the judgment of the Chairman, there may be matters which require the Committee's consideration. This paragraph shall not apply to meetings of any subcommittee. (See paragraph (f) of Committee rule X for provisions that apply to meetings of subcommittees.)

(b) *Additional Meetings.*—The Chairman may call and convene, as he or she considers necessary, after consultation with the Ranking Minority Member of the Committee, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such additional meetings pursuant to a notice from the Chairman.

(c) *Special Meetings.*—If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for such special meeting. Such request shall specify the measure or matters to be considered. Immediately upon the filing of the request, the Majority Staff Director (serving as the clerk of the Committee for such purpose) shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within 7 calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour thereof, and the measures or matter to be considered at that special meeting in accordance with clause 2(c)(2) of House Rule XI. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Majority Staff Director (serving as the clerk) of the Committee shall notify all members of the Committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered, and only the measure or matter specified in that notice may be considered at that special meeting.

RULE III.—OPEN MEETINGS AND HEARINGS; BROADCASTING

(a) *Open Meetings and Hearings.*—Each meeting for the transaction of business, including the markup of legislation, and each hearing by the Committee or a subcommittee shall be open to the public unless closed in accordance with clause 2(g) of House Rule XI. (See Appendix A.)

(b) *Broadcasting and Photography.*—Whenever a Committee or subcommittee meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of House Rule XI (See Appendix A). When such radio coverage is conducted in the Committee or subcommittee, written notice to that effect shall be placed on the desk of each Member. The Chairman of the Committee or subcommittee, shall not limit the number of television or still cameras permitted in a hearing or meeting room to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(c) *Closed Meetings—Attendees.*—No person other than Members of the Committee or subcommittee and such congressional staff and departmental representatives as the Committee or subcommittee may authorize shall be present at any business or markup session that has been closed to the public as provided in clause 2(g)(1) of House Rule XI.

(d) *Addressing the Committee.*—A Committee member may address the Committee or a subcommittee on any bill, motion, or other matter under consideration (See Committee rule VII (e) relating to questioning a witness at a hearing). The time a member may address the Committee or subcommittee for any such purpose shall be limited to five minutes, except that this time limit may be waived by unanimous consent. A member shall also be limited in his or her remarks to the subject matter under consideration, unless the Member receives unanimous consent to extend his or her remarks beyond such subject.

(e) *Meetings to Begin Promptly.*—Subject to the presence of a quorum, each meeting or hearing of the Committee and its subcommittees shall begin promptly at the time so stipulated in the public announcement of the meeting or hearing.

(f) *Prohibition on Proxy Voting.*—No vote by any Member of the Committee or subcommittee with respect to any measure or matter may be cast by proxy.

(g) *Location of Persons at Meetings.*—No person other than the Committee or subcommittee Members and Committee or subcommittee staff may be seated in the rostrum area during a meeting of the Committee or subcommittee unless by unanimous consent of Committee or subcommittee.

(h) *Consideration of Amendments and Motions.*—A Member, upon request, shall be recognized by the Chairman to address the Committee or subcommittee at a meeting for a period limited to five minutes on behalf of an amendment or motion offered by the Member or another Member, or upon any other matter under consideration, unless the Member receives unanimous consent to extend the time limit. Every amendment or motion made in Committee or subcommittee shall, upon the demand of any Member present, be reduced to writing, and a copy thereof shall be made available to all Members present. Such amendment or motion shall not be pending before the Committee or subcommittee or voted on until the requirements of this paragraph have been met.

(i) *Demanding Record Vote.*—

(1) A record vote of the Committee or subcommittee on a question or action shall be ordered on a demand by one-fifth of the Members present.

(2) The Chairman of the Committee or Subcommittee may postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment. If the Chairman postpones further proceedings:

(A) the Chairman may resume such postponed proceedings, after giving Members adequate notice, at a time chosen in consultation with the Ranking Minority Member; and

(B) notwithstanding any intervening order for the previous question, the underlying proposition on which proceedings were postponed shall remain subject to further debate or amendment to the same extent as when the question was postponed.

(j) *Submission of Motions or Amendments In Advance of Business Meetings.*—The Committee and subcommittee-Chairman may request and Committee and subcommittee Members should, insofar as practicable, cooperate in providing copies of proposed amendments or motions to the Chairman and the Ranking Minority Member of the Committee or the subcommittee twenty-four hours before a Committee or subcommittee business meeting.

(k) *Points of Order.*—No point of order against the hearing or meeting procedures of the Committee or subcommittee shall be entertained unless it is made in a timely fashion.

(l) *Limitation on Committee Sittings.*—The Committee or subcommittees may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

(m) Prohibition of Wireless Telephones.—Use of wireless phones during a committee or subcommittee hearing or meeting is prohibited.

RULE IV.—QUORUMS.

(a) *Working Quorum.*—One-third of the members of the Committee or a subcommittee shall constitute a quorum for taking any action, other than as noted in paragraphs (b) and (c).

(b) *Majority Quorum.*—A majority of the members of the Committee or subcommittee shall constitute a quorum for:

(1) the reporting of a bill, resolution or other measure (See clause 2(h)(1) of House Rules XI, and Committee rule VIII);

(2) the closing of a meeting or hearing to the public pursuant to clauses 2(g) and 2(k)(5) of the Rule XI of the Rules of the House; and

(3) the authorizing of a subpoena as provided in clause 2(m)(3), of House Rule XI. (See also Committee rule VI.)

(c) *Quorum for Taking Testimony.*—Two members of the Committee or subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

RULE V.—RECORDS.

(a) *Maintenance of Records.*—The Committee shall keep a complete record of all Committee and subcommittee action which shall include—

(1) in the case of any meeting or hearing transcripts, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical and typographical corrections authorized by the person making the remarks involved, and

(2) written minutes shall include a record of all Committee and subcommittee action and a record of all votes on any question and a tally on all record votes.

The result of each such record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee and by telephone request. *The result of each such record vote shall also be made available on the Committee's website as soon as practicable, but not later than 2 business days after such vote is taken.* Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(b) *Access to and Correction of Records.*—Any public witness, or person authorized by such witness, during Committee office hours in the Committee offices and within two weeks of the close of hearings, may obtain a transcript copy of that public witness's testimony and make such technical, grammatical and typographical corrections as authorized by the person making the remarks involved as will not alter the nature of testimony given. There shall be prompt return of such corrected copy of the transcript to the Committee. Members of the Committee or subcommittee shall receive copies of transcripts for their prompt review and correction and prompt return to the Committee. The Committee or subcommittee may order the printing of a hearing record without the corrections of any Member or witness if it determines that such Member or witness has been afforded a reasonable time in which to make such corrections and further delay would seriously impede the consideration of the legislative action that is subject of the hearing. The record of a hearing shall be closed ten calendar days after the last oral testimony, unless the Committee or subcommittee determines otherwise. Any person requesting to file a statement for the record of a hearing must so request before the hearing concludes and must file the statement before the record is closed unless the Committee or

subcommittee determines otherwise. The Committee or subcommittee may reject any statement in light of its length or its tendency to defame, degrade, or incriminate any person.

(c) *Property of the House*.—All Committee and subcommittee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Members serving as Chairman and such records shall be the property of the House and all Members of the House shall have access thereto. The Majority Staff Director shall promptly notify the Chairman and the Ranking Minority Member of any request for access to such records.

(d) *Availability of Archived Records*.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with House Rule VII. The Chairman shall notify the Ranking Minority Member of the Committee of the need for a Committee order pursuant to clause 3(b)(3) or clause 4(b) of such House Rule, to withhold a record otherwise available.

(e) *Special Rules for Certain Records and Proceedings*.—A stenographic record of a business meeting of the Committee or subcommittee may be kept and thereafter may be published if the Chairman of the Committee, after consultation with the Ranking Minority Member, determines there is need for such a record. The proceedings of the Committee or subcommittee in a closed meeting, evidence or testimony in such meeting, shall not be divulged unless otherwise determined by a majority of the Committee or subcommittee.

(f) *Electronic Availability of Committee Publications*.—To the maximum extent feasible, the Committee shall make its publications available in electronic form.

RULE VI.—POWER TO SIT AND ACT; SUBPOENA POWER.

(a) *Authority to Sit and Act*.—For the purpose of carrying out any of its function and duties under House Rules X and XI, the Committee and each of its subcommittees is authorized (subject to paragraph (b)(1) of this rule)—

(1) to sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned and to hold such hearings, and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents, as it deems necessary. The Chairman of the Committee or subcommittee, or any member designated by the Chairman, may administer oaths to any witness.

(b) *Issuance of Subpoenas*.—(1) A subpoena may be authorized and issued by the Committee or subcommittee under paragraph (a)(2) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present, as provided in clause 2(m)(3)(A) of House Rule XI. Such authorized subpoenas shall be signed by the Chairman of the Committee or by any member designated by the Committee. As soon as practicable after a subpoena is issued under this rule, the Chairman shall notify all members of the Committee of such action.

(2) Notice of a meeting to consider a motion to authorize and issue a subpoena should be given to all Members of the Committee by 5 p.m. of the day preceding such meeting.

(3) Compliance with any subpoena issued by the Committee or subcommittee under paragraph (a)(2) may be enforced only as authorized or directed by the House.

(4) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(c) *Expenses of Subpoenaed Witnesses*.—Each witness who has been subpoenaed, upon the completion of his or her testimony before the Committee or any subcommittee, may report to the offices of the Committee, and there sign appropriate vouchers for travel allowances and attendance fees to which he or she is entitled. If hearings are held in cities other than Washington D.C., the subpoenaed witness may contact the Majority Staff Director of the Committee, or his or her representative, before leaving the hearing room.

RULE VII.—HEARING PROCEDURES.

(a) *Power to Hear*.—For the purpose of carrying out any of its functions and duties under House Rule X and XI, the Committee and its subcommittees are authorized to sit and hold hearings at any time or place within the United States whether the House is in session, has recessed, or has adjourned. (See paragraph (a) of Committee rule VI and paragraph (f) of Committee rule X for provisions relating to subcommittee hearings and meetings.)

(b) *Announcement*.—The Chairman of the Committee shall after consultation with the Ranking Minority Member of the Committee, make a public announcement of the date, place and subject matter of any Committee hearing at least one week before the commencement of the hearing. The Chairman of a subcommittee shall schedule a hearing only after consultation with the Chairman of the Committee and after consultation with the Ranking Minority Member of the subcommittee, and the Chairmen of the other subcommittees after such consultation with the Committee Chairman, and shall request the Majority Staff Director to make a public announcement of the date, place, and subject matter of such hearing at least one week before the hearing. If the Chairman of the Committee or the subcommittee, with concurrence of the Ranking Minority Member of the Committee or subcommittee, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman of the Committee or subcommittee, as appropriate, shall request the Majority Staff Director to make such public announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record, and shall promptly enter the appropriate information into the Committee scheduling service of the House Information Systems as soon as possible after such public announcement is made.

(c) *Scheduling of Witnesses*.—Except as otherwise provided in this rule, the scheduling of witnesses and determination of the time allowed for the presentation of testimony at hearings shall be at the discretion of the Chairman of the Committee or subcommittee, unless a majority of the Committee or subcommittee determines otherwise.

(d) *Written Statement; Oral Testimony*.—(1) Each witness who is to appear before the Committee or a subcommittee, shall insofar as practicable file with the Majority Staff Director of the Committee, at least two working days before day of his or her appearance, a written statement of proposed testimony. Witnesses shall provide sufficient copies of their statement for distribution to Committee or subcommittee Members, staff, and the news media. Insofar as practicable, the Committee or subcommittee staff shall distribute such written statements to all Members of the Committee or subcommittee as soon as they are received as well as any official reports from departments and agencies on such subject matter. All witnesses may be limited in their oral presentations to brief summaries of their statements within the time allotted to them, at the discretion of the Chairman of the Committee or subcommittee, in light of the nature of the testimony and the length of time available.

(2) As noted in paragraph (a) of Committee rule VI, the Chairman of the Committee or one of its subcommittees, or any Member designated by the Chairman, may administer an oath to any witness.

(3) To the greatest extent practicable, each witness appearing in a non-governmental capacity shall include with the written statement of proposed testimony a curriculum vitae and disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

(e) *Questioning of Witnesses*.—Committee or subcommittee Members may question witnesses only when they have been recognized by the Chairman of the Committee or subcommittee for that purpose. Each Member so recognized shall be limited to questioning a witness for five minutes until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness for five minutes; and thereafter the Chairman of the Committee or subcommittee may limit the time of a further round of questioning after giving due consideration to the importance of the subject matter and the length of time available. All questions put to witnesses shall be germane to the measure or matter under consideration. Unless a majority of the Committee or subcommittee determines otherwise, no committee or subcommittee staff shall interrogate witnesses.

(f) *Extended Questioning for Designated Members*.—Notwithstanding paragraph (e), the Chairman and Ranking Minority member may designate an equal number of Members from each party to question a witness for a period not longer than 60 minutes.

(g) *Witnesses for the Minority*.—When any hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon as provided in clause 2(j)(1) of House Rule XI.

(h) *Summary of Subject Matter*.—Upon announcement of a hearing, to the extent practicable, the Committee shall make available immediately to all members of the Committee a concise summary of the subject matter (including legislative reports and other material) under consideration. In addition, upon announcement of a hearing and subsequently as they are received, the Chairman of the Committee or subcommittee shall, to the extent practicable, make available to the members of the Committee any official reports from departments and agencies on such matter. (See Committee rule X(f).)

(i) *Open Hearings.*—Each hearing conducted by the Committee or subcommittee shall be open to the public, including radio, television and still photography coverage, except as provided in clause 4 of House Rule XI (see also Committee rule III (b).). In any event, no Member of the House may be excluded from nonparticipatory attendance at any hearing unless the House by majority vote shall authorize the Committee or subcommittee, for purposes of a particular series of hearings on a particular bill or resolution or on a particular subject of investigation, to close its hearings to Members by means of the above procedure.

(j) *Hearings and Reports.*—(1)(i) The Chairman of the Committee or subcommittee at a hearing shall announce in an opening statement the subject of the investigation. A copy of the Committee rules (and the applicable provisions of clause 2 of House Rule XI, regarding hearing procedures, an excerpt of which appears in Appendix A thereto) shall be made available to each witness upon request. Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman of the Committee or subcommittee may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; but only the full Committee may cite the offender to the House for contempt.

(ii) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness, such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (i) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person. The Committee or subcommittee shall afford a person an opportunity voluntarily to appear as a witness; and the Committee or subcommittee shall receive and shall dispose of requests from such person to subpoena additional witnesses.

(iii) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee or subcommittee. In the discretion of the Committee or subcommittee, witnesses may submit brief and pertinent statements in writing for inclusion in the record. The Committee or subcommittee is the sole judge of the pertinency of testimony and evidence adduced at its hearings. A witness may obtain a transcript copy of his or her testimony given at a public session or, if given at an executive session, when authorized by the Committee or subcommittee. (See paragraph (c) of Committee rule V.)

(2) A proposed investigative or oversight report shall be considered as read if it has been available to the members of the Committee for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such day) in advance of their consideration.

RULE VIII.—THE REPORTING OF BILLS AND RESOLUTIONS

(a) *Filing of Reports.*—The Chairman shall report or cause to be reported promptly to the House any bill, resolution, or other measure approved by the Committee and shall take or cause to be taken all necessary steps to bring such bill, resolution, or other measure to a vote. No bill, resolution, or measure shall be reported from the Committee unless a majority of Committee is actually present. A Committee report on any bill, resolution, or other measure approved by the Committee shall be filed within seven calendar days (not counting days on which the House is not in session) after the day on which there has been filed with the Majority Staff Director of the Committee a written request, signed by a majority of the Committee, for the reporting of that bill or resolution. The Majority Staff Director of the Committee shall notify the Chairman immediately when such a request is filed.

(b) *Content of Reports.*—Each Committee report on any bill or resolution approved by the Committee shall include as separately identified sections:

(1) a statement of the intent or purpose of the bill or resolution;

(2) a statement describing the need for such bill or resolution;

(3) a statement of Committee and subcommittee consideration of the measure including a summary of amendments and motions offered and the actions taken thereon;

(4) the results of the each record vote on any amendment in the Committee and subcommittee and on the motion to report the measure or matter, including the names of those Members and the total voting for and the names of those Members and the total voting against such amendment or motion (See clause 3(b) of House rule XIII);

(5) the oversight findings and recommendations of the Committee with respect to the subject matter of the bill or resolution as required pursuant to clause 3(c)(1) of House Rule XIII and clause 2(b)(1) of House Rule X;

(6) the detailed statement described in section 308(a) of the Congressional Budget Act of 1974 if the bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law;

(7) the estimate of costs and comparison of such estimates, if any, prepared by the Director of the Congressional Budget Office in connection with such bill or resolution pursuant to section 402 of the Congressional Budget Act of 1974 if submitted in timely fashion to the Committee;

(8) a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding;

(9) a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution;

(10) an estimate by the committee of the costs that would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and for its authorized duration or for each of the five fiscal years following the fiscal year of reporting, whichever period is less (see Rule XIII, clause 3(d)(2), (3) and (h)(2), (3)), together with—

(i) a comparison of these estimates with those made and submitted to the Committee by any Government agency when practicable, and (ii) a comparison of the total estimated funding level for the relevant program (or programs) with appropriate levels under current law (The provisions of this clause do not apply if a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report);

(11) a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member, Delegate, or Resident Commissioner who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

(12) the changes in existing law (if any) shown in accordance with clause 3 of House Rule XIII;

(13) the determination required pursuant to section 5(b) of Public Law 92–463, if the legislation reported establishes or authorizes the establishment of an advisory committee; and

(14) the information on Federal and intergovernmental mandates required by section 423(c) and (d) of the Congressional Budget Act of 1974, as added by the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

(15) a statement regarding the applicability of section 102(b)(3) of the Congressional Accountability Act, Public Law 104–1.

(c) *Supplemental, Minority, or Additional Views.*—If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than two subsequent calendar days (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such date) in which to file such views, in writing and signed by that Member, with the Majority Staff Director of the Committee. When time guaranteed by this paragraph has expired (or if sooner, when all separate views have been received), the Committee may arrange to file its report with the Clerk of the House not later than one hour after the expiration of such time. All such views (in accordance with House Rule XI, clause 2(1) and House Rule XIII, clause 3(a)(1)), as filed by one or more Members of the Committee, shall be included within and made a part of the report filed by the Committee with respect to that bill or resolution.

(d) *Printing of Reports.*—The report of the Committee on the measure or matter noted in paragraph (a) above shall be printed in a single volume, which shall:

(1) include all supplemental, minority or additional views that have been submitted by the time of the filing of the report; and

(2) bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under House Rule XII, clause 3(a)(1)) are included as part of the report.

(e) *Immediate Printing; Supplemental Reports.*— Nothing in this rule shall preclude (1) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c), or (2) the filing by the Committee of any supplemental report on any bill or resolution that may be required for the correction of any technical error in a previous report made by the Committee on that bill or resolution.

(f) *Availability of Printed Hearing Records.*—If hearings have been held on any reported bill or resolution, the Committee shall make every reasonable effort to have the record of such hearings printed and available for distribution to the Members of the House prior to the consideration of such bill or resolution by the House. Each printed hearing of the Committee or any of its subcommittees shall include a record of the attendance of the Members.

(g) *Committee Prints.*—All Committee or subcommittee prints or other Committee or subcommittee documents, other than reports or prints of bills, that are prepared for public distribution shall be approved by the Chairman of the Committee or the Committee prior to public distribution.

(h) *Post Adjournment Filing of Committee Reports.*—(1) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report approved by the Committee may be filed with the Clerk at any time, provided that if a member gives notice at the time of approval of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than seven calendar days in which to submit such views for inclusion with the report.

(2) After an adjournment of the last regular session of a Congress sine die, the Chairman of the Committee may file at any time with the Clerk the Committee's activity report for that Congress pursuant to clause 1(d)(1) of rule XI of the Rules of the House without the approval of the Committee, provided that a copy of the report has been available to each member of the Committee for at least seven calendar days and the report includes any supplemental, minority, or additional views submitted by a member of the Committee.

(i) The Chairman is directed to offer a motion under clause 1 of rule XXII of the Rules of the House whenever the Chairman considers it appropriate.

RULE IX.—OTHER COMMITTEE ACTIVITIES

(a) *Oversight Plan.*—Not later than February 15 of the first session of a Congress, the Chairman shall convene the Committee in a meeting that is open to the public and with a quorum present to adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing such plans the Committee shall, to the maximum extent feasible—

(1) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

(2) review specific problems with federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals; and

(3) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(4) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review at least once every ten years. The Committee and its appropriate subcommittees shall review and study, on a continuing basis, the impact or probable impact of tax policies affecting subjects within its jurisdiction as provided in clause 2(d) of House Rule X. The Committee shall include in the report filed pursuant to clause 1(d) of House Rule XI a summary of the oversight plans submitted by the Committee under clause 2(d) of House Rule X, a summary of actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by the Committee and any recommendations made or actions taken thereon.

(b) *Annual Appropriations.*—The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(c) *Budget Act Compliance: Views and Estimates* (See Appendix B).—Not later than six weeks after the President submits his budget under section 1105(a) of title 31, United State Code, or at such time as the Committee on the Budget may request, the Committee shall, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year (under section 301 of the Congressional Budget Act of 1974—see Appendix B) that are within its jurisdiction or functions; and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction that it intends to be effective during that fiscal year.

(d) *Budget Act Compliance: Recommended Changes.*—Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process, it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974 (See Appendix B).

(e) *Conference Committees.*—Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall, after consultation with the Ranking Minority Member, determine the number of conferees the Chairman deems most suitable and then recommend to the Speaker as conferees, in keeping with the number to be appointed by the Speaker as provided in House Rule I, clause 11, the names of those Members of the Committee of not less than a majority who generally supported the House position and who were primarily responsible for the legislation. The Chairman shall, to the fullest extent feasible, include those Members of the Committee who were the principal proponents of the major provisions of the bill as it passed the House and such other Committee Members of the majority party as the Chairman may designate in consultation with the Members of the majority party. Such recommendations shall provide a ratio of majority party Members to minority party Members no less favorable to the majority party than the ratio of majority party Members to minority party Members on the Committee. In making recommendations of Minority Party Members as conferees, the Chairman shall consult with the Ranking Minority Member of the Committee.

(f)(1) The Committee, or a subcommittee, shall hold at least one hearing during each 120-day period following the establishment of the committee on the topic of waste, fraud, abuse, or mismanagement in Government programs which the committee may authorize.

(2) A hearing described in subparagraph (1) shall include a focus on the most egregious instances of waste, fraud, abuse, or mismanagement as documented by any report the committee has received from a Federal Office of the Inspector General or the Comptroller General of the United States.

(g) The Committee or a subcommittee, shall hold at least one hearing in any session in which the committee has received disclaimers of agency financial statements from auditors of any Federal agency that the committee may authorize to hear testimony on such disclaimers from representatives of any such agency.

(h) The Committee or a subcommittee, shall hold at least one hearing on issues raised by reports issued by the Comptroller General of the United States indicating that Federal programs or operations that the committee may authorize are at high risk for waste, fraud, and mismanagement, known as the 'high-risk-list' or the 'high-risk series'.

RULE X.—SUBCOMMITTEES

(a) *Number and Composition.*—There shall be such subcommittees as specified in paragraph (c) of this rule. Each of such subcommittees shall be composed of the number of members set forth in paragraph (c) of this rule, including ex officio members. The Chairman may create additional subcommittees of an ad hoc nature as the Chairman determines to be appropriate subject to any limitations provided for in the House Rules.

(b) *Ratios.*—On each subcommittee, there shall be a ratio of majority party members to minority party members which shall be consistent with the ratio on the full Committee. In calculating the ratio of majority party members to minority party members, there shall be included the ex officio members of the subcommittees and ratios below reflect that fact.

(c) Jurisdiction.—Each subcommittee shall have the following general jurisdiction and number of members:

Conservation, Credit, Energy, and Research (32 members, 19 majority and 13 minority).—Soil, water, and resource conservation, small watershed program, energy and biobased energy production, rural electrification, agricultural credit, and agricultural research, education and extension services.

Department Operations, Oversight, Nutrition, and Forestry (12 members, 7 majority and 5 minority).—Agency oversight, review and analysis, special investigations, food stamps, nutrition and consumer programs, forestry in general, and forest reserves other than those created from the public domain.

General Farm Commodities and Risk Management (20 members, 12 majority and 8 minority).—Program and markets related to cotton, cottonseed, wheat, feed grains, soybeans, oilseeds, rice, dry beans, peas, lentils, the Commodity Credit Corporation, risk

management, including crop insurance, and commodity exchanges.

Horticulture and Organic Agriculture (12 members, 7 majority and 5 minority).—Fruits and vegetables, honey and bees, marketing and promotion orders, plant pesticides, quarantine, adulteration of seeds, and insect pests, and organic agriculture.

Livestock, Dairy, and Poultry (20 members, 12 majority and 8 minority).—Livestock, dairy, poultry, meat, seafood and seafood products, inspection, marketing, and promotion of such commodities, aquaculture, animal welfare, and grazing.

Rural Development, Biotechnology, Speciality Crops, and Foreign Agriculture (12 members, 7 majority and 5 minority).—Peanuts, sugar, tobacco, marketing orders relating to such commodities, rural development, farm security and family farming matters, biotechnology, foreign agricultural assistance, and trade promotion programs, generally.

(d) Referral of Legislation.—

(1)*(a) In General.*—All bills, resolutions, and other matters referred to the Committee shall be referred to all subcommittees of appropriate jurisdiction within 2 weeks after being referred to the Committee. After consultation with the Ranking Minority Member, the Chairman may determine that the Committee will consider certain bills, resolutions, or other matters.

(b) Trade Matters.—Unless action is otherwise taken under subparagraph (3), bills, resolutions, and other matters referred to the Committee relating to foreign agriculture, foreign food or commodity assistance, and foreign trade and marketing issues will be considered by the Committee.

(2) The Chairman, by a majority vote of the Committee, may discharge a subcommittee from further consideration of any bill, resolution, or other matter referred to the subcommittee and have such bill, resolution or other matter considered by the Committee. The Committee having referred a bill, resolution, or other matter to a subcommittee in accordance with this rule may discharge such subcommittee from further consideration thereof at any time by a vote of the majority members of the Committee for the Committee's direct consideration or for reference to another subcommittee.

(3) Unless the Committee, a quorum being present, decides otherwise by a majority vote, the Chairman may refer bills, resolutions, legislation or other matters not specifically within the jurisdiction of a subcommittee, or that is within the jurisdiction of more than one subcommittee, jointly or exclusively as the Chairman deems appropriate, including concurrently to the subcommittees with jurisdiction, sequentially to the subcommittees with jurisdiction (subject to any time limits deemed appropriate), divided by subject matter among the subcommittees with jurisdiction, or to an *ad hoc* subcommittee appointed by the Chairman for the purpose of considering the matter and reporting to the Committee thereon, or make such other provisions deemed appropriate.

(e) *Participation and Service of Committee Members on Subcommittees.*—(1) The Chairman and the Ranking Minority Member shall serve as *ex officio* members of all subcommittees and shall have the right to vote on all matters before the subcommittees. The Chairman and the Ranking Minority Member may not be counted for the purpose of establishing a quorum.

(2) Any member of the Committee who is not a member of the subcommittee may have the privilege of sitting and nonparticipatory attendance at subcommittee hearings or meetings in accordance with clause 2(g)(2) of House Rule XI. Such member may not:

(i) vote on any matter;

(ii) be counted for the purpose of a establishing a quorum;

(iii) participate in questioning a witness under the five minute rule, unless permitted to do so by the subcommittee Chairman in consultation with the Ranking Minority Member or a majority of the subcommittee, a quorum being present;

(iv) raise points of order; or

(v) offer amendments or motions.

(f) *Subcommittee Hearings and Meetings.*—(1) Each subcommittee is authorized to meet, hold hearings, receive evidence, and make recommendations to the Committee on all matters referred to it or under its jurisdiction after consultation by the subcommittee Chairmen with the Committee Chairman. (See Committee rule VII.)

(2) After consultation with the Committee Chairman, subcommittee Chairmen shall set dates for hearings and meetings of their subcommittees and shall request the Majority Staff Director to make any announcement relating thereto. (See Committee rule VII(b).) In setting the dates, the Committee Chairman and subcommittee Chairman shall consult with other subcommittee Chairmen and relevant Committee and Subcommittee Ranking Minority Members in an effort to avoid simultaneously scheduling Committee and subcommittee meetings or hearings to the extent practicable.

(3) Notice of all subcommittee meetings shall be provided to the Chairman and the Ranking Minority Member of the Committee by the Majority Staff Director.

(4) Subcommittees may hold meetings or hearings outside of the House if the Chairman of the Committee and other subcommittee Chairmen and the Ranking Minority Member of the subcommittee is consulted in advance to ensure that there is no scheduling problem. However, the majority of the Committee may authorize such meeting or hearing.

(5) The provisions regarding notice and the agenda of Committee meetings under Committee rule II(a) and special or additional meetings under Committee rule II(b) shall apply to subcommittee meetings.

(6) If a vacancy occurs in a subcommittee chairmanship, the Chairman may set the dates for hearings and meetings of the subcommittee during the period of vacancy. The Chairman may also appoint an acting subcommittee Chairman until the vacancy is filled.

(g) *Subcommittee Action.*—(1) Any bill, resolution, recommendation, or other matter forwarded to the Committee by a subcommittee shall be promptly forwarded by the subcommittee Chairman or any subcommittee member authorized to do so by the subcommittee. (2) Upon receipt of such recommendation, the Majority Staff Director of the Committee shall promptly advise all members of the Committee of the subcommittee action.

(3) The Committee shall not consider any matters recommended by subcommittees until two calendar days have elapsed from the date of action, unless the Chairman or a majority of the Committee determines otherwise.

(h) *Subcommittee Investigations.*—No investigation shall be initiated by a subcommittee without the prior consultation with the Chairman of the Committee or a majority of the Committee.

RULE XI.—COMMITTEE BUDGET, STAFF, AND TRAVEL

(a) *Committee Budget.*—The Chairman, in consultation with the majority members of the Committee, and the minority members of the Committee, shall prepare a preliminary budget for each session of the Congress. Such budget shall include necessary amounts for staff personnel, travel, investigation, and other expenses of the Committee and subcommittees. After consultation with the Ranking Minority Member, the Chairman shall include an amount budgeted to minority members for staff under their direction and supervision. Thereafter, the Chairman shall combine such proposals into a consolidated Committee budget, and shall take whatever action is necessary to have such budget duly authorized by the House.

(b) *Committee Staff.*—(1) The Chairman shall appoint and determine the remuneration of, and may remove, the professional and clerical employees of the Committee not assigned to the minority. The professional and clerical staff of the Committee not assigned to the minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he or she determines appropriate. (See House Rule X, clause 9)

(2) The Ranking Minority member of the Committee shall appoint and determine the remuneration of, and may remove, the professional and clerical staff assigned to the minority within the budget approved for such purposes. The professional and clerical staff assigned to the minority shall be under the general supervision and direction of the Ranking Minority Member of the Committee who may delegate such authority as he or she determines appropriate.

(3) From the funds made available for the appointment of Committee staff pursuant to any primary or additional expense resolution, the Chairman shall ensure that each subcommittee is adequately funded and staffed to discharge its responsibilities and that the minority party is fairly treated in the appointment of such staff (See House Rule X, clause 6(d)).

(c) *Committee Travel.*—(1) Consistent with the primary expense resolution and such additional expense resolution as may have been approved, the provisions of this rule shall govern official travel of Committee members and Committee staff regarding domestic and foreign travel (See House rule XI, clause 2(n) and House Rule X, clause 8 (reprinted in Appendix A)). Official travel for any member or any Committee staff member shall be paid only upon the prior authorization of the Chairman. Official travel may be authorized by the Chairman for any Committee Member and any Committee staff member in connection with the attendance of hearings conducted by the Committee and its subcommittees and meetings, conferences, facility inspections, and investigations which involve activities or subject matter relevant to the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(i) The purpose of the official travel;

(ii) The dates during which the official travel is to be made and the date or dates of the event for which the official travel is being made;

(iii) The location of the event for which the official travel is to be made; and

(iv) The names of members and Committee staff seeking authorization.

(2) In the case of official travel of members and staff of a subcommittee to hearings, meetings, conferences, facility inspections and investigations involving activities or subject matter under the jurisdiction of such subcommittee to be paid for out of funds allocated to the Committee, prior authorization must be obtained from the subcommittee Chairman and the full Committee Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the applicable subcommittee Chairman in writing setting forth those items enumerated in clause (1).

(3) Within 60 days of the conclusion of any official travel authorized under this rule, there shall be submitted to the Committee Chairman a written report covering the information gained as a result of the hearing, meeting, conference, facility inspection or investigation attended pursuant to such official travel.

(4) Local currencies owned by the United States shall be made available to the Committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds shall be expended for the purpose of defraying expenses of Members of the Committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to their use of such currencies;

(i) No Member or employee of the Committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law; and

(ii) Each Member or employee of the Committee shall make an itemized report to the Chairman within 60 days following the completion of travel showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose, and shall summarize in these categories the total foreign currencies and appropriated funds expended. All such individual reports shall be filed by the Chairman with the Committee on House Administration and shall be open to public inspection.

RULE XII.—AMENDMENT OF RULES

These rules may be amended by a majority vote of the Committee. A proposed change in these rules shall not be considered by the Committee as provided in clause 2 of House Rule XI, unless written notice of the proposed change has been provided to each Committee member two legislative days in advance of the date on which the matter is to be considered. Any such change in the rules of the Committee shall be published in the Congressional Record within 30 calendar days after its approval.

THE CONGRESSIONAL PROGRESSIVE CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. My name is KEITH ELLISON, and we are here for the progressive message, the 1 hour when the Congressional Progressive Caucus will come to the American people and talk about what our agenda is.

Tonight it's important to specify, Mr. Speaker, that the Progressive Caucus is going to be on the floor for the next 60 minutes talking about America's economic picture, the landscape that we're facing, and what the progressive vision is for solving these problems.

I am joined tonight by some stellar members of the Progressive Caucus. We have with us tonight, Mr. Speaker, our outstanding, stupendous, colossal, fearless leader, none other than LYNN WOOLSEY, who just got through talking about the war. She has been a champion on many fronts. But I'm also joined by my classmate, a tireless fighter for all people across America, none other than YVETTE CLARKE, who never bends, never bows, and always stays strong for the American people. I think it's important for us to know that we're also joined by none other than DONNA EDWARDS, who is going to grab a mike in just a moment. And the four of us and other members of the Progressive Caucus for about the next 58 minutes are going to be talking about the stimulus package, the economic picture facing the American people, and what the Progressive Caucus believes we need to do about it. Your progressive voice on progressive issues.

So with that, I invite my colleagues to jump on in. We're going to have a colloquy over the next few minutes where we come in and out and share the ball, if you will, to talk about the stimulus package. And let me just kick it off with our chairperson.

Congresswoman WOOLSEY, how do you look at the stimulus package we passed today?

Ms. WOOLSEY. First of all, I would like to say to you, Congressman ELLISON, that, as the cochair of the Progressive Caucus with RAUL GRIJALVA, it's just an honor to be here tonight to talk about the economic recovery bill that we've passed in the House today. I really thought that's what we were talking about. I'd be glad to talk about everything that you want us to be working on with our Progressive Caucus, but I think that what we have done today shows that the Democrats are very much together, that we know where we're going. And this recovery package that was passed was very much in step with a letter that I sent, as the Chair of the Progressive Caucus, to President-elect Obama and to our leadership laying out what the Progressive Caucus wanted in this recovery bill. And 90 percent of what we asked for is in the recovery. We didn't get as much as we wanted on everything because we were looking at about $1 trillion and we weren't thinking of having the tax cuts in there. But we are very proud that most of what we looked for is in this bill.

Mr. ELLISON. So did the Progressive Caucus ask for things like extension of unemployment benefits, increasing food stamps, and infrastructure projects, things that are really going to have a big punch when it comes to stimulating the economy? Were those some of the things in the Progressive Caucus letter?

Ms. WOOLSEY. If the gentleman would yield, those were the top three asks on our list.

Mr. ELLISON. Reclaiming my time, I would like to direct the gentlewoman's attention to this graph, which an economist named Mark Zandi estimated the multiplier effect for various policy proposals.

Essentially, the higher the number is, the more punch; the lower the number is, the weaker the punch. And the things that the Progressive Caucus asked for had, for example, at the bottom here it says increase infrastructure spending, 1.59. Now, that's pretty high. And also temporary increase in food stamps, 1.73. That's very high. Extend unemployment compensation benefits, 1.64. That's very high.

And, Mr. Speaker, I just want to toss it over to YVETTE CLARKE, and just ask, in your view, Congresswoman CLARKE, are the things that the Progressive Caucus asked for in this stimulus package, they're not only good and decent and demonstrate compassion, but they're also good economic sense. Was that your view?

Ms. CLARKE. You're absolutely right.

First of all, Mr. Speaker, I want to thank my distinguished colleague Congressman KEITH ELLISON for managing the time requested by the Progressive Caucus on the floor to speak about the economic recovery package.

You just pointed out, it's there in black and white, Zandi's estimates for the multiplier effect, the top three items that were requested by this caucus were in this recovery package.

When we talk about economic stimulus, we're talking about things that people need from our economy in order to stimulate it. People must meet the needs of their homes and families' ability to feed themselves. Hence the use of food stamps is something that is constantly churning in communities across this Nation.

Infrastructure repair, I remember the most demonstrative thing that I could see since I've been a Member of Congress was that bridge fall in Minnesota, a neglected infrastructure that, thank God, we didn't see much more harm done to the population of Minnesota. But life was lost, Commerce was disrupted. Infrastructure, the multiplier effect. Just think about all of those trucks that have got to move the goods and services across our Nation. Truck drivers are being employed. Let's talk about the folks who are going to do the bricks and mortar of it all. They're going to be able to meet their mortgage payments, do some savings, make

sure that their kids can go get a great education, be responsible for their families and their communities. That's what it's all about.

So I want to commend our leadership in the Progressive Caucus, Ms. WOOLSEY and Mr. GRIJALVA, for having the vision to reach out to the administration, to make sure that they're aware that there are some easy matter-of-fact things we could do within this package that will make the difference almost instantaneously in communities across this Nation. And those three items that were discussed are the items that make the difference each and every day in every community in which we live.

Mr. ELLISON. Let's get our colleague DONNA EDWARDS from right next door in Maryland into this conversation.

Congresswoman EDWARDS, you've been an advocate for working people all of your life and have been fighting for justice. How do you see this stimulus package? Do you think that it was more or less what the Nation needed? Are you happy with some of the key elements of it, or do you think it really needed to bone up on some parts?

Ms. EDWARDS of Maryland. Let me just say, Mr. Speaker, today wasn't just a good day for the House of Representatives. It was a great day for the American people.

I know sometimes people may not know what a stimulus is, but we know what a job is. And this bill that we passed today created jobs. Three to four million jobs across this country will be created, and they're created because people will be put to work. They're being put to work not just for the jobs that have to be done today, rebuilding all of our infrastructure, our roads, our bridges, our sewers, our water mains that are all falling apart, laying in broadband for the future, but also investing in some of those jobs that really are the future, science and technology jobs, investing in research so that we can get from here to there. So the American people may not quite understand that word ''stimulus,'' but we all understand the word ''jobs.'' And at the rate we have been losing jobs in this country, I think on Monday, just this past Monday, we lost 55,000 jobs in this country in 1 day. And so we needed to create jobs. And I think what we've done here is exactly that.

I know that in my neighborhood just in front of my house I had a water main break a couple of weeks ago. Well, our water mains across this country, that water infrastructure is falling apart. So we need those water mains repaired. We had people going without water, without potable water, right outside the District of Columbia in Maryland in my district because of a water main break. So it's not acceptable that we continue in this vein in this country, and what we have done is we have created jobs for today and jobs for the future.

Mr. ELLISON. A very important observation.

I think it's important to point out that H.R. 1, the American Recovery and Reinvestment Act, does spend about 75 percent of the money within the first 18 months. Much of it is on infrastructure. It will create 3 to 4 million jobs. It does give about 95 percent of American workers a tax cut. Not the people who already get one but the folks who often don't get a tax cut.

If I may, I don't want to spend time on gloom and doom, but I would ask my colleagues to spend maybe 10, 20 minutes or so talking about what got us here. I don't know if you want to go back there, but I think it's important to say it is the absence of a progressive vision that got us to this point. We're talking about years of deregulation and tax cuts for the wealthy. We're talking about an economic philosophy that said that poor people have too much money and rich people don't have enough money; so what we're going to do is take from them and give to the ones upstairs. We're talking about tax cuts in the middle of a war, and we're talking about a war that never, ever, ever, ever should have been started. We're talking about an economic philosophy that really was not in favor of the average working family. And we know that when the average working family is doing well, then everybody does well, and when they're not doing well, then we get what we got. The fact is it is an economic philosophy that has been driving us.

What's needed is a progressive vision for our country, an economy that is inclusive, an economy that helps lift all boats because we do believe a rising tide lifts boats but you've got to raise that tide. It's not the ocean liner but the dinghies that need to be rising up.

So with that I invite you all, if you would, just to talk a little bit about what you believe got us here and what the situation is we're confronting. I think it's important for the American people to know that we are not just spending $825 billion on a whim. We're in serious financial trouble. We're talking about the loss of 2 million jobs and change last year.

This is an unemployment chart in 2007 and 2008. The blue is 2007 numbers. The red is 2008 numbers. Now, if you can see, every red bar is longer than every blue bar. Can you see that? That means we had a dramatic jump in unemployment in nearly every State. Minnesota's right here, California, Florida, Illinois, Iowa. Every State has had a dramatic leap forward in unemployment, a very serious issue, and I think that it's important to point out that we are here to do something about it.

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Ms. EDWARDS of Maryland. If the gentleman would yield?

Mr. ELLISON. Congresswoman EDWARDS.

Ms. EDWARDS of Maryland. You know, you raise a really interesting point, because with the job loss at just at 2.6 million jobs just in 2008, what we have seen here is 8 years of a history of providing tax cuts for the very top and nothing for everybody below; and that's really played out in the worst way in this economy. And, you know, what's really shocking is that even today, even in the face of this economy, there were still those who are arguing that we should give more tax cuts to the wealthiest, even in this environment.

So the American people actually came out on top today because we created jobs, we provided tax cuts for working people. We made sure, for example, there are people in my district who are asking for food stamps and energy assistance who have never asked the government for anything ever before, but they have to in this economy. And so we have made sure that we take care of those folks, too, even extending health care coverage. When you lose a job, you lose your health care coverage and you really do worry about your families. So we have been able to create jobs in every sector where we have lost jobs, and we have made sure that we keep that bottom line for family that is really in need.

Mr. ELLISON. Very important point.

Ms. WOOLSEY. If the Congressman would yield?

Mr. ELLISON. Congresswoman WOOLSEY.

Ms. WOOLSEY. One of the things we have to be particularly proud of in this stimulus package today, first of all, for every $1 billion we are spending on infrastructure, we are creating 40,000 jobs; so we did a very good job with that today. But we are also investing in programs that create jobs that also are needed and necessary in our country.

We talked about the crumbling bridges and the infrastructure of the sewer pipes and all of that, but when we talk about the energy program, we have been supporting, as progressives, we have been supporting at least an Apollo-size energy program that not only provides jobs but will help us with our security so that we are not dependent on foreign fuels. Actually, green technology is jobs for the future. I mean, it's the industry of the future that the United States has to capture, and we are investing in our global warming, undoing the problems we have caused. And all of that costs money, but it makes jobs, and it makes jobs that leave behind projects that we need desperately in this country.

Mr. ELLISON. Yes, so in other words, we are not just giving $825 billion out, we are getting real value for these kinds of things, as Chairwoman WOOLSEY has said.

I just want to say that I am very proud, Chairpersons, of our Progressive Caucus have been communicating with our leadership and the administration on the things that the American people who are progressive really want.

Congresswoman CLARKE.

Ms. CLARKE. You know, as we are all just too keenly aware, the current economic environment that we are in the midst of was a gift left to us by the Bush administration. And I really want Americans to focus on the fact that we have had 8 years of neglect, destruction, of total malfeasance when it comes to the economy of this Nation.

And we have just begun today, less than an hour ago, just minutes ago, to, you know, sort of begin to address in a very substantive way the impact of a mismanaged economy and, by extension, a mismanaged nation. We are excited about what is taking place, the level of enthusiasm that our Progressive Caucus had for this particular piece of legislation, H.R. 1, the Democratic Caucus has had, that the American people have had. And we are supporting our newly elected President, our newly installed, sworn-in President and his vision for taking us out of what is a very dramatic downturn in our economy, and it's going to take some time.

We are at the advent of that, and, I mean, I think for each of us who is here tonight, there are many more things that we know will have to be done. We are at a good place, at a good starting point, for our communities and the turnaround of these economies, the investments we are making. Because these are truly investments, these are not just giveaways; we inherited a World War II infrastructure, if you will. If it weren't for those folks who, you know, sacrificed during the World War II generation, you know, the subway systems we enjoy today, the mass transit, the technology, all of that was invested during that period of time, and use of the benefit of mobility and economy and took us to this point. We kind of coasted off of that generation's innovations.

It's our generation's time to step up. Barack Obama has led the way by being on the Hill, working in a bipartisan manner and making it unequivocally clear to the American people that it's our time now. And H.R. 1 speaks to its being our time now.

And I am just really proud to be here at this moment to have the Progressive Caucus in lockstep recognizing that we are not going to get everything we want, but if you don't put it out there, you are not going to get anything of what you want. So you put out there everything that you think is needed to make your community strong, solvent again, to help small businesses, which are really the major employers in many of our communities.

And it's all in here, the benefits and tax cuts and tax deductions for small business are phenomenal. They will be the ones that, when the contracts are broken down, we need those nails and those hammers, they will be the ones who can provide those, who can supply those. When their workers need to move goods from one place to another, the small businesses and our employers in our local communities will benefit from the work that we just did moments ago.

So I want to thank you for that, Progressive Caucus members.

Mr. ELLISON. Yes, well, let me thank you again, Congresswoman CLARKE. You are right on the mark with everything that you have said.

I just want to let everybody know we are the Progressive Caucus, we are here for 1 hour. It is our plan to be here week in, week out to come project a progressive vision, whether it's on economics, whether it's on war and peace, whether it's on civil rights.

We talked about civil rights last week, we are talking about the economy this week. But this is the Progressive Caucus, and we are here tonight with our chairperson, LYNN WOOLSEY, with my colleague, Representative CLARKE and my colleague, Representative DONNA EDWARDS from Maryland.

Congresswoman EDWARDS, I am sure that some thoughts were occurring to you as Congresswoman CLARKE was stretching forth on her ideas.

Ms. EDWARDS of Maryland. Well, you know, today was a great day. When I think about what we have done on education, we provided $300 million for Job Corps centers. These are training, you know, young people who may have fallen through the cracks, but they need the skills to participate in this economy and in the 21st century economy.

We have provided the resources for our Job Corps centers to train up those people, not just in my home State of Maryland, but in every single State. I think that there are something like 125 Job Corps centers around the country, $300 million, train them for a green economy. Get those workers out into the workforce. They are weatherizing our homes, they are maintaining and building solar panels and wind turbines and learning how to lay broadband and do the construction jobs that we need throughout the economy.

So I think it's a really great day for young people who want to go to college and whose parents may have lost a job, or not quite had the job that they had before this economy went into the tank. Those young people will be able to qualify for Pell Grants because we increased the opportunity for that. And so we will have our young people going into college, getting those 2- and 4-year degrees so that they can come out to be really full participants in our economy.

So I am excited about what we have done, and I agree with my colleague from New York, YVETTE CLARKE, because we couldn't do everything in this bill, but we sure got a good start for January, 2009, for this new President and this new Congress.

When I think about what it means to be a progressive and part of the Progressive Caucus, it means that we are making progress for the American people, and that's what we have started with this bill.

Mr. ELLISON. Well, if I may turn to our chairwoman here, you know, Congresswoman WOOLSEY, we are the Progressive Caucus. A stimulus package was passed through the House today.

Does the Progressive Caucus still have a vital and essential purpose, given that we have a President that we happen to like nowadays? What is our role in the Congress? What do we do? Now that we have a Democratic President and a majority, what should the Progressive Caucus take on as its mandate? What's our role?

Ms. WOOLSEY. Well, our role, KEITH, is to support our new President in every way we can, particularly when he is doing what we think ought to be done, and certainly we are going to have a much easier time of it with Barack Obama, President Obama, than the last 8 years.

But when it isn't going the way it ought to go from our perspective and with our progressive promise of things, the equality of all people, and the things we hold near and dear, then it is our job to pull him in our direction.

We have to be very clear that if the moderates—and there is nothing wrong with being a moderate person, I just don't happen to be one—when the moderates become the left edge of our politics, then imagine what happens with the right wing.

Mr. ELLISON. Then the center becomes the right.

Ms. WOOLSEY. Then the center becomes the right, and then it just goes off the chart.

It is our job to remind our President that, indeed, the progressives actually represent the core of the Democratic Party, and we are very proud of it.

When people ask, Oh, we love him, I mean, he just has the heart of this country. And when they talk to me about it, I always say, I don't envy our new President. He has a lot to do. He is going to be going forward while he's trying to dig out from this hole that this past administration left.

And you know what, it didn't have to have happened. It could have been avoided. For one thing, the lax regulations on Wall Street led us right to where we are today.

Another thing is this war of choice—amazing, I haven't said anything about it so far tonight, but it will cost us at least $1 trillion when we should be investing here at home in the people of the United States of America.

Mr. ELLISON. That's right, that's right.

Well, thank you, Madam Chairman, for pointing out what the role of the Progressive Caucus is. I invite my colleagues to weigh in on that subject as well, as we talk about the stimulus package and our economy tonight.

I think it's important that the American people know that they have a progressive voice, projecting a progressive vision. We will never lay down our role as a coequal branch of government.

You know, we happen to like this President, and we will probably agree with him on a number of things, but it's not our job to agree with him. It's our job to represent the American people, to project an inclusive vision in which every American feels they can be successful where their rights are protected and where they can make a living for their family.

So, with that, I would just like to throw it back to my colleagues.

Ms. CLARKE. You know, I would like to ask about this progressive agenda. You know, we also have to be forward thinking; we can't just settle with this opening salvo in what will be a protracted struggle to realign our economy in this Nation, and our voices are going to be imperative because so many have been left out of the economy that was driven by deregulation, that was driven by greed, that was driven by policies that excluded such a significant part of our human resource in this Nation.

You know, patience is really going to be a virtue for a lot of us, and it's in short supply, unfortunately, because people are experiencing real pain in this current economy. But patience is going to be what's required as we recraft, reshape, recalibrate the economy in which we operate, and we now know that our economy is not just an American economy, but is an essential component of a global economy.

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And as we make America stronger, there are going to be global implications in what we do and what happens with regards to the whole realignment of our market system.

I want to make sure that there's always going to be a voice coming from our caucus that talks about human resource development. Human resource development. More productive Americans are in their skill and talent and ability, the stronger our Nation will be.

So I would like to see us in the future, in the very near future, really look at how Community Development Block Grants can be utilized for rural and urban and suburban development. I know that it has been very successful in programs like the empowerment and enterprise zones of rural and urban communities. I think there may be a time within very short order where something similar will have to be engaged in order to make sure that we capture all of the human resource productivity that we can.

Our productivity quotient has to really rise as a result of us stimulating our economy. And as we stimulate our economy and our companies begin to buzz again, as it begins to grow, we need to make sure that all of our talent, skill, and ability is applied, all shoulders to the wheel to, as you say, making the rising tide lift all ships.

I yield back.

Mr. ELLISON. Congresswoman EDWARDS, I'm sure you have some thoughts on this. As Congresswoman CLARKE talked about building the resource development, the workforce development, the skill of our people, I'm really happy that the Green Jobs Act, which we authorized the last session of Congress at $125 million, has now been put through and appropriated at $500 million, which is a significant increase, and we have about $4 billion in job training and workforce development.

That goes to the point you were making a moment ago, Congresswoman CLARKE. We are investing in our people, and it is something we have to continue to do.

Congresswoman EDWARDS, any thoughts on this?

Ms. EDWARDS of Maryland. You know, this is really a terrific start, but it really is just a start. We are in the process now of creating and saving 3 million to 4 million jobs, but it's the beginning. And I think that we have a President, President Barack Obama, who understands that this is a start. Of course, we have to create jobs, stabilize our economy, get our credit and lending system functioning again so it works for our small businesses, so that it works for our students who are trying to get student loans, so that it really works for homeowners in this economy.

But we have a lot of work to do. We have additional work to do. And our job in the Progressive Caucus, and I think the President would agree with this, is to challenge him to be the best President that he can be. I know that we can do that as a Progressive Caucus by focusing on the needs of working people, of focusing on bringing more people into low- and moderate-income housing, into reinvesting in our disinvested communities, and to making sure that people have health care that is quality, affordable, and accessible to all of us. These are things that we can do.

We have to be smart and deliberate about it and we have to be very strategic about it, but I think that we have a President who's on the same page, and our job is to lay out an agenda that all of us can come around.

I know that we can do that as a Progressive Caucus. I feel it and I hear it and I see it. You see threads of it in this recovery and reinvestment package that we passed today. You can see threads of a progressive agenda throughout this package that we need to build on over this next Congress.

And so when I look, for example, at our push to expand low-income heating assistance, expand LIHEAP, what that does for us is also says we are going to invest in weatherization of some of our older homes. Many of these homes are occupied by our low-income families, occupied by our senior citizens, and we will do that, but we also create jobs in the process.

So there are a number of elements of this reinvestment and recovery package that will get us to where we need to be in this current economy but will put us on a foot forward moving forward with this new President.

Mr. ELLISON. Congresswoman EDWARDS, I want to thank you for pointing out that this stimulus package has been heavily influenced by the work of the Progressive Caucus. But for our efforts, it wouldn't be the great document that it is. Though it may not be all that we want it to be, it's much better than it would have been without our input.

It's important for people to know that the role of the Progressive Caucus is to put forth a progressive agenda to help our leadership stake out a progressive policy, and if we are not pushing, if we are not agitating, if we are not arguing for that case, then the case simply won't be made.

So it's critical that the Progressive Caucus come before the American people and talk about what we are doing, talk about what we are up to, but also we do some of the work that is our job as Members of Congress to do, which is to push that agenda right in here.

Congresswoman CLARKE.

Ms. CLARKE. When the American people called for change, Congressman ELLISON, they were really calling for progress. We were stuck in a rut. The morale of your average, everyday citizen was being diminished with each and every hour that the Iraq war was raging, that the Dow Jones was dropping, that they were receiving letters about foreclosure at their doorsteps, as they were receiving pink slips from their former employers. I mean it was an all-time low.

The one area where people saw sort of like a glimmer of hope was in the change in administration, a new leadership that spoke to progress, that spoke to the need to turn the page and get things going again.

Today, our act on H.R. 1 was turning that page. It's the advent of something new, something progressive. As my colleague, DONNA EDWARDS has said, it's sewing that thread together of innovation, of progress, of understanding the needs and the desires of the average, everyday American.

These are not the wealthy people who can afford the lobbyists. These are not the wealthy people who can jet off to

another location and put their sorrows behind them. These are the folks who wake up every morning and wonder, Will I have enough dollars left in my pocket to make sure that my children eat this weekend?

So what we did today was we brought dignity back to those who were struggling and who have been left out of the equation of our common humanity for quite some time.

Mr. ELLISON. Congresswoman CLARKE, are you talking about those people who work so hard and struggle so much to make this country really go, that this Congress needs to respond to them when they need a hand? Are you talking about those people?

Ms. CLARKE. Those are the people I'm talking about.

Mr. ELLISON. Those people who are trying to wonder whether they need to put some cardboard in their shoes to go another couple of weeks or whether they can get some shoes, whether they can get lunch money for the children. Those are the folks you have got in mind?

Ms. CLARKE. Those are the seniors who were just about to retire when the market went down and their 401(k)s went down the drain, who now have to choose between a mortgage payment and purchasing their medication.

Mr. ELLISON. Right.

Ms. CLARKE. Those people.

Mr. ELLISON. So, the Progressive Caucus, that is who we are for. Because we know that the war makers and the big dogs, they have people who look out for them around here. They're paid to do so, as they wear their monogrammed shirts and fly their jets here. Sometimes they fly three different jets from the same industry here.

But, Congresswoman EDWARDS, how do you feel about the people we are here to fight for?

Ms. EDWARDS of Maryland. You know, we are fighting for those people every day. I'm am talking about working people. I'm taking about people who get up in the morning and they get on the public transportation, they get on the trains every morning, they ride the buses to work, and then they come home and take their children to the basketball game and soccer practice and sitting down and doing the homework, and they are struggling.

And these are working people who are struggling in this economy. And then some people who had a job yesterday but don't have a job today. These are the people that we are fighting for, that the Progressive Caucus is fighting for.

If the gentleman would continue to yield, I want to point out to you that I know that in my home State of Maryland—my State is just like a lot of States—where the budget of the State is being cut. In our case, it's being cut by about $2 billion this year because our State has to balance its budget.

And so what we were able to do in this reinvestment and recovery package is to provide some help for the State so they don't have to cut vital services for people who work every single day. And I think that that is really important for the American people to know because we are out there fighting for them. And when it's all said and done, there will be those who will complain about this provision or that provision or other, but the reality is we have created jobs here. And we are going to protect and preserve those jobs and we are going to create better jobs for the future.

It was because of a progressive voice in that fight, working with this President and this Congress and our leadership, making sure that we passed something that really will make a difference, not just in the lives of the people in my home State of Maryland, but some of those other States where the unemployment is skyrocketing to double-digit unemployment.

Mr. ELLISON. If the gentlelady yields back, I'd just like to point out that on this chart that Mark Zandi noted—a conservative economist, quite frankly—in his study he showed that the revenue transfers to State governments have a pretty high multiplier effect of 11.36, which is pretty high.

If you notice nonrefundable rebates, they're pretty low. Some of these things extend—the alternative minimum tax, that is very low. Less than one. Make income tax cuts expiring in 2010 permanent. That's extremely low. And reduce corporate tax rates. That's pretty low too.

So if you really want to get the economy moving, if you want to help small business, help the average person, and help those States that you just mentioned a moment ago, Congresswoman, revenue transfers to State governments.

If I may just point out, you mentioned your State, and I am glad you did, because it's important for people across all the States to know that we are in this thing together; Maryland, New York, Minnesota. We are in this thing together.

In my State of Minnesota the impact of this recovery bill will be State fiscal relief in a significant amount, which is actually over $1 billion, which is quite a lot of money. Title I education, $117 million; special education—always fighting for every penny—$216 million. Very happy to point out Workforce Employment Services, $19 million. That is a lot of money. That makes a big difference.

Weatherization. We like to get up to zero in Minnesota. If it got to be zero, it would be a heat wave in Minnesota. Weatherization is important for us. $210 million. A very important program.

Of course, as you pointed out, when you lose your job and you lose your health care, so our Medicaid funding of $737 million is a significant amount of money. All told, Minnesota is going to be able to benefit $3.3 billion from the stimulus package. We have a State budget deficit of about $5 billion. It won't cover everything, but it's going to help an awful lot, and there will be vital services that will not be cut because the Federal Government, with the influence of the Progressive Caucus, responded to the needs of the people in a real way.

Let me yield to the Congresswoman from New York.

Ms. CLARKE. I'm just thinking about what a pressure valve this piece of legislation is for so many States. We can probably count the number of States that are currently not in deficit and not cutting services on both hands. This Nation is really rocked by the devastation of an economic downturn, like your State, like the State of Maryland, the State of New York.

We were here just before our significant break before we came in for the new session to deal with the automobile industry. Prior to that, we did the TARP. The TARP for New York City and New York State was like saving and industry that was a free-fall in terms of being an economic engine not only for our city, not only for our State, but for our Nation.

So I can really relate to what so many of my colleagues from across this Nation, whether they are from the Midwest, the far West, the Atlantic region, the Southwest, have been experiencing when manufacturing has been leaving all these years, when so many other industries have faltered and we were not there responsibly addressing those unemployment issues.

This ripple effect has hit home for every single American. If you have not personally been touched by what is happening in this economy, you are not breathing on this earth right now. You either know someone who's been impacted or you are yourself have been impacted, whether it's your home being foreclosed on or it's that company that has left town and has not been replaced in any form or fashion.

All of these issues are at the premium right now in everyone's minds, everyone's hearts, and everyone's pockets.

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And so H.R. 1 to the rescue. We are here, and we have opened the door with the advent of something new, something progressive, and we are supporting it 110 percent.

Mr. ELLISON. We have about 15 more minutes left in our hour, so start thinking about what we want to leave the folks with tonight. But I just want to point out that one of the progressive values that we share is that we have an inclusive vision; so that we don't engage in regionalism, we think about

what all Americans need. And so we are concerned. When I see an unemployment number in New York at 7 percent, that sends chills through my spine because in Minnesota we have got 6.9 percent, which is pretty much the same. And we look at Michigan really hurting.

So we know that we need those workforce development dollars there to help get people trained. And the year before that they were at 7.4. So they have been hurting for a long time. And Rhode Island people are really taking a hit, and in North Carolina as well.

One of our values as the Progressive Caucus is that we stand for the American people as a whole. And Congresswoman EDWARDS, again, here we are moving forward on this stimulus package, and we are going to continue over the course of the year to project a progressive vision and a progressive economy.

I guess one of my questions to you is, how critical is it that we continue to keep up the struggle to project a progressive vision for our Congress and for our Nation?

Ms. EDWARDS of Maryland. I thank the gentleman for yielding.

I think that our job is to make certain that we project a vision that is about the future and that we ensure and say to the American people—and I know that I am going to say this to the people in my home State of Maryland, in the Fourth Congressional District of Maryland—that every day I want to listen to them so that we are articulating here in this body, in this Congress, in this House of Representatives, what is important for them.

When they get up in the morning, I want them to know that we are thinking about them. I want them to know that we want them to have a job, that we want their children to have an opportunity, that in retirement we want to make sure that they are safe and well taken care of, and that our senior citizens have the benefit of all those golden years that they have worked up to. And I know that we can do that. And we have to say to the rest of the world that we are leaders and not just followers.

And when I think about a progressive vision for this country, I think that we didn't realize until the bubble burst out of our housing market how much of a deep impact that had on the rest of the world economy.

And so we are in a global economy, but part of that carries a responsibility. It carries a responsibility for oversight, it carries a responsibility for accountability, and we have to make sure that we are investing our money in our families, in our working families, and in our communities. And I think if we have that kind of progressive vision, that we are going to be able to not just convince the President of the United States, but we are going to bring him along and the rest of our colleagues in that same direction.

Mr. ELLISON. Thank you for yielding back.

Let me say tonight that it is important for us to realize that this stimulus package really is emergency surgery. It is a crisis, and we are addressing a crisis. But when we talk about a progressive vision, we are not just talking about dealing with this crisis; we are talking about setting forth a new way of doing business, saying that the market will not be allowed to run amuck, that the market does not answer our questions, that the market has market failure, and that there is a critical and indispensable role of government. Government is not the problem, but when government doesn't monitor people at the SEC and at other agencies, then we see problems arising. It is a vision of saying that the government has a responsibility to make sure that our economy is fair, that our economy is inclusive, that everybody matters, that everybody counts, and people are just not going to be left out.

It is a vision that says America should be at peace with the rest of the world, that we should pursue peace, we should promote peace, we should engage in dialogue and diplomacy and negotiation, and that war is the enemy of the poor. Not only is war dangerous to people on the business end of a missile, but it is the enemy of the poor in our country because it saps what poor people need.

And we also understand our progressive vision is that our country, a caring nation, a loving nation, should be concerned about the health of its people. And because of that, we need to have universal health care. And one of the best things we could do for the auto industry is to have universal health care, and they would have a lot of problems taken off of their shoulders.

So it is important to talk about that as we move into the final minutes of our special hour as we talk about a progressive vision that we are today dealing with a crisis, but that crisis is not the end of the story; that we are going to be moving into the future, and that we are going to be laying down a progressive vision for quite a long while.

Let me yield to Congresswoman CLARKE.

Ms. CLARKE. I thank you very much.

I just want to close by thanking you, Congressman ELLISON, for organizing this special order with members of the Progressive Caucus this evening.

I think we have pretty much driven home that we are at the advent in the passing of H.R. 1 of the remaking of America, as our President, Barack Obama, likes to state it; that the things that we need to do have just been putting in place fundamentals, sort of the railing on which our economy will roll out from in the next 18 months to the next 4 years.

There is a lot of work to be done, a lot of human resource development to take place, a lot of training, and a lot of stimulating of our economy. And I want to take my hat off to all of my colleagues who voted in favor today of supporting the Reinvestment Act that we passed today, the economic stimulus and Reinvestment Act. And I look forward to getting back to my district and working with the folks in the community to be able to make sure that they access and hold accountable this Congress for making sure that this measure works for them.

We all have to be engaged in this for it to work. If anyone is sitting back thinking that someone is going to come and hand something to them, I think that they missed the whole point of why we voted for change. The change is that we are going to stay engaged, that we are going to ask for accountability in government, that we are going to demand it, and that we are going to see it come to fruition in the same way that we saw a new President become elected and installed.

Mr. ELLISON. Thank you, Congresswoman CLARKE. And I just want to say thank you for yielding back. You do a wonderful job. And I want you to know that it is an honor to be serving with you. I admire the work you do, and just stand in awe of the way you just go about fighting for the people.

And the last word and the closing is going to be carried forth by our colleague, DONNA EDWARDS. But before I yield back to her, I just want to say I was proud to vote for the American Recovery and Reinvestment Act. This bill creates 3 million to 4 million jobs, gives 95 percent of Americans an immediate tax cut; 75 percent will be spent in the first 18 months. And this bill is designed to get America working again. I am proud to vote for it, and honored to be able to be here with the Progressive Caucus.

With that, I yield to my distinguished colleague from Maryland, the gentlelady from Maryland.

Ms. EDWARDS of Maryland. I thank the gentleman, and thank you for organizing this discussion. I too am very proud to have supported the American Economic Recovery and Reinvestment Act, H.R. 1.

This is about creating jobs in this tough economy and moving us forward. And I know that, like many of my colleagues, I will be proud to go back home to Maryland and say to the folks in my State, we are bringing $782 million in transportation and infrastructure funding to our State. I will be proud to say we are bringing $1 billion back to Maryland to help offset that horrible $2 billion deficit that we are facing. And to 89,000 students, you are going to be able to get your average

award of $3,000 for Pell Grant assistance. Those are the kinds of things: elderly nutrition programs, real job creations, investment in science and technology.

I mean, our district houses some of the labs that are on the forefront of development in this country for science and technology and research, and we are going to be bringing dollars home to create jobs and make those investments for the future. And so like my colleagues around the States, we are going to go home to our folks and we are going to say we are bringing jobs back home.

And then we will come back into this Congress, and we will work for working people. We will fight for working people. We will do that every single day. And as members of the Progressive Caucus, our job will be every day to come here and fight for the American people.

And so it is an exciting time, but it is just a first step. And our job will be to work with this President to make sure that we take this first step into the next step for the American people.

And we've created jobs, don't forget that. We have created jobs today for the American people, 3 million to 4 million jobs created or saved today for the American people.

And I thank my colleague, and I yield the balance of my time.

Mr. ELLISON. So let me just close it out and say that it has been a pleasure coming to you with this special order with a progressive message with my colleagues, Congresswoman WOOLSEY, Congresswoman CLARKE, Congresswoman EDWARDS. And this has been the progressive message here. Thank you.

I yield back the balance of my time.

AMERICA'S FINANCIAL CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Mr. Speaker, I appreciate your patience in working with us here and allowing us to have this time to talk about something which is a very important and serious topic which has captured the attention, I believe, of most Americans: the work of the House of Representatives in Washington, D.C., today on the floor of the House. We have in a way created history here in a unique way.

We have heard for the last 6 or 7 years, depending if you are talking about the war in Afghanistan or the war in Iraq, about the tremendous costs of these two wars, particularly the war in Iraq. Year after year we hear from all different sources, all different political stripes, that these were very, very expensive wars. And yet, if you were to add up the total cost of the war in Iraq over the past 6 years and add that to the cost of the war in Afghanistan for the last 7 years, adding those two numbers together, in one fell swoop this afternoon we spent more money than that, in excess of $800 billion.

I want to repeat that, because this is a fact that I think people are starting to add it up and say this is what is going on, but I don't know if that has sunk into people's minds:

Today, on this floor, we voted on a bill which will spend more money than the war in Afghanistan and the war in Iraq added up.

Now, how did we get to this strange position where we are so concerned about our economy, so concerned about deficits, so concerned about the government overspending? We have heard that from both political parties for some period of time. How do we get to the point where, in one fell swoop, we just passed $800-plus billion?

Well, in order to try to put that in perspective, what I am planning to do tonight, and I am going to be joined with a number of my colleagues of very great reputation from all over the country; what I am going to be doing tonight is talking about how this developed, what is the nature of the problem, how did it occur; and then, how do we scope how big the problem really is, and what are the natures of the different ways that people might want to solve the problem?

The bill that we passed today was theoretically to solve a problem, and so let's go back just a little bit and say, how did we get into this particular mess that we are in?

Well, it goes back quite a ways to the Jimmy Carter years when we created various programs to try to help people to be able to get loans on houses, people that lived in areas where certain particular geographic areas were hard to get loans. And so the Carter administration put together the Community Reinvestment Act, and it was originally saying that when we are doing these different home loans, that we need to have some mechanism so that we can create some way for people that live in some more difficult areas to get loans in, for them to try to be able to get loans. I would suppose you would call it the economically disadvantaged areas. Well, that was under the Carter years.

Now, when we move forward in time, under President Clinton what was done was it changed this Community Reinvestment Act and it said that and it increased the percentages of the loans that had to be made from a banker's point of view to people who were not as good risks. In fact, it demanded that there were loans made to people who were just flat a bad risk and very likely would not be able to pay the loan.

□ 1945

At the same time in the 1970s, we created Fannie Mae and Freddie Mac, and these were two quasi-governmental agencies, and the purpose of them was also to provide loans for people in the sort of middle-income type bracket of housing so they could get loans at a reasonable rate. So Freddie and Fannie were born. They were really not quite government and they were not quite private. They were in the in-between zone, and they started more and more to make real estate loans, to the point that a few years ago when Freddie and Fannie got into trouble, more than half of the home loans in America had been made through Freddie and Fannie. So they had grown over the years to tremendously large quasi-governmental organizations.

What happened under the Clinton administration was Clinton forced Freddie and Fannie to take a whole lot of loans, loans that were not going to be very good loans, and he said you have to take them along with the other loans that you are taking. So the government, as a matter of policy, forced Fannie and Freddie to make loans to people who were going to have a hard time for some of them to pay back.

This starts to go along at the same time with Greenspan reducing the interest rates, so there was a whole lot of money available for people to put into houses. And probably many realize now when we talk about 2001, 2002, everybody's home values were going up like a skyrocket. Everybody was happy as their house was getting more and more valuable. Just in the 2000s alone, they doubled. And many people took secondary loans on their homes.

So this easy money in combination with the fact that you have now got all of these different speculators jumping into this housing market, and what happened was because of the fact that Freddie and Fannie were playing very, very loose with their rules and regulations, were taking loans. And they wouldn't ask anybody how much money they made. And they wouldn't ask whether they were able to pay or whether they were going to make a downpayment. They said, you want a loan, fine, we will give it to you, because the assumption was that you and I and the American taxpayer would back these Freddie and Fannie loans. But more and more loans were being made to all kinds of people, including speculators, where there was no way they would be able to pay those loans back.

So as the housing bubble burst. All of a sudden these loans started coming due and people were defaulting on their loans, and there were cries of crisis on Wall Street.

An additional fact that was going on here, you have the rating agencies, one of them is known as Standard & Poor's and the other was Moody's, and I believe there was another major rating agency, what they would do, they would look at all of these loans that

came to them, and they would rate them as to how good the loans were. Well, they wouldn't be asked to do any rating if they rated the loans not very good, so these loans were all rated AAA. That means this is good stuff, you can afford to invest in it.

So these loans were sliced and diced. They were sold all over the world, and many different banks and institutions held these loans on their books as an investment.

Well, what started to happen, these investments became of no value. People couldn't pay the loans. They started to realize what had happened was there was an absolute runaway on the loan process and the people that had gotten the loans didn't really have jobs and couldn't really pay off the loans. And so you started to have all of these mortgage-backed securities started to seize up, and the entire credit market started to seize up.

That was last fall, and it was that time when Secretary Paulson approached Members of Congress and said we have a huge crisis on our hands. It is a disaster, and what you all have to do is you have to give me $700 billion. And I would like it in a brown paper bag in unmarked currency, and I would like it in a hurry, too, please. A lot of congressmen were going: $700 billion? So you have the cycle of the first bailout.

Today we come to the second. We have already spent $350-plus billion of that $700 billion, and people could argue whether it has had any significant effect. Certainly it was not spent in a transparent way. Most people don't know if we got anything for our money, but it was a tremendous amount of money that was spent.

So today we come to the floor with the economy still in bad shape. Why is it in bad shape? Well, it is in bad shape for a couple of reasons. First, of these bad loans, only about half of them have come down and different institutions have had to write them off. There is still another half of what are called Alt-As or ARMs, there are two different kinds, that will probably also in the next 2 years be defaulting as well. So we have only drunk about half of the cup of poison of bad loans that were created by liberal policies and an unwillingness to regulate these quasi-governmental agencies.

I would like to call to your attention a New York Times article, not exactly a right-wing oracle, and this article is dated September 11, 2003. It says, ''New agency proposed to oversee Freddie Mac and Fannie Mae.'' So it wasn't like everybody was asleep at the switch. People were starting to wake up in 2003 that Freddie and Fannie were out of control.

The beginning of this article, ''The Bush administration today recommended the most significant regulatory overhaul in the housing finance industry since the savings and loan crisis a decade ago.''

The Bush administration called on Congress to get these wild and woolly loans under control. And so what happened? Well, the Republican Congress passed a bill to do what the President was asking for, to put much tighter regulations on these loans so we are not making a whole lot of loans that are not going to be paid and create a huge crisis as the savings and loan crisis of a decade ago.

Here is an interesting quote in the same article, September 11, 2003. ''These two entities, Fannie Mae and Freddie Mac, are not facing any kind of financial crisis.'' Who said that? Well, ''said Representative Barney Frank of Massachusetts, the ranking Democrat on the Financial Services Committee.''

Who is it that is overseeing this bill that we passed today? It is one and the same.

So in 2003, the Democrat Party, the Democrat ranking Financial Services Committee chairman, he is saying that Freddie and Fannie are not facing any kind of financial crisis. Now there are people who want to say that the economic problems that we are facing show that capitalism isn't any good. This has nothing to do with capitalism. This has everything to do with the practice of telling financial organizations that you must make loans that we know are going to fail. That is not a very smart thing and is not looking very smart now, but this is where we were in 2003.

And the article goes on to say that the opposition to the bill that we passed in the House and Senate was the Democrat Party, and the bill was not passed because we didn't have 60 votes, and so we didn't oversee Freddie and Fannie until the train wreck actually occurred.

So how did we get into the crisis? Well, the simple answer is we got into the crisis because we started to demand that financial institutions accept and make loans to people that really couldn't afford to pay for them.

Now that raises an interesting question. How compassionate is it, how compassionate is it really to be making loans to some family that can't afford their mortgage payments? You have a mom and dad and some kids in some house, and they start arguing and fighting because the mortgage payment is too much for them. And so they get the credit card and the credit card has a high debt level. And so they start to say you shouldn't have spent money because we have this big loan. So how is it compassionate to put someone in a house they can't afford? Yet that is what we were defending and doing, and that is what caused this financial problem.

Now the interesting thing is that people say when America catches cold, the world catches pneumonia. And so this little oversight in assuming that the American taxpayer was going to bail out loans that were made irresponsibly has had worldwide implications and has caused all kinds of trouble in major Wall Street corporations closing up, and banks hunkered down worried about more of these loans that are going to be coming due in the next 2 years.

People are very mad at the banks. They say we gave you all of this bailout money. Why aren't you using it to get the financial service markets up and going? The answer is because we are afraid that when the rest of these things come down, we are going to need this money to cover all of the bad debts that are made.

So that is really the nature of where we are. This is something that is a result of active decisions on the part of people in Congress who are supposed to be, among other things, responsible for keeping an eye on our currency and the solvency of our economy, and we just basically have ignored what was our responsibility.

Now this is not something that you can dump at the feet of Republicans. The President, and once again I want to read this, this was 2003, the article says, ''The Bush administration today recommended the most significant regulatory overhaul in the housing and finance industry since the savings and loan crisis a decade ago.'' This was something that we saw coming and it was something that the other party was unwilling to deal with. So that is how we got to where we are.

Now today, today we adopted spending over $800 billion. Now as I said before, $800 billion, it is hard for many of us to think about how much that is. But we have heard how expensive the Iraq war was, all these past 6 years: ''We can't afford this war in Iraq. We can't afford Afghanistan. That is bleeding us dry.''

So now facing this crisis, what are the solutions we have because it seems like a very dire thing and it certainly is very serious, something that deserves our full attention. What are the different tools that we have to deal with this big mistake that we have been dealt?

Well, there are basically two theories of economics, and one of them is called the Keynesian approach. It is older and has been around since the Great Depression. And the Keynesian approach says that the Federal Government needs to spend some money. If the Federal Government spends a whole lot of money, that will stimulate demand and people will want things and therefore somehow or other we are going to get out of this recession or depression if we just spend enough money with the Federal Government. Well, I guess that was an interesting thought when the budgets were closer to balanced.

But if that were true, we have already spent way more money than we

have as a country. We are already in debt. We should have a great economy if that theory were true because we have already been spending a whole lot of money. But that is the Keynesian approach. It seems by some degrees like the idea of grabbing your shoelaces and lifting up and flying around the room. If we just spend enough, everything will go okay. Can you imagine any American family that would dare to try such a strategy if they were in financial trouble with their family budget? Are they going to spend a whole lot of money and hope that it will make everything okay? I don't think so.

History seems to indicate the same result. When FDR used that approach with the first big recession that came along, he turned it into the Great Depression. He spent a tremendous amount of money on public works projects, and some of them might have been useful, but the net result in the economy was that the recession just kept going year after year after year, and we called it the Great Depression.

Now, he wasn't the only one who tried this. The Japanese tried this in the 1990s, and they basically had an entire decade of lack of productivity and complete stagnant economy in Japan because they did one massive spending bill after another thinking it was going to work to pull them out of a recession, and it just made matters worse and worse and worse.

In contrast to that economic approach is another thing that is typically called supply-side economics, and that is the theory that government really cannot stimulate the economy at all.

□ 2000

The only thing the government can do is tax or not tax. And when it does tax, it can slop money around. But the government cannot actually create wealth whatsoever. It merely can take wealth away from citizens and redistribute it or refuse to take the wealth.

Instead, the supply-side model suggests that the best way to deal with a recession is to try to allow the people who are the inventors, the investors and the various risk-takers and entrepreneurs, allow them to have money to spend on new ways of doing things to build productivity in America. Particularly targeted with this approach would be the small business people, because small business people provide about 80 percent of the jobs in America. So if you have small businesses going strong, people investing in new ways and better ways to do things in small businesses, obviously some of those ideas will succeed or fail. But the result is you drive numbers such as unemployment and the overall productivity of the economy. And this is called a supply-side model.

We have had several examples of the supply-side approach. One of the earlier ones was done by JFK, who was a Democrat, of course. He did a major tax cut. And he did the tax cut in the right areas, and the economy snapped back and responded very favorably. He was followed another number of years later by Ronald Reagan, who did the same thing. He did a very large tax cut. But he made sure that the money got into the hands of the people that are going to be able to create the productivity. And we had a decade of fantastic financial success and productivity in America as a result of Ronald Reagan's tax policies. People made fun of it at the time. They scoffed at him. But the reality was that the economy was very strong.

It was tried again just a few years ago when I was fairly new here in Congress, and that was in the second quarter of 2003. I have some charts here which show what happened. What we did in the second quarter of 2003, which is the vertical black line on a couple of these charts, what we did was, we reduced the taxes of capital gains and dividends. Now what that was calculated to do was to allow the people who were the small business investors, the small business owners and the entrepreneurs, it allowed them to keep more of their money that they earned and plow it back into the small businesses.

And so what was the result of this particular tax cut in the second quarter of 2003? Well, as you can see, this is a picture of gross domestic product. Now we had done some tax cuts in the first couple of years of the Bush administration. But you can see that the gross domestic product averaged about 1.1 percent, but was also up and down. It was pretty spotty. What you see happening here then, as a result of dividends and capital gains where we are pumping money into the small business, into the investors, you see this tremendous increase in gross domestic product running out to 2007 of 3.06 as opposed to 1.1.

Now this tax cut is set to expire before long. But you can see the impact of the supply-side model. We're not the only people who have tried this. The Irish did this. They dropped their taxes on businesses and small businesses, and Ireland has just been booming and is almost an exact opposite model of what happened in Japan.

You might ask, well, what happened with this gross domestic product? That sounds like some sort of a boring government number. How about telling me something about jobs? This is the same time period. You have got May of 2003. These lines going down are job losses. The average loss of jobs per month was 99,000 jobs a month during these earlier years of 2001 and 2002.

Now you take a look at when we do the dividends and capital gains and take a look at the jobs gained. We went from a loss of 99,000-plus jobs lost per month to a gain of 147,000 jobs gained per month. This is an example of the supply-side kind of model. What it is saying is that government should not be spending tons of money.

Government should be cutting back what it's doing. And, in fact, what government should be doing is allowing productivity to take place in the marketplace and allowing the people that own small businesses to make those investments which result then in employment, and it results in better gross domestic product.

But last of all, and this is kind of an interesting idea, take a look at the effect of Federal revenues. Now, it seems to almost make water run uphill when you say, hey, we're going to cut taxes. What would you expect would happen to Federal revenues? Well, you would expect the revenues to go down. If you lower the taxes, you're not going to collect as much money. But that is not what happens. Why is that not what happens?

Well, this is actually the result of Federal revenues. Take a look at where they turned around. Again, the beginning of 2003 and after 2003, after these tax cuts went into place, Federal revenues are going up even though we cut taxes. Now how could that be? How could that happen? How could that be true?

Well, think about it for a minute. Let's just say you are king for the day. And your job is to try and raise as much government revenue as you can to pay for the cost of government. And you're allowed to tax loaves of bread. Now you start to think in your mind, let's see, I could tax 1 penny per loaf and it would hardly be noticed. But then you start adding it up. And you say, I wouldn't get very much money that way.

Then you think, a-ha, I will charge them $100 a loaf. By golly, that will get a lot. But if you tried it, you would say, no, what is going to happen is nobody is going to buy a loaf of bread if you have a $100 tax on it. I will get something else instead.

So common sense would say to tax somewhere between $100 a loaf and a penny a loaf. There is some optimum point where you adjust the tax and you are going to get the maximum amount of revenue.

So what has happened here is that we have taxed our citizens so much money that when we reduce taxes, the result is the economy surges and we end up with actually more tax revenue, which is what actually happened here following 2003. So this is the other approach.

There are two approaches. One is the Keynesian approach, spend tons and tons of money and somehow it is going to make everything better. Or the other one is, no, don't spend a lot of money. Let the money work in the hands of people that can be productive

to build productivity, to build jobs, to build GDP and to allow the Federal revenues to increase.

And so we have these two approaches. Now, today, we had to take a choice, which approach are we going to use? And it was a straight party line vote, at least from the Republican side. Not one Republican supported this Keynesian idea of just slopping a tremendous amount of Federal spending—the money that we don't have, by the way—as if that is going to fix this problem.

So our problem with it is, it was very courteous of the President to stop and pay us a visit yesterday, talk to us about what he wants to do with the economy and plead with us not to make it political. And it is not our objective to make it political. But the President said, but if you think it's not going to work, that is a different matter.

And so I stood up and talked to him. And I said, Mr. President, you have been very courteous talking with us today, but I think you made a couple of bad assumptions; and so my belief is that the package that you are proposing will not work. It is not only not going to work. We can't afford it, and not only can we not afford it, it's going to make matters worse; and here is why.

And so today we had a choice. We had a choice between the Keynesian model of spending a ton of money or the other model, which we proposed, which was not to spend a whole lot of money, but make sure that the money gets back in the hands of the small businessman and to allow American productivity to take place.

Well, as I said in my introduction at the beginning of my comments here tonight, what happened was we just passed an $800-plus billion. That is, once again, take all of the money for the cost of the war in Iraq, take all of the money for the cost of the war in Afghanistan over the past 6 and 7 years, and you put that together, and what do you end up with? You end up with the fact that this bill costs us more than all those wars. And that is on top of this big bailout from just a couple of months ago.

Can our economy handle that? What that does is it puts us more into debt than we were during World War II. As a percentage of our overall budget, we're getting close to 10 percent debt, whereas in World War II, we were looking at 6 percent.

I'm joined here by a good friend of mine, my colleague from just over in Iowa, just a State or so away from the great State of Missouri, and he is going to be joining us in just a minute to talk a little bit about his perspective on this absolutely incredible bill that we have just passed today.

So I would yield to the gentleman from Iowa.

If you would like to jump in here and tell me, what do you think about the fact that we just—I mean, I almost have to pinch myself, gentlemen, to think that just standing here a couple of hours ago, we just voted to spend $800 billion more than the cost of the war in Iraq and Afghanistan. There are other ways to look at that number.

Would you like to jump in?

Mr. KING of Iowa. I would like to thank the gentleman from Missouri for taking the lead on this and giving me the privilege to join with you here on the floor to say a few words.

I would take that $825 billion, and I would add to that the number, which I believe is $347 billion, which are interest costs as we calculate here over the next 10 years; and it takes this cost to $1.1 trillion plus another more than $1.1 trillion. And as I look at this—and I heard some of the gentleman's remarks—I would just submit this question that I can only come to one conclusion when I ask it, and that is, what is the most colossal mistake the United States Congress has made in the history of America? And how would we measure that?

Have they passed a policy that sends us down a path that we couldn't get back from? Have we declared an unjust war? Have we spent so much money or created so many government programs that there is no way to ever set up the politics to repeal them again, nor is there a way for a free-market economy to ever fund them? And has it done so much as diminish the independent spirit of the American people that they slow down or cease to produce?

And I can come to only one answer on that. The most colossal mistake in the history of Congress that I can come up with in a quick inspection of my recollection of history is this mistake made today, this very idea that we can spend money, and we can spend our children's and grandchildren's money and, for all we know, our great- and great-great-great grandchildren's money. There is no prospect of ever getting out of this debt. And the proponents of this, as it is described, ''stimulus plan,'' neither will they predict a result that will come if they follow through on the spending that is designed.

We know that a minimal amount of this money will be spent in this fiscal year or this calendar year. I think the number is 12 percent. As it happens it's a coincidental number. I remember it because there were some of FDR's programs that of the millions that were invested there during the New Deal, only 12 percent made their way actually to the ground into projects, and the balance of that, the balance of the 88 percent was just sucked up and drained out for the cost of government administration and inefficiencies to come.

One of the theories that I think has some validity to it, and I subscribe to it almost totally, and that is that if the private sector doesn't do it, chances are it is not a viable economic model. So how can government come along and take an unviable economic model and prop it up with the fruits of someone's productive labor—because that is what taxes are, they are the fruits of someone's productive labor—and drain them off and take them away from the producer and put them into government programs that have already been demonstrated not to work?

And they can't describe for me an historic model of this Keynesian approach of being able to stimulate economy by massive government spending and show me the results. And the most obvious one is the Great Depression.

Mr. AKIN. Of course, in the Great Depression, you took a recession and turned it into a Great Depression and it just kept going and going and going.

Because what they are doing is they are vacuum cleaning all of the money out of the economy for Federal jobs programs, supposedly creating jobs and starving the very productive sector of the economy that could be solving the problem.

Mr. KING of Iowa. And as an engineer, you understand this analytically. If the gentleman from Missouri were a trained economist, you might just understand it esoterically. For me, I understand it from the perspective of one who has started a business with no capital, a negative net worth. For 28 years, I ground my way through establishing a business in a free-market economy. And I made my living off of low bids in the construction business. We know what it's like to compete, but government doesn't seem to understand this.

Look back at the track record of the New Deal in the 1930s. And I represent the State from which Herbert Hoover originated. He was a brilliant man. And I will defend him on a lot of fronts.

□ 2015

But his success, I think, at some point gave him a level of overconfidence where he started us down a path of Smoot-Hawley, trade protection, tax increases, and the barriers to free market that set the stage for FDR to be elected in almost the same scenario as President Obama was elected in an economic crisis situation.

And then, we see almost the same scenario with President Obama as we have seen with FDR, create and grow huge government programs under the belief that there's going to be a solution there. And I would challenge this administration—now, maybe in the thirties FDR didn't have the model, he couldn't look back on the Great Depression and see where somebody else really went wrong. But I would challenge this administration to point to this Great Depression and show me where the New Deal actually did anything to help our economy recover. I'll

say that can't be proven, even by the Keynesian economist, even by those people that voted for this classic boondoggle today.

Mr. AKIN. If you allow me——

Mr. KING of Iowa. I yield back.

Mr. AKIN.—to just reclaim my time for just a minute, it seems that we have quite a number of different historic models to look at now where the Keynesian approach of big government spending has fallen on its face. It was not just the Great Depression, it was also Japan. And if you really want to say that, you could also quote America right now, because we have spent way more money than we should have spent, and yet our economy is not so strong. So if the theory is spend a whole lot of money you don't have, it should have worked by now because we've been practicing that more than I wish we had as a Republican conservative.

And so there are models. And yet at the other end there are models showing what you're saying, that productivity of the businessman in America is what really works. It happened that productivity of businessmen in Ireland really worked very well. You could almost contrast Ireland and Japan using the two different approaches. And as you know, gentlemen, you've had the responsibility of meeting payroll and running a small business, the discipline that's required to do that. And you also have the satisfaction of seeing a worthwhile product that is added to the market and is there for some period of time because of the fact that you have enriched Americans through the work of your business.

Mr. KING of Iowa. If the gentleman would yield. In the last visit I made to take a look at the economics in Ireland, they informed me that there were 560 American companies that were domiciled to do business in Ireland. Many of them were attracted there by a 10-year suspension of corporate income tax which the EU found to be a little bit too difficult to compete against, and so they used leverage and took it up to—I believe the number is 13.5 percent. But still, many foreign companies took their business and set their operations up in Ireland for the favorable tax scenario.

Mr. AKIN. If the gentleman would yield, are you saying that originally Ireland was going to get rid of all income taxes on corporations to encourage them to locate there and to work their free enterprise magic there, if you would; is that what you're saying?

Mr. KING of Iowa. Is the gentleman yielding?

Mr. AKIN. Yes, I do yield.

Mr. KING of Iowa. That the policy in Ireland some years ago, as I recall it, was that they would suspend income tax on a company that would move to Ireland for a period of 10 years, get them established and in order to track them. And it worked very well. And it turned something around that Ireland's greatest export 25 years ago was young, well-educated people. They would raise their children, send them off to school and college—many of them with graduate degrees—then they would go across the rest of the world to apply their trade because the economy in Ireland was a shrinking economy.

And business and labor understood that you have to have profitable corporations or otherwise there won't be jobs for the skilled employees or the blue collars. So they came together in agreement, both the unions and business, to propose this policy which then was leveraged into—I'll call it a flat corporate tax by the EU's leverage that they used.

I yield back.

Mr. AKIN. Well, it's just a treat to have you here and to bring that free enterprise perspective that you have. And there is something that just seems kind of amazing to me in a way, the irony in a way, of the fact that this whole problem with the economy that we're dealing with, even now and for the last couple of years, is the result of people that were liberal Democrats unwilling to regulate Freddie and Fannie. And that's recorded right on the old New York Times. The President says, You've got to get these wild-and-wooly loans under control. They said we're not going to do it. And boy it hit the fan.

And it seems to me there's an ironic twist that this quote that I put up earlier, the chairman, the current chairman of the Financial Services Committee—who is now tasked with getting us out of this problem—there's a certain irony in the fact that this is the guy that makes the quote, ''These two entities, Fannie Mae and Freddie Mac, are not facing any kind of financial crisis,'' said Representative BARNEY FRANKS of Massachusetts, the ranking Democrat on the Financial Services Committee. It seems ironic to me that he makes that statement, the whole top blows off everything, and now he's in charge of fixing this thing. The thing that concerns me is is the way he's going to fix it is going to make it worse. And what we've done here today is we've spent more money than we spent in Afghanistan and in Iraq over the last 6 and 7 years, and we did it hardly with a blink of an eye.

Mr. KING of Iowa. If the gentleman would yield.

Mr. AKIN. Yes, I do yield.

Mr. KING of Iowa. I thank the gentleman.

And looking at the poster there of September 11, 2003, second anniversary of the attack on the United States, and then 2 years later and a few days, October 26, 2005, Congressman Jim Leach offered an amendment on the floor on a Financial Services bill that would have required Fannie Mae and Freddie Mac to undergo the same kind of capitalization requirements of other lending institutions and the same kind of regulatory requirements of other lending institutions. And the same individual, the chairman of the Financial Services Committee here today, came to the floor and right over here challenged that amendment and argued that no one was saying that Fannie and Freddie were in trouble, that they needed to be regulated, that there was a problem with their liquidity, that this was simply an attack on Fannie and Freddie, and he was successful in his debate. That amendment failed. And so you know that there have been several efforts in this Congress to try to bring Fannie and Freddie under a regulatory guideline by Republicans, fought off consistently by Democrats in this House of Representatives. And I yield back.

Mr. AKIN. And of course the Democrats are in charge. They got 60 percent of the votes today. They passed a really historic—it puts America into uncharted waters. And it was a very bold stroke on their part, but I'm arguing not as a Republican, but simply as an American, that the stroke that was taken is going to cause a whole lot of trouble.

I really appreciate if you could stick with us. We are joined also by a very respected Congressman, Congressman CASSIDY from Louisiana. And we're just delighted to have you here with us this evening and talking about some really boxcar size numbers, really some unprecedented times that we are going through here.

And this particular solution that was passed today without any Republican votes in favor of it just makes the Marshall Plan look like child's play, even when you adjust it for current value of money.

But Congressman CASSIDY, please jump in. I yield.

Mr. CASSIDY. You know, I was just kind of sitting in my office, kind of sitting there staring at the Capitol dome, kind of frustrated. And I came to Washington—I'm a freshman, this is my first talk—and I came not to oppose what Democrats do automatically because they're Democrats, I came to try and do something good for my country.

And the remarkable thing is there is an incredible amount of agreement between the two parties. We agree the economy is in trouble. We agree that the government can do something to make it better. We agree that tax cuts and infrastructure can create jobs. And I'm sitting there thinking, man, we've got so much we agree on, why don't we just pull it together and pass a bill? And yet, where we disagree is whether or not discretionary spending—you know, stuff that doesn't create jobs, but folks want to get it—whether that should be included in the bill.

And so I'm sitting there thinking, wait a second, we can consider that in a spending bill, why do we have to put it in this? And as a Republican, I have to say that I don't think we should, and I don't think we should for at least three reasons. First, we said we're going to have a bill that creates jobs, and this is about discretionary spending. The second thing that just kind of disturbs me, as you have spoken about so——

Mr. AKIN. Congressman CASSIDY, I think you're going pretty quickly here, and I think there may be some that aren't catching the implications of what you're saying.

What you're saying is, this bill is not really stimulus at all, it's simply putting more money into things that we normally budget anyway. Is that what you're saying?

Mr. CASSIDY. You know what this bill is like? When my wife sends me to Wal-Mart and tells me to buy bread and milk, and instead of coming home with bread and milk, I come home with CDs, I come home with DVD players, and I come home with all this stuff that actually I've had my eye on for a long time. And when she finally sends me to Wal-Mart, I get to get what I want. And yet, really what's important to my family is that I come home with bread and milk.

Mr. AKIN. Excuse me to the gentleman. The parallel then would be, what we should be coming home with is not bread and milk, but jobs for the economy; is that right?

Mr. CASSIDY. Exactly. And we should not be running up our credit card bill to get the DVD player and the iPod and that other stuff that is purely discretionary. You know, we have a credit card debt here which we're eventually going to have to address.

And so, there are three reasons why I don't think we should do this. One, we said we're going to do a job bill and we're doing something more than that. Two, there's going to be a $1.2 trillion price tag on much of which is not related to job stimulation. And you know what the third thing is? I'm 50 years old, but I'm still kind of a young idealist. I thought those people at home heard ''a change you can believe in'' and ''yes, we can,'' and they thought that this was a new era of politics. And yet, if I may point out to the gentleman, it almost seems as if we've taken those two phrases, which hold so much promise, and we're making them out to be nothing but cheap political slogans. We say we're going to give you a job bill, and instead we give you a discretionary spending bill. We say we're going for jobs, and instead we go for that which is—maybe important, but certainly not related to job creation.

Mr. AKIN. Could I reclaim my time on that point?

One of the things that you might think of is, if you're talking about jobs, one thing that might occur to you is that, depending on what you call a small business, 50 percent of the jobs are companies that have less than 100 employees, or if you consider a small company bigger than that, 80 percent of the jobs in America are small business. So wouldn't you think, if you were really coming home—using your analogy with the bread and the milk, if you're really coming home with jobs for America, don't you think you would have some provision in there for particularly small businesses? And yet this bill, for every dollar in there for small businesses they've got $4 for seeding and sodding the Capital Mall. That seems like a weird set of priorities. And I see your analogy to the DVDs, and I would yield back to my good friend from Louisiana.

Mr. CASSIDY. Yes. I think that, again, what we agree on is that tax cuts—particularly for individuals and small businesses—infrastructure, that can create jobs. If we could just focus on that, we would have a bipartisan bill that all of America could sign onto, and no one would wake up and suddenly feel like there's been a bait and switch; rather, they would say this is what we asked for, this is what we've been given, now let's see the benefit.

And as a personal observation of my very first speech, I would ask that we, as both parties, give the American people what we truly said we would as opposed to something which is more than we said we are.

Mr. AKIN. Well, reclaiming my time, I believe the people of Louisiana are probably watching one of their newest sons with his experience on the floor. You know, there's something fresh about somebody coming in here that hasn't been, in a way, influenced by all of the pressures and everything that Washington may try to exert on someone. And it sounds to me like you're talking just plain old American common sense. And I think an awful lot of Americans don't want Republicans and Democrats and all that stuff going on, they want solutions to problems.

What we have today is basically a 10-year-old shopping list that has nothing to do with real genuine stimulus because that has to come from the private sector. And this bill does everything to harm that because it's taking money out of the economy, it's spending money at an unprecedented rate. And I just think that you are so much on target and your common sense—obviously you may be new to Congress, but you're not new to what's going on in the world. And it's just a treat to have you here. I hope you will stick with us, and we will continue this as a little bit of a dinner table kind of conversation.

I notice that we're also joined by a good friend of mine from Georgia, a medical doctor, someone that has already risen to be highly respected among Congressmen. And I would yield to the gentleman from Georgia.

Mr. BROUN of Georgia. Well, I thank the gentleman for yielding.

You know, Mr. AKIN, as we dealt with this issue, I think there are a lot of Democrats around this country who want the same thing that we do, and that's jobs. But I think they've been sold a bill of goods by Speaker PELOSI and the liberal leadership in this House and in the Senate too, as well as what President Obama is promoting. Because, in my opinion, this bill is not going to create jobs.

□ 2030

It may create some government jobs, but, actually, as you said, what it actually does is take money out of the economy. It takes away from those who are producing and it gives to government. And what it does is it creates a bigger government that's not going to ever go away.

This is a huge leap towards socialism in our country. To give my picture of this, this is a steamroll of socialism. It's a steamroll of socialism that's being forced down the throats of the American people and down the throats of most Democrats and Republicans alike in this House.

Mr. AKIN. If I could reclaim my time for just a minute, those are strong words that you're saying, and yet there is an element of truth to what you're saying because, first of all, we're taking advantage of a crisis that people know is a crisis and we're exploiting the crisis to push a solution which is a big government solution. This money is being placed into places in the budget which once those things are jacked up, nobody is willing to touch. So basically what you're doing is you're taking these entitlement programs and you're inflating them and you're increasing the rate at which essentially the government is going to grow beyond the ability of the American taxpayer or the economy to finance it. Essentially, when the government gets that big, we start to think in terms of words like ''socialism,'' even though that's a strong expression.

But I yield back. I just thought you were making some interesting points.

Mr. BROUN of Georgia. If we were to engage in a colloquy, I would enjoy doing that if the gentleman will agree.

I use those words not unguardedly because I see this as a huge leap towards socialism as a Nation. It's creating new government programs. It's creating new government jobs that don't have any sunlight to those programs, to those jobs. It expands programs that are already there.

Some of the tax relief, I believe and hope the gentleman will agree with me, actually just furthers, through the refundable tax credits, a dependency upon government. My friend Star Parker wrote a book one time that she

called ''Uncle Sam's Plantation.'' And what this does is it economically enslaves people, and that's what we see happening.

I agree that this is strong, but I believe that it is appropriate. I believe it is absolutely correct because I see this as a huge grab of power away from the private sector, away from small business, small business that creates jobs. I see this as a huge grab of dollars from the producers to bring it here to Washington and put it in the hands of government so that they can dole it out as they please.

I appreciate your leadership in bringing this to the floor tonight, but don't you think that the American people are wise enough that they can see really what's happening here? We all know that we have to do something about our economy.

Mr. AKIN. Reclaiming my time, I think you've raised an interesting question, and I think the American public is probably watching this far more closely than a lot of Washington insiders may think. And when the American public understands the size and the scope of what we are dealing with, we're looking here, this bill is 33 percent larger than all of our spending on Social Security.

Mr. BROUN of Georgia. This is the biggest grab of social spending, our biggest budget bill we have ever faced in the Congress, I believe. Do you know of any bigger?

Mr. AKIN. This is 33.4 percent more than we spend on defense in this country. There's a reason for us to have a sense of urgency and to use strong language. To me, this is a bridge to bankruptcy is the way I would put it.

I yield to the gentleman from Georgia.

Mr. BROUN of Georgia. I think you're exactly right, Mr. AKIN. I think it is a bridge to bankruptcy. In fact, I believe in my heart, without question, that this is going to delay a recovery. I think it very potentially is going to force us into a deep depression in this Nation because of this so-called stimulus bill. I call it a nonstimulus bill because I don't think it's going to stimulate the economy.

Let me ask you a question. I know in my office, I'm not sure we had even one call supporting this bill, and I think most offices got a lot of calls in their office.

Mr. AKIN. Reclaiming my time, that's a good question. We received hundreds of calls. Almost all of them were completely against this massive, massive spending.

I note, though, that we've also been joined by the very distinguished judge from Texas noted for his wit and his good common sense.

Congressman GOHMERT, I would yield to you if you have a comment that you would like to make.

Mr. GOHMERT. I appreciate the gentleman's yielding. Obviously he was mistaking me for TED POE, but I appreciate the comments.

Mr. BROUN of Georgia. Judge CARTER too, Judge.

Mr. GOHMERT. That's right.

One of the things that really breaks my heart, though, about all of this, we can talk about it from a lofty level here in the second floor of the U.S. Capitol, but the truth is during the Bush terms of office, Republicans went from a time when they were the ones that balanced the budget in the 1990s, and they moved to a time when there was just euphoria. Yes, tax cuts happened, and as a result, record revenues just poured into the U.S. Treasury in greater amounts than ever before. It wasn't the tax cuts that were a problem. It wasn't the record revenue coming in. We, and it was before I got here, but we were spending too much money. In my first 2 years here beginning in January of 2005, we were spending too much money. It was a problem. We were not reining in money. And as a result, by November of 2006, people were sick of it. It was irresponsible, and it was so grossly unfair to our children and the generations to follow us, we got voted out of the majority. And Democrats talked about our irresponsible spending, that we were running up the deficit and it was so unfair to the children, according to the Democrats at that time. And the voters said, you're right, these Republicans have lost their way, get them out of the majority.

And now here we've seen with the Democratic majority, about an 80-vote margin in the House, a Democrat majority in the Senate, in a week's time, there has been $1.2 trillion in allocations above the budget. That's the same amount that all American income taxpayers will pay in for personal income tax for 2008. We'd have been better off telling everybody that paid individual taxes in America for the whole year you get all your money back.

Mr. AKIN. Reclaiming my time for just a minute, what you were just saying is today—it wasn't quite the snap of a finger. It was 15 minutes. It was a 15-minute vote. We spent the entire money that's going to be collected in tax revenue from America for the year 2008.

I yield to the gentleman.

Mr. GOHMERT. I appreciate the gentleman's yielding. When you add the $350 billion that was just last week, then that gets you there.

But the thing is, as a judge, my friend Judge CARTER, Judge POE, we have sentenced people who have done irresponsible and just really unconscionable things to their children. We have sent them to prison. And here in this body has so loaded up our children and our grandchildren with debt that it is unconscionable. We're out here just throwing money around, and they're going to have to take care of that debt.

They didn't get the message. They told America, you put us in the majority and we will be more responsible. And what they have done is multiplied the irresponsibility, and it's heartbreaking.

The only reason we don't already have a runaway inflation with the kind of money that's been spent and printed and borrowed is because fuel went down by more than 50 percent. As fuel goes up for the summer, we're going to have runaway inflation, and nations have fallen for that reason.

Mr. BROUN of Georgia. Will the gentleman yield?

Mr. AKIN. I yield to the gentleman from Georgia.

Mr. BROUN of Georgia. I just want to ask a question.

I know you introduced a bill that I was a cosponsor of that would give people a 2-month tax holiday that would actually put money back in the hands of people.

Did you get any positive response from the Speaker, from the Democratic majority to allow that to even go forward?

Mr. AKIN. I yield to the gentleman from Texas.

Mr. GOHMERT. I appreciate the gentleman's yielding.

Actually, I got a number of positive inquiries from some of our Blue Dog friends. But as far as from the Speaker, there has been no interest in bringing it to the floor.

When I met President Obama yesterday, I brought it up to him and I said, This does everything you promised, giving a tax cut to everybody. I said, It doesn't have the $250,000 cap on income. We could add that. It does what you promised better than anything.

He said, Wow, have you talked to Larry? He was talking about Larry Summers, who was standing right there.

I said, No, I haven't.

He said, You guys need to talk.

Mr. AKIN. Gentlemen, I think we are done with our 1 hour. I'd also like to recognize the good judge from Texas and appreciate your stopping in. We will try to fit people in again. We will have this discussion, I believe, next week.

Mr. BROUN of Georgia. And Congressman WESTMORELAND is here also. He was here to join us also.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a Concurrent Resolution of the House of the following title:

H. Con. Res. 26. Concurrent resolution providing for an adjournment of the House.

The message also announced that pursuant to Public Law 96–114, as amended, the Chair, on behalf of the Majority Leader, appoints the following individual to the Congressional Award Board:

Rodney Slater of the District of Columbia.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senator as Chairman to the Mexico-United States Interparliamentary Group conference for the One Hundred Eleventh Congress:

The Senator from Connecticut (Mr. DODD).

INCOME TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes.

Mr. CARTER. Mr. Speaker, I appreciate being recognized.

I sure enjoyed hearing from my colleagues talking about the work of the day in, I think, a very accurate way.

I'm here tonight to talk about, I think, correcting some potential inequities.

I'm very blessed in my life. I spent 10 years practicing law in the town of Round Rock, Texas, in Williamson County, at that time a small town where a lawyer in that town pretty well did anything that walked in the door, from criminal cases all the way down to property tax cases. And I had a lot of clients back in those days that were in small businesses or who might be individuals who sometimes, I would say, unintentionally failed to pay some of the taxes they owed to the IRS. And inevitably when those things would happen, they would receive from the IRS a notice that they had failed to pay their taxes or failed to file their income tax or failed to pay payroll taxes that they should have paid. And these clients would come running to a lawyer.

At that time I was only one of two lawyers in town and never claimed to be a tax expert. But I could read the form that told us what they needed to do, and we could get them with a CPA, and they would get their taxes filed. And they would receive a notice from the IRS which would tell them that they would have to pay penalties and interest on this particular sum of money, whatever it may be. It might have been relatively small. But if the time period had been long, the penalties would be very horrendous. They would be very fierce. Sometimes over a period of time of, say, 8 or 10 years of failure to pay, you might see the penalties and interest be two, three, four times what the actual taxes were that were owed by the individual.

If it happened to be payroll taxes, I will tell you that, by my experience in those days, they would threaten to padlock businesses and put people in prison for that, for failing to pay payroll taxes, because, actually, that was other people's money that they withhold held and didn't pay and didn't pay their matching share. So the IRS would get very mad about failing to pay payroll taxes.

But they would also be a little bit upset about failing to pay income taxes and threaten similar actions, mostly padlocking businesses and seizing assets.

It was possible to go talk with the IRS, and you could sometimes negotiate those penalties and interest. But I never saw them not assess them in my period of time that I did that.

After the 10 years of practicing law, I spent 20 years as a general jurisdiction district judge in Texas, which is the highest trial court in Texas, and I tried a wide variety of cases, some of which was family law. I tried a tremendous amount of family law cases, somewhere in the neighborhood of 20,000 over that 20-year period of time.

□ 2045

I also tried criminal cases and so forth. In many family law cases, one of the issues when you are trying to guide assets, you would also be dividing liabilities, and one of the liabilities you would inevitably see would be failure to pay taxes or being late on taxes or failing to file taxes. So we dealt with this same issue, and I can report to this body that by my experience, the failure to pay those taxes always seemed to result in a letter from the IRS assessing penalties and interest for failure to pay.

Now, I raise this issue because I think it's important that we have fairness that everyone be treated fairly in this country. And so many will recall that it was reported by a Member of Congress on this House floor about 4 or 5 months ago, one of our Members, a very well respected, highly respected Member of this body, told us that he had failed to pay his taxes for a period of 10 years on a rental property in the Dominican Republic. And he reported that he was going through his people, he was going to discuss with the IRS the payment of these taxes, and he was going to pay his taxes.

He has since reported that he has paid his taxes to the tune of somewhere near the sum of $10,000. He also has reported that he has not paid any penalties and interest because no penalties and interest have been assessed.

Now, this struck me as very strange. By my experience and having dealt with it, I am not saying I did this full time every day, but you know, I think most Americans know, if they have been through anything, they have dealt with the IRS, the IRS is pretty proud of assessing penalties and interest. They like that a whole lot.

And so, to me, it was at first curious that this person, who is very directly related to the taxing system of the United States, has, in fact, not been even assessed any penalties and interest. I thought, you know, we serve in this body here because a bunch of people back home actually said we would like you to represent us in Washington, and we think you think like we do, and so they vote for you, and they give you this job.

But at least in my personal opinion, that makes us no different from them, other than we are kind of hired to speak for them up here as the best we can, and I think that's what we are here for. But we certainly, by the nature of our employment in the House of Representatives, should not receive any special treatment above and beyond the same special treatment that would be available to every American citizen, every American taxpayer.

So I have introduced a bill today which would basically say that because no penalties and interest were assessed against a Member of this House, that, in fact, we have equal treatment under the law, which is one of our constitutional rights. We would allow people to claim that same right not to pay penalties and interest if they hadn't paid their taxes.

This bill has got a name, and we call it the Rangel rule.

I would hope that people would take it in the light that it is set. It is not criticism in any way of any Member of this House. In fact, if it's criticism of anything, it's criticism of the IRS of the United States for failure to treat people equally under the law. And so I raise this issue because, in fact, that's what I seek here by this legislation, equal treatment under the law.

That club owner that I was well aware of back in the 1970s who constantly was having trouble with the IRS—and he is dead now, so I am not going to use his name; but I represented him before the IRS a half a dozen times, and we battled tooth and nail and borrowed money to pay that principal, interest and penalty that he had to pay.

He, if there is someone that's given special consideration, then that man should have been given special consideration. And that's why I have introduced this bill which basically says that if you have failed to pay your taxes and you are willing to pay the taxes, and you don't want penalties and interest assessed against you, then you can claim the Rangel rule, and you won't have penalties and interest assessed against you, according to the law.

That's what we are doing here today. We are not doing it out of any malice, we are only doing it because we think it's fair for the American people.

I am joined by some of my colleagues here. I will first yield, I think, to my friend from Iowa (Mr. KING) since he is down on the floor and let him give us some comments.

Mr. KING of Iowa. I thank the gentleman from Texas, one of the stellar judges that come from Texas and the only State I know that delivers judges into this body, but I am glad to have you all as my allies. As I listened to his presentation, I know that it's delivered from the voice of experience, in having dealt with those kinds of inequities, and I just think that the language in this bill is so clean and so pure that it's important, Mr. Speaker, that the public actually hear it with this level of clarity.

Any individual who is a citizen of the United States—and it's important that citizens are the ones that take advantage of this—and who writes ''Rangel rule'' on top of the first page of the return of tax imposed by chapter one for any taxable year, shall be exempt from any requirement to pay any interest and from any penalty, addition to tax, or additional amount with respect to such return.

Very simple. Our Founding Fathers could have written something like this, and everybody can read it and understand it. It arises from the situations that have been discussed in that there seems to be one set of laws for one set of people and a set of exemptions for other folks that are very well and highly collected. And the list of things that have been raised from an ethical standpoint question in this House is getting longer and longer.

I remember the effort in 2003, 2004, 2005, 2006 that this was going to become, under the new majority, which now is more than 2 years old, the most ethical Congress in history, the most open, the most democratic Congress in history. That would be the current Speaker of the House, Mr. Assigned Speaker.

I don't know that that has emerged, but I can tell you what has emerged: a dysfunctional Ethics Committee that doesn't take up anything, won't address anything. And by lack of virtue of such lack of action, we end up with a body that's continuing to pick up more and more cases that the public needs to hear about because the Ethics Committee is not, or at least they are not dealing with it.

A question that comes to me as I listen to this presentation from Judge Carter from Texas is that, should this bill become law—and I am a cosponsor of this bill; I certainly support it, I support the concept behind it. Should this bill become law, would it be, then, something that the Secretary of the Treasury could take advantage of when he finds that he wasn't thorough enough when he examined his taxes on TurboTax.

Mr. CARTER. Actually, I point that out in the spirit of bipartisanship and working together, yes, very much, although I understand that the now-Secretary of the Treasury, designee of the new administration, has, in fact, paid the interest on this amount, but no penalties have been assessed. Yes, he could claim this very rule to have the penalties waived should this be enacted into law.

Of course, I would urge the committees of jurisdiction to move forward on this very quickly, so we can treat every American citizen fairly under the rule. In fact, even Mrs. Kennedy's issues on her nanny, that seemed to prevent her to being a possible candidate for the United States Senate, that also might fall under the Rangel rule and those issues could also be addressed.

So, yes, certainly we, some of our colleagues on the other side of the aisle could benefit from this.

Mr. KING of Iowa. I appreciate that perspective and the accuracy from that. It seems as though our Secretary of the Treasury, Mr. Geithner, was able to establish a negotiated settlement on his back taxes, too.

His negotiated settlement was that if he would pay—under the course of the audit, if he would pay the back taxes and the interest, then there was a waiver of the penalty. And I am hearing that if you haven't had a lot of experience with the waiver or the penalty when it comes to dealing with the IRS—and I know that they can come along and be a Monday morning quarterback about at any time, and they can make some subjective decisions about what you should or should not have claimed for your income or expenses; and then if you are not able to lay out the payment in a timely fashion, they can do a lot of things.

Your house is not preserved for that kind of protection, they can assign a new title to your car and sell it and apply it to your tax liability.

But in the case of our Treasurer, he was able to apparently negotiate a waiver of the penalty and just pay the principal and the interest and, indeed, having been, in advance, reimbursed for the taxes that he knew he had liability. So as he signed the form and agreed that he would pay the taxes—and there were several notices; I believe the notices came out quarterly—that he would be liable for his own payroll taxes, but if he applied for their reimbursement, he would receive a check for reimbursement for his payroll taxes, took the check for the reimbursement for the payroll taxes, cashed the money and didn't pay the taxes on the payroll taxes.

There isn't any deniable argument that can be made—you had to be thoroughly aware of that—and yet he got a pass from the IRS; and my recollection on the years is, that audit was for 2003 and 2004. The statute of limitations didn't go back to 2001 and 2002, but the vetting process did go back to 2001 and 2002, and even only then did he go back to pay those taxes and interest, not penalty.

And we have the situation now where we have a Secretary of the Treasury who has been—what's the nicest word—''resistant'' towards paying taxes that he has actually been paid in advance to pay. And we have a chairman of the Ways and Means Committee that has a whole stream of tax situations that are unanswered, unaddressed; and we are going to ask the American people to pay more taxes and off the floor of this House today, $1.1 trillion and maybe the largest, the most colossal, mistake made by the United States Congress.

We have got to go back, I have got to ask my constituents, you have to write a check to pay your income taxes, but that isn't something that the chairman of the Ways and Means Committee feels the obligation to do, or the Secretary of the Treasury who runs the IRS feels the obligation to do; and neither is there anybody there to grant a pardon to the folks from my district who are locked up in Federal penitentiaries today for failure to do similar things and not complying to the letter of the IRS law.

So I have a significant amount of frustration that builds, and I appreciate the judge's approach to this in that we are all equal under the law, and if we don't have a law that addresses each of us equally with a reasonable prospect of that enforcement on any one of us, that any American has the same excuse. That's why the Rangel rule is a good proposal that treats us all the same.

Mr. CARTER. I would like now to hear from my friend from Georgia (Mr. WESTMORELAND) who has been patiently here waiting to speak. I yield such time as you might consume.

Mr. WESTMORELAND. I thank my good friends from Texas and from Iowa. I could listen to you all night because you bring a lot of common sense to this floor. I think the American people were looking for a change in Washington and thought maybe they had gotten one. I don't know.

To go back, Judge, to what you were talking about, the most open, honest, ethical Congress is what Speaker PELOSI and the Democratic-then-to-be, soon-to-be majority in the 2006 election cycle promised the American people.

But, you know, I watch Scooby-Doo sometimes with my grandchildren, and when Scooby-Doo runs into some type of expected challenge or something, he goes ''ruh roh.'' Well, there have been some ''ruh rohs'' lately at what's been going on here, because this most open, honest, ethical Congress has hit several ''ruh rohs.''

This is just one of them, because I think you were being kind of candid, the gentleman from Texas was being kind of candid when he said this certain gentleman has some influence over the IRS. He is actually chairman of the Ways and Means Committee who writes all the tax laws for this House.

So that's a little bit of a significant position.

I, like the Judge and the gentleman from Iowa have known cases where, or at least every case I have ever heard is when you get a bill for your back taxes, it includes not only the taxes that you owe, but the penalty that they are charging or assessing you and the interest.

Now, I am not to say that that's not negotiable at some point in time, that you can't work something out, but I have never just seen, after forgetting that you own something for 10 years, and not realizing that you need to pay tax on it, and not understanding the tax laws that you are responsible for writing, that they just go, Oh, well, don't worry about it. Just pay the back taxes.

But I wanted to speak, if I could, Judge. There have been a couple more ''ruh rohs'' that we have run into.

President Obama, in 2007, in November, was campaigning in Orangeburg, South Carolina. He made a statement, ''I have done more to take on lobbyists than any other candidate in this race. I don't take a dime of their money, and when I am President, they won't find a job in my White House.''

□ 2100

''Ruh roh.'' Because we have got to look at Mr. Geithner because he had a little tax problem too. But this tax problem that he had, the new Secretary of the Treasury, was actually a self-employment tax trust.

But he also hit a little ''ruh roh'' with his nominee for Deputy Secretary of Defense, the gentleman that was a lobbyist for Raytheon. Raytheon does about $18 billion worth of business a year with the Pentagon. This gentleman owns about anywhere from $500,000 to $1 million in stock. He has unvested restricted stock of about $250,000 to $500,000. But he was given a waiver for this rule about lobbyists not working in the White House. President Obama gave him a waiver.

So you can think well, you know, maybe once you need a waiver. But then we come up on Mr. Geithner's Chief of Staff, Mr. Patterson. ''Ruh roh.'' A registered lobbyist. Is he going to get a waiver? His company, Goldman Sachs, is a firm that has gotten a bunch of money in the bailout. He has reportedly made quite a large sum of money. He has lobbied Congress on legislation including energy tax credits, Indian gaming. Wasn't that the same thing that Jack Abramoff—Indian gaming. That was a big problem. And those were according to his own financial reports.

And I will yield back to the gentleman from Texas, but there are many more of these ''ruh rohs'' that we have hit already, and I think that we are going to continue to hit them the more that we find out because it seems to be that some of the cover is coming off of some of this stuff and some of the hope and change is getting to be more like business as usual.

The most ethical Congress is turning into something totally different. Hope and change is turning into something different than what the American people thought that they were promised.

So I will yield back to the gentleman from Texas.

Mr. CARTER. I thank you for your comments. Your ''ruh rohs,'' this was very interesting. One of the things I was thinking about too, we had a very unusual procedure take place. When the gentleman I was describing was speaking on the floor, he announced that he was going to turn himself in to the Ethics Committee.

Well, so that we understand exactly what the Ethics Committee is, they are very noble people who serve a very tough job in this House because they have to look into issues concerning their colleagues. I have a high respect for people who are willing to serve on the Ethics Committee.

But the reality of the Ethics Committee in this House is that it has an equal number of Republicans and Democrats on that committee. So if everybody just sticks with their party, then things seem to have a deadlock time quite often in the ethics committee. In fact, for most of the time since I have been in Congress, the Ethics Committee has been deadlocked. I am going into my fourth term in Congress.

So I would say that turning yourself in to the Ethics Committee would be sort of like someone turning themselves in to the grand jury when the grand jury is not going to function. And so that shouldn't be a defense. We shouldn't have that kind of defense for actions that take place in this House, that, Oh, I will step up in front of everybody and say this is what happened. I am turning I myself in to the Ethics Committee. And then it's going to be business as usual for their act.

The American people don't have that kind of dark hole to dump things in. That shouldn't be an issue. This should be an issue of ethics and morals that touch the hearts of these people who serve in this Congress.

The judiciary in Texas has a rule that not even the appearance of impropriety against the person who serves on the bench. It's very tough, strict, because you have to think, What does this look like when I do this? And if you think somebody thinks that there's something improprietous about what you just did or said, you better not do it, because you can be severely sanctioned by those who police up our judiciary in Texas for giving the appearance of impropriety.

That is not the standard of this House. I would argue it maybe should be because it makes you police your conscience, to some extent. But it's not. So I do not want anybody to get the misconception that I'm saying that is the standard that we meet here. But we certainly should realize and be humbled by issues that go before the Ethics Committee. I am not saying that the Ethics Committee is the ''do-all, see-all,'' or that they do anything wrong. I think they actually are courageous people who have a tough job.

We need a functioning Ethics Committee, and I think we will get one because NANCY PELOSI has told us we will get one. And so I take my Speaker at her word that we will get one. And I'm hoping that we can do that.

I would ask Mr. KING if he would like to make a comment.

Mr. KING of Iowa. I thank the gentleman from Texas. I just thought I would call up that specific quote from Speaker PELOSI and make sure that we had this down in the RECORD precisely the way it was delivered. This is a quote that was from her own press release dated November 16, 2006, Speaker PELOSI, and I quote, ''This leadership team will create the most honest, most open, and most ethical Congress in history.''

I don't think there's been a delivery on that promise. In fact, I will look back at the circumstances of the Ethics Committee that we have and, Mr. Speaker, I point out that the former chairman of the Ethics Committee has stepped down, and stepped down under a cloud of an FBI investigation, and was subsequently appointed by the Speaker to become the chairman of Justice Appropriations, where he today holds the gavel and the purse strings to control the agency that is reportedly in the news, and not denied by him, to be investigating him.

Now if that isn't something that is an ethical challenge. We talk about conflicts of interest, talk about appearance of impropriety. Isn't there an appearance of impropriety if you happen to be the chairman of the committee that appropriates the funds to the agency that is investigating you?

To point out something that is beyond hypothetical, thoroughly reported in the news and reported as the reason for the step-down from the Ethics Committee and a sideways promotion to take over the people investigating. That is not the most open, most ethical Congress, Mr. Speaker. That is a sign of the exact opposite.

I expect that we are going to see more and more of this balled up in the Ethics Committee, that will not move because of a number of reasons, one of them being it's a committee that is balanced with an equal number of Democrats and Republicans. But to throw yourselves on the mercy of the Ethics Committee is a shield, it's not a solution.

The scrutiny that needs to come from the media and from the public—

the American people need to understand what is going on here. We have got to eliminate the appearance of impropriety, eliminate the impropriety, and the people who find themselves crossways with the law, it isn't enough to say, I'm sorry. It isn't good enough to say, I will pay the tax liability, maybe even some interest on that.

In the case of Tim Geithner, the numbers that I saw were $34,000 versus $43,000. I took that to mean that his tax liability was $34,000 and the interest was an additional $9,000 dollars. That came to $43,000.

Now, wouldn't you notice if they wrote you a check for $34,000, admittedly over a period of roughly 4 years, and you cash that check. Wouldn't you wonder where it came from? Any time I get that money, I'm certainly going to know where it came from, especially if I'm signing documents that I will pay my taxes and especially if I wanted to be the head of the IRS and especially if I was presented as a financial guru, especially at a time when we need stability in the Secretary of the Treasury's Office, when the previous Secretary of the Treasury has demonstrated—I will say there has been an erosion in confidence in his judgment, as the previous Secretary came to this Capitol September 19, and it wasn't chicken little, but he did say the sky is falling. Since that time, the sky has begun to fall. The economic sky has begun to fall.

I'd also point out that on September 19, Mr. Speaker, one who maybe will accept that coincidences can happen from time to time, there was another issue that arose that changed the result of the elections in 2006 that arose here on September 19, 2006. I'm very curious as to what might come to visit us on September 19, 2010, Mr. Speaker.

But this needs to be cleaned up. The American people must demand it. There's got to be open sunlight on all that we do. We have got to provide the most open, ethical, and honest Congress in history.

I'd yield back.

Mr. CARTER. I thank the gentleman for yielding back. My friend from Georgia had some comments, I think.

Mr. WESTMORELAND. To my friend from Texas, I just wanted to talk about a few more things that may be happening in the administration because the hope and the change that was promised to the American people and I think a lot of people were looking forward to and I think the change that they were wanting to see was some honesty and some transparency in somebody that really meant business of coming up here and trying to take this country in a new direction.

I will read, again, President Obama's November, 2007, speech, campaign trail speech, in Orangeburg, South Carolina. ''I've done more to take on lobbyists than any other candidate in this race. I don't take a dime of their money, and when I'm President, they won't find a job in my White House.''

I want to bring up one other—a couple of other people. My friend from Texas has talked about what has been going on in this House and it's time to look at what may be becoming a pattern of maybe saying one thing and doing something else.

Bill Corr, President Obama's nominee for Deputy Secretary of Health and Human Services, has been a registered lobbyist working on health-related issues since 2000. President Obama has given Bill Corr a waiver to his ethics rule, just as he did Mr. Lynn.

Cecilia Munoz, President Obama's new Director of Intergovernmental Affairs, has been issued a waiver to the President's ethics rules because she was a registered lobbyist with the National Council of La Raza, a Hispanic advocacy organization, much like ACORN, too. So she has been issued.

Now I don't know if Ron Kirk, President Obama's nominee for U.S. Trade Representative, has been given a waiver or not, but he was a registered lobbyist that took in more than $1 million in lobbying revenue for financial and energy firms in the last 2 years.

Of course, we know Tom Daschle, former Senator that has been, I guess, nominated or may be sworn in as new Secretary of Health and Human Services. Of course, he was an individual or advisor to the lobbying firm of Austin Byrd.

So this seems to be a pattern. Patrick Gaspard, President Obama's new White House Political Director, was a registered lobbyist with the Service Employees International Union to work on health care issues, including expansion of funding for children's health care, which you know we just passed the SCHIP bill out of this House.

There's some other things that are starting to unfold that will become more and more to light as far as the digital transition for digital TV. There has been some rumor that some of the people in the administration may be connected with that.

Of course, these are things that are just starting to come out in the news, but these things are starting to surface to the top. So I think the American people are disappointed. I think they are disappointed in the fact that the chairman of the Ways and Means Committee in this House seems to have gotten some preferential treatment.

And to my friends from Texas and Iowa, I would dare to recommend that our citizens go ahead and try to apply the Rangel rule to any tax problems they have. But it may be a start. If you are negotiating with the IRS now, see if you can't get the same deal that somebody in Congress may have gotten, that you want that same kind of deal that they have got, and we will see if it works.

If you're in trouble right now with the Internal Revenue Service about not sending in the withholding tax for your employees, or maybe some self-employment tax, you might want to try to go the Geithner way and say, Look, just tell me what I owe and I'll pay you. Don't really see that I need to give you any penalty or interest.

□ 2115

So I am not a lawyer and I am not giving legal advice, but that might be something that you might want to try.

But, anyway, it does seem funny and I do think the American people are going to get tired of this, of being told one thing and then something else happening, and then seeing special treatment coming out of this body. And that is not what they expect; they want people to be honest, open, transparent, forthcoming with them. And I think that is what they want. I think that is the real change that they want, the hope that they had, because politicians have very little credibility.

In fact, I was a real estate agent when I was involved in politics, and I had somebody tell me one time that the two worst professions were real estate agents and politicians. And he didn't know I was a politician at the time, but he kind of hit me right in the head with both of them.

So we don't get a lot of credibility already, and the things that we just seem to keep piling on ourselves give us less and less and less. And we wonder why people don't go out to vote. We wonder why the voting percentage is down so low. Because, I think, most Americans have just thrown up their hands and said it is going to be the same old, same old.

This election was a little different. We had a lot of people who voted that had never voted before, who had not voted in a long time, thinking they were voting for a difference, a change. But I think now they are beginning to see that it is just the same old Washington attitude, and it is going to continue to be the same old Washington attitude, and their hopes have been dashed.

Mr. CARTER. I thank you for your comments, and I think it is very important that we talk about these things.

I think it is important that we do what—I want to praise my colleagues for doing this. We do this, we make these critical statements and we talk about these issues, and we are not being venomous and we are not trying to be mean. We are trying to lay out the facts and the issues that concern ethical conduct that we are concerned about. We are concerned about it because, quite frankly, we all get painted with the same brush, and we should think about that.

We work daily with our colleagues that are on the floor of this House. We

should, and do, respect each one of our colleagues for their service to the United States; and by our ethical behavior, we can paint our colleagues with a brush that shouldn't be there. And so we raise these issues in the good spirit of saying these are issues this body needs to address so that we don't taint others.

In the past, there have been people who have created slogans that taint the whole body. That is not our purpose here today. Our purpose here today is to point out fairness and equality in our system, so that Members of Congress are not treated any differently than any other taxpaying American citizens. And that is what this legislation that I have introduced is all about. I have written a letter to the chairman of the Ways and Means Committee asking him to support it, and I did it in good spirit.

So I am anxious to go forward with this concept. And I like what you say about people that are facing this issue. They ought to at least talk to somebody about being treated at least as well as a Congressman gets treated in Washington, D.C.

Mr. KING, I will yield you some more time if you need some.

Mr. KING of Iowa. I thank the gentleman for yielding. I agree with the presentation here, of course; and as a cosponsor of the bill, I agree with the policy.

It occurs to me to expand this discussion just a little bit, and that is that as the public sits out there and watches what goes on here, Mr. Speaker, on the floor of Congress. They are frustrated. They are rightfully frustrated. Some of them are angry. More will need to get angry before anything is going to change, because as George Will probably more than once said, democracy functions under the lash of necessity. Many Members of Congress understand that necessity to be what it takes for them to maintain their seat in this Congress.

I believe this: that we should be the most honest, the most open, the most ethical Congress in history, as NANCY PELOSI said. And we should follow through on that by allowing full access to our finances, for example.

We have a situation today where we file our financial disclosure forms under the guise of giving the public access so they can see if there is any conflict of interest, any ethical violation, any one of us that is taking advantage of our position and rolling in some equity out of any other sources that might come. But it is a flawed process, and one of the reasons that it is flawed is because it allows Members to put down their assets within a range of dollars in a category.

Now, for me, I am in the narrower category. Say, for example, I might have some assets there, real estate, between, let's say, a quarter of a million and a half million dollars or less, or other categories between $100,000 and $250,000. But when you get into the larger amounts of the assets, you can have assets there listed between, you just say, it fits my townhouse investment across the river in Virginia—not mine, but a hypothetical Member's—is valued between $5 million and $25 million, and you put that down.

And then this other real estate that might be an island in North Carolina is valued at between $5 million and $25 million. And I have some liabilities against them that could be between $5 million and $25 million. Pretty soon, you add this all up, and the only way you can figure out what is going on here, you say, well, the assets will be the aggregate total at a minimum of, and you add the small amount. Or, they could be in the aggregate total of the maximum amount. You add the large amount.

And the same with the liabilities. And when you are done and look at this, there is no way in the world to determine what has happened with the net worth of a Member, and they can game this system.

And then we have a Member who has filed at least 261 false statements on his finances, and after it was brought to his attention, then he filed an amendment to these statements, without any repercussions—a different set of laws for him, at least as far as I know.

What I have is a bill that I introduced in the last Congress, and I don't believe I have actually dropped it in this one. I don't expect it is going to get past this gatekeeper of the most honest, open, ethical Congress in history. But this bill is this: The Sunlight Act, and it just puts sunlight on all things that we do. On our finances, it requires us to file the exact dollar amount of our assets and our liabilities in every category, and to file them in a searchable, sortable, down-loadable database and make them available online so that anybody that can go to the public library and access a computer can go in and take a look.

Now, if we are going to be honest and open and ethical, let's give 300 million Americans the opportunity to examine our finances, examine our transactions; and they can be out there and they can raise the issue. And I think that, in itself, will keep us a little more honest because the restraint will be there. Kind of like random drug testing: There is somebody out there watching you, so don't take the risk.

That is one piece that we could take, and those with a lot of assets and a lot of liabilities are in a position to not necessarily provide the most full information. The lower your assets are and the lower your liabilities, the more specific they will be.

That is something we can do. And I think all of our records that we have here, when an amendment is filed, it should be available on the Internet. You post that thing immediately, stick it up there, and let the public follow it.

It is a shame that the public can come into the Gallery here and not know what is being debated on the floor of the House of Representatives and not be able to find out or figure it out. A Member can have that happen, walk across, and in 2 minutes in the tunnel have the subject change, come out on the floor. And there is no light up on the ends that says, we are debating bill X and amendment Y. It is simply something you have to pick up by knowing whom to ask here on the floor.

We haven't moved into the modern world is my point. And I think all that should be electronically posted on the wall, the subject matter of the debate and the amendment, if we have one, so that the people in the Gallery and those folks, Mr. Speaker, that are watching on C–SPAN can look and instantly know the discussion here on the floor.

I think when an amendment is filed, if it is in an open rule down here, it should be scanned and immediately posted on the Internet. And when amendments are filed before the Rules Committee, they should be available for everybody in America to see, so they can understand how this is not an open process, how many of those amendments never see the light of day because they are balled up in the Rules Committee, and when we are looking for those recorded votes, so we can find out why was an amendment denied.

Or a bill like SCHIP that can come to the floor; and I believe the number is bigger, but at least a $40 billion bill on SCHIP came to floor in the 111th Congress without a single hearing in this Congress, without a subcommittee markup, without a full committee markup, without any amendments being allowed all along the way, and without any amendments being allowed on the floor—not an open, honest, ethical approach, but a Draconian, top-down, cram-down approach to legislation.

The public, if they had sunlight on all of our operations, then they can understand that there really is a high degree of ethics on the part of almost everybody in this Congress. And, on both sides of the aisle there are dedicated public servants that watch their finances and would not trade a vote for anything, that follow their convictions and listen to their constituents and follow the rules. That goes on in most cases. But we only see the egregious ones when they come up after they have gotten to the point where something has to be done.

We have talked about some of those tonight, Mr. Speaker, and I would like to see the sunlight every day so that as soon as somebody bounces off of a

guard rail, they can be reminded: Get back on track here. Because we do need to create the most open, honest, and ethical Congress in history.

I yield back.

Mr. CARTER. I thank the gentleman for yielding back.

I think those are some very interesting ideas that you have put forward. I have always wondered how some poor person sitting in the Gallery can figure out what in the heck is going on without sitting here for a couple of hours until finally it kind of soaks in that maybe they are talking about taxes or maybe they are talking about soldiers. But it can take a while to figure that out. Those are some interesting concepts.

I very quickly yield to my friend from Georgia for some additional comments.

Mr. WESTMORELAND. I just wanted to comment on something my friend from Iowa said about confusion in the process.

You know, Leader BOEHNER brought a privileged resolution about asking the chairman to step aside until there could be some resolve in the questions in front of the Ethics Committee. And, of course, the first thing the majority party did was move that that motion or that resolution be tabled. So what it does, it keeps people from having to vote on whether to go through with the resolution or not. And so you are right when you talk about open.

And I was real excited—well, I have got to be honest. I wasn't excited that we had got a new majority, but I was excited to hear that it was going to be an open Congress; and I thought that meant that we were going to have more open rules, and we would be able to offer more amendments, and let all 435 members, if they wanted to, offer amendments that would be important to their district or to their constituents.

It has been just the opposite. We have had more closed rules than ever.

We just passed a new rule at the start of the 111th Congress that changed the rules from the 110th about motions to recommit. And I am not going to go into all that tonight because we understand it, but it is so complicated to go in. But, basically, the rules were changed to prevent the majority, some of their vulnerable Members, from having to take very tough votes on specific language that we would put in the motions to recommit or our alternatives that we wanted to see put in this bill. And it's really a shame that we had to do it in that procedural way because we couldn't offer the amendments.

And so when people do hear that word ''open,'' I think they think about something different than what is really going on here.

This is not an open process. The People's House is the body where I think most of the deliberations should go on. This is the government that is closest to the people here in Washington, this body. We are all elected by roughly 700,000 people, some a little more, some a little less. But it is not a statewide election; we are from specific districts as a republic.

It is a representative form of government, yet, probably at any time three-fourths of us are denied the opportunity to be part of that process. And I think that goes along with getting special treatment up here on the one hand depending on who you are and what chairman you are the committee of, and then, too, what party you belong to or where you are at in the pecking order in the majority party as to what kind of opportunity you will have to put your opinion or your constituent's thoughts into a bill.

We need to do better with that. We need a transparency. You know, sunshine is the best disinfectant in the world, and we need to let light into this body. We need to let sunshine shine in here.

And what is so bad about making somebody vote on something? That is the question I always have is, well, we are sent up here to vote. That is our job. Why don't we vote on the tough issues? Nobody wants to vote on the tough questions because they are afraid they will not get reelected if they have to make those decisions in the light that shines on what they do up here versus what they say at home.

□ 2130

That is the reason our constituents are so disgusted with this system. They are tired of hearing people say one thing and do something else.

I appreciate the opportunity the gentleman from Texas (Mr. CARTER) has given me tonight. I know that I have gotten off the subject a little bit on some of these things, but I do think that people want to hear that some of us are aware of the frustrations and the disappointments that they have had with their government. And I wanted to make sure that they understand that there is a group of us who want to flush some of these things out and bring it into the light and try to put some sunshine on it so people can tell what is really going on up here.

My good friend from Iowa who is in the construction business has suffered many of the things that I have suffered through in business, and I thank him for his dedication and service.

Mr. CARTER. It is true we got off the subject matter, and the subject matter here is equal treatment under the law. But, quite frankly, I think a good title, we may have just created a good title for people who want to lay things out in the sunshine for the American people to look at, without calling names, which is not what we have experienced in this body in previous Congresses, but just lay it out there. We are not going to say culture of anything. We are just going to say let's let some sunshine on the process, and let's let the common sense of the American people make that decision.

I trust the common sense of the American people. I think that there is no better common sense than the folks back home. I did a telephone town hall last night and I heard the best assessment of the bill we passed today, spending $825 billion from the folks back home, because they looked at it with common sense and said this is ridiculous.

I am proud of those people back home that take the commonsense view. We are going to be, and I'm not going to say sunshine boys because we have some ladies that are going to join us, too, but maybe the sunshine group. We will shine light on what is going on in the Congress, and I think that is a good thing to do. I think we ought to expose warts and all.

But having served 20 years in the judiciary and in the law for almost 40 years, I think the oath, the original oath I took when I became a lawyer and then the oath that I continually took for five terms as a judge and the oath I take in this Congress requires me to stand up for equal protection under the law as part of our Constitution of the United States. I think we are all required to seek for every American equal protection under the law.

And that is why we have raised this issue. It may be a small issue to some people. It may be something that they say I don't care anything about that. They will care when the IRS sends them their penalties and interest. I can guarantee you they will care because they will look at that check and say holy cow, where did that come from. When you are talking about 10 years of failure to pay taxes, you are talking about what could potentially be a large number of especially penalties.

So, you know, all we are asking is let everybody take a look at it and see if we can't all agree to give equal protection under the law; and, therefore, step up and tell the IRS if they are wanting penalties and interest that you are going to claim the Rangel rule and you hopefully will get the same equal treatment that is available in Washington, D.C.

I yield to the gentleman from Iowa.

Mr. KING of Iowa. I thank the gentleman from Texas for yielding, and the phrase that I hear ring true from you is that everyone deserves equal protection under the law.

As reflecting upon a State of the Union Address that was delivered to this Congress by Thomas Jefferson in his early years as President, he said, ''The minority possesses their equal rights which equal law must protect and to violate would be oppression.'' That is Thomas Jefferson in his first inaugural March 4, 1801. I happened to

have run across it because it was included in Speaker PELOSI's document titled ''A New Direction for America.''

I think that is quite instructive for tonight's discussion. The most open, honest, ethical Congress in history, quoting Thomas Jefferson's inaugural address in the case of requiring equal protection under the law and the rights of the minority, feeling a little trampled here in the 111th Congress.

Mr. CARTER. Reclaiming my time, we operate under a variation of Jefferson's original manual for the operations of this House. So he is the one who wrote the original rules for the operation of this House. Although there are variations and amendments that have been done to it, they give you a copy of Jefferson's Manual because it is the Bible, if you will, of the United States House of Representatives.

So that is a good quote and one we should repeat to ourselves both in the minority and ultimately when we get back into the majority. I think that is where we should be, and I think that is where all of the minority and majority should be.

We are about to run out of time. I want to thank my colleagues for coming here. I hope you will join me as we put sunshine on other issues that need to have sunshine shining upon them.

We would encourage the new media that is out there to start interacting and discussing this because I think this is something that the public needs to talk about. I am not sure whether it is going to be talked about with the big boys, but the bloggers can talk about this and other folks can get a common discussion about are we putting sunshine on issues that are important and is fairness under the law important to all Americans.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. COHEN, for 5 minutes, today.

(The following Members (at the request of Mr. OLSON) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, February 3 and 4.

Mr. POE of Texas, for 5 minutes, February 4.

Mr. JONES, for 5 minutes, February 4.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. PETERSON, for 5 minutes, today.

ADJOURNMENT

Mr. CARTER. Mr. Speaker, pursuant to House Concurrent Resolution 26, 111th Congress, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 36 minutes p.m.), the House adjourned until Monday, February 2, 2009, at 2 p.m.

RULES AND REPORTS SUBMITTED PURSUANT TO THE CONGRESSIONAL REVIEW ACT

Pursuant to 5 U.S.C. 801(d), executive communications [final rules] submitted to the House pursuant to 5 U.S.C. 801(a)(1) during the period of May 16, 2008, through January 3, 2009, shall be treated as though received on January 28, 2009. Original dates of transmittal, numberings, and referrals to committee of those executive communications remain as indicated in the Executive Communication section of the relevant CONGRESSIONAL RECORD.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

293. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Farm Loan Programs (RIN: 0560-AH82) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

294. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Milk Income Loss Contract Program and Price Support Program for Milk (RIN: 0560-AH83) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

295. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Standards for Mortgagor's Investment in Mortgaged Property: Compliance With Court Order Vacating Final Rule [Docket No.: FR-5087-F-05] (RIN: 2502-AI52) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

296. A letter from the Counsel for Legislation and Regulation, Department of Housing and Urban Development, transmitting the Department's final rule — Consolidated Returns; Intercompany Obligations [TD 9442] (RIN: 1545-BA11) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

297. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Priorities List, Final Rule [EPA-HQ-SFUND-2007-0685, EPA-HQ-SFUND-2007-0686, EPA-HQ-SFUND-2007-0687, EPA-HQ-SFUND-2007-0688, EPA-HQ-SFUND-2007- 0689, EPA-HQ-SFUND-2006-0242, EPA-HQ-SFUND-2007-0691, EPA-HQ-SFUND-2007-0692, EPA-HQ-SFUND-2007-0693, EPA-HQ-SFUND-2007-0694, EPA-HQ-SFUND-2007-0695, EPA-HQ-SFUND-2007-0696; FRL-8543-9] (RIN: 2050-AD75) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

298. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting a Memorandum of Justification for the waiver authority provided by Pub. L. 103-236, Sec. 565(b); to the Committee on Foreign Affairs.

299. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Department's report on competitive sourcing activities for fiscal year 2008, pursuant to Public Law 108-199, section 647; to the Committee on Oversight and Government Reform.

300. A letter from the Deputy Director for Management, Executive Office of the President Office of Management and Budget, transmitting the Office's report of competitive sourcing efforts for fiscal year 2008, pursuant to Public Law 108-199, section 647(b) of Division F; to the Committee on Oversight and Government Reform.

301. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's report for fiscal year 2008 on competitive-sourcing efforts, pursuant to Public Law 108-199, section 647(b) of Division F; to the Committee on Oversight and Government Reform.

302. A letter from the Deputy Under Secretary for International Affairs, Department of Labor, transmitting the Department's first biennial report prepared in accordance with section 403(a) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) Implementation Act; to the Committee on Ways and Means.

303. A letter from the Acting Under Secretary, Department of Defense, transmitting notification of funding transfers made during fiscal year 2008; jointly to the Committees on Armed Services and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RANGEL: Committee on Ways and Means. Supplemental report on H.R. 598. A bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health (Rept. 111–8, Pt. 2).

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII the following action was taken by the Speaker:

[Omitted from the Record of January 27, 2009]

The Committees on Ways and Means, Education and Labor, and Science and Technology discharged from further consideration. H.R. 629 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. TOWNS (for himself, Mr. BISHOP of Georgia, Mr. BOOZMAN, Mr. CARNAHAN, Mr. ELLISON, Mr. FILNER, Mr. HARE, Mr. HINCHEY, Mr. LATHAM,

Mr. LEWIS of Georgia, Mr. LOEBSACK, Mrs. MALONEY, Mr. MCDERMOTT, Mr. PASTOR of Arizona, Mr. PRICE of North Carolina, Mr. RUPPERSBERGER, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SESSIONS, Ms. SHEA-PORTER, Mr. STARK, Mr. STEARNS, Ms. WASSERMAN SCHULTZ, Mr. WITTMAN, Mr. YOUNG of Alaska, Ms. BORDALLO, Mr. NADLER of New York, Ms. BERKLEY, Ms. CORRINE BROWN of Florida, Ms. HARMAN, Mr. MORAN of Virginia, Mr. MCINTYRE, Mr. COHEN, Mr. WALZ, and Mrs. LOWEY):

H.R. 734. A bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation; to the Committee on Energy and Commerce.

By Mr. CARTER:

H.R. 735. A bill to amend the Internal Revenue Code of 1986 to provide that penalties and interest will not be imposed on individuals who are citizens of the United States; to the Committee on Ways and Means.

By Mr. HOEKSTRA (for himself, Mr. ROGERS of Michigan, Mr. MCCOTTER, Mr. GALLEGLY, Mr. PAUL, Mr. WILSON of South Carolina, and Mr. LINDER):

H.R. 737. A bill to authorize a State to transfer or consolidate funds made available to such State under certain transportation, education, and job training programs after the United States experiences economic growth at an annual rate of less than 1 percent for 2 calendar quarters; to the Committee on Education and Labor, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCOTT of Virginia:

H.R. 738. A bill to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes; to the Committee on the Judiciary.

By Ms. ROYBAL-ALLARD (for herself and Mr. POE of Texas):

H.R. 739. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 740. A bill to amend title 10, United States Code, to take reasonable steps to prevent avoidable disasters related to seismic activity in connection with the lease and development of non-excess property of military departments, and for other purposes; to the Committee on Armed Services.

By Mr. FILNER:

H.R. 741. A bill to amend section 8 of the United States Housing Act of 1937 to provide for rental assistance payments to assist certain owners of manufactured homes who rent the lots on which their homes are located; to the Committee on Financial Services.

By Mr. JONES (for himself and Mr. ABERCROMBIE):

H.R. 743. A bill to prohibit the President or any other executive branch official from knowingly and willfully misleading the Congress or the people of the United States, for the purpose of gaining support for the use of the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 744. A bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces; to the Committee on Armed Services.

By Ms. ESHOO (for herself, Ms. GINNY BROWN-WAITE of Florida, Mrs. CAPPS, Mr. CUMMINGS, and Mr. PLATTS):

H.R. 745. A bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ADLER of New Jersey:

H.R. 746. A bill to provide for economic recovery payments to recipients of Social Security, railroad retirement, and veterans disability benefits; to the Committee on Ways and Means, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCOTT of Virginia (for himself, Mr. WATT, Mr. THOMPSON of Mississippi, Mr. BISHOP of Georgia, Mr. JOHNSON of Georgia, Mr. SARBANES, Mr. ROTHMAN of New Jersey, Mr. GRIJALVA, and Ms. MCCOLLUM):

H.R. 747. A bill to amend the Social Security Act to provide health insurance coverage for children and pregnant women throughout the United States by combining the children and pregnant woman health coverage under Medicaid and SCHIP into a new All Healthy Children Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCOTT of Virginia (for himself and Mr. GOHMERT):

H.R. 748. A bill to establish and operate a National Center for Campus Public Safety; to the Committee on the Judiciary.

By Mr. JONES (for himself and Mr. EHLERS):

H.R. 749. A bill to amend the Federal Election Campaign Act of 1971 to permit candidates for election for Federal office to designate an individual who will be authorized to disburse funds of the authorized campaign committees of the candidate in the event of the death of the candidate; to the Committee on House Administration.

By Mr. BACA (for himself, Mr. MILLER of North Carolina, Mr. MEEKS of New York, Mr. MICHAUD, Ms. CORRINE BROWN of Florida, Mr. CAPUANO, Mrs. MCCARTHY of New York, Mr. HASTINGS of Florida, Mr. CUMMINGS, and Mr. WEINER):

H.R. 750. A bill to allow postal patrons to contribute to funding for gang prevention programs through the voluntary purchase of certain specially issued postage stamps; to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT of South Carolina:

H.R. 751. A bill to eliminate automatic pay adjustments for Members of Congress; to the Committee on House Administration, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 752. A bill to require the Secretary of Homeland Security to conduct a program in the maritime environment for the mobile biometric identification of suspected individuals, including terrorists, to enhance border security; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BISHOP of New York (for himself and Mr. LOBIONDO):

H.R. 753. A bill to amend the Federal Water Pollution Control Act to ensure that publicly owned treatment works monitor for and report sewer overflows, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BUTTERFIELD:

H.R. 754. A bill to provide for the issuance of a commemorative postage stamp in honor of George Henry White; to the Committee on Oversight and Government Reform.

By Mr. CALVERT:

H.R. 755. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain from the sale or exchange of certain residences acquired before 2013; to the Committee on Ways and Means.

By Mrs. CAPPS (for herself and Mr. ROGERS of Michigan):

H.R. 756. A bill to amend the Public Health Service Act with respect to pain care; to the Committee on Energy and Commerce.

By Mr. CONAWAY (for himself, Mr. BRADY of Texas, Mr. CARTER, Mr. OLSON, Mr. MARCHANT, Mr. LUCAS, Mr. KLINE of Minnesota, Mr. BOUSTANY, Mr. CUELLAR, Mr. ROONEY, Mr. FLEMING, Mr. HARPER, Ms. GRANGER, Mr. THORNBERRY, Mr. NEUGEBAUER, Mr. POE of Texas, Mr. HALL of Texas, Mr. WALDEN, Mr. HOEKSTRA, Mr. BARRETT of South Carolina, Mr. CULBERSON, Mr. SESSIONS, Mr. MCCARTHY of California, Mr. BURGESS, Mr. BARTON of Texas, Mr. HENSARLING, Mr. PRICE of Georgia, Mr. MCCAUL, Mr. HINOJOSA, Mr. GENE GREEN of Texas, Mr. REYES, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. GONZALEZ, Mr. SMITH of Texas, Mr. SAM JOHNSON of Texas, Mr. GOHMERT, Mr. PAUL, Mr. AL GREEN of Texas, Mr. EDWARDS of Texas, and Ms. JACKSON-LEE of Texas):

H.R. 757. A bill to redesignate the Federal building and United States Courthouse located at 200 East Wall Street in Midland, Texas, as the "George H. W. Bush and George W. Bush United States Courthouse and George Mahon Federal Building"; to the Committee on Transportation and Infrastructure.

By Ms. DEGETTE (for herself, Mr. KING of New York, Mrs. CAPPS, Mr. CAPUANO, Mrs. EMERSON, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. JACKSON of Illinois, Mr. KIRK, Ms. SCHAKOWSKY, and Mrs. SCHMIDT):

H.R. 758. A bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. STUPAK, and Mr. PALLONE):

H.R. 759. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of food, drugs, devices, and cosmetics in

the global market, and for other purposes; to the Committee on Energy and Commerce.

By Ms. ESHOO (for herself, Mr. THOMPSON of California, and Mr. MARKEY of Massachusetts):

H.R. 760. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to holders of bonds financing new advanced broadband infrastructure, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK of Massachusetts:

H.R. 761. A bill to amend title 38, United States Code, to provide for the eligibility of parents of certain deceased veterans for interment in national cemeteries; to the Committee on Veterans' Affairs.

By Mr. HELLER (for himself, Ms. BERKLEY, and Ms. TITUS):

H.R. 762. A bill to validate final patent number 27-2005-0081, and for other purposes; to the Committee on Natural Resources.

By Mr. HELLER:

H.R. 763. A bill to promote conservation and provide for sensible development in Carson City, Nevada, and for other purposes; to the Committee on Natural Resources.

By Mr. HELLER:

H.R. 764. A bill to require that ballots used in Federal elections be generally printed only in English and to amend the Voting Rights Act of 1965 to modify the requirement that certain jurisdictions provide ballots and other voting materials in languages other than English, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HELLER (for himself, Ms. BERKLEY, and Ms. TITUS):

H.R. 765. A bill to establish the Nellis Dunes National Off-Highway Vehicle Recreation Area, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 766. A bill to encourage States and units of general local government to use amounts received under the community development block grant program and the community mental health services and substance abuse block grant programs to provide housing counseling and financial counseling for individuals before their release from inpatient or residential institutions for individuals with mental illness and periodic evaluation of the appropriateness of such counseling after such release; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MCGOVERN, Mr. FILNER, Mr. HARE, Mr. CUMMINGS, Mr. COHEN, and Mr. BISHOP of New York):

H.R. 767. A bill to provide incentives to encourage financial institutions and small businesses to provide continuing financial education to customers, borrowers, and employees, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSON of Connecticut (for himself, Ms. DELAURO, Mr. MURPHY of Connecticut, Mr. HIGGINS, Ms. KILROY, Mr. MEEK of Florida, Mr. DOYLE, Mr. PASCRELL, and Mr. BLUMENAUER):

H.R. 768. A bill to establish a commission on the tax and fiscal implications of the regulation of financial products and arrangements and to study the current financial crisis, its causes and impact on the Federal deficit and tax revenues; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY:

H.R. 769. A bill to amend title II of the Social Security Act to credit prospectively individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 770. A bill to amend title II of the Social Security Act to repeal the 7-year restriction on eligibility for widow's and widower's insurance benefits based on disability; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 771. A bill to amend title II of the Social Security Act to eliminate the two-year waiting period for divorced spouse's benefits following the divorce; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 772. A bill to amend title II of the Social Security Act to provide for full benefits for disabled widows and widowers without regard to age; to the Committee on Ways and Means.

By Mrs. LOWEY:

H.R. 773. A bill to amend title II of the Social Security Act to provide for increases in widow's and widower's insurance benefits by reason of delayed retirement; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. CROWLEY, Mr. WEINER, Mr. HIGGINS, Mr. HINCHEY, Mr. ACKERMAN, Mr. NADLER of New York, Mr. MCHUGH, Mr. SERRANO, Mr. ENGEL, Mr. TOWNS, Mrs. MCCARTHY of New York, Mrs. LOWEY, Mr. ISRAEL, Mr. RANGEL, Mr. HALL of New York, Mr. LEE of New York, and Mr. KING of New York):

H.R. 774. A bill to designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the ''Geraldine Ferraro Post Office Building''; to the Committee on Oversight and Government Reform.

By Mr. ORTIZ (for himself, Mr. WILSON of South Carolina, Ms. BORDALLO, Mr. EDWARDS of Texas, Mr. BROWN of South Carolina, Mr. JONES, Ms. BERKLEY, Mr. HOLT, Ms. CORRINE BROWN of Florida, Mr. MORAN of Virginia, Mr. KENNEDY, Mr. HINOJOSA, Mr. SMITH of Washington, Mr. PASTOR of Arizona, Mr. HONDA, Mr. REYES, Mr. LARSEN of Washington, Mr. ROGERS of Alabama, Mr. BOUCHER, Ms. KAPTUR, Mr. ROHRABACHER, Mr. CALVERT, Mr. GALLEGLY, Mr. BACHUS, Mr. FILNER, Mr. WALZ, Mr. RODRIGUEZ, Mr. GONZALEZ, Mr. CARNEY, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. TAYLOR, Mr. MARSHALL, Ms. ROS-LEHTINEN, Mrs. MALONEY, Mr. YOUNG of Alaska, Ms. WOOLSEY, Mrs. MCMORRIS RODGERS, Mr. BARTLETT, Mr. WOLF, Mr. SESTAK, Mr. SMITH of New Jersey, Mr. COURTNEY, Mr. BOOZMAN, Mr. CONNOLLY of Virginia, Mr. LOEBSACK, Mr. BOSWELL, Ms. SHEA-PORTER, Mrs. TAUSCHER, Mr. WITTMAN, Mr. BUCHANAN, Mr. PERRIELLO, Mr. COHEN, Mr. BRADY of Pennsylvania, Mr. WAXMAN, Mr. HOLDEN, Ms. ROYBAL-ALLARD, Mr. MOORE of Kansas, Mr. BERMAN, Mr. HINCHEY, Mr. ISRAEL, Mr. NUNES, Mr. GOHMERT, Mr. WILSON of Ohio, Mr. GRIJALVA, Mr. CARTER, Mr. JOHNSON of Georgia, Mr. KLEIN of Florida, Mr. MCNERNEY, Mr. NYE, Mr. KAGEN, Ms. KILPATRICK of Michigan, Mr. MCINTYRE, Mr. MILLER of Florida, Mr. LANGEVIN, Ms. SCHWARTZ, Mrs. BLACKBURN, Mr. KILDEE, Mr. WU, Mr. MASSA, Mr. PLATTS, Mr. KINGSTON, Ms. NORTON, Mr. SCOTT of Virginia, Ms. FOXX, Mr. SCALISE, Ms. DELAURO, Mr. CUMMINGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TIM MURPHY of Pennsylvania, Mr. GENE GREEN of Texas, Mr. MURPHY of Connecticut, Mr. ROONEY, Mr. BRIGHT, Mr. CONAWAY, Mr. PUTNAM, Mr. LATOURETTE, Mr. FALEOMAVAEGA, Mr. BRALEY of Iowa, and Mr. MICHAUD):

H.R. 775. A bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan to offset the receipt of veterans dependency and indemnity compensation; to the Committee on Armed Services.

By Mr. PALLONE (for himself, Mrs. CAPPS, Mr. PAYNE, Ms. SCHWARTZ, Mr. LEVIN, Mr. BLUMENAUER, Ms. BORDALLO, Mr. SIRES, Mr. GRIJALVA, Mr. ACKERMAN, Mr. WEINER, Mr. MORAN of Virginia, Mr. FILNER, Ms. MCCOLLUM, Mr. DOYLE, Ms. HARMAN, Ms. SCHAKOWSKY, and Mr. GENE GREEN of Texas):

H.R. 776. A bill to amend the Emergency Planning and Community Right-to-Know Act of 1986 to strike a provision relating to modifications in reporting frequency; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 777. A bill to prohibit the Administrator of the Federal Emergency Management Agency from updating flood maps until the Administrator submits to Congress a community outreach plan, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 778. A bill to authorize the interstate traffic of unpasteurized milk and milk products that are packaged for direct human consumption; to the Committee on Energy and Commerce.

By Mr. PAUL:

H.R. 779. A bill to amend the Internal Revenue Code of 1986 to provide that tips shall not be subject to income or employment taxes; to the Committee on Ways and Means.

By Mr. PUTNAM:

H.R. 780. A bill to amend the Elementary and Secondary Education Act of 1965 to promote the safe use of the Internet by students, and for other purposes; to the Committee on Education and Labor.

By Mr. PUTNAM (for himself and Mr. LEE of New York):

H.R. 781. A bill to develop a national system of oversight of States for sexual misconduct in the elementary and secondary school system; to the Committee on Education and Labor.

By Mr. RYAN of Wisconsin (for himself, Mr. HENSARLING, Mr. CAMPBELL, Mrs. BACHMANN, Mr. PRICE of Georgia, Mr. SESSIONS, Mr. BARTLETT, Mr. LAMBORN, Mr. HERGER, Mr. GARRETT of New Jersey, Mr. RADANOVICH, Mr. FLAKE, Ms. FOXX, Mrs. MYRICK, Mr. KLINE of Minnesota, Mr. AKIN, Mrs. LUMMIS, and Mr. SHADEGG):

H.R. 782. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax on individuals and replace it with an alternative tax individuals may choose; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (for himself, Mr. GALLEGLY, Mr. PETRI, Mr. DREIER, Mrs. MYRICK, Ms. ZOE LOFGREN of California, and Mr. OLSON):

H.R. 783. A bill to amend the Internal Revenue Code to make permanent the credit for increasing research activities; to the Committee on Ways and Means.

By Ms. TSONGAS (for herself and Mr. MICHAUD):

H.R. 784. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to submit to Congress quarterly reports on vacancies in mental health professional positions in Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

By Ms. TSONGAS (for herself and Mr. MICHAUD):

H.R. 785. A bill to direct the Secretary of Veterans Affairs to carry out a pilot program to provide outreach and training to certain college and university mental health centers relating to the mental health of veterans of Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROTHMAN of New Jersey (for himself, Mr. KIRK, Mrs. MYRICK, Ms. BERKLEY, Mr. BURTON of Indiana, Mrs. TAUSCHER, Mr. ENGEL, and Mr. GARRETT of New Jersey):

H. Con. Res. 29. Concurrent resolution expressing the sense of Congress that the United Nations should take immediate steps to improve the transparency and accountability of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in the Near East to ensure that it is not providing funding, employment, or other support to terrorists; to the Committee on Foreign Affairs.

By Mr. FILNER:

H. Con. Res. 30. Concurrent resolution urging the President to authorize the return to the people of the Philippines of two church bells that were taken by the United States Army in 1901 from the town of Balangiga on the island of Samar, Philippines, and are currently displayed at F.E. Warren Air Force Base, Wyoming; to the Committee on Foreign Affairs.

By Mr. FILNER:

H. Con. Res. 31. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor law enforcement officers killed in the line of duty and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Oversight and Government Reform.

By Mrs. CAPPS (for herself, Mr. FARR, and Ms. WOOLSEY):

H. Con. Res. 32. Concurrent resolution expressing the sense of Congress that the 40th anniversary of the oil spill off the coast of Santa Barbara, California, should be remembered as an ecological and economic disaster that triggered major environmental legislation and helped launch the modern environmental movement, and for other purposes; to the Committee on Natural Resources.

By Mr. CONYERS (for himself, Mr. DINGELL, and Ms. KILPATRICK of Michigan):

H. Con. Res. 33. Concurrent resolution honoring and saluting Motown Records of Detroit, Michigan, on its 50th anniversary; to the Committee on Oversight and Government Reform.

By Mr. FORBES:

H. Con. Res. 34. Concurrent resolution calling upon the Capitol Preservation Commission and the Office of the Architect of the Capitol to place the Lincoln-Obama Bible on permanent display upon the Lincoln table at the Capitol Visitor Center for the benefit of all its visitors to fully understand and appreciate America's history and Godly heritage; to the Committee on House Administration.

By Mr. AL GREEN of Texas (for himself, Mr. JOHNSON of Georgia, Mr. CLAY, Mr. TOWNS, Mr. BUTTERFIELD, Mr. WATT, Mr. MEEKS of New York, Ms. MOORE of Wisconsin, Mrs. NAPOLITANO, Mr. ELLISON, Mr. DAVIS of Illinois, Mr. GENE GREEN of Texas, Mr. DOGGETT, Mr. OLVER, Ms. KILPATRICK of Michigan, Ms. KAPTUR, Ms. EDWARDS of Maryland, Mr. HINOJOSA, Mr. LANGEVIN, Mr. MCGOVERN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEK of Florida, Mr. RUSH, Mr. RANGEL, Mr. CLYBURN, Mr. CONYERS, Mr. CLEAVER, Mr. LEWIS of Georgia, Mr. THOMPSON of Mississippi, Mr. SCOTT of Georgia, Mr. DAVIS of Alabama, Mr. SCOTT of Virginia, Ms. CLARKE, Mr. PAYNE, Mr. CUMMINGS, Mr. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. FATTAH, Mr. BISHOP of Georgia, Ms. WATERS, Ms. LEE of California, Mr. CAPUANO, Ms. BORDALLO, Mr. GUTIERREZ, Mr. SNYDER, Mr. HOLT, Mr. VISCLOSKY, Mr. BACA, Mr. WAXMAN, Mrs. MILLER of Michigan, Mr. CALVERT, Mr. STARK, Mr. DINGELL, Mr. YOUNG of Alaska, Mr. ROSS, Ms. ZOE LOFGREN of California, Mr. HOLDEN, Mr. HARE, Mr. COURTNEY, Mr. GRIJALVA, Mr. SERRANO, Ms. WOOLSEY, Ms. WASSERMAN SCHULTZ, Mr. MORAN of Virginia, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. NYE, Mr. TEAGUE, Mr. MCMAHON, and Mr. HONDA):

H. Con. Res. 35. Concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut:

H. Res. 96. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Ms. SLAUGHTER:

H. Res. 97. A resolution changing the size of the Permanent Select Committee on Intelligence; considered and agreed to.

By Mr. BARRETT of South Carolina:

H. Res. 98. A resolution amending the Rules of the House of Representatives to require a vote each year on whether to increase Members' pay; to the Committee on Rules.

By Mr. POE of Texas (for himself, Mr. SCOTT of Virginia, Mr. COHEN, Ms. EDWARDS of Maryland, Mr. HINCHEY, Mr. SARBANES, Mr. CUMMINGS, Mr. MCGOVERN, and Mr. HINOJOSA):

H. Res. 99. A resolution recognizing Edgar Allan Poe for his literary contributions to American history on the 200th anniversary of his birth; to the Committee on Oversight and Government Reform.

By Mr. PUTNAM:

H. Res. 100. A resolution amending the Rules of the House of Representatives to provide for earmark reform; to the Committee on Rules, and in addition to the Committee on Standards of Official Conduct, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIRES (for himself, Ms. SCHWARTZ, Mr. MOORE of Kansas, Mr. CROWLEY, Mr. CHANDLER, Ms. PINGREE of Maine, Mr. HOLT, Mr. BRADY of Pennsylvania, Mrs. MALONEY, Mr. MCGOVERN, Ms. SUTTON, Ms. MOORE of Wisconsin, Mr. WILSON of Ohio, Mr. BURTON of Indiana, Mr. GRIJALVA, Mrs. CAPPS, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. WOOLSEY, Mr. SHERMAN, Mr. DRIEHAUS, Mr. COURTNEY, Mr. HALL of New York, and Mr. CARNEY):

H. Res. 101. A resolution expressing the sense of the House of Representatives that the United States Postal Service should discontinue the practice of contracting out mail delivery services; to the Committee on Oversight and Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 736. A bill for the relief of Aluisa Zace and Ledia Zace; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 742. A bill for the relief of Flavia Maboloc Cahoon; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mrs. BONO MACK, Mr. GALLEGLY, Mr. MCCAUL, Mr. SENSENBRENNER, Mr. GARY G. MILLER of California, and Mrs. BLACKBURN.

H.R. 23: Mr. WAMP and Mr. BOYD.

H.R. 24: Mr. BRADY of Pennsylvania, Mr. WILSON of South Carolina, Mr. HUNTER, Ms. BORDALLO, Ms. ZOE LOFGREN of California, Mr. POE of Texas, Mr. PAUL, Mrs. MILLER of Michigan, Mr. CALVERT, Mr. WHITFIELD, Mr. COBLE, Mr. BARRETT of South Carolina, Mr. ROGERS of Alabama, Mr. MICA, Mrs. BIGGERT, Mr. BARTLETT, Mr. TANNER, and Mr. ABERCROMBIE.

H.R. 31: Mr. DEFAZIO, Mr. DOYLE, Mr. HOLDEN, Mr. MURTHA, Mr. SCHIFF, Ms. EDDIE

BERNICE JOHNSON of Texas, Mr. MOORE of Kansas, Mr. EDWARDS of Texas, Mr. BROWN of South Carolina, Mr. YOUNG of Alaska, Mr. WEINER, Ms. CORRINE BROWN of Florida, Mr. CONYERS, Mr. ROTHMAN of New Jersey, Mr. WILSON of South Carolina, Mr. COBLE, Mr. BRADY of Texas, Ms. BERKLEY, Mr. WAXMAN, Mr. CARDOZA, and Mr. PAYNE.

H.R. 101: Mr. BURTON of Indiana.

H.R. 106: Mr. SCHIFF and Mr. DAVIS of Alabama.

H.R. 111: Mr. FOSTER.

H.R. 116: Mr. ROYCE and Mr. MORAN of Kansas.

H.R. 124: Mr. GARY G. MILLER of California, Mr. CALVERT, and Mr. GOODLATTE.

H.R. 131: Mr. CALVERT.

H.R. 138: Mr. GARY G. MILLER of California and Mr. CALVERT.

H.R. 143: Mr. GOODLATTE.

H.R. 148: Mr. MILLER of Florida, Mr. KLINE of Minnesota, Mr. LUETKEMEYER, Mrs. EMERSON, Mr. BLUNT, Mr. TERRY, Mr. KING of Iowa, Mr. COLE, and Mr. SOUDER.

H.R. 151: Mr. GONZALEZ and Mr. POMEROY.

H.R. 154: Mr. JONES.

H.R. 155: Mr. REHBERG and Mr. MILLER of Florida.

H.R. 176: Mr. BRADY of Pennsylvania and Ms. SUTTON.

H.R. 179: Ms. KILPATRICK of Michigan.

H.R. 182: Mr. HINCHEY.

H.R. 213: Mr. MCHUGH, Mr. OLSON, Mr. DUNCAN, Mr. SOUDER, Mr. TERRY, and Mr. WAMP.

H.R. 216: Mr. HOEKSTRA.

H.R. 223: Mr. HONDA, Ms. HIRONO, Ms. FUDGE, Ms. RICHARDSON, Ms. WATERS, Mr. STARK, Ms. WATSON, Ms. ROYBAL-ALLARD, Ms. HARMAN, Ms. LINDA T. SÁNCHEZ of California, Mr. DEFAZIO, Ms. JACKSON-LEE of Texas, Ms. MCCOLLUM, Mr. BISHOP of New York, Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. OLVER, Mr. MCINTYRE, Mr. SNYDER, Mr. WATT, and Mr. ELLISON.

H.R. 226: Mr. OLSON, Mr. ROGERS of Kentucky, Mr. YOUNG of Alaska, Mr. KING of Iowa, Mr. NUNES, and Mr. CASTLE.

H.R. 267: Mr. HINCHEY.

H.R. 272: Mr. PAUL.

H.R. 294: Mr. WILSON of South Carolina and Mr. NYE.

H.R. 295: Mr. NYE and Mr. BROWN of South Carolina.

H.R. 297: Mr. NYE.

H.R. 305: Mr. HINCHEY and Mr. FOSTER.

H.R. 336: Mr. MASSA, Mr. STARK, Mr. HONDA, Mr. DRIEHAUS, and Ms. MCCOLLUM.

H.R. 391: Mr. CARTER, Mr. CONAWAY, Mr. SAM JOHNSON of Texas, Mr. HERGER, Mrs. Lummis, Ms. FALLIN, Mr. KLINE of Minnesota, Mr. ISSA, Mr. MARCHANT, Mr. AKIN, Ms. FOXX, Mr. BROWN of South Carolina, Mr. SCALISE, Mr. PITTS, Mr. COLE, Mr. LATTA, and Mr. BARTLETT.

H.R. 393: Mr. MCCAUL.

H.R. 398: Mr. GUTIERREZ, Mr. FARR, Mrs. LOWEY, Mr. GENE GREEN of Texas, Mr. ISRAEL, Mrs. MALONEY, Mr. VAN HOLLEN, Mr. MCGOVERN, Mr. RUPPERSBERGER, Ms. SHEA-PORTER, Mr. ACKERMAN, Mr. WEINER, Mr. KIND, Mr. BISHOP of Georgia, Mr. HONDA, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. KENNEDY, Mr. HOLT, Mr. MEEKS of New York, Mrs. NAPOLITANO, Mr. SCOTT of Virginia, Mr. ENGEL, Mr. SHERMAN, and Mr. BOUCHER.

H.R. 406: Mr. STARK, Ms. SCHAKOWSKY, Mr. LOEBSACK, Mr. BERMAN, and Mr. WAXMAN.

H.R. 430: Mr. TIM MURPHY of Pennsylvania and Mr. ROGERS of Kentucky.

H.R. 433: Mr. TIM MURPHY of Pennsylvania.

H.R. 444: Ms. MCCOLLUM, Ms. CASTOR of Florida, Mr. GENE GREEN of Texas, Mr. BOSWELL, Mr. MCHUGH, Ms. CORRINE BROWN of Florida, Ms. GIFFORDS, Ms. SUTTON, Mr. TERRY, Mr. BOUCHER, Mr. HIGGINS, Mr. MORAN of Kansas, and Mrs. NAPOLITANO.

H.R. 470: Mr. THOMPSON of Pennsylvania, Mr. TIAHRT, Mr. BARTON of Texas, Mr. AUSTRIA, Mr. MCHENRY, Mr. RYAN of Wisconsin, and Mr. COLE.

H.R. 479: Mr. BISHOP of Georgia and Mr. SNYDER.

H.R. 482: Mr. TIM MURPHY of Pennsylvania.

H.R. 490: Mr. MICHAUD.

H.R. 502: Mr. CALVERT and Mr. SOUDER.

H.R. 503: Mr. BILIRAKIS and Mr. HOLT.

H.R. 510: Mr. THOMPSON of California.

H.R. 515: Mr. RUSH, Mr. HOLDEN, Mr. MASSA, and Mr. BLUMENAUER.

H.R. 528: Mrs. DAHLKEMPER and Ms. KAPTUR.

H.R. 529: Ms. WASSERMAN SCHULTZ.

H.R. 548: Mr. PETRI, Mr. LATTA, and Mr. HOLT.

H.R. 550: Mr. RYAN of Ohio.

H.R. 574: Mr. GENE GREEN of Texas, Mr. FILNER, and Mr. SMITH of New Jersey.

H.R. 610: Mr. SERRANO, Ms. LINDA T. SÁNCHEZ of California, Ms. BERKLEY, Ms. LEE of California, Mrs. CHRISTENSEN, and Ms. MATSUI.

H.R. 613: Mr. HELLER, Mr. BRADY of Pennsylvania, and Mr. FILNER.

H.R. 624: Mr. KLEIN of Florida, Mr. MARKEY of Massachusetts, Mr. MCINTYRE, Ms. ESHOO, Mr. CLAY, and Mr. FARR.

H.R. 648: Mr. BRADY of Pennsylvania.

H.R. 649: Mr. HUNTER, Mr. TIAHRT, Mr. RADANOVICH, Mr. AKIN, Mr. ROE of Tennessee, Mr. FRANKS of Arizona, Mr. PUTNAM, Mr. NEUGEBAUER, Mr. WAMP, Mr. CALVERT, Mr. ROGERS of Kentucky, and Mr. SOUDER.

H.R. 662: Mr. MINNICK and Ms. MARKEY of Colorado.

H.R. 664: Mrs. BLACKBURN.

H.R. 666: Mr. COFFMAN of Colorado.

H.R. 676: Mr. FRANK of Massachusetts, Mr. POLIS of Colorado, and Mr. TIERNEY.

H.R. 688: Mrs. LUMMIS.

H.R. 702: Ms. BERKLEY, Mr. BERRY, and Mr. ALTMIRE.

H.R. 704: Mr. CARTER, Ms. BALDWIN, Mr. BURTON of Indiana, Mr. WOLF, and Ms. SUTTON.

H.R. 707: Ms. SCHAKOWSKY, Ms. NORTON, Mr. STUPAK, Mr. CONNOLLY of Virginia, Mr. MURTHA, Mr. GENE GREEN of Texas, Mr. MCNERNEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. FUDGE, Mr. WALZ, Mr. OLVER, Mr. BOUCHER, Mr. INSLEE, Mr. MCGOVERN, Mr. HIGGINS, Mr. THOMPSON of California, Ms. WATSON, Mr. HARE, Mr. BRALEY of Iowa, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Mr. SIRES, Mr. BROWN of South Carolina, Mr. BOREN, Mr. NEAL of Massachusetts, Mr. ETHERIDGE, Mr. LOEBSACK, Mr. PAYNE, Ms. MCCOLLUM, Mr. KUCINICH, Mr. MATHESON, Mrs. CAPITO, Mr. DAVIS of Illinois, Mr. COSTA, Mr. PETERS, Mr. SCOTT of Virginia, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. STARK, Mr. PERLMUTTER, Mr. MITCHELL, and Mr. SOUDER.

H.R. 708: Mr. AKIN, Mr. ALEXANDER, Mrs. BACHMANN, Mr. BARTLETT, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOOZMAN, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CARTER, Mr. CHILDERS, Mr. COLE, Mr. EHLERS, Mr. FORBES, Ms. FOXX, Mr. FRANKS of Arizona, Mr. INGLIS, Mr. JOHNSON of Illinois, Mr. JORDAN of Ohio, Mr. MACK, Mr. MARCHANT, Mr. MCCAUL, Mr. PLATTS, Mr. RYAN of Wisconsin, Mr. SCALISE, Mr. SMITH of Texas, Mr. TIAHRT, and Mr. WILSON of South Carolina.

H.R. 716: Ms. KILROY.

H.R. 728: Mrs. BACHMANN.

H.J. Res. 1: Mrs. BONO MACK, Mrs. CAPITO, Mr. CARTER, Mr. CASTLE, Mr. COLE, Mr. CRENSHAW, Mr. DUNCAN, Mr. LANCE, Mr. ROONEY, Ms. ROS-LEHTINEN, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. YOUNG of Florida, Mr. KING of Iowa, Mr. HARPER, and Mr. WHITFIELD.

H.J. Res. 11: Mr. BOOZMAN.

H.J. Res. 18: Mr. BERMAN, Ms. MOORE of Wisconsin, Mr. FILNER, Mrs. LOWEY, Ms. SCHAKOWSKY, Mr. STARK, Mr. ISRAEL, Mr. KIRK, Mr. WAXMAN, and Ms. LEE of California.

H. Con. Res. 20: Mr. MCMAHON.

H. Res. 22: Ms. ESHOO, Mr. MCNERNEY, and Mr. VAN HOLLEN.

H. Res. 36: Mr. JOHNSON of Georgia, Mr. PIERLUISI, Mr. BRADY of Pennsylvania, Mr. GONZALEZ, Mr. ACKERMAN, Mr. MCNERNEY, Mr. DAVIS of Alabama, Mr. BACA, Mr. PAYNE, Mr. INGLIS, and Mr. DOGGETT.

H. Res. 45: Mr. CALVERT.

H. Res. 55: Ms. BEAN, Mr. SESSIONS, Mr. BERMAN, and Ms. ZOE LOFGREN of California.

H. Res. 67: Mr. BRADY of Pennsylvania.

H. Res. 69: Mr. GENE GREEN of Texas.

H. Res. 75: Ms. PELOSI, Mr. CALVERT, and Mr. FOSTER.

H. Res. 77: Mr. BOUCHER and Mr. MORAN of Virginia.

H. Res. 81: Mr. ROGERS of Kentucky, Mr. MCINTYRE, and Mr. CHILDERS.

H. Res. 89: Mr. KENNEDY, Mr. GORDON of Tennessee, and Mr. LYNCH.

H. Res. 93: Mr. MCKEON.

H. Res. 94: Mr. MICHAUD and Ms. BORDALLO.

DELETION OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 557: Mr. COHEN.

EXTENSIONS OF REMARKS

OUR MILITARY MUST BE ENVIRONMENTALLY RESPONSIBLE TOO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I have introduced the Military Environmental Responsibility Act (H.R. 672). The purpose of this bill is to require the Department of Defense to fully comply with Federal and State environmental laws.

Military exemptions from requirements and enforcement provisions under environment, public safety, and worker protection laws harm the environment and human health. Our constituents who border military bases should have the same protections as other municipalities.

This bill will not compromise military readiness. Environmental laws currently include exemptions for the military in the event of "paramount interest of the United States". These exemptions have only been used a handful of times, and the President would retain that authority over this legislation.

Americans believe that their government should be accountable to them and play by the same rules that they have to follow. Much of the cynicism and apathy of recent years can be traced directly to public perception that government officials and agencies are not accountable to anyone. We can only begin to restore faith in government and participation in democracy by ensuring that the federal government works under the same laws and regulations as private businesses and individuals.

CONGRATULATIONS JUDGE PAIGE GOSSETT

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. WILSON of South Carolina. Madam Speaker, I wish to congratulate my long time friend, Paige Jones Gossett, as she receives the Oath of Office and takes the bench as United States Magistrate Judge for the District of South Carolina.

Known by her nickname Cricket, she is a Phi Beta Kappa graduate of the University of South Carolina Honors College, finished as the third highest rated graduate in her law school class, and received nearly every academic award available. Prior to her election as a South Carolina Administrative Law Judge in 2006, she had over ten years of private practice experience as a partner in the Willoughby & Hoefer law firm in Columbia.

I also want to congratulate Chief Judge David C. Norton and the other District Judges in South Carolina for selecting Judge Gossett from a large pool of highly qualified applicants. Her intelligence and temperament are the ideal qualities that we should seek in judicial candidates.

On a personal note, I am particularly grateful for her success which is complemented by the achievement of her husband, my former State Senate Chief of Staff, Jeff Gossett, who is the first Republican Clerk of the South Carolina Senate in over 100 years. They are raising three outstanding children: Jackson Keith Gossett, Ainsley Cooper Gossett, and Anna Katherine Gossett.

Congratulations, Judge Paige Gossett.

RECOGNIZING LIFESOUTH COMMUNITY BLOOD CENTERS IN HERNANDO COUNTY, FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor LifeSouth Community Blood Centers, Inc. in Hernando County for their work improving the lives and welfare of area residents.

In life and death emergencies, when every second counts, it is vitally important that healthcare providers and emergency responders have access to safe and ready supplies of blood for transfusions. LifeSouth Community Blood Center is currently the only blood provider for many of our area hospitals, including ones at Oak Hill, Brooksville Regional and Spring Hill. Their hard work ensures that medical professionals in Hernando County have the blood necessary to save lives and help our local community.

Throughout the country each year there will be almost five million Americans who need blood transfusions. In Hernando County alone, LifeSouth collects 13,000 units of blood annually, utilizing more than 300 blood drives with their Bloodmobiles to meet the demand. The local donor center is open 363 days a year and employs thirty people to collect, process and distribute the blood to area hospitals.

Whether you have ever needed a blood transfusion yourself, or just know someone who has, it is organizations like LifeSouth that help ensure you will be taken care of in an emergency. For area residents who donate blood, please know that all of the blood collected in Hernando County stays within the County, so your donation will help your friends and neighbors. When you donate blood it is not an exaggeration to say that you are truly giving the gift of life.

This January 31, I will be hosting my annual veteran benefit fair. LifeSouth has agreed to take part in the event and is bringing one of their Bloodmobiles to the site to collect much needed blood. With more than 105,000 veterans in the 5th District, many of whom are in need of medical attention, it is important for the community to donate blood and help meet that need.

Madam Speaker, I ask that you join me in recognizing LifeSouth Community Blood Centers for their commitment to the local community. Without their blood collection, processing and dissemination efforts, area hospitals would face severe shortages of life-saving blood. I commend LifeSouth for their efforts and thank them for helping the veterans of Hernando County at this year's veteran benefit fair.

HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. SOUDER. Madam Speaker, I rise today in support of H. Res. 39, and especially in support of the work being done in Fort Wayne, Indiana, at Bishop Dwenger High School.

According to the 1972 statement by National Conference of Catholic Bishops: "The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives."

Madam Speaker, Bishop Dwenger has been improving the Fort Wayne community since it welcomed over 200 students in the fall of 1963. They now enroll over 1,100 students and the school has accumulated an impressive list of both academic and athletic accomplishments.

In 2004, the Department of Education recognized Bishop Dwenger as a No Child Left Behind Blue Ribbon School, an accomplishment that places them among the top 10 percent of schools nationwide. Two years later, Bishop Dwenger was recognized as one of the top 50 Catholic schools in the nation.

The school's drive for excellence goes beyond the classroom. Madam Speaker, the students are involved in community service activities to fulfill the school's commitment "to social awareness through service to others." With over 80 percent of Dwenger students involved in at least one extracurricular activity, they have won state championships in football, gymnastics, Spell Bowl and more.

In an increasingly competitive economic environment, a quality education is a prerequisite for future success. Madam Speaker, I ask my colleagues to join me in support of Bishop Dwenger and Catholic schools across the country. These institutions are essential in preparing well-rounded individuals who will be among the future leaders of our country.

TRIBUTE TO HARLAND MIESER

HON. IKE SKELTON
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Mr. SKELTON. Madam Speaker, let me take this moment to recognize the career of Harland Mieser of Lafayette County, Missouri. Mr. Mieser served as Associate Commissioner of Lafayette County for 18 years.

Mr. Mieser has been an outstanding public official, serving as a member of the West Central Missouri Solid Waste Management District Region F, the Waverly Regional Youth Center Liaison Council, Inc., Lafayette County Inter-Agency, Prairie Rose Resource Conservation and Development Council, Pioneer Trails Regional Planning Commission, and the Highway 13 Coalition Committee. His public service culminated with position as Lafayette County Commissioner. From 1991–1994 he served as the Eastern Associate Commissioner in Lafayette County and then from 1997–2008 he served as Southern Associate Commissioner of Lafayette County.

As Mr. Mieser retires from his current post, I trust that the Members of the House will join me in thanking him for his outstanding leadership in the Missouri community.

CELEBRATING THE 80TH ANNIVERSARY OF THE BOK TOWER GARDENS

HON. ADAM H. PUTNAM
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Mr. PUTNAM. Madam Speaker, I rise today to recognize the upcoming 80th anniversary of the Bok Tower Gardens. President Calvin Coolidge first dedicated the Bok Tower Gardens for visitation on February 1, 1929.

Edward Bok, a Pulitzer Prize winning author, commissioned the building of the gardens and bird sanctuary in the early 1920s in Lake Wales, FL. The gardens were originally designed by Frederick Law Olmsted, Jr., atop a 14-acre area on Iron Mountain, one of the highest points in Florida. The gardens have expanded to cover nearly 700 acres today.

Architect Milton Medary was commissioned to design and construct the tower in 1926. The tower stretches 205 feet into the sky and is intended to be the focal point of the gardens. It is primarily made of marble and includes a 60-bell carillon at the top.

Mr. Bok died on January 9, 1930, less than a year after the completion of the tower. He is now buried at the base of the tower. His dream of creating and preserving a place of beauty and peace is still alive today, a true and long-lasting gift to our State. It has played host to concerts, weddings, educational and charity events, as well as numerous other important community benefits. It is also a wonderful place for a family get together.

The Garden Sanctuary and Tower were designated as National Historic Landmarks on April 19, 1993. The Bok Tower Gardens serve as one of Florida's most beautiful natural settings. I urge my colleagues to join me in celebrating the anniversary of this great Florida landmark.

HONORING STATE REPRESENTATIVE TREY MARTINEZ FISCHER AND FAMILY

HON. CHARLES A. GONZALEZ
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Mr. GONZALEZ. Madam Speaker, I rise today to congratulate Texas State Representative Trey Martinez Fischer and his wife Elizabeth Provencio on the arrival of their first born, Francesca Maria Provencio Fischer. Francesca Maria was born on January 4th, 2009 at 6:01 a.m. and I'm proud to report that Francesca Maria and her mother are both healthy and doing well.

As both Trey and Elizabeth now know, words cannot quite describe the joy and thrill of being a new parent. I am certain that Francesca Maria will grow up in a loving environment and learn from the great example set by her parents of duty, responsibility, and compassion.

The journey they are embarking upon together will prove to be an unparalleled life experience, and I wish their entire family the best for a healthy and happy lifetime together.

IN TRIBUTE TO THEODORE BIKEL

HON. DEBBIE WASSERMAN SCHULTZ
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today to congratulate Theodore Bikel on receiving the Creative Leadership Award from the National Jewish Theater and the American Theater Festival. Throughout his life, Mr. Bikel has displayed an unwavering commitment to arts awareness, human rights, and Jewish activism, and his service to our nation is truly inspiring. No stranger to the Sunshine State, Theodore Bikel was the co-creator, co-author and co-star of the successful play Sholom Aleichem Lives, performed in early 1997 in several Florida theatres. He is also the writer and star of Sholom Aleichem: Laughter Through Tears, which recently had its world premiere in Washington, D.C. Additionally, on his long list of accomplishments, Mr. Bikel created the role of Baron Von Trapp in the original Broadway production of The Sound of Music and starred as Tevye in Fiddler on the Roof more than 2,000 times. Bikel's career began in Tel Aviv, Israel, where he co-founded the Cameri Theatre, and performed classical and modern drama in Hebrew. Some of his most prominent honors include receiving an Emmy Award in 1988, having held the position of senior vice president of the American Jewish Congress, and accepting both a Doctor of Humane Letters from Hebrew Union College and the title of MAGGID from the World Union for Progressive Judaism. As Mr. Bikel marks his 85th birthday this June with a celebratory concert at Carnegie Hall, I feel grateful for this talented individual whose artistic vision and civic activism have profoundly touched the lives of all Americans.

HELP OUR BORDER COMMUNITIES

HON. BOB FILNER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker and colleagues, I rise today to speak about a very important bill that I just introduced, the Save Our Border Communities Act (H.R. 670). The bill would reimburse police, firefighters and other first responders for services associated with U.S. Ports of Entry.

Local law enforcement and first responders are bearing the brunt of protecting our borders. The federal government has not reimbursed border towns for border-related incidents and its drain on local police, firefighters and first responders is increasingly unbearable.

In Imperial County, California, the already strained local police department has announced that due to the high volume of border-related requests, it will no longer respond to most calls from the U.S.-Mexico Port of Entry. The local police department stated they cannot afford to process and transport the numerous individuals with out-of-county misdemeanor warrants to the local jail. Now, instead of being brought to justice, these individuals are set free.

It is about time the federal government pays its fair share. I urge my colleagues to join me in ensuring all our border communities are fully reimbursed for protecting our nation's borders by supporting the Save Our Border Communities Act.

INTRODUCTION OF LEGISLATION ALLOWING INTERSTATE SHIPMENT OF UNPASTEURIZED MILK

HON. RON PAUL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, January 28, 2009

Mr. PAUL. Madam Speaker, I rise to introduce legislation that allows the shipment and distribution of unpasteurized milk and milk products for human consumption across state lines. This legislation removes an unconstitutional restraint on farmers who wish to sell or otherwise distribute, and people who wish to consume, unpasteurized milk and milk products.

My office has heard from numerous people who would like to obtain unpasteurized milk. Many of these people have done their own research and come to the conclusion that unpasteurized milk is healthier than pasteurized milk. These Americans have the right to consume these products without having the Federal Government second-guess their judgment about what products best promote health. If there are legitimate concerns about the safety of unpasteurized milk, those concerns should be addressed at the state and local level.

I urge my colleagues to join me in promoting consumers' rights, the original intent of the Constitution, and federalism by cosponsoring my legislation to allow the interstate shipment of unpasteurized milk and milk products for human consumption.

LAW ENFORCEMENT STATUS FOR LAW ENFORCEMENT OFFICERS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I recently reintroduced, along with my colleague JOHN MCHUGH, The Law Enforcement Officers Equity Act (H.R. 673). The purpose of this bill is simply to give law enforcement status to all federal law enforcement officers!

Many federal officials—for example, the Border Patrol—are classified as "law enforcement officers," for the purposes of determining salary and retirement benefits. But many other officers—such as Immigration and Customs Enforcement (ICE) Inspectors, Veterans' Affairs Police Officers, U.S. Mint Police Officers, Internal Revenue Officers, Customs and Border Protection Seized Property Specialists, and police officers in about two dozen other agencies—do not have equal pay and benefits status.

The tragic irony, Madam Speaker, is that the only time these officers are classified as law enforcement officers is when they are killed in the line of duty. Then their names are inscribed on the wall of the National Law Enforcement Officers Memorial right here in Washington.

Let me say that again. It is only when they are killed that they are called law enforcement officers, and that is a tragic irony.

My district encompasses the entire California-Mexico border and is home to two of the busiest border crossings in the entire world, so I am very familiar with the work of our nation's border inspectors. They wear bulletproof vests, they carry firearms, and, unfortunately, have to use them. Most importantly, these inspectors are subject to the same risks as other officers with whom they serve side-by-side. However, they are not eligible for early retirement and other benefits, which are designed to maintain a young and vigorous law enforcement workforce that we need to combat those who pose life-threatening risks to our society.

The Law Enforcement Officers Equity Act will provide well-deserved pay and retirement benefits to the officers protecting our borders, our ports of entry, our military and veterans' installations and other sensitive government buildings. The costs of these benefits would likely be off-set by savings in training costs and increased revenue collection. The bill will also reduce turnover, increase yield, decrease recruitment and development costs and enhance the retention of a well-trained and experienced workforce.

Madam Speaker, the simple fact is that these officers have dangerous jobs and deserve to be recognized as law enforcement officers, just like others with whom they serve, side by side, and who share the same level of risk. I encourage my colleagues to join me and Mr. MCHUGH in co-sponsoring, the Law Enforcement Officers Equity Act. The valiant officers who protect us deserve no less.

IN TRIBUTE TO JEWEL PEDI

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. GALLEGLY. Madam Speaker, I rise in tribute to my longtime friend Jewel Pedi, a person of enormous intelligence and drive, who is retiring at the tender age of 83 to spend well-earned time with her family.

More than 30 years ago, Jewel founded FOOD Share with a small group of like-minded members of the Ventura County, CA, community. The structure she built should ensure its survival for many years to come.

Jewel's dedication comes from a compassion rooted in her faith. That faith led her to work 3 years with state lawmakers on farm bills; to build coalitions with some 200 other non-profit agencies; and to step up to help those in need during the Northridge earthquake, southern California's numerous wildfires, the La Conchita landslide, and hurricanes across the Nation.

Along the way she has been honored with the American Red Cross 4th Annual Clara Barton Award; the city of Ventura Humanitarian of the Year Award; the P.W. Gillibrand Company, Inc., Humanitarian of the Year Award, among others.

Jewel is moving to Bullhead City, AZ, to be closer to her children. While retiring from her current calling, her faith is leading her to another. A pastor, Jewel will perform weddings; and, she said, she will see if another calling awaits her.

Madam Speaker, I know my colleagues will join my wife, Janice, and me in thanking Jewel for making Ventura County a stronger and more compassionate community and in wishing her Godspeed in her retirement.

NATIONAL BLOOD DONOR MONTH HONORS FLORIDA BLOOD SERVICES VOLUNTEERS AND STAFF

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. YOUNG of Florida. Madam Speaker, The foundation of our nation is built upon one person helping another in their time of greatest need. This month we honor those volunteers who "Give the Gift of Life" during National Blood Donor Month.

Florida Blood Services, which I have the privilege to represent in St. Petersburg, Florida, provides life-saving blood products for the 14 counties of the Tampa Bay, Northwest Florida and Southern Alabama areas, supplying 61 hospitals and ambulatory care centers. This fine organization also tests and screens blood for 30 East Coast blood centers and medical facilities from Maine to the north all the way to Puerto Rico to the south.

The heart of Florida Blood Service's operations is its volunteers. Last year, 100,000 blood and platelet donors rolled up their sleeves to donate one pint at a time to save the life of complete strangers near and far away. This includes some remarkable individuals who have made blood donation their passion. Frank Knight, III has donated 96 gallons of blood, Bobbie Bernstein 86 gallons, and my former District Director and now the Vice Mayor of Clearwater, George Cretekos, has donated 36 gallons of blood.

Florida Blood Services has an outstanding staff and Board of Directors that manages donor recruitment, collection, distribution and quality control programs. Don Doddridge is the Chief Executive Officer and this year also serves as President of America's Blood Centers. He has devoted his entire working career to promoting the need for blood donation and to ensure the safety of the procedure and the quality of the products. It has been a pleasure to work with Don and his staff over the years on a number of federal issues related to blood collection. This includes Don's work to focus national attention on ensuring that blood collection is a key part of our nation's disaster contingency planning and that plans are in place to be able to distribute blood products to areas in crisis. He has also seen that Florida Blood Services and other national blood banks are available to provide critical blood products to those serving in uniform here and abroad.

Finally, Madam Speaker, I want to commend Florida Blood Services for instilling in our nation's youth the need to serve others, in this case as blood donors. Through its unique high school leadership program, Florida Blood Services recruits high school students to organize and sponsor blood drives in high schools throughout the four-county Tampa Bay area. It was a real honor for me last April to be asked to speak to its High School Leadership Conference where they brought together more than 400 students who had led efforts in their schools. Together, students at these school-based drives donated 27,000 units of blood.

Madam Speaker, I would ask my colleagues to join me in paying tribute to Florida Blood services and their volunteer donors of all ages. Like blood donors all across America, they "Give the Gift of Life" every day to complete strangers out of a sense of service and compassion. We honor all these heroes during this National Blood Donor Month.

HONORING REVEREND CLAUDE BLACK JUNIOR

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. GONZALEZ. Madam Speaker, I rise today just days after the historic inauguration of our country's 44th President to honor a similarly honorable and trailblazing individual, Reverend Claude Black Jr. of San Antonio. On Sunday, January 18th, 2009, Rev. Black will be honored at Realizing the Dream's second annual Holiday Commemoration of Dr. Martin

Luther King, Jr. with the organization's Testament of Hope Award. I join the organization in offering my congratulations for all his achievements and contributions to our country.

Born in a segregated San Antonio in 1916, Rev. Black's lifelong commitment to civil rights, justice, and equality is well-deserving of this recognition and honor. From leading marches for civil rights to attending the White House's Conference on Civil Rights in 1966 with President Lyndon Johnson, he has always been at the forefront of the fight for equality. And as the first African American Mayor Pro Tem of San Antonio in 1974, he paved the way for future African Americans to seek elected office and rightfully participate in our democracy.

Rev. Black is a hero and inspiration to all Americans. His efforts to better our society are not only worthy of this recognition but also our sincere gratitude. I am honored to call him a constituent, congratulate him for this recognition, and thank him for all he has done on behalf our community and our country.

LET DEPARTMENT OF DEFENSE AND CIVILIAN POLICE COORDINATE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I recently introduced the Department of Defense and Civilian Law Enforcement Coordination Act of 2009 (H.R. 675). My bill would amend federal law to permit Department of Defense law enforcement officers to better coordinate and cooperate with civilian law enforcement agencies. I drafted this legislation in cooperation with the Fraternal Order of Police (FOP) because many DOD law enforcement officers in my district have informed me that they are prohibited from basic coordination and cooperation with civilian agencies near DOD facilities. We need to ensure that federal, state, and local law enforcement are able to work together to apprehend criminals and to prevent and solve crimes. I hope that my colleagues will join me in co-sponsoring this important legislation.

CONGRATULATING THE GRAMBLING STATE UNIVERSITY FOOTBALL TEAM

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. ALEXANDER. Madam Speaker, I rise today to congratulate the Grambling State University (GSU) Tiger Football Team for becoming the State Farm Bayou Classic Champions, the Southwestern Athletic Conference (SWAC) Champions and the Sheridan National Black College Champions for 2008.

By defeating Southern University 29–14 in the 35th Annual State Farm Bayou Classic on November 29, GSU won the SWAC West Division and earned the opportunity to meet Jackson State University (JSU) in the SWAC Championship Game. This battle provided the Tigers a rematch against the victors of last year's game.

On December 13, GSU secured their 10th consecutive win of the 2008 football season, making the Tigers the new champs of this competitive conference. This win marked the Tigers 22nd time to capture the SWAC Football Championship. In addition, GSU head coach Ron Broadway was named the SWAC Coach of the Year.

Shortly following this victory, the Tigers were crowned the Sheridan National Black College Champions—marking their 14th time to win this national title in the school's history. This outstanding recognition is the second earned by Broadway in three years.

The Tigers finished the season with an impressive 11–2 record—matching the record of the 2005 GSU Football Team, which also earned these titles.

I would like to recognize the accomplishments of the players, coaches, students and staff that were instrumental in these triumphs.

Madam Speaker, I ask my colleagues to join me in congratulating the 2008 GSU Tiger Football Team for all of their successes achieved during this season.

HONORING DEBRA JORDAN

HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. COURTNEY. Madam Speaker, I rise today with a heavy heart to mark the passing of a true champion for the working families of eastern Connecticut. Debra Jordan of Plainfield, beloved daughter, wife and mother, passed away on January 25, 2009 after a long and courageous battle with cancer.

Debra was a consummate professional who cared deeply about the rights of working men and women. She was an active member of UNITE HERE, serving as local 217's secretary-treasurer for more than 15 years. She fought tirelessly for the people with whom she worked, always believing that no matter what one's station in life might be, that everyone deserved to be treated fairly and justly.

Although her professional career was marked by her commitment to working families, it was the love of her own family that defined her life. Whether it was caring for her grandson Lucien Dube, or at the track watching her son Tim race, anyone who knew Debra could tell you that these were the moments that brought joy to her life and that great smile to her face. While we lament her passing, we know that her memory will live on in her beloved family, including her husband Patrick, to whom she was married for 25 years.

This has been a trying week for those of us who had the privilege to call Debra our friend. She left us too early, but as we grieve her we must remember the joy that she brought to the lives of all she touched. I ask my colleagues to join me in mourning the loss of Debra Jordan.

HONORING PURPLE HEART RECIPIENT FRANCIS J. SEYFRIED

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor an American hero and Purple Heart recipient, Mr. Francis J. Seyfried. A proud member of our Nation's military during World War II, Staff Sergeant Seyfried was killed over the North Atlantic when his plane evaded enemy fire, crashed into another aircraft, and his parachute landed in the frigid Atlantic waters below.

Born on November 22, 1921 in Brooklyn, New York, Mr. Seyfried joined the Army Air Corps on January 30, 1943. Stationed in Europe, he and his fellow soldiers were assigned to perform bombing runs over enemy lines. It was during his 43rd such attack on December 31, 1944 that Mr. Seyfried lost his life in battle.

Commonly known as the Piggyback incident, the midair collision of two military planes caused a sensation amongst military members at the time. Returning from a bombing run over Hamburg, Germany, Staff Sergeant Seyfried's aircraft was evading enemy fire when his plane collided with another Allied aircraft. The two planes stuck together, with the engine of one plane dug completely into the engine of the other. Instead of separating and crashing separately, the two planes continued flying together in piggyback fashion. While ten of the crew members from the two planes did manage to escape safely, Staff Sergeant Seyfried was lost in the frigid North Atlantic waters off the German coast.

Madam Speaker, soldiers like Francis J. Seyfried should be recognized for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Seyfried's family with his long overdue Purple Heart. While he has passed on from this life, his family, friends and loved ones should know that we truly consider him one of America's heroes.

LET'S REMEMBER OUR VIETNAM HEROES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I have just re-introduced legislation intended to honor the service and sacrifice of many of the members of the United States Armed Forces who fought in Vietnam, the ''In Memory Medal for Forgotten Veterans Act'' (H.R. 671).

Those so recognized are veterans who have died as a result of their service in the Vietnam War but who do not meet the criteria for inclusion on The Wall of the Vietnam War Memorial in Washington, D.C. The Vietnam Veterans Memorial Fund has a program called ''In Memory'' which has raised money for a plaque that has been placed near The Wall. The plaque honors ''those who served in the Vietnam War and later died as a result of their

service". No names are on the plaque, but all names are kept in the "In Memory Book" at a kiosk near The Wall, and families can order a copy.

My bill adds to this recognition by presenting the families of these veterans with a medal, to be known as the "Jesus (Chuchi) Salgado Medal" to be issued by the Secretary of Defense. Chuchi Salgado was an outstanding individual who lived in my Congressional district, whose exposure to Agent Orange ultimately led to his death. His relatives continue to live in my district.

Because of the boundaries that have been set for the names to be placed on The Wall, Chuchi and many, many other Vietnam veterans are not honored in this manner. Now, with new veterans coming back from Iraq and Afghanistan, we are all taking a second look and a closer look at how veterans from past wars have been treated. While we must care for the newer veterans, we must also take this opportunity to do right by veterans of Vietnam, along with those of other past wars and conflicts.

I invite my colleagues to join with me in honoring these veterans. It is critical that we remember those who have fought so gallantly and sacrificed their lives for our freedom.

COMMEMORATING THE 50TH ANNIVERSARY OF THE BRANDON CHAMBER OF COMMERCE

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. PUTNAM. Madam Speaker, I rise today to recognize and applaud the Brandon Chamber of Commerce as it celebrates its 50th anniversary.

Since its establishment in 1959, the Brandon Chamber of Commerce has contributed greatly to economic growth and development in the Brandon area and has served as a valuable resource for local businesses.

The Brandon Chamber of Commerce offers programs and services that foster meaningful partnerships between businesses as well as between businesses and educational facilities. It also monitors developments in local, State, and federal government and helps coordinate member advocacy efforts.

The Chamber of Commerce provides a forum for future leaders from the Brandon area to grow and develop. It is also a great advocate for minority and women-owned businesses in the Brandon community.

In the past 10 years, membership in the Brandon Chamber has almost doubled, which is a tribute to both the employees at the Chamber and the economic vitality of the community. As Brandon has grown in size and flourished as a thriving metropolitan area, the Brandon Chamber has kept pace and helped facilitate the city's transition into a bustling commercial center.

During these challenging economic times, I know the Brandon community will look to and benefit from the guidance and expertise of the folks at the Chamber.

Under the skillful leadership of Chamber President Tammy Blackwell and the hard work of her team, I am confident the Chamber will continue to effectively serve, protect, and promote the businesses and economic interests of the Brandon community. Congratulations and best wishes on reaching this historic milestone.

IN MEMORY OF BETH SHARON SAMUELS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. BERMAN. Madam Speaker, this month marks the second anniversary of the passing of Beth Sharon Samuels, an extraordinary Angelino who lost her life to cancer in January 2007 at the age of 31.

Beth grew up in Los Angeles, attending the Yeshiva University High School of Los Angeles and graduating as valedictorian. She went on to study at a women's seminary in Israel before graduating from Columbia University with a degree in mathematics. She then completed a three-year program at the Drisha Institute in Bible and Talmud, a Ph.D. in math at Yale, and earned an assistant professorship at the University of California, Berkeley. In the meantime, she gave birth to a daughter Danelle and later to daughter Natalia while undergoing intensive chemotherapy treatments.

Beth remains with us, even with increasing distance from her passing. We remember her passion for learning and zealous commitment to charity, her open spirit and fierce dedication to women's Torah study. Beth's legacy will continue to grow through her students, friends, and, of course, her beautiful daughters.

I give my condolences to her parents, Elana and Zachary, her husband, Ari, her daughters, Danelle and Natalia, and her extended friends and family on this solemn occasion.

HOBART CHAMBER OF COMMERCE AWARD WINNERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. VISCLOSKY. Madam Speaker, it is with great pleasure that I stand before you today to recognize the Hobart Chamber of Commerce award winners for 2008 and to congratulate one of its member businesses, Burns Funeral Home, as they celebrate a momentous milestone, 100 years of excellent service. These outstanding recipients will be honored during the Chamber's annual awards and installation banquet, which will take place on Thursday, January 29, 2009, at the Avalon Manor in Merrillville, Indiana.

The Hobart Chamber of Commerce utilizes members of the community in order to improve and develop business, industry, and the professions. Each year, the Chamber members and friends gather together to honor the Business Award Winners, Volunteers of the Year, and to commemorate specific accomplishments within the community.

Continuing a tradition that goes back well over 50 years, the Chamber will honor its 2008 Business Award Winners. The Large Business of the Year award recipient is Saint Mary's Medical Center. The hospital continues to be a leader in providing outstanding health services to the community. For the fourth consecutive year, Saint Mary's Medical Center has also won the 2008 Distinguished Hospital for Patient Safety. The Small Business of the Year award recipient is Sebo's Nursing and Rehabilitation Center. This outstanding facility has grown into a 138-bed facility offering clinical services, specialty programming for Alzheimer's and Dementia patients, rehabilitation services, and many other amenities. The New Business of the Year award is being presented to 54 Main Bistro. The owners, Dave and Linda Papp, renovated an 1895 Victorian home and turned it into a local favorite that is known for its weekly changing menu. Each business is dedicated to providing excellent business to the community and for that reason, they are to be commended.

The Hobart Chamber of Commerce will honor the Herrick Family with the Volunteers of the Year award. Dr. James Herrick, his wife Janet Herrick, and their daughter Cheryl Herrick have been dedicated volunteers in Hobart for many years. The family continues to be a staple in the community, donating their time and effort to numerous special events, fundraisers, the Kiwanis Club, Little League, and the community's school system, to name a few. For their selfless commitment to their community, I congratulate the Herrick family on this prestigious award.

The Hobart Chamber of Commerce will also congratulate Burns Funeral Home as they celebrate their 100th anniversary. In 1908, James E. Burns opened his first funeral home in Hammond, Indiana. His business was founded on providing compassionate care to the friends and families of the departed during their time of need. It was this principle that allowed the Burns family to expand to Gary, Hobart, and finally to Crown Point in the 1980s. Today, the family owned and operated business provides the same exceptional services, and I commend Terry, Sally, Jim, Patrick, and Jimmy Burns, and their entire staff on continuing the legacy of Mr. Burns.

Madam Speaker, at this time, I ask that you and my other distinguished colleagues join me in honoring the Hobart Chamber of Commerce 2008 Business Award Winners, Volunteers of the Year, and also in congratulating the Burns family and their team on the 100th anniversary of Burns Funeral Home. For their dedication and commitment to the community of Hobart as well as Northwest Indiana, they are all worthy of the honors bestowed upon them.

FAIR TAXES FOR SENIORS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I recently reintroduced my bill, the "Fair Taxes for Seniors Act" (H.R. 674), which will provide a one-time increase in the capital gains tax exemption on

the sale of a home for citizens who are 50 years of age or older. Passing this bill will give many seniors the additional money they need for nursing home care, medical costs, and other retirement expenses.

The Fair Taxes for Seniors Act doubles the current exemption by providing a one-time increase to $500,000 for a single person and $1 million for a couple that can be excluded from the sale of a principal residence for taxpayers who have reached the age of 50. Because they will be able to keep more, an added benefit is that family members and perhaps the government will be relieved of the burden of caring for these individuals as they grow older.

I hope that my colleagues will join me in cosponsoring this important legislation.

RECOGNIZING THE LIFE OF THE HONORABLE WILLIAM JEREMIAH TOLTON, JR.

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. MILLER of Florida. Madam Speaker, I rise today in recognition of the Honorable William Jeremiah Tolton, Jr., known to his friends as ''Jere,'' who passed away on Friday, January 23, 2009. Judge Tolton's lifetime of service in both the civic and social realm set a precedent of excellence in the Northwest Florida area and he will be greatly missed.

Throughout most of his 71 years, Judge Tolton's life was spent bettering the civic and social realm. After earning a B.A. and J.D. from Washington and Lee University in Lexington, Virginia, Judge Tolton moved to Fort Walton Beach, Florida where he began practicing law. The succeeding years were marked with frequent promotions as Judge Tolton became the attorney for the Okaloosa County Commission and the City attorney to the City of Valparaiso, Florida. In 1972, Judge Tolton was elected to the Florida House of Representatives where he served for 4 years before resigning to accept yet another job in public service: Circuit Judge for the First Judicial Circuit of Florida.

When he retired on January 1, 2007, at the age of 69, Judge Tolton's 30 years on the bench made him the longest-tenured judge in the history of Florida's First Judicial Circuit. The 30 years encompassed some of the biggest trials in Florida, including the conviction of former Florida Senate President W.D. Childers. Additionally, Judge Tolton served as President of the Blue Ridge Institute for Juvenile and Family Law Judges and was Chairman of the Judicial Ethics Advisory Committee.

Judge Tolton is survived by his wife, the former Shari Deason, as well as his children, William Jeremiah Tolton III, Lizabeth Tolton Silk, and Timothy Tolton and his grandchild, Liam Silk. My wife Vicki and I send our most sincere condolences to the family as they grieve the loss of this exceptional father, judge, and civic leader.

Judge Tolton's longstanding career in public service will benefit the Northwest Florida community for many years to come. Madam Speaker, on behalf of the United States Congress, I am proud to recognize the exceptional life of the Honorable William J. Tolton, Jr.

TEXAS FIGHT

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. POE of Texas. Madam Speaker, Coach Mack Brown and the Texas Longhorn football team had a great football season. The Longhorns played tough all year, winning 12 games, and losing only once. Among their wins, I would like to especially congratulate them on their victory on a neutral field over Oklahoma; a rivalry that has existed since 1900. With Texas beating Oklahoma again, it further extends the all-time series lead to 58 wins for UT to only 40 for OU.

For the University of Texas winning titles, championships, and individual awards are nothing new. The Longhorns have a rich tradition of conference titles, National Championships, and Heisman trophy winners. You can ask any player and they will tell you that just having the opportunity to play for the University of Texas is the dream of every football player in the great state of Texas. UT players are almost all from Texas, but occasionally an out of state player has the privilege of making his way onto the Longhorn team.

This year there was once again controversy surrounding the BCS. There were several teams including Texas that had legitimate claims to be the team playing for a National Championship. I personally think Texas and the ''BCS National Champion Florida Gators'' should have a real national playoff game and determine the National Championship. Only through a playoff system can we have a true National Champion every year. NCAA Division II and Division III have a football playoff system that works quite well.

While Texas beat Oklahoma, they were snubbed for the Big 12 Conference title game, which meant they had no chance to play for the National Championship. In addition to this, many felt Colt McCoy should have been given more consideration for the Heisman trophy. With everything that the Longhorns had to endure, it could have been enough for any team to just throw in the towel and give up. However, Coach Mack Brown kept his team focused and committed to their motto, ''Texas Fight.'' UT went on to play a very good Big 10, Ohio State team in the Tostitos Fiesta Bowl. In a thrilling game, Colt McCoy led a ''Heismanesk'' last minute drive and connected with Senior Quan Cosby for a 26-yard touchdown that gave Texas the win, 24–21.

You need to only look at the upbringing of quarterback Colt McCoy and receiver Jordan Shipley to see the character the Longhorns are made of. Both Colt and Jordan's fathers were teammates and roommates while playing football at my Alma Mater, Abilene Christian University. Brad McCoy was a receiver and Bob Shipley was a running back. After Bob and Brad graduated from ACU they kept in touch, raising their two families together. The two families regularly attended church together, went fishing, and other family activities. Both Brad McCoy and Bob Shipley instilled work ethic, faith in God, and leadership qualities into their two boys.

The character of these two resonates through the whole Longhorn team. They are Texas—a team committed to each other, their coaches, and the University.

Madam Speaker, University of Texas football is as much of a part of America as the flag and apple pie. It is almost a religion in the burnt orange state of Texas.

I commend the Longhorns and coaches for a great season. I look forward to another successful year in '09 along with the 59th win over Oklahoma. Hook'em Horns!

And that's just the way it is.

HONORING THE FOUR IMMORTAL CHAPLAINS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker and colleagues, I rise today to speak about an important resolution that I have reintroduced that honors the legacy of the Four Immortal Chaplains who sacrificed their lives over 65 years ago. (H. Res. 86)

On February 3, 1943, the U.S. Army Transportation Service troopship Dorchester was torpedoed in the North Atlantic by a German submarine. Of the 900 passengers and crew, 597 were military personnel, and four of those men were the ship's chaplains—Methodist chaplain George Lansing Fox, Rabbi Alexander Goode, Dutch Reformed minister Clark V. Poling and John P. Washington, a Roman Catholic priest. Each chaplain distributed life vests as the ship went down and then gave up their own when supply ran out. As the ship went down into the icy waters, survivors in the nearby rafts could see the four chaplains with their arms linked and braced against the slanting deck. According to eyewitnesses, the chaplains were heard offering prayers for the soldiers who had died in the wreckage.

In 1948, a stamp was issued honoring these four chaplains as true examples of ''Interfaith in Action.'' They were recognized by Congress and the President with a special Medal of Honor for their selfless acts of courage, compassion and faith.

The heroism of these brave men should serve as an example of love for others without regard to race, religion or creed, and an acknowledgment of the potential for human compassion. This message rings true today more than ever!

That is why I have reintroduced a resolution, which remembers the Four Immortal Chaplain and requests the President issue a proclamation calling on the Federal Government, States, localities, and the people of the United States to observe a day in their honor with appropriate ceremonies, programs, and activities.

It is important their story of extraordinary faith, courage, and selflessness is heard and should guide the way we live out lives with compassion for others, in the spirit of the four Chaplains. I invite my colleagues to join with

me in honoring the Four Immortal Chaplains by supporting this important resolution.

IN HONOR OF THE REV. DR. FRANK WITMAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. GALLEGLY. Madam Speaker, I rise in honor of my longtime friend, the Rev. Dr. Frank Witman, who is being honored this week with the prestigious Simi Valley, California, Chamber of Commerce Strathearn Lifetime Achievement Award.

None are more deserving of this recognition than Dr. Witman.

Dr. Witman planted himself in Simi Valley when he arrived in the summer of 1969 to assume the post of senior pastor of the United Methodist Church of Simi Valley. The third-generation United Methodist Church minister immediately anchored his roots, which grew and spread with every year.

Dr. Witman served on the board of directors of the Simi Valley Rotary Club, which he joined in mid-1969, and was the recipient of the Paul Harris Award, one of the highest honors Rotary bestows upon an individual.

In 1972, he led the Simi Valley Ministerial Association to join with the Businessmen Against the Card Club Ordinance to defeat organized gambling in Simi Valley.

Six years later, Dr. Witman founded the chaplain program for the Simi Valley Police Department and, for more than 30 years, he has served as the department's senior chaplain. Dr. Witman has provided comfort, counseling, prayers, and support during most of the city's traumatic and tragic events, including the untimely death of Officer Michael Clark. His support of the city and its police officers earned him the department's Volunteer of the Year Award in 1997, the department's Lifetime Service Award in 2007, and recognition from the Simi Valley City Council in 2008.

Dr. Witman also was a charter member of the Steering Committee for Leadership Simi Valley; a charter member of the Simi Valley Hospital Board Strategic Planning Committee; Simi Valley Hospital's 1995 Volunteer Chaplain of the Year; and an 8-year president of the Samaritan Center for the homeless.

In 1990, I had the honor of nominating Dr. Witman to offer a prayer to open a session of the House of Representatives as guest Chaplain, which he did on May 2, 1990.

Dr. Witman retired as Senior Pastor of the Simi Valley Unified Methodist Church in 1997, but he never ended his ministry, fellowship, service, and friendship to the people of the city.

Madam Speaker, I know my colleagues will join my wife, Janice, and me in thanking the Rev. Dr. Frank Witman for his nearly four decades of selfless service to the community, and will join the Simi Valley community in congratulating him for earning the Strathearn Lifetime Achievement Award.

THE INTRODUCTION OF CENTER TO ADVANCE, MONITOR, AND PRESERVE UNIVERSITY SECURITY SAFETY ACT OF 2009 (H.R. 748)

HON. ROBERT C. "BOBBY" SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. SCOTT of Virginia. Madam Speaker, today I rise to introduce the Center to Advance, Monitor and Preserve University Security ("CAMPUS") Safety Act of 2009. The purpose of this legislation is to enable our institutions of higher education to easily obtain the best information available on how to keep our campuses safe and how to respond in the event of a campus emergency. The bill creates a National Center for Campus Public Safety ("Center"), which will be administered through Department of Justice. The Center is designed to train campus public safety agencies in state of the art practices to assure campus safety, encourage research to strengthen college safety and security, and serve as a clearinghouse for the dissemination of relevant campus public safety information. The Director of the Center will have authority to award grants to institutions of higher learning to help them meet their enhanced public safety goals.

Over the past few years we have seen numerous tragedies occur at colleges and universities, including the disastrous events that occurred at Virginia Tech and Northern Illinois University. Unfortunately, because these events were the first of their kind for the schools, the Administrators were not fully knowledgeable on the best practices to prevent the tragedies and how to respond in the aftermath. We therefore must assist our institutions of higher learning to keep campuses safe.

The CAMPUS Safety Act will help institutions of higher learning understand how to prevent such tragedies from occurring, and how to respond in case they do.

I urge my colleagues to cosponsor and support this important legislation to ensure that the institutions of higher education have access to information on how to keep their schools safe.

RECOGNIZING JULIAN BOND

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. PRICE of North Carolina. Madam Speaker, I rise to congratulate Julian Bond, who will be recognized as the 2009 Humanitarian of the Year by the North Carolina State Conference of the NAACP. I am proud to be among those honoring him at the organization's 25th Annual Humanitarian Awards Banquet on January 31, 2009.

From his student days to his current chairmanship of the National Association for the Advancement of Colored People (NAACP), Julian Bond has been at the forefront of movements for civil rights and economic justice. As an activist jailed for his convictions, a veteran of more than 20 years in the Georgia General Assembly, and a university professor and writer, he has been on the cutting edge of social change since 1960.

Bond has experienced firsthand overt discrimination and racial prejudice, and he has spent a lifetime standing up against those who would deny him and others equal opportunity because of the color of their skin. He was a founder of the Student Nonviolent Coordinating Committee (SNCC) and was active in protests and registration campaigns throughout the South. He overcame opposition from members of the Georgia House of Representatives, and fought all the way to the United States Supreme Court in order to take his rightful seat. And he led a challenge delegation from Georgia to the 1968 Democratic Convention that successfully unseated Georgia's regular Democrats.

Bond has served since 1998 as Chairman of the Board of the NAACP, the oldest and largest civil rights organization in the United States. In 2002, he received the prestigious National Freedom Award. The holder of twenty-five honorary degrees, Bond is a distinguished professor at American University in Washington, DC, and a professor of history at the University of Virginia.

Bond currently serves as Chairman of the Premier Auto Group PAG (Volvo, Land Rover, Aston-Martin, and Jaguar) Diversity Council and is on the boards of People for the American Way, the Southern Poverty Law Center and the Council for a Livable World, and the advisory board of the Harvard Business School Initiative on Social Enterprise, among others.

Throughout his life and career, Dr. Bond has effected change and remained steadfast as an activist for social justice and civil rights for African-Americans and other minorities. He has led the nation by example, and I congratulate him for the honor he will receive in North Carolina on January 31.

THE TAX FREE TIPS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. PAUL. Madam Speaker, I rise to help millions of working Americans by introducing the Tax Free Tips Act. As the title suggests, this legislation makes tips exempt from federal income and payroll taxes. Tips often compose a substantial portion of the earnings of waiters, waitresses, and other service-sector employees. However, unlike regular wages, a service-sector employee usually has no guarantee of, or legal right to, a tip. Instead, the amount of a tip usually depends on how well an employee satisfies a client. Since the amount of taxes one pays increases along with the size of tip, taxing tips punishes workers for doing a superior job!

Many service-sector employers are young people trying to make money to pay for their education, or single parents struggling to provide for their children. Oftentimes, these workers work two jobs in hopes of making a better

life for themselves and their families. The Tax Free Tips Act gives these hard-working Americans an immediate pay raise. People may use this pay raise to devote more resources to their children's, or their own, education, or to save for a home, retirement, or to start their own businesses.

Helping Americans improve themselves by reducing their taxes will make our country stronger. I, therefore, hope all my colleagues will join me in cosponsoring the Tax Free Tips Act.

CLEAN AIR FOR OUR BORDER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I have introduced The Foreign Air Impact Regulation (FAIR) Air Act (H.R. 677). The purpose of this bill is to combat air pollution along our borders and to ensure that our communities are not unfairly penalized.

Our border communities are being besieged by toxic pollutants from neighboring countries. This is making the air quality along our border worse than ever—and leaves our communities with little recourse to improve the situation.

The FAIR AIR Act says that if pollution from another country causes non-attainment of air pollution regulations, then the EPA and the Secretary of State should work together to lower it! Furthermore, the effective date of reclassification should be delayed until the Secretary of State and local leaders develop a plan with the neighboring country to improve the air quality.

We cannot put this international problem on the backs of those who simply happen to live along the border. There truly needs to be a bi-national cooperative solution to address this important issue. We all breathe the same air and it is only with bi-national cooperation and working together to achieve better air quality standards for all!

IN HONOR OF SHERBURNE COUNTY SHERIFF BRUCE ANDERSON ON THE OCCASION OF HIS RETIREMENT

HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mrs. BACHMANN. Madam Speaker, I rise today in honor of Bruce Anderson, who retires as Sheriff for Sherburne County, Minnesota, on Friday, January 30th. As County Board Chairman Arne Engstrom has said, Bruce Anderson "raised the bar so high for sheriffs in our state."

Bruce Anderson, raised in Elk River, Minnesota, first started with the Sheriff's Office in 1975, when he forfeited a football scholarship to the University of Minnesota to take a job as a dispatcher-jailer with Sherburne County. He was just 19 years old, but he knew he wanted a career serving his community in law enforcement.

Fourteen years ago, he took his experience with the office to a new level when he was elected to serve as the County's Sheriff. His professionalism and dedication earned him re-election three more times, without any opposition. When he told the County Board that he would be retiring, his announcement was marked with the same humility and commitment that Sherburne residents have come to expect of his service. In fact, he thanked the Board for their support, thanked the citizens for the privilege to serve them, and thanked his staff—calling them "unsung heroes."

Bruce Anderson's tenure as Sheriff was marked by a number of enormous advances in the Office's operations. He oversaw an expansion of the County jail and worked out an arrangement to house federal inmates there as well. He brought extraordinary technological advances, including updating their radio system to digital to better enable Sherburne sheriffs to communicate with neighboring jurisdictions. And, he solved some real mysteries and crimes, including a high-profile 1992 murder.

Bruce's successor will be Captain Joel Brott, who has served in Sherburne County law enforcement for 12 years. Captain Brott has said that he considers Sheriff Anderson a mentor and with such tutelage, Sherburne is sure to be in good hands.

In the meantime, we look forward to seeing what next wonderful adventure in public service awaits Bruce Anderson. Sherburne County Commissioner Felix Schmiesing called Anderson's retirement "the end of an era" but I believe it is the start of a wonderful new chapter both for Bruce Anderson and for the people of Sherburne County, who I am certain he will continue to serve in some new way.

TRIBUTE TO PRIVATE GRANT A. COTTING

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. CALVERT. Madam Speaker, I rise to pay tribute to a hero from my congressional district, Army Private Grant A. Cotting. Today I ask that the House of Representatives honor and remember this incredible young man who died in service to his country.

Grant grew up in Corona, California and attended Santiago High School for three years before graduating from Buena Vista High School in 2007. During his senior year, Grant was part of the ROTC program and hoped to have a career in the military. School officials and counselors remember Grant fondly—he was a quiet student who never hesitated to lend a hand to fellow students.

Private Cotting enlisted in the Army after graduation and was assigned to the 515th Sapper Company, 5th Engineer Battalion, 4th Maneuver Enhancement Brigade based at Fort Leonard Wood, Missouri. A sapper company handles demolitions, laying and disarming mines, and other combat engineering tasks. On January 24, 2009, Grant was killed in Kut, Iraq, in support of Operation Iraqi Freedom. Grant leaves behind his parents, Craig and Amanda, and four younger brothers, Branden, Nick, Scott and Lucas.

As we look at the incredibly rich military history of our country we realize that this history is comprised of men, just like Grant, who bravely fought for the ideals of freedom and democracy. Each story is unique and humbling for those of us who, far from the dangers they have faced, live our lives in relative comfort and ease. The news of Grant's death was probably the hardest day the Cotting family has ever faced and my thoughts, prayers and deepest gratitude for their sacrifice goes out to them. There are no words that can relieve their pain and what words I offer only begin to convey my deepest respect and highest appreciation.

Private Cotting's family have all given a part of themselves in the loss of their loved one and I hope they know that their son and brother, the goodness he brought to this world, and the sacrifice he has made, will always be remembered.

TRIBUTE TO KATHLEEN CALLAN

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. HIGGINS. Madam Speaker, I rise today to ask the House to join me in honoring a great Western New Yorker—one of many who are intentional Western New Yorkers, those who have chosen to live in our region as opposed to natives like myself. I rise today to honor Kathleen Callan as she ends her tenure as Executive Director of the Erie County Democratic Committee.

Kathy is a New Jersey native; a product of the Philadelphia, PA suburbs, educated first in local schools and later at American University in Washington, DC, where she earned her undergraduate degree. After high school experiences that included internships with then-Senator Bill Bradley and Congressman Rob Andrews, Kathy and her husband Tim moved to Western New York in 1995, as Tim studied for his PhD at the University at Buffalo.

Following a lengthy stint at the Western New York chapter of the American Lung Association which was marked by successful lobbying for passage of clean indoor air and anti-smoking legislation at the county and state levels, Kathy assumed the Executive Director's position upon the election of Chairman Len Lenihan in 2002.

From January 2003 to just a few days ago, Kathy served tirelessly as Executive Director, managing the day to day operations of the busiest and most successful county Democratic Party organization in upstate New York. Kathy's record of successful contributions to candidates for public office runs the gamut of offices in New York State. From trustee positions in the smallest villages of Erie County, to countywide offices like Comptroller and County Clerk, to state legislative and congressional officeholders and Justices of the State Supreme Court, several dozen public officeholders—myself included—owe Kathy a tremendous debt of gratitude for her intellect and instinct, her dedication and loyalty, and her tireless commitment to public service.

For that latter point, Madam Speaker, I do not wish to belabor, but instead to amplify.

Over the past six years, Kathy worked literally scores of 80, 90 or 100-hour workweeks, dependent of course upon the time of year and the political calendar's requirements, in order to ensure that candidates for public office had the services they needed. As myself a former Secretary—a lifetime ago, it seems—of the very party she served so proudly, I can honestly say that no staff member of our local organization ever worked as hard, or as effectively, as Kathy Callan has.

So, Madam Speaker, it is with a somewhat heavy heart that we bid farewell to Kathy as Executive Director of the Erie County Democratic Committee, although I am certain that we will see her often. I hope the House will join me in wishing Kathy and her husband Tim good luck and Godspeed in all of their future endeavors, and again congratulate Kathy on a job superbly done.

DISABILITY BENEFITS FOR PEOPLE WITH HUNTINGTON'S DISEASE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. FILNER. Madam Speaker, I have introduced the Huntington's Disease Parity Act of 2009 (H.R. 678). The purpose of this bill is to improve Social Security Disability Benefits and Medicare coverage for people affected by Huntington's Disease.

Huntington's Disease (HD), is a genetic neurodegenerative disease (like Alzheimer's) that causes total physical and mental deterioration over a 10 to 25 year period. Eventually, every person diagnosed with HD will lose the ability to live independently. It is a rare disease, affecting 30,000 Americans, while another 200,000 are considered ''at risk'' of inheriting it from an affected parent.

Many people with HD who apply for Social Security disability benefits experience delays and denials due to the continued use of outdated and insufficient medical criteria. Often, by the time persons affected by HD are ''under review'' for SSA disability, many have already lost their employer-provided health insurance benefits. This legislation would address this problem by directing the Social Security Administration to revise its medical criteria for determining disability for people with HD.

The legislation would also remove the two-year waiting period for people living with HD to receive Medicare benefits after receiving Social Security disability benefits. Eliminating this waiting period will ensure individuals will get crucial care they need in the early stages of the disease. In 2000, the Centers for Medicaid and Medicare Services waived this waiting period requirement for people disabled by ALS (Amyotrophic Lateral Sclerosis or Lou Gehrig's disease), another degenerative neurological condition similar to HD.

IN APPRECIATION OF SPECIAL AGENT SCOTT SAMMIS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. MOLLOHAN. Madam Speaker, I rise today to acknowledge the valuable contributions that Special Agent Scott Sammis of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has made to the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies this past year specifically, and to Members of the Congress and the American people more generally.

Special Agent Scott Sammis came to the Subcommittee in February of 2008 on a professional detail from the ATF. At that time, Special Agent Sammis was Acting Division Chief of the Liaison Division within the Office of Public and Governmental Affairs. Special Agent Sammis joined the ATF nearly 20 years ago, and was first assigned to the Buffalo, New York field office. Soon after being assigned to that field office, Scott was the sole case agent on the Love Canal Bomber investigation. That investigation involved individuals who detonated two pipe bombs and set several fires in the vacant homes around the contaminated area, which had recently been declared habitable again. The individuals were arrested by Special Agent Sammis and ultimately convicted in U.S. District Court.

Then in December of 1993, four package bombs detonated throughout New York State, killing five people and injuring two. Two other packages were intercepted and rendered safe by local law enforcement. Special Agent Sammis had been investigating a large recovery of dynamite from three months earlier, and was able to connect the two investigations on the night of the bombings. He subsequently identified a suspect and obtained a 44-page signed confession within 18 hours of the bombings. The two suspects were convicted in U.S. District Court. Sammis received ATF's Johnny Masengale Memorial Award for his work on this investigation. This annual award was established in memory of Special Agent Johnny A. Masengale to recognize ATF employees involved in a special effort or special achievement in an explosives investigation or an explosives-related support activity. Special Agent Sammis and his impressive work leading to these arrests were featured on American Justice.

In October 1997, Special Agent Sammis was assigned to the Intelligence Division; specifically, the National Church Arson Task Force. As a project officer in this group, Special Agent Sammis utilized his computer skills to set up a database to track the hundreds of church fires occurring in the late 1990s. The honing of these computer skills would prove particularly invaluable to the Subcommittee on Commerce, Justice, Science and Related Agencies.

Over the following ten years, Special Agent Sammis would be assigned various positions within the ATF, including a position within the Resource Management Branch (RMB) of ATF's Financial Management Division and as the Resident Agent in Charge of the Richmond, Virginia Field Office.

Upon joining the Subcommittee, Special Agent Sammis was responsible for managing the sizable and complex database of congressional requests made of the Subcommittee. The database included several thousand individual requests made by members of Congress. His tenacity, ingenuity and thoroughness brought clarity and order to the cumbersome and time-consuming process of reviewing and tracking the myriad annual requests. He worked tirelessly into the early morning hours to ensure that the tabular material for inclusion in the Committee reports was complete and accurate and that certification letters were correct and submitted in accordance with the Rules of the House. During conference deliberations with the Senate, Scott ensured that the House and Senate tables merged correctly—a difficult task given that the House and Senate Subcommittees use different databases. Scott, as always, rose to the occasion and volunteered to take on this extremely important, time-consuming task.

In addition, Special Agent Sammis reviewed the congressional budget submissions of several independent agencies, and, at only the appropriate times, offered his impressions and observations based on his unique, personal experience in the field when questions related to law enforcement arose. When the work of the Subcommittee required late-night or extended hours, Special Agent Sammis ensured that the Subcommittee staff did not go without proper nourishment, offering suggestions from the menus of neighborhood eateries. He kept a catalog of quotable quips, day-to-day musings that brought him private amusement. His nail pin compressor, electric drill and hammer were always ready at hand, and for the sake of expediency, he insisted on moving office furniture in his suit and tie. There was little he would not do gladly. He performed his job admirably, with good humor and patience. Simply, Special Agent Sammis covered all the bases, and exceeded everyone's expectations.

It is with regret that the Subcommittee returns Special Agent Sammis to the ATF today. He has represented the law enforcement agents of the ATF with distinction and honor. I personally want to extend my appreciation, and that of Ranking Member RODNEY FRELINGHUYSEN, Senators BARBARA MIKULSKI and RICHARD SHELBY, and the Subcommittee staff for a job very well done. Once again, Scott, you have served the Congress and the American people well.

TRIBUTE TO THE APOLLO THEATER'S 75TH ANNIVERSARY SEASON AND THE CONTRIBUTIONS OF MR. PERCY SUTTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Mr. RANGEL. Madam Speaker, I rise today to congratulate the Apollo Theater on kicking off its 75th Anniversary Season and its long-

time success in showcasing many of the world's greatest entertainers. Additionally, I want to pay tribute to my dear friend Percy Sutton who saved the Apollo Theater and made this moment possible.

I also congratulate the Apollo Theater Foundation president & CEO Jonelle Procope and board chairman Richard D. Parsons for their leadership and their efforts in putting together this anniversary celebration.

Before there was American Idol, there was Amateur Night at the Apollo which launched the dreams of stardom for many of America's greatest entertainers. Among them are some of the legends: Ella Fitzgerald, Stevie Wonder, and James Brown.

Located in the heart of Harlem on 125th Street, the Apollo is the musical soul of our community. For the past 74 years, it has thrilled Americans of every race and religion who have enjoyed unforgettable performances by new and established artists. This year continues and celebrates that tradition.

I truly wish I could be there to celebrate this historic event. However, my work on the House Ways and Means Committee focusing on President Obama's economic recovery plan requires me to be in Washington.

The Apollo is special place in the entertainment world where many celebrities who started here come home and "look back." That is the case with Dionne Warwick and Chuck Jackson who starred at the Apollo years ago and will be with us this week participating in the 75th Anniversary Season Kick-Off.

Once again, I congratulate the Apollo Theater and join in its celebration. Our district is proud to serve as the home of the Apollo and deeply appreciates all it has done for the community. We look forward to a 75th season filled with amazing talent and memorable performances.

IN RECOGNITION OF THE INSPIRATIONAL LIFE OF LAHORI RAM

HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 28, 2009

Ms. SPEIER. Madam Speaker, our nation lost a shining light when Mr. Lahori Ram passed away earlier this month.

Mr. Ram was born in 1944 in the village of Lalwan, Punjab, India and came to America in 1972 with $308 in his pocket. He toiled in the fields of the Central Valley, picking almonds and peaches for seventy-five cents an hour while putting himself through school, eventually earning a Master's Degree in Economics and landing a job with the United States Postal Service at San Francisco International Airport.

When Lahori Ram arrived in America, he didn't know a single person. When he left us—far too soon—his friends were legion. Known as Uncle Ji to his extended family of Indian immigrants and their children, Lahori built a real estate empire in the Bay Area by buying and renovating rental properties.

A staunch supporter of his adopted country, Lahori and his beautiful wife, Pritam Kaur, raised three delightful children and saw to it that they received a stellar education and embraced their parents' dual affection for both America and the "old country" of India. His two sons, Jagdev (Jack) and Ajaipaul (Paul), are practicing attorneys and daughter Jagdish (Jackie) is on her way to an MBA. In addition, he always had time for his daughters-in-law, Ramitpal and Nelam and doted on his only grandchild, Jasmyne.

Madam Speaker, Lahori Ram was a passionate and progressive leader of the Indo-American community. He founded North America's first Sri Guru Ravidass Temple in Pittsburg, California in 1984. He tirelessly spread his message of equality for all humankind and encouraged education, hard work and love of family, community and country.

Lahori Ram was a mentor for Indians wanting to get involved in the American political process and was the first Indo-American to be appointed to a statewide commission in California. At the time of his passing, he served on California's Economic Development Commission. Previously he served on the state's Technology, Trade and Commerce Committee and the Transportation Commission.

Lahori and Prito Ram bought their first home in San Bruno in 1979. While he built a fortune—eventually owning more than 100 apartment units in the Bay Area—the family remained in their adopted community. His unexpected and sudden passing leaves many mourning the loss, but soon the mention of his name will bring only smiles as his many friends and relatives remember this good man, known worldwide for his grace, hard work and kindness. I am proud to have represented Lahori Ram and prouder still to have been his friend.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 29, 2009 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 3

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine modernizing the United States financial regulatory system.

SD–538

SENATE—*Thursday, January 29, 2009*

The Senate met at 9:30 a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by Rabbi Daniel J. Fellman, Anshe Emeth Memorial Temple, New Brunswick, NJ.

The guest Chaplain offered the following prayer:

We arrive this morning filled with thanks to our Creator who endows each of us with inalienable rights; to our founding leaders who joined those rights with responsibilities for ourselves and our fellow citizens; to the people of our Nation for entrusting us with awe-inspiring duties; to each other as we endeavor to maintain civility, striving for dignity and high purpose in conducting the people's business.

Today and every day, let us strive to fill this Chamber with humanity, humility, and hope, honoring our Nation's past while honing our unique yet shared understanding of the future's ever-present call.

As we turn to the business of the people, remind us that we have not come into being to hate or to destroy but, rather, we have come into being to praise, to labor, and to love.

With gratitude in our souls, we turn to the source of all, seeking blessing for ourselves, our families, our endeavors.

May we be guided by the light of the Lord, and may we be of the generation who shines that light for all to see.

And let us live the words of our first President: ''May the Father of all mercies scatter light and not darkness in our paths, and make us all in our several vocations useful here, and in his or her own due time and way, everlastingly happy.''

Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 29, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHERROD BROWN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BROWN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall resume consideration of H.R. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

Pending:

Coburn amendment No. 49 (to H.R. 2, as amended), to prevent fraud and restore fiscal accountability to the Medicaid and SCHIP programs.

Coburn amendment No. 50 (to H.R. 2, as amended), to restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient.

The ACTING PRESIDENT pro tempore. The senior Senator from Nebraska is recognized.

THE GUEST CHAPLAIN

Mr. NELSON of Nebraska. Mr. President, I am very pleased that Rabbi Daniel Fellman could join us today as guest Chaplain to deliver the opening prayer for the Senate.

Rabbi Fellman, a native of Omaha and a respected religious leader, currently is assistant rabbi at Anshe Emeth Memorial Temple in New Brunswick, NJ. He is a much admired teacher who has served on the faculty at the Yavneh Day School in Cincinnati and numerous religious schools. He served as student rabbi in congregations in Natchez, MS; Petoskey, MI; Joplin, MO; and LaSalle, IL. He also served in summer rabbinic positions in Nebraska and at the University of Cincinnati Hillel. In Cincinnati, he helped foster interfaith understanding as a member of the steering committee of the Catholic-Jewish Educators Dialogue of the American Jewish Committee.

Rabbi Fellman received his undergraduate degree in political science from Colorado College. He earned a master of arts in Hebrew letters from Hebrew Union College-Jewish Institute of Religion in Cincinnati, and he was ordained in June 2005.

On a more personal note, however, Rabbi Fellman is an Eagle Scout, and, like me, Boy Scouts taught him the importance of dedication and service to the community.

While he is still young now, I have counted him as a friend for a long time. During my first campaign for Governor in 1990, I was grateful when a teenage Daniel Fellman often showed up with his father, University of Nebraska at Omaha political science professor Dick Fellman—who is with us today, and his mother—to volunteer.

One night Daniel Fellman, a relatively green driver then, got into an automobile accident. There were no serious injuries sustained, but news reached one of my closest aides and my campaign manager the next morning before Daniel arrived in the office. That was my great friend, the late, great Sonny Foster.

The next morning, when Daniel did arrive at our campaign office, Sonny greeted him: Hello, Crash. Ever since, to me and a few others, he has been ''Crash Fellman,'' but now he is Rabbi Fellman. We understand it is a nickname, always given and received by a smile.

I thank Rabbi Fellman and his parents and his family for being here today and for his words of prayer this morning. May they guide us to do what is right for America and for the world.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ECONOMIC STIMULUS LEGISLATION

Mr. MCCONNELL. Mr. President, Republicans have had an opportunity this week to highlight a number of our better ideas to ensuring low-income children receive quality health care. We will continue to offer our plans to improve this program. I think there is certainly a possibility of finishing the SCHIP bill today, which will let us turn to the economy next week.

We all know the economy is clearly the top issue on the minds of all Americans. I think we all agree we need to act to strengthen our economy and to create jobs. Unfortunately, the bill produced by the Democratic Congress falls short on a number of important fronts. First, it does not fix the main problem,

which is housing. We need to address that issue, and my colleagues will have better ideas to stimulate home ownership. Next, we need to let taxpayers keep more of what they earn. Finally, we should not be spending taxpayer dollars we do not have on programs we do not need.

We have seen a lot of reports recently on what is in the bill—everything from buying cars for Federal employees, to beautifying ATV trails, to spiffing up the headquarters building at the Department of Commerce. In a time of trillion-dollar deficits, we cannot afford Washington business as usual. We should insist on the highest standards. Are these projects really necessary? Will they stimulate the economy? Will they create jobs? Should we ask the American people to foot the bill? Republicans believe that letting individuals and businesses keep more of what they earn will have a quicker stimulative effect than having the Government spend it on projects, particularly ones that are likely to be delayed for 3 to 4 years.

We look forward to offering amendments to improve this critical legislation and move it back to the package President Obama originally proposed—40-percent tax relief, no wasteful spending, and a bipartisan approach.

Republicans have better ideas to dramatically improve this bill that will go at the problem, create jobs, and stimulate the economy. We have better ideas to address the housing crisis, which is where this problem originated. But in order to pass these and other commonsense amendments, we will need support from our friends on the other side of the aisle. Fixing our economy requires innovative ideas, commonsense solutions, and bipartisan cooperation. It is clear from last night's vote in the House that the only thing that is bipartisan about this bill is the opposition to it. It simply does not meet the standard of bipartisan cooperation set by President Obama and welcomed by Republicans in Congress.

Republicans stand ready to work with our friends across the aisle to create truly bipartisan legislation which will actually stimulate the economy and create jobs, and we are ready to start next week.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, we had a good day on the Children's Health Insurance Program bill yesterday. We considered 10 amendments; we conducted 6 rollcall votes. All in all, I think it was a very productive day because we are very close to finishing and passing the Children's Health Insurance Program—reauthorizing it—so it can be sent to the House. My expectation is the House will then take the Senate bill and send it to the President so we can get it signed very quickly.

This morning, at about 10 a.m., we expect Senator HATCH to come to the floor to offer his amendment regarding the definition of an unborn child. I know Senator BOXER, and perhaps some other Senators, wish to be here to address that issue and speak on that as well.

Last night, Senator COBURN offered two amendments and spoke about another, and we hope to work with him to process those amendments.

For the information of Senators, we are working to set up a series of votes on amendments, perhaps later this morning. A specific time has not been set. My guess is it will be quite late this morning. Frankly, we are working to finish this bill this afternoon. This bill is moving along very quickly, and I urge Senators to bring any remaining amendments they may have to the floor so we can wrap it up.

This is a wonderful program. There aren't very many people who disagree with the Children's Health Insurance Program as enacted by Congress back in 1997. It was wonderful work on the part of Senator ROCKEFELLER, Senator HATCH, Senator KENNEDY, and the late Senator John Chafee. They worked very hard.

It is very interesting, there were very serious discussions on the one hand, with many Senators who thought this should be another entitlement program for children; on the other hand, some Senators thought, no, this should not be an entitlement program, it should be a block grant program. That was the compromise; that States get a big chunk of money, to be matched by State payments to provide health insurance for the working poor—for kids of families who are just above the income levels set for Medicaid. It has worked very well. It is very important, and I am very happy, frankly, and proud of the attempt that was begun back in 1997 by the Senators I mentioned.

We had hoped to get this approved a couple years ago, late in 2007, but unfortunately those two efforts were vetoed by President Bush. But here we are today. This is 2009—a new era, a new opportunity—and I think most Senators are quite proud of the efforts we are making to help more kids get better health insurance.

I hope Senator HATCH gets to the floor soon so he can offer his amendment and then we can proceed.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 80

Mr. HATCH. Mr. President, I ask unanimous consent to set aside the pending amendment and call up the Hatch amendment No. 80.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, and Mr. BENNETT, proposes an amendment numbered 80.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To codify regulations specifying that an unborn child is eligible for child health assistance)

On page 76, after line 23, add the following:

SEC. 116. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

Mr. HATCH. Mr. President, America's Founders built their case for independence on the foundation of self-evident truths; not party platforms or partisan positions, not opinion polls or intellectual fads but self-evident truths. Our Creator, they said, endows us with inalienable rights, including the right to life. Government, they said, exists to secure those rights. They believed that when America was born, and I still believe that today. I offer this amendment in that same spirit. The conviction about the essential dignity of our fellow human beings

motivates the Civil Rights movement here at home and the human rights movement abroad. No matter what our income, race, sex, religion, location or age, we all have our humanity in common.

I came to the Senate with the conviction and tried to act on that conviction ever since by working to protect children's lives and promote children's health. These go hand in hand. That is why I worked so hard with Senator KENNEDY and others to originally pass the children's health program and bill. It was kind of a miracle that we were able to get it done over 10 years ago when we did it. It was done in the Finance Committee and became the glue that held both the Republicans and Democrats together on the first balanced budget in over 40 years.

As I said, I came to the Senate with very strong convictions. Again, I have tried to act on those convictions ever since by working to protect children's lives and to promote children's health because I believe they go hand in hand. Elaine and I have 6 children, 23 grandchildren, and 3 great-grandchildren, and we speak for children, grandchildren, great-grandchildren, and beyond, all over America.

I cannot understand those who insist that we establish hundreds of programs to help millions of people by spending billions of dollars but who do not believe the lives of those very same people should be protected.

The Children's Health Insurance Program is about promoting children's health. My amendment does exactly that. A child in the womb is just as alive, just as human as that very same child will be after he or she is born. The CHIP program exists to help States promote children's health. The children who need help might be in a house or an apartment, in a city or out in the country, in a large family or single-parent home, in a crib or in the womb. That just seems to me, well, self-evident.

Since October 2002, a regulation issued by the Department of Health and Human Services has defined a child as anyone from conception to 18 years of age. It may sound a little odd to call someone who can drive, vote, or serve in the military a child, but it is the most natural thing in the world to say that when those very same individuals were in the womb, they were children.

Under this HHS regulation, States have had the option of providing CHIP coverage to children before as well as after birth. My amendment would codify that regulation to continue helping States protect the health of children.

I would point out to my colleagues that so far, 14 States have approved plans to provide CHIP coverage to children before birth. Those States include Arkansas, California, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin.

I also wish to clarify that my amendment would also provide health coverage to pregnant women. Some have claimed that under this HHS regulation, pregnant women would only get CHIP coverage for conditions specifically related to their pregnancy. I want to assure my colleagues that my amendment will ensure that States have the option of providing services to benefit either the mother or the child or both.

My amendment also clarifies that States may provide mothers with postpartum services for 60 days after they give birth. Mothers have health needs before and after they give birth and their children have health needs before and after they are born. My amendment ensures that the CHIP program continues to meet those very important needs.

I urge my colleagues not to put the health of children at greater risk by sidetracking my amendment with a bogus debate over abortion. This is about children and their health, not abortion.

America itself is built on the foundation of inalienable rights which we receive from God. Government exists to secure those rights. Those rights do include the right to life, and they specifically include the right to life. My life, your life, the life of each of my Senate colleagues did not begin when we were born. Each of us was just as alive, just as human the day before our birth as the day after—or as we are today. Our efforts to promote children's health, including through the CHIP program, flow from that self-evident truth.

My amendment will continue allowing States to promote the health of children and their mothers before as well as after those children are born. I urge all my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, with great respect for my friend from Utah, I rise to oppose his amendment, not only as a Senator but as a mom and a grandmother. What the Senator is seeking to do essentially is separate the woman from the child she is carrying, separate her from her pregnancy. I think I can speak with authority here. I know my friend is a grandpa and a dad and has a magnificently beautiful family, but I gave birth to two kids. I can assure my friend that when you cover the pregnant woman, you are covering that child from the time that child is a fetus to the time that child is born.

I would just say that it appears to me as if this amendment is a diversionary amendment from this very important bill to expand and improve the health of our children, including the health of our moms who are pregnant, a diversion to a debate about when does life begin—let's fight about abortion. You know what, we will have many opportunities to have that argument. When we have that argument over Roe v. Wade, I think pro-choice will prevail. But this is not the place to have that argument. This is a place where my friend from Utah and I should walk down this aisle being very happy that under this law that is before us, this bill that is before us, States absolutely can choose to cover a pregnant woman. This is a big step forward, and this is very important.

Again, I think the idea behind this amendment is to divert us from this very important bill. In my State, it will expand coverage to more than half a million kids and many pregnant women.

The debate over when life begins and all of that is a very philosophical debate. My religion may teach something other than my friend's. I totally respect every view on that subject. I also respect the women of this country and the view they bring through their moral code and their religion and whatever else they bring to the table as human beings. On the day we debate that, I will be out here debating it, but I am not going to get into this debate with my friend today over when life begins. Today is a day where we are going to work on making sure that our children are covered with health insurance and that our pregnant women are covered with health insurance. The good news I bring to the Senate today is that under this bill, pregnant women will be covered by this. This is very important.

Again, to try to separate the woman from the child she is carrying, from the fetus in her womb, is nonsensical. Maybe my friend sees it another way. But when you take care of a pregnant woman, you are taking care of her fetus, you are taking care of her pregnancy, you are working hard to make sure that baby is healthy.

I just became a grandma 3 weeks ago, and my daughter had excellent health care. I want to assure my friends on the other side of the aisle that as she was being treated, so was the child she was carrying, my beautiful grandson.

Let's not take a beautiful bill and start fighting over an issue that has been a philosophical argument forever—what is the point at which life begins? My religion teaches me one thing. My friend's religion may teach him another. Who is right? Who is wrong? All we, as humankind, can do is to give our best effort to figure that out. But in this bill, what we are trying to do is bring health insurance to pregnant women, bring health insurance to our kids. To divert it with this subject is a disservice to the bill that is before us.

I know my friend is passionate on this point. I totally respect him for that. But I hope we will defeat this

amendment because it is a diversion. It is a fight about Roe v. Wade. It is a fight about whether a woman has a right to choose, and it does not belong on this bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Utah is recognized.

Mr. HATCH. Mr. President, as always, I care for the Senator from California. We are good friends. You know, I hasten to point out that her own State of California has approved unborn child State plans. Look, this amendment by definition has nothing to do with abortion since women who seek help covering their unborn children's health are not women seeking abortion. They are separate, and the Senator should not try to mix them. This is not an issue about abortion. This is an issue about a living, unborn child and her or his mother.

I might add that 14 States have approved unborn child State plans, including the States of Arkansas, California, Illinois, Louisiana, Massachusetts, Minnesota, Michigan, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin have all approved unborn child State plans.

I agree with the Senator, the bill has worked beautifully, the CHIP bill, for the last 10 years. I know. I wrote every word in it and did so with Senators KENNEDY, ROCKEFELLER, CHAFEE, and others, as a matter of fact. But I don't think anybody doubts that I carried the ball in getting that bill through the Finance Committee and the whole Congress.

I see a one-sided attempt here to change the bill in ways that will make it less effective and not cover as many children as it should. Some argue the legislation already gives States the option to cover pregnant women, so this amendment is not necessary. But the distinct difference between this amendment and what is in the underlying bill is that this amendment allows States to cover children before birth. Children have health needs as much before as after they are born, so legislation to promote children's health ought to cover them. Let me emphasize that this is a State option, not a State requirement.

Some argue this amendment is an attempt to inject, as I think the distinguished Senator from California has argued, the abortion issue into a bipartisan effort to protect children's health through the authorizing of the CHIP program. The truth is exactly the opposite. As I said when introducing my amendment, this has nothing to do with abortion. It has everything to do with promoting children's health, and any reasonable person ought to be concerned about the unborn as much as they are the born and, of course, the mother involved. This amendment takes care of all three.

I feel very strongly about this. I do not think anybody should try to make this an abortion issue—not myself, not the distinguished Senator from California, or anybody else, for that matter. I don't see how anybody can vote against an amendment that protects the life of the unborn child after having read the Constitution about its great desire to protect life, liberty, and the pursuit of happiness. That is what this amendment is all about.

I feel strongly about it. I hope our colleagues will support it, because it would be a great thing to help this bill along. I would feel much better if this was amended. I have to admit, I do not feel good about the approach that has been taken by my colleagues on the other side of the aisle.

The fact is that Senator GRASSLEY and I carried the ball for the last 2 years, working with Senators REID, BAUCUS, ROCKEFELLER, DURBIN, and others; working with the House, Speaker of the House PELOSI, Rahm Emanuel and others who were there, including STENY HOYER.

We worked closely together to do CHIPRA I. We got an overwhelming vote in the Senate. On CHIPRA II, we got an overwhelming vote in the Senate, enough to override the President's veto in the Senate. I do not think that would have happened but for the bipartisan effort we put together. We had a solid, strong vote in the House, but not enough to override the President's veto.

Now, I have heard people run down President Bush for his vetoes on CHIP. I think President Bush followed the advice of some very young advisers in the White House who basically gave him bad advice. Had he allowed CHIPRA I or CHIPRA II to go through, we would not be having this awful debate today; we would all be together. The whole Congress would have been together, and this whole effort would have been truly bipartisan. We could have set a bipartisan tone right off the bat, instead of this partisan tone that has been set by bringing up the bill without even talking to the two lead Republicans who in 2007 worked so carefully, honestly, and diligently to try and bring about a bipartisan resolution for a new CHIP bill.

And, by the way, we took a lot of flack in the process from some in the administration and some on our side for supporting the legislation in 2007. We took it. We took it gladly. And our colleagues on the other side saw us take it. They saw us stand firm. They saw Senator GRASSLEY and myself stand on the floor, along with a whole host of others, in a bipartisan way, putting together what would have made CHIP even better for the next certainly 5 years.

This bill only funds the CHIP program for 4½ years, because if they had gone the extra half year, it would have priced the bill out of the marketplace. But I have to say, we are going to have to come up with that money anyway, and end up going that extra half year. So everybody better understand all that is being done today by my friends on the left, ignoring people, like me and Senator GRASSLEY, who have worked so closely with them—and they have a right to do that. I can live with that, as I vote against their partisan bill.

All I can say is they have a right to do it. But it is the wrong thing to do. It is the wrong way to start off this Congress after the President himself has shown such a propensity to want to work together. I have to say, I was there when the President came and spoke to our caucus last Tuesday. He was impressive. He was friendly. He was making every effort to be bipartisan. But he apparently had not fully examined the stimulus bill that has been passed only in a partisan way by the House. I would call people's attention to the Wall Street Journal yesterday and their editorial on all the bad things that are in the bill; or Investors Business Daily and their editorial, and how that it is not a stimulus bill at all, but a great big potpourri of long-wanted liberal programs that are not going to stimulate the economy the way they should.

I am not saying there is not any stimulus in the bill, but there is not much compared to the cost of the bill. When you add interest to the bill, it is well over $1 trillion. Of course, you know, they keep interest off because that would make it over $1 trillion. But interest is going to have to be paid regardless.

Now, this particular bill on the floor right now is one where I have a tremendous interest, namely, children and children's health. I am going to continue to take great interest in it.

I want to caution my colleagues on the left that they are making a tremendous mistake here. I think we could have had 95 votes for CHIPRA II or CHIPRA I. That would send a tremendous message that has not been sent around here in a long time.

Now, the CHIP program, so everybody understands, already covers children before birth at the States' option. I read off the States that have made that an option, including the distinguished Senator from California's State.

This is not a new policy. It is already working. This amendment simply continues that policy by codifying the HHS regulation. Women who want their babies need this assistance. Women in California and other States want this. Please do not deny this type of basic humane assistance or help for women and their children with a fake argument about abortion. Let's have an abortion debate on another day. Everybody knows I am pro life. I feel very

strongly about that. I will stand up for the pro-life position. But it has nothing to do with what we are debating here today. Let's help children and their mothers now.

Let's codify what a whole raft of States have said we ought to do, including the very important State of California, one-seventh of the whole economy, one-seventh, I should say, in size in the world economy today, and a State I have a lot of regard for.

Fourteen states have gone along with this regulation. And, frankly, I do not see one good argument against protecting unborn children and their mothers who want those children covered through the wonderful child health insurance program. This is a very important set of issues.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, my friend from Utah says he wants an honest debate, and then he says, and I am quoting him—not word for word—he says, pregnant women are not covered in this bill. That is a dishonest debate.

States have the option to cover pregnant women, just as under the Bush regulation they have the option to cover the unborn child. Okay? So let's straighten it out.

My colleague has mentioned my State several times. My State was so anxious to cover pregnant women that they did cover them under the unborn child regulation which was put into place by George Bush, because he injected the whole abortion debate into the CHIP program.

What we do is we get away from that. In this bill we talk about covering pregnant women. So for anyone to stand up here and suggest that the only way to cover pregnant women is by codifying George Bush's regulation that, by the way, this Chamber voted down twice—let's be clear.

My colleague says that this is a left-right issue. This is not a left-right issue at all. When my colleagues voted on this a couple of times before, it was bipartisan to reject the Allard amendment, which was to codify the very law that my friend is suggesting we do today. I will predict we will defeat this by a much bigger margin, because of the elections that were just held.

I say again, with all respect, anyone who in their heart wants to cover pregnant women, which means covering the child they are carrying, should be very proud of this bill. Because that is what we do. So to stand up here and say we have to codify George Bush's wording on this, which was ''unborn child,'' saying if we do not pass this amendment, pregnant women and their babies are not covered, this is a straw man or a straw person. Pregnant women are covered. The fetus is covered from the minute that woman goes to the doctor until the minute she gives birth, and through all of those times in between. It is the ability of the States to do it. But we refuse in this bill, and I hope we will continue this, to put forward such a divisive issue and an argument that does not belong on this bill.

If my friend was right, if he stood up here and said, right now pregnant women are not covered, I would go over there and say, well, let's work out some wording to make sure they are covered. But we do not have to do that. They are covered.

What my friend wants is to codify what George Bush put into play, a political decision to inject abortion politics into a children's health bill. I think it is a sad day for the children of this country to be drawn into a debate. And, again, mentioning my State several times, when my State had no choice. If they wanted to cover pregnant women, they had to cover them under this. Guess what. Now they will not have to do it, because this bill corrects the problem.

So I have to say, when my friend says it is a left-right debate, it has nothing do with left-right, and he knows it. In my State, some of the strongest pro-choice constituents are Republicans, and some of the strongest pro-life constituents are Democrats. This is not a left-right issue. It is an issue we all address in our own way using our own logic, our religion, our moral values, and we come to a conclusion.

Do not inject it into this bill. I hope we reject this, because this is now the second abortion-related amendment my Republican friends have offered in as many days. If that is what they think this election was about, I think they are missing something. People want our kids to have health care. They want our families to have health care. They want to solve the economic problems.

Today we learned there are even more jobless claims. Millions of people are unemployed. And we are having our second abortion-related vote. I think if this party, this Grand Old Party does that, I see several colleagues who may say, well, it is your right, it is your privilege, I will debate you. I think we will prevail today.

But if every single bill we bring forward turns into an abortion-related debate, I do not know where my colleagues are coming from. Because let me reiterate, every pregnant woman has the right to have this health care option should their State choose it.

We do not need to change the language and codify a very divisive amendment which was a regulation under George Bush. It should be a new day around here. We should not have to have this division. But I have already heard they may offer more abortion-related amendments on this children's bill.

Who knows what is to come? But you know what, I think my leader, HARRY REID, is right. Let them come at us with these amendments. Let the American people see the priorities, when everyone knows every pregnant woman is eligible for coverage. To now indicate they are not unless my friend's amendment passes is simply, if I could say, an out and out falsehood. It is not true. It is not true.

I have the bill. I will read the section, if my friend needs me to.

I ask unanimous consent to print in the RECORD the last two votes we had on this very same subject where those trying to inject the abortion issue failed.

There being no objection, the material was ordered to be printed in the RECORD, as follows;

U.S. SENATE ROLL CALL VOTES 110TH CONGRESS—2ND SESSION

As compiled through Senate LIS by the Senate Bill Clerk under the direction of the Secretary of the Senate.

VOTE SUMMARY

Question: On the Amendment (Boxer Amdt. No. 4379).

Vote Number: 80; Vote Date: March 14, 2008, 12:11 AM.

Required For Majority: 1/2; Vote Result: Amendment Agreed to.

Amendment Number: S. Amdt. 4379 to S. Con. Res. 70 (No short title on file).

Statement of Purpose: To facilitate coverage of pregnant women in SCHIP.

Vote Counts: YEAs—70; NAYs—27; Not Voting—3.

VOTE SUMMARY BY SENATOR NAME, BY VOTE POSITION, BY HOME STATE

Alphabetical by Senator Name

Akaka (D-HI), Yea
Alexander (R-TN), Yea
Allard (R-CO), Nay
Barrasso (R-WY), Nay
Baucus (D-MT), Yea
Bayh (D-IN), Yea
Bennett (R-UT), Nay
Biden (D-DE), Yea
Bingaman (D-NM), Yea
Bond (R-MO), Yea
Boxer (D-CA), Yea
Brown (D-OH), Yea
Brownback (R-KS), Nay
Bunning (R-KY), Nay
Burr (R-NC), Nay
Byrd (D-WV), Not Voting
Cantwell (D-WA), Yea
Cardin (D-MD), Yea
Carper (D-DE), Yea
Casey (D-PA), Yea
Chambliss (R-GA), Yea
Clinton (D-NY), Yea
Coburn (R-OK), Nay
Cochran (R-MS), Nay
Coleman (R-MN), Yea
Collins (R-ME), Yea
Conrad (D-ND), Yea
Corker (R-TN), Yea
Cornyn (R-TX), Yea
Craig (R-ID), Nay
Crapo (R-ID), Nay
DeMint (R-SC), Nay
Dodd (D-CT), Yea
Dole (R-NC), Yea
Domenici (R-NM), Not Voting
Dorgan (D-ND), Yea
Durbin (D-IL), Yea
Ensign (R-NV), Nay
Enzi (R-WY), Nay
Feingold (D-WI), Yea
Feinstein (D-CA), Yea
Graham (R-SC), Yea
Grassley (R-IA), Yea
Gregg (R-NH), Nay
Hagel (R-NE), Nay
Harkin (D-IA), Yea
Hatch (R-UT), Nay
Hutchison (R-TX), Yea
Inhofe (R-OK), Nay
Inouye (D-HI), Yea
Isakson (R-GA), Yea
Johnson (D-SD), Yea
Kennedy (D-MA), Yea
Kerry (D-MA), Yea
Klobuchar (D-MN), Yea
Kohl (D-WI), Yea
Kyl (R-AZ), Nay
Landrieu (D-LA), Yea
Lautenberg (D-NJ), Yea
Leahy (D-VT), Yea
Levin (D-MI), Yea
Lieberman (ID-CT), Yea
Lincoln (D-AR), Yea
Lugar (R-IN), Yea
Martinez (R-FL), Nay
McCain (R-AZ), Yea
McCaskill (D-MO), Yea
McConnell (R-KY), Yea
Menendez (D-NJ), Yea

Mikulski (D-MD), Not Voting
Murkowski (R-AK), Yea
Murray (D-WA), Yea
Nelson (D-FL), Yea
Nelson (D-NE), Yea
Obama (D-IL), Yea
Pryor (D-AR), Yea
Reed (D-RI), Yea
Reid (D-NV), Yea
Roberts (R-KS), Nay
Rockefeller (D-WV), Yea
Salazar (D-CO), Yea
Sanders (I-VT), Yea
Schumer (D-NY), Yea
Sessions (R-AL), Nay
Shelby (R-AL), Nay
Smith (R-OR), Yea
Snowe (R-ME), Yea
Specter (R-PA), Yea
Stabenow (D-MI), Yea
Stevens (R-AK), Yea
Sununu (R-NH), Nay
Tester (D-MT), Yea
Thune (R-SD), Nay
Vitter (R-LA), Nay
Voinovich (R-OH), Nay
Warner (R-VA), Yea
Webb (D-VA), Yea
Whitehouse (D-RI), Yea
Wicker (R-MS), Nay
Wyden (D-OR), Yea

Grouped By Vote Position

YEAs—70

Akaka (D-HI)
Alexander (R-TN)
Baucus (D-MT)
Bayh (D-IN)
Biden (D-DE)
Bingaman (D-NM)
Bond (R-MO)
Boxer (D-CA)
Brown (D-OH)
Cantwell (D-WA)
Cardin (D-MD)
Carper (D-DE)
Casey (D-PA)
Chambliss (R-GA)
Clinton (D-NY)
Coleman (R-MN)
Collins (R-ME)
Conrad (D-ND)
Corker (R-TN)
Cornyn (R-TX)
Dodd (D-CT)
Dole (R-NC)
Dorgan (D-ND)
Durbin (D-IL)
Feingold (D-WI)
Feinstein (D-CA)
Graham (R-SC)
Grassley (R-IA)
Harkin (D-IA)
Hutchison (R-TX)
Inouye (D-HI)
Isakson (R-GA)
Johnson (D-SD)
Kennedy (D-MA)
Kerry (D-MA)
Klobuchar (D-MN)
Kohl (D-WI)
Landrieu (D-LA)
Lautenberg (D-NJ)
Leahy (D-VT)
Levin (D-MI)
Lieberman (ID-CT)
Lincoln (D-AR)
Lugar (R-IN)
McCain (R-AZ)
McCaskill (D-MO)
McConnell (R-KY)
Menendez (D-NJ)
Murkowski (R-AK)
Murray (D-WA)
Nelson (D-FL)
Nelson (D-NE)
Obama (D-IL)
Pryor (D-AR)
Reed (D-RI)
Reid (D-NV)
Rockefeller (D-WV)
Salazar (D-CO)
Sanders (I-VT)
Schumer (D-NY)
Smith (R-OR)
Snowe (R-ME)
Specter (R-PA)
Stabenow (D-MI)
Stevens (R-AK)
Tester (D-MT)
Warner (R-VA)
Webb (D-VA)
Whitehouse (D-RI)
Wyden (D-OR)

NAYs—27

Allard (R-CO)
Barrasso (R-WY)
Bennett (R-UT)
Brownback (R-KS)
Bunning (R-KY)
Burr (R-NC)
Coburn (R-OK)
Cochran (R-MS)
Craig (R-ID)
Crapo (R-ID)
DeMint (R-SC)
Ensign (R-NV)
Enzi (R-WY)
Gregg (R-NH)
Hagel (R-NE)
Hatch (R-UT)
Inhofe (R-OK)
Kyl (R-AZ)
Martinez (R-FL)
Roberts (R-KS)
Sessions (R-AL)
Shelby (R-AL)
Sununu (R-NH)
Thune (R-SD)
Vitter (R-LA)
Voinovich (R-OH)
Wicker (R-MS)

Not Voting—3

Byrd (D-WV)
Domenici (R-NM)
Mikulski (D-MD)

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U.S. SENATE ROLL CALL VOTES 110TH CONGRESS—2ND SESSION

As compiled through Senate LIS by the Senate Bill Clerk under the direction of the Secretary of the Senate.

VOTE SUMMARY

Question: On the Amendment (Allard Amdt. No. 4233).

Vote Number: 81; Vote Date: March 14, 2008, 12:29 AM.

Required For Majority: 1/2; Vote Result: Amendment Rejected.

Amendment Number: S. Amdt. 4233 to S. Con. Res. 70 (No short title on file).

Statement of Purpose: To require that legislation to reauthorize SCHIP include provisions codifying the unborn child regulation.

Vote Counts: YEAs—46; NAYs—52; Not Voting—2.

VOTE SUMMARY BY SENATOR NAME, BY VOTE POSITION, BY HOME STATE

Alphabetical by Senator Name

Akaka (D-HI), Nay
Alexander (R-TN), Yea
Allard (R-CO), Yea
Barrasso (R-WY), Yea
Baucus (D-MT), Nay
Bayh (D-IN), Nay
Bennett (R-UT), Yea
Biden (D-DE), Nay
Bingaman (D-NM), Nay
Bond (R-MO), Yea
Boxer (D-CA), Nay
Brown (D-OH), Nay
Brownback (R-KS), Yea
Bunning (R-KY), Yea
Burr (R-NC), Yea
Byrd (D-WV), Not Voting
Cantwell (D-WA), Nay
Cardin (D-MD), Nay
Carper (D-DE), Nay
Casey (D-PA), Yea
Chambliss (R-GA), Yea
Clinton (D-NY), Nay
Coburn (R-OK), Yea
Cochran (R-MS), Yea
Coleman (R-MN), Yea
Collins (R-ME), Nay
Conrad (D-ND), Nay
Corker (R-TN), Yea
Cornyn (R-TX), Yea
Craig (R-ID), Yea
Crapo (R-ID), Yea
DeMint (R-SC), Yea
Dodd (D-CT), Nay
Dole (R-NC), Yea
Domenici (R-NM), Not Voting
Dorgan (D-ND), Nay
Durbin (D-IL), Nay
Ensign (R-NV), Yea
Enzi (R-WY), Yea
Feingold (D-WI), Nay
Feinstein (D-CA), Nay
Graham (R-SC), Yea
Grassley (R-IA), Yea
Gregg (R-NH), Yea
Hagel (R-NE), Yea
Harkin (D-IA), Nay
Hatch (R-UT), Yea
Hutchison (R-TX), Yea
Inhofe (R-OK), Yea
Inouye (D-HI), Nay
Isakson (R-GA), Yea
Johnson (D-SD), Nay
Kennedy (D-MA), Nay
Kerry (D-MA), Nay
Klobuchar (D-MN), Nay
Kohl (D-WI), Nay
Kyl (R-AZ), Yea
Landrieu (D-LA), Nay
Lautenberg (D-NJ), Nay
Leahy (D-VT), Nay
Levin (D-MI), Nay
Lieberman (ID-CT), Nay
Lincoln (D-AR), Nay
Lugar (R-IN), Yea
Martinez (R-FL), Yea
McCain (R-AZ), Yea
McCaskill (D-MO), Nay
McConnell (R-KY), Yea
Menendez (D-NJ), Nay
Mikulski (D-MD), Nay
Murkowski (R-AK), Nay
Murray (D-WA), Nay
Nelson (D-FL), Nay
Nelson (D-NE), Yea
Obama (D-IL), Nay
Pryor (D-AR), Nay
Reed (D-RI), Nay
Reid (D-NV), Nay
Roberts (R-KS), Yea
Rockefeller (D-WV), Nay
Salazar (D-CO), Nay
Sanders (I-VT), Nay
Schumer (D-NY), Nay
Sessions (R-AL), Yea
Shelby (R-AL), Yea
Smith (R-OR), Yea
Snowe (R-ME), Nay
Specter (R-PA), Nay
Stabenow (D-MI), Nay
Stevens (R-AK), Yea
Sununu (R-NH), Yea
Tester (D-MT), Nay
Thune (R-SD), Yea
Vitter (R-LA), Yea
Voinovich (R-OH), Yea
Warner (R-VA), Yea
Webb (D-VA), Nay
Whitehouse (D-RI), Nay
Wicker (R-MS), Yea
Wyden (D-OR), Nay

Grouped By Vote Position

YEAs—46

Alexander (R-TN)
Allard (R-CO)
Barrasso (R-WY)
Bennett (R-UT)
Bond (R-MO)
Brownback (R-KS)
Bunning (R-KY)
Burr (R-NC)
Casey (D-PA)
Chambliss (R-GA)
Coburn (R-OK)
Cochran (R-MS)
Coleman (R-MN)
Corker (R-TN)
Cornyn (R-TX)
Craig (R-ID)
Crapo (R-ID)
DeMint (R-SC)
Dole (R-NC)
Ensign (R-NV)
Enzi (R-WY)
Graham (R-SC)
Grassley (R-IA)
Gregg (R-NH)
Hagel (R-NE)
Hatch (R-UT)
Hutchison (R-TX)
Inhofe (R-OK)
Isakson (R-GA)
Kyl (R-AZ)
Lugar (R-IN)
Martinez (R-FL)
McCain (R-AZ)
McConnell (R-KY)
Nelson (D-NE)
Roberts (R-KS)
Sessions (R-AL)
Shelby (R-AL)
Smith (R-OR)
Stevens (R-AK)
Sununu (R-NH)
Thune (R-SD)
Vitter (R-LA)
Voinovich (R-OH)
Warner (R-VA)
Wicker (R-MS)

NAYs—52

Akaka (D-HI)
Baucus (D-MT)
Bayh (D-IN)
Biden (D-DE)
Bingaman (D-NM)
Boxer (D-CA)
Brown (D-OH)
Cantwell (D-WA)
Cardin (D-MD)
Carper (D-DE)
Clinton (D-NY)
Collins (R-ME)
Conrad (D-ND)
Dodd (D-CT)
Dorgan (D-ND)
Durbin (D-IL)
Feingold (D-WI)
Feinstein (D-CA)
Harkin (D-IA)
Inouye (D-HI)
Johnson (D-SD)
Kennedy (D-MA)
Kerry (D-MA)
Klobuchar (D-MN)
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Leahy (D-VT)
Levin (D-MI)
Lieberman (ID-CT)
Lincoln (D-AR)
McCaskill (D-MO)
Menendez (D-NJ)
Mikulski (D-MD)
Murkowski (R-AK)
Murray (D-WA)
Nelson (D-FL)
Obama (D-IL)
Pryor (D-AR)
Reed (D-RI)
Reid (D-NV)
Rockefeller (D-WV)
Salazar (D-CO)
Sanders (I-VT)
Schumer (D-NY)
Snowe (R-ME)
Specter (R-PA)
Stabenow (D-MI)
Tester (D-MT)
Webb (D-VA)
Whitehouse (D-RI)
Wyden (D-OR)

Not Voting—2

Byrd (D-WV)
Domenici (R-NM)

Mrs. BOXER. Again, I want my colleagues to understand, we are debating a children's health care bill. Happily, I can say every pregnant woman in this country is eligible for health care. It is a wonderful thing. We avoid the divisive language of my friend's amendment which is codifying something George Bush put into place. It was not supported in the Senate. It was not supported twice. I respect his right to offer it as many times as he wants and let the American people see what we are debating. My State wanted so much to cover pregnant women, they said: We will go along with this language. But now they will not have to. They don't have to get engaged in an abortion debate, when you are serving children. I view this, frankly, as a needless debate. If the issue is covering pregnant women and their children, we have taken care of it. If this amendment is about injecting abortion and when life begins, it definitely succeeds.

I hope the Senate will speak loudly and clearly, regardless of how one feels about when life begins because that is not a partisan issue. Everybody comes to their own conclusion. This is an attempt to inject the abortion debate into a children's health care bill. It is diversionary. It is unnecessary. We should be so proud this bill covers every pregnant woman. It is one of those moments we could walk down the aisle together saying isn't it wonderful because pregnant women will get health care. That will lead to healthier children. We all know that.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Utah.

Mr. HATCH. Mr. President, this is not an injection of abortion into the debate. This is a children's health bill. I was the original author of the one that worked so well for over 10 years. A raft of States have determined that they should take care of the unborn through their CHIP programs. It is not an issue of abortion. In the world view of those who support abortion, the fact is, they don't want to give recognition to the unborn child. That is their right, if they want to feel that way. I think it is ridiculous. It is unspiritual. It is ignoring life itself. But to make that part of this debate is the wrong thing to do. We are trying to protect children.

The distinguished Senator from California said: All women are going to be protected by this bill. That is not true. It is a state option so they are covered only if a State decides to cover low-income, pregnant women. We want to make sure that if the state has the option to not just cover the woman but the unborn child as well. Anybody with brains ought to want to do that and ought to avoid the whole issue of abortion, which I am trying to do by protecting the mother and the unborn child and codifying the 2002 regulation.

Section 111 of the bill says there is a State option to cover low-income pregnant women under CHIP through a State plan amendment. Some States have chosen to do that. But why not recognize the rights of the unborn child? To try and make this into an abortion debate because they just don't believe the unborn child lives is another thing. The point of my amendment is to ensure States continue to have the option in the future to cover unborn children, plain and simple, without any ambiguity. We codify the 2002 regulation into law. Frankly, it is about time we do things like that in a children's health bill. But to make this abortion argument is—I hate to say it—completely wrong.

I am concerned not only with mothers, but I am also concerned about those unborn children who deserve the best health we can give them. My amendment gives the States the right to do that by codifying this important regulation. I know some supporters of abortion rights are afraid this will legitimize the fact that the unborn child is alive and is a human being. That is another argument. I agree that argument is right; that unborn child is alive, it is a living human being inside the mother's womb. The point of when the spirit enters the body is a legitimate question, I suppose, to some. But why would we be afraid to protect the rights of that unborn child? Why would we be afraid to do that? Why are folks so afraid if we legitimize the understanding that this unborn child actually is a living being, that somehow or other it is going to destroy their political world? It isn't going to do that.

This is a children's health bill. I take a tremendous interest in it. I not only want to protect the pregnant woman, I want to protect that unborn child. I don't know of any pregnant woman who wants her child who would not want this type of protection. To make this into a bogus argument is the wrong thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, the reason I want to respond to this, my friend is so eloquent, and he is such a great debater, but I have to bring us back to reality. If you are standing here today because you care about kids and you want to make sure pregnant women get all the health care they need so if there is trouble in the pregnancy, if there is a problem—there are so many miraculous things that can be done, and I have seen some of those in my own family, the things they can do to make sure a child is healthy. If the purpose of my friend, out of his love for his children and all children, which I know he has—if my purpose in supporting this bill is to make sure children are healthy, if that is our purpose, we could be very proud of this bill.

This bill says—and I will reiterate this as long as I have to—every single poor pregnant woman in America today is eligible for health care during her pregnancy, from the first day to the last day. Then, of course, a poor child would continue to get that health care. So anyone else who says that isn't true simply hasn't read the bill.

I ask unanimous consent to print in the RECORD, so my friend can't say something that is without rebuttal, page 50 of the bill, section 2112, which talks about low-income pregnant women to be covered through a State plan amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle B—Focus on Low-Income Children and Pregnant Women

SEC. 111. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 112(a), is amended by adding at the end the following new section:

'SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

'(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

'(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

'(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR PREGNANT WOMEN AND CHILDREN.—The State has established an income eligibility level—

'(A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and

'(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

'(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

'(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

'(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

'(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

'(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

'(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

'(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

'(d) DEFINITIONS.—For purposes of this section:

'(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

'(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

'(A) during pregnancy and through the end of the month in which the 60–day period (beginning on the last day of her pregnancy) ends;

'(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

'(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

'(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

'(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

'(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

'(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

'(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

'(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES- Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60–day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

'(3) NO INFERENCE.—Nothing in this subsection shall be construed—

'(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

'(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).'.

(b) Additional Conforming Amendments.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting 'or pregnancy-related assistance' after 'preventive services'; and

(B) by inserting before the period at the end the following: 'or for pregnancy-related assistance'.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking ', and' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting '; and'; and

(C) by adding at the end the following new clause:

'(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.'.

Mrs. BOXER. Let no one stand and say that unless we support the amendment of the Senator from Utah, a pregnant woman and the child she is carrying will not get coverage. That is false. What my friend wants is to codify George Bush's regulation that he correctly pointed out my State adopted. Why did my State adopt it? They were forced to adopt it if they wanted to cover pregnant women. They had to use that language of the unborn child. This is all about the abortion debate. It has to be. Under this bill I support, every pregnant woman is covered or is eligible for coverage. Under the amendment my friend is offering today, every pregnant woman would be eligible. So it is just about the language. That is the fact.

Let me repeat that. Under the bill, every pregnant poor woman is eligible for coverage. Under the amendment of my friend, every poor pregnant woman is eligible for coverage. What he insists on is that you have to separate the woman from the child she is carrying in order to make a political point about when life begins. This is not the appropriate time to have that debate. Believe me, I look forward to the debate. We have had it on the Senate floor. Tom Harkin had an amendment a couple of times to say that Roe v. Wade ought to be codified. It should not be overturned. We had votes on that. By the way, we did win that vote. But that is not what this is about. This is about making sure every pregnant woman gets coverage. Instead of being happy about it, my friend is agitated about the language and wants to write it in his way so we can then get into a debate about when life begins.

How you would ever separate a pregnant woman from the child she is carrying goes against nature. I have had two kids. I know. It is all about health care to the pregnant woman. When the child is born, it is about health care to the woman and, yes, the baby. My friend can stand here all he wants and say I am the one who is injecting abortion into this debate. I am not the one offering a divisive amendment. I am not the one raising the subject matter of when a fetus is a separate life from the mother. That is for another time. We have work to do. We have people struggling in this country. My friend attacked the stimulus bill.

By the way, that debate is coming as well. But the one area I know we should be able to work together on is making sure our kids are healthy. We should walk down the aisle together being very pleased we have taken care of that in this bill. Believe me, the more people lose their jobs and they can't get another one, the more this program is going to be necessary.

I hope we can have a vote on this in the near future. I guess I would like to ask my friend if he wants to continue this debate. I can stay all day. But I didn't know what his plan was.

Mr. HATCH. I don't want to continue it all day. I do believe there are some people who want to speak on this side. I will just make one or two comments.

Mrs. BOXER. I yield the floor at this time and retain my right to respond.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, let's not pit mothers against their children. This is not an either/or situation. Let's protect both mothers and their unborn children. In fact, the purpose of this bill is to provide health care coverage to low income, uninsured children. The Senator and I simply disagree. This amendment concerns unborn children and covering them. She seems to think it is about abortion. I don't. Her own State is covering unborn children through the regulation of the prior administration. Thirteen other States are as well.

Mr. President, I think I have made the case. Let me say that I ask unanimous consent that Senator ROBERT CASEY be also listed as a prime cosponsor on this amendment, along with the distinguished Senator from Nebraska, Mr. NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I feel very blessed to have these two very strong Democrats willing to support a recognition that these unborn kids are human beings, they are human life, and that a child health insurance program bill ought to cover them.

With that, Mr. President, I know Senator BUNNING is here and I will yield the floor.

Mrs. BOXER. Mr. President, if I might have a moment before Senator BUNNING speaks.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President. Because some of the things that are said around here—and, by the way, we will have a whole list of Republicans helping us to defeat this, so I am not going to name people. But let me say this: To stand up and say we are pitting a woman against her child when we support this bill that makes eligible for coverage every pregnant woman is simply a hurtful and untrue remark, especially to say it to someone who adores her children and her grandkids, and I take great offense. It is the opposite.

This amendment separates a woman from her child because instead of saying you are going to cover a pregnant women, you are saying you are covering the unborn child. And what about the woman? She is not even mentioned. I take offense at that line of attack.

We say when you cover a pregnant woman, you cover her child, you cover that fetus from the moment that woman goes to get health care. What my friend does is separate the woman from her child by saying we are going to give the child health care while the child is in the womb and do not even mention the woman—do not even mention the woman. So who is separating the woman from her child?

Again, it is very clear that this is about the abortion debate. And as many times as my friend says it—and he raises my State again, so let me say again, yes, many States did provide health care under this definition of unborn child. They had no choice because President Bush put a regulation in place, and if my State wanted to help pregnant women, they had no choice but to help them under that particular regulation.

Well, what we are doing today is saying to States: You do not have to get into the abortion debate. If a woman is poor and she is eligible for Medicaid, and she is pregnant, she gets the health care as well as the baby she is carrying.

So do not say that those of us who vote against this amendment are separating women and children. It is the total opposite. For whatever reason, under that old regulation, the child was mentioned and not the woman. That defies science. That defies reality. You treat the woman and the child she is carrying.

So, again, I take offense at this. I do not want to be jumping up every time, but I will if there is something said here that is not true. I have total respect for the other side on the abortion debate—complete respect for them. And that is what this is about, and they know it. Because if they only cared about the pregnant woman and her child, they are taken care of in this bill.

Mr. President, I thank you very much, and I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I am not entering into this debate.

Mr. President, I ask unanimous consent that Senator HATCH's amendment be set aside so that I may offer another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

AMENDMENT NO. 74

Mr. BUNNING. Mr. President, I call up my amendment No. 74.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 74.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate any exceptions to the prohibition on States receiving an enhanced Federal matching rate for providing coverage to children whose family income exceeds 300 percent of the poverty line and to use the savings for the outreach and enrollment grant)

Beginning on page 75, strike line 18 and all that follows through page 76, line 2, and insert the following:

''(B) INCREASED FUNDING FOR OUTREACH AND ENROLLMENT GRANTS.—

''(i) APPROPRIATION.—In addition to amounts appropriated under subsection (g) of section 2113 for the period of fiscal years 2009 through 2013, there is appropriated, out of any money in the Treasury not otherwise appropriated, the amount described in clause (ii), for the purpose of the Secretary awarding grants under that section.

''(ii) AMOUNT DESCRIBED.—The amount described in this clause is the amount equal to the amount of additional Federal funds that the Director of the Congressional Budget Office certifies would have been expended for the period beginning April 1, 2009, and ending September 30, 2013, if subparagraph (A) did not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

Mr. BUNNING. Mr. President, I also ask unanimous consent that Senator COLLINS from Maine and Senator HATCH from Utah be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. I appreciate their support.

When SCHIP was created, I supported the bill and felt it filled a need in our health care system. The bill focused on providing health insurance to low-income children whose parents made too much money to qualify for Medicaid but did not have private health insurance.

Many States have done a good job of keeping the focus of their SCHIP programs on low-income children, including Kentucky that only covers children below 200 percent of poverty. However, other States have expanded their SCHIP programs to cover children in families most of us would not consider low income. Some States are even covering adults, including parents and childless adults. These expansions erode the original intent of the program.

The Baucus SCHIP bill we are considering today further expands the SCHIP program, including allowing States to cover children in families up to 300 percent of the poverty level. That is $66,000 of income a year for a family of four.

Personally, I think 300 percent is too high for SCHIP, and the focus of this reauthorization bill should be reaching those kids who are currently eligible for the program but are not enrolled.

The Baucus bill also allows States choosing to cover children above 300 percent of poverty to still get Federal money for their efforts but only at their lower Medicaid matching rate, not the higher SCHIP matching rate.

Two States—2 out of 50—however, get a special exemption under this bill and will get their higher SCHIP matching rate for covering children above 300 percent of poverty, specifically New York and New Jersey.

New York wants to cover families up to 400 percent of poverty or that is $88,000 a year for a family of four. New Jersey currently covers families up to 350 percent of poverty or $77,000 a year for a family of four.

These are certainly not low-income families, and I feel strongly the States should not get additional Federal money for covering families making up to $88,000 a year.

My amendment is fairly simple. It simply removes this exemption for New York and New Jersey so they have to play by the same rules all the other 48 States play by. If they go above 300 percent of poverty, they get their Medicaid matching rate but not the higher SCHIP rate.

As I have said, I think 300 percent is too high, and if I were writing the bill, I certainly would not allow States to get any Federal money if they were covering families over 300 percent of poverty. However, that is not the bill before us. So my amendment tries to equalize the playing field between the 50 States and be a little more fiscally responsible with taxpayers' dollars.

Under my amendment, New York and New Jersey can still choose to cover children above 300 percent, they just will not get the higher SCHIP matching rate. If the people in New York and New Jersey want to cover families making up to $88,000 a year, they should be the ones paying for the coverage, not requiring my citizens in Kentucky and other citizens in all the other 48 States across America to foot the bill.

Finally, my amendment takes the savings from reimbursing New York and New Jersey at the Medicaid matching rate and directs that money to more outreach and enrollment dollars so we can get everybody who is eligible for SCHIP enrolled. We are having difficulty doing that. Kentucky only has 85 percent. I do not know how much some of the other States have. But we ought to be able to get to 100 percent of coverage. The other money that is saved by that would allow them to seek out those eligible children under SCHIP.

The SCHIP reauthorization should be about making sure low-income children who are eligible for SCHIP are covered, not about covering children in families making up to $88,000 a year.

So with my amendment, you have two options: more money for outreach

and enrollment and requiring all States to play by the same rules or requiring the people of your State to pay more taxes so that New York and New Jersey can cover families who make $77,000 or $88,000 a year.

To me, the choice is simple, and I hope the other Members of the Senate can support my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am a cosponsor of the distinguished Senator's amendment. I am proud of him and very pleased to support his amendment on New York and New Jersey, and I rise in support of that Bunning amendment. He is right. Why on Earth should States be rewarded by getting a higher CHIP match rate for covering kids over 300 percent of the Federal poverty level? That is around $64,000 for a family of four.

Now, when we wrote the CHIP bill in 1997, with Senators KENNEDY, ROCKEFELLER, and CHAFEE, CHIP was created to cover children of the working poor, the only ones left out of the whole financial system—not children from families of four whose income is $77,000 like New Jersey's CHIP program or $88,000 like the CHIP waiver the state of New York has filed. And that does not even count some of the income disregards that may raise the income level to over $100,000. It is ridiculous.

My colleague is right. Senator BUNNING is right. These two States should not receive the higher CHIP matching rate. I strongly support my colleague's amendment, and I congratulate him for bringing it to the floor. I hope our colleagues will work to support that amendment because it makes a lot of sense.

Mr. President, I ask unanimous consent that Senator SESSIONS be added as a cosponsor to the Hatch amendment No. 80.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I rise to express my support for the CHIP Reauthorization Act, and to urge my colleagues to improve CHIP and cover an additional 4.1 million kids.

I voted to create this program in 1997, and I have watched with great satisfaction as the number of uninsured children in our country has dropped. Thanks to CHIP, my State can provide health insurance to about 11,000 kids every month. As a result, these kids have every chance to do their best in school and live long, healthy, productive lives.

This is a great achievement, but we have more work to do. South Dakota still has about 18,000 uninsured kids. Half of these kids meet the income requirements for Medicaid and CHIP but remain uninsured. With health insurance premiums doubling in the past 8 years and unemployment on the rise, more families cannot keep up. Fortunately, this bill helps these families when they need it the most and allows States to cover more kids and provides bonus payments for focusing on low-income kids. I am especially pleased that the bill allows children whose private insurance does not include dental coverage to enroll in the CHIP dental program.

I understand some of my colleagues object to allowing States to end the 5-year waiting period for covered legal immigrant children and pregnant women in Medicaid and CHIP. This debate is not about whether to provide coverage but, rather, to end the 5-year wait these future citizens must endure. A sick child does not have 5 years to wait, and it is not in the spirit of our Founding Fathers to force legal immigrants to wait 5 years for services they desperately need. I urge my colleagues to remember that other than Native Americans, we are a nation of immigrants.

On a personal note, I am pleased to join in the debate on CHIP this year, as I missed much of the 2007 debate while recovering from my AVM. That experience taught me the infinite value of good health insurance and great health care, a lesson from which I hope we can all learn.

This bill, which is fully paid for over the reauthorization period, is exactly what low-income families need during this time of economic uncertainty. I urge my colleagues to join me in supporting the CHIP Reauthorization Act.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 47

(Purpose: To ensure that children do not lose their private insurance and that uninsured children can get access to private insurance)

Mr. BAUCUS. Mr. President, last night, Senator COBURN sought to bring up his amendment No. 47. At that time, we asked him to withhold so we might look at the amendment because we neglected to get the Coburn amendment No. 47 until that moment. He spoke on the amendment. We have looked at the amendment. So on behalf of Senator COBURN, I ask unanimous consent that the pending amendments be temporarily laid aside and that Senator COBURN's amendment No. 47 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. COBURN, for himself and Mr. THUNE, proposes an amendment numbered 47.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, January 27, 2009 under ''Text of Amendments.'')

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator DORGAN be recognized for 5 minutes and then Senator GRASSLEY, who I expect will be here at that time, be recognized for up to 10 minutes, and then I will be recognized for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are debating the subject of children's health care at a time when our economy is in desperate trouble. Most all of us understand that 20,000 people today and 20,000 people tomorrow will have lost their jobs. Think of that. We are experiencing 20,000 people a day losing their jobs in this country right now during this economic difficulty. It was one thing at a time when the folks at the bottom of the economic ladder had a job and then had to worry about the issues understanding second job, second shift, second mortgage. But now it is not even that. Now they do not have a job at all.

Last month, over half a million people lost their jobs. As that happens, the question is about the necessities of life. How do you provide for the necessities of life? How about your children's health care?

I don't know what is second or third in everybody's life. I don't know what might be in second, third or fourth place in people's lives. But I know what ought to be in first place, and is for most people, and that is their children, their well-being, the health of their children.

This legislation deals with that subject, trying to provide health care to children who do not have health care, expanding the number of children

under the Children's Health Insurance Program. Nearly seven million children are now enrolled. This expands it. Four million additional children who do not have health care would receive health care under this expansion. It makes a lot of sense.

In my State, we have 3,500 children receiving benefits under the Children's Health Insurance Program. There are another 14,000 who are uninsured in North Dakota. So surely this ought to represent one of the significant priorities for the children of our country and for the children of our individual States.

I have come to the floor talking a lot about health care for American Indians. I have put up a couple charts on the floor talking about Avis Little Wind. She lost her life. I have talked about Ta'Shon Rain Little Light. She was 6 years old. She lost her life.

The fact is, these are children for whom we would expect health care would be available, and it was not. Multiply that by a million or 10 million children who determine whether their health care needs are met when they are sick by whether their parents have money in their pockets. That ought not be a criteria by which we treat sick children in this country ever—not ever.

One hundred years from now, we will all be gone and historians will look back and evaluate us—who we were, what we did, what our values were if you take a look at what we decided to spend money on, what kind of a budget did we have. Historians 100 years from now can take a look back and evaluate, at least in part, what our value system was. What did we think was important? What was valuable to us? What was most important to us?

The question that is begged by this legislation is, Are our children important to us? Do we care about our children's health? Don't tell me children are important if you are not willing to do almost anything necessary to provide for your children's health.

We must do this. This is not difficult. A lot of issues come to the floor of the Senate that are difficult and complicated and complex. You have to try to evaluate all the nuances to try to figure how do we put this together. This is not any of that. This is not difficult in terms of the mechanics, how it works. We know it works. It is not difficult in terms of the value system. Can you name two other things we do on the floor of the Senate that are more important than preserving the health of our children or treating a sick child who has no other options to get treatment or go to a doctor or go to a health clinic? Name something more important than that for your children or for the children you love.

This is not difficult, and we should not make it difficult. What we ought to decide is that this is a priority for this country. It is a long-delayed priority. We passed it twice, and President George W. Bush vetoed it twice. But its delay ought not concern us at this moment. What ought concern us now is that we move and move quickly to address this problem and say to America's children: You rank at the top of our priorities, yes, in our personal lives and also in our public lives. You rank at the top, and we are going to provide health care to America's children who are uninsured.

That ought to represent the best of our country and the best of what we can do in both political parties that serve in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized for up to 10 minutes.

Mr. GRASSLEY. Mr. President, for the benefit of my Members, I do not think I will use 10 minutes, but it is always dangerous for me to say that.

(The remarks of Mr. GRASSLEY and Mr. LEVIN pertaining to the introduction of S. 344 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, the SCHIP legislation the Senate is considering this week purports to provide more health insurance for our Nation's poorest children. But in truth, the bill shortchanges the neediest of children in States such as Mississippi. Instead of paying taxpayer dollars for our poorest children, those who need health insurance the most, the bill we are considering today gives taxpayer-funded health insurance to middle-class families in wealthy States. The SCHIP bill we will be voting on today does nothing to ensure that all American children under 200 percent of the poverty level have health insurance. In fact, the bill diverts this important program, which I have supported for years, away from its intended purpose. SCHIP was designed to cover low-income children between 100 percent and 200 percent of the poverty level. That comes to $22,000 to $44,000 per year for a family of four. These families require assistance under SCHIP because they earn too much to qualify for Medicaid, but they are not able to afford private health coverage for their children. This was the intent of SCHIP.

What we ought to be doing in this bill is prioritizing low-income American children and making sure as many uninsured poor kids as possible are covered under the increased funding we are going to provide. Instead, this bill allows States to expand their programs without demonstrating they have covered the poorest children first. In my State of Mississippi, for example, SCHIP covers 65,000 children, but there are another 30,000 children below 200 percent of the poverty level who are without health insurance. This bill would not cover those children, even with the expanded funding.

Other States that are similarly situated include Iowa, Nebraska, North Dakota, North Carolina, and Arkansas. I urge the Senators from those States to join me in an effort to correct this inequity. I urge all Senators to make this bill better so we make sure we include poorest of the poor children first.

In the past decade since SCHIP was created, the number of uninsured poor children has decreased from 28 percent to 15 percent. But we cannot, in the face of that success story, neglect the remaining 15 percent. Many of them are in the States I have mentioned.

Fifteen percent of America's poorest children still do not have health care, and we are debating a bill that would expand SCHIP beyond its intended purpose, to cover higher income families and other adults.

SCHIP allotments in fiscal year 2009 will be $5 billion. Under this bill we would almost double that amount to $9 billion per year. But only an additional $79 million is needed to cover these poor uncovered children in States such as Mississippi. If we are going to almost double the size of the program, we ought to make sure poorest of the poor are covered.

If this bill were really about health care for poor children, we would guarantee each State sufficient funds to cover every child in a family below 200 percent of the poverty level. It is that simple. And we would do that before moving on to cover more affluent families in the more affluent States.

Senator COCHRAN and I have submitted an amendment that would do that. Our amendment would prohibit States from receiving funds to cover individuals above 200 percent of the poverty level until we can guarantee that 90 percent—not 100 percent but 90 percent—of the poorest children nationwide are covered.

The result of our amendment would be that the more affluent States would simply have to wait if they want to cover middle-class children, if they want to cover families making as much as $88,000 a year or more. They would have to wait until the poorest of the poor children in Mississippi and Arkansas and North Carolina and North Dakota and Nebraska and Iowa are covered.

I have been watching the votes this week. It appears the leadership has locked in a majority to resist amendments of this nature. I thought the bill was about making it easier to cover children under 200 percent of the poverty level—between 100 percent and 200 percent. If amendments such as that of Senator COCHRAN and myself are not agreed to, we have to wonder is the real intent of this legislation to replace our private health care system

with a government-run system at the expense of people who need help the most?

One of my colleagues yesterday said we are ruining SCHIP. I have to concur with that, if this legislation is not amended. I urge my colleagues to join me in bringing the focus of SCHIP back where it belongs, on helping poor children.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I rise in full support of renewing and improving the Children's Health Insurance Program. In Arkansas we know this program as ARKids First, Part B. In my part of the country, the program ensures that low-income children get the doctor visits and medicines they need when they are sick and the checkups they need when they are healthy. This program has been highly effective, and I believe the bill before us will build upon that success.

Let me tell one story. In 2007, this program covered more than 64,000 Arkansas children and more than 4.4 million children nationally. There is a young boy named Connar in a little town called Poyen, AR. Poyen is in Grant County. The population of the whole town is 272 people. It is on a State highway—229—in part of our State that is challenged in getting health care to its citizens. At 5 years old, he had very serious hearing problems. He underwent multiple surgeries to restore his hearing. Without the Children's Health Insurance Program, his grandmother would have never been able to afford the appointments and medical care. The good news is, today, after these surgeries and after his treatment, he has overcome his hearing loss and his related developmental delays.

What that means is he will now be able to enter kindergarten with other kids his age. We prepared him for a lifetime of success through this program. That means he will not have to have special education, he will not have to have other programs available to him for him to function in society. We made the downpayment on his future with the Children's Health Insurance Program.

But he is lucky because that same year, 2007, there were 9.4 million children who went without access to doctors, lifesaving prescription drugs, immunizations, preventive screenings, and the basic medical care they need. That is 1 out of every 9 children in this country who slipped through the cracks between Medicaid and private insurance.

Since then, since 2007, pink slips have multiplied and, more than ever, parents are making the tough decision to provide their family with a roof over their heads and forgo health care coverage. When these kids don't get medicine and proper medical care, we see them in emergency rooms in a lot of pain and at a greater cost to the taxpayer.

As you know, there have been studies—one I am familiar with in the State of Arizona, but there have been many other studies—that compare what this program costs to the cost of not having the program. It is actually cheaper to the taxpayer, much cheaper to society in the big picture to have this program get these kids the medical care they need when they need it.

This body will have an important vote to cast this week that will determine who will see a doctor and who will not. Will children such as Connar receive the critical care they need or will we abandon them, abandon him like we have 9 million others?

I ask my colleagues on both sides of the aisle not to turn this moral issue into an ideological debate. Children deserve a healthy start in life regardless of the parents' wealth. Senators BAUCUS and ROCKEFELLER have produced a compassionate and cost-effective bill that provides this opportunity for millions of children. That is what I want for the children in my State of Arkansas and for the children of our Nation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, a few moments ago the Senator from Mississippi, Senator WICKER, offered an amendment. Basically, it is directed at the so-called August 17, 2007, directive that President Bush promulgated. That directive issued strict guidelines to States regarding Children's Health Insurance Program enrollment, focusing on potential crowdout, and mandated that States adopt more restrictive so-called crowdout policies. Among the policies in that August 17 directive was a requirement that the States prove that at least 95 percent of the children below 200 percent of the poverty level have some coverage before they can enroll higher income children. The amendment offered by the Senator from Mississippi would, in the same vein, prohibit States from receiving the Federal match for individuals under the program above 200 percent of the Federal level unless they enrolled 90 percent of all children under 200 percent.

That is an impossibly high standard, one that cannot be met. Certainly, the 95 percent in the August 17 directive could not be met. That is why that directive was never put into effect.

It is too tight. It would not work. Yesterday, this body voted against an amendment which would set the requirement at 80 percent, and the amendment before us sets the requirement not at 80 percent but a much higher rate; that is, 90 percent. These are impossible standards for States to meet. It is virtually impossible for a State to meet 90 percent. Even mandatory provisions—let's take auto insurance. The takeup rate in States is not 90 percent. Even where it is 90 percent, I think the average is like in the eighties somewhere. This is not mandatory. The CHIP program is not mandatory. It is an optional program for States. It is optional whether a person wants to participate in CHIP or participate in the private market. It is totally optional. So it is impossible for a State to achieve a 90-percent rate. That is a standard which is much too high.

Also, another reason it is so difficult for States to reach a 90-percent rate is because of the economic downturn we are facing. With the downturn we are facing, people are leaving employment, regrettably, they are being laid off, which means they are losing health insurance. The more people who are laid off, the more people lose health insurance, the more difficult it is for a State to show that it is meeting a 90-percent requirement.

That is just a mechanical effect of this amendment. The practical and personal effect is that this is going to hurt kids because the amendment has the effect of denying Federal dollars to States when they cannot meet an impossibly high so-called takeup rate. Therefore, I urge my colleagues to not vote for this amendment. It is not a good idea.

It does try to attempt to address something called crowdout, which has been debated here on the floor for a long time. Frankly, this crowdout debate is missing the mark here. We are not keeping our eye on the ball. The ball really is, how do we get more kids covered under the Children's Health Insurance Program?

For all of the reasons Senators have indicated, my gosh, we want our kids to be healthy. Healthy kids go to school. Healthy kids in school perform better in school. If they perform better in school, they are going to do better when they graduate. We want healthy kids. The more we have healthy kids, the more likely it is we are going to have healthy families and more productive families and be able to address some of the adverse consequences the recession now presents to us.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN.) The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I rise today to talk about the State Children's Health Insurance Program, or what folks around here call SCHIP. This program was created by a Republican Congress in 1997 to help low-income kids get health insurance. The program expired in 2007, and Congress has worked to pass temporary extensions through March of this year. I am glad the Senate is now working on a longer term bill to extend this vital program.

I am a cosponsor and a strong supporter of the ''Kids First Act,'' S. 326, which extends the current SCHIP program. This bill provides health coverage to low-income kids and will give States the resources they need to continue to operate their SCHIP programs.

To help more low-income children get health coverage, the bill provides $400 million over the next 4.5 years for States and other qualified entities to improve outreach and enrollment for low-income children. These funds will target the low-income children SCHIP was meant to help. The bill also enhances private options that provide more affordable and efficient care by encouraging premium assistance so that parents can have enough money for private health insurance for their children.

The Kids First Act also focuses on kids, not adults. Some States currently spend SCHIP money on adults when this money was meant for children. The bill takes the money spent on adults and uses it to insure children. The Kids First Act requires that all States phase out nonpregnant adults, including parents, and not allow the addition of any new nonpregnant adults to the program.

American children are the top priority and primary focus of the bill I support. The bill maintains existing law, which ensures that scarce resources go to covering American citizens first.

The bill does all these things, and it does them in a fiscally responsible way, without raising taxes. An economic recession is no time to raise taxes or expand Government programs and inefficient bureaucracies.

I have seen the potential for what SCHIP can do to help low-income kids in my home State of Wyoming. Wyoming first implemented its SCHIP program, Kid Care CHIP, in 1999. In 2003, Wyoming formed a public-private partnership with Blue Cross Blue Shield of Wyoming and Delta Dental of Wyoming to provide the health, vision, and dental benefits to nearly 6,000 kids in Wyoming. These partnerships have made Kid Care CHIP a very successful program in Wyoming.

All children enrolled in the program receive a wide range of benefits including regular check-ups, immunizations, well-baby and well-child visits, emergency care, prescription drugs, hospital visits, mental health and substance abuse services, vision benefits, and dental care. Families share in the cost of their children's health care by paying copayments for a portion of the care provided. These copays are capped at $200 a year per family.

Wyoming is also engaged in an outreach campaign targeted at finding and enrolling the additional 5,000 kids that are eligible for Kid Care CHIP but are not enrolled.

I am proud of the great job Wyoming is doing implementing its program. I also want to note that Wyoming will get the same amount of money under the Kids First Act that I support as compared to Senator BAUCUS' bill, H.R. 2.

Unfortunately, all these descriptions apply to the Kids First Act, which is not the bill before us today. The bill before us today is a very partisan bill that fails to focus on low-income, American kids first.

Senator BAUCUS' bill, H.R. 2, would encourage middle-class families to drop their existing health insurance plans and instead get on the taxpayer dime. That is just not right; we need to put low-income children first.

Under H.R. 2, 2.4 million children will lose their private health insurance coverage and be forced to enroll in Government-run programs, where they may not have access to the physician and other health provider services that they need. The bill will also make it easier for both legal and illegal aliens to get covered under SCHIP.

Another important big difference is that the taxpayers will get to keep fewer of their hard-earned dollars if this SCHIP bill is enacted. At a time when the country faces a severe recession, raising taxes is not a good solution for any problem.

I am disappointed Senator BAUCUS and the Democratic leadership in the House and the Senate and the White House turned SCHIP into a partisan exercise. Along with the American people, I too was looking forward to change. I was encouraged by President Obama's call for change and was ready to work with him to make sure we could focus on the 80 percent we could agree on.

I was also encouraged by my discussions with Senator Daschle when he came before my committee as a nominee to become the Secretary of Health and Human Services. He committed to working with me and the other Republicans on my committee so together, we could work on a bill to reform our health care system. He promised bipartisanship and said he would convince my Democratic colleagues on the committee to work together to develop bipartisan solutions to our Nation's health care problems.

Unfortunately, with this SCHIP bill, the Senate is taking a step away from the process Senator Daschle described. The ranking member of the Finance Committee, Senator GRASSLEY, as well as Senators HATCH and ROBERTS, among other members worked hard for a number of years on a bipartisan bill, but that bill is not the bill before us today.

Rather than following the example set by Senators GRASSLEY, HATCH and ROBERTS, the sponsors of this bill chose to focus on the partisan issues that highlight the 20 percent upon which it is impossible to agree. I hope this is not the first taste of how the next 2 years will be here in the Senate.

I will close my remarks, but I just want to remind folks that we can do better. In general, if we work together on bipartisan bills, we can produce a better product. I think the bill before us today should focus on covering low-income, American kids first, and I hope that as we continue working on health care reform, we can work together rather than against each other so we can put the best policies possible before the American people.

We can do better, we must do better. Following Wyoming's lead of using the private market, we would insure every American kid whose family is uninsured and below 300 percent of poverty. I think that is a good answer for the family. We can do it without spending more. We can do it so kids are not thrown out mid-year because their parent or parents make a little more. They would be insured all year. So we would increase their eligibility from 200 percent of poverty to 300 percent, $40,000 a year to $60,000 a year, for a family of four and cover every uninsured American kid. But we will see that amendment voted down so statistics will look better. The current bill is a good statistics bill, it increases the number covered dramatically to include adults earning up to $120,000 a year in some instances and it is easier to find more people to sign up, at the taxpayer's expense. No, let's concentrate and force States to find the poor that are lost and neglected.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 74

Mr. MENENDEZ. Madam President, I come to the floor to speak again on behalf of children of New Jersey and others in the country and the working families in my home State who seem to be under attack by some of our colleagues here on the floor. I did not

know there are different values to the importance of the health care of a child regardless of the happenstance of where they live, but it seems some think so.

On behalf of these children and families, I rise strongly to object to Senator BUNNING's amendment. In New Jersey, we cover over 130,000 children and, yes, we cover children to a higher percentage of the Federal poverty level. But there is a reason for that, and I will go through that right now. But there are only 3,300 New Jersey children who are covered under that higher Federal poverty level from the 130,000 who are covered below the poverty level Senator BUNNING and others would want to maintain. So we are talking about 3,300 children but 3,300 children whose health and development and well-being depend upon the ability of States such as New Jersey to do this.

The families who are covered at this level are paying toward this. They are not getting a free ride. They are paying $128 each month in premiums and between $5 and $35 in copays each and every month. So this is not a free ride. These families in New Jersey are working, and they are working at some of the toughest jobs we have. But they work at jobs in which they do not have health care coverage, and they are working at jobs that do not give them enough in the context of what it costs to live in New Jersey to afford health care insurance. So somehow those people have to be penalized when you listen to the other side.

Now, let me talk to those who want to talk about fairness. New Jersey followed the law. The former administration approved New Jersey's waiver to continue insuring kids at up to 350 percent of the Federal poverty level because they understood the reality that a family living in New Jersey—to make essential elements of their costs for housing, food, transportation, childcare, and, yes, insurance—just was far behind others in the Nation who, in fact, could achieve those goals for a lot less money. So the Bush administration gave a waiver. They gave a waiver. They understood it.

New Jersey needs to cover children up to 350 percent because New Jersey families face higher living costs and they get less return on their Federal dollar. Let me talk about that. I hear my colleagues bemoaning the fact that my State allegedly wants some sort of special treatment, that because we want to provide health benefits to children, we are somehow taking advantage of the Federal Government. That is simply ridiculous.

Let me put it in perspective. For every $1 a New Jersey taxpayer pays in Federal dollars toward the Federal Government, our State only gets back 65 cents. My colleague from Kentucky, who was on the floor and whose amendment we are debating now and who rails about New Jersey—his State gets $1.51 for every $1 Kentuckians send to the Federal Treasury. So they get more back than, in fact, they pay.

Let's talk about fairness. The reality: One size does not fit all. As shown on this chart, for a family in New Jersey, living in Middlesex County, whose monthly income is about, roughly, $4,600, for their housing, it is going to cost them $1,331; for food, it is about $645.70; for childcare, it is $844.80; for their transportation, it is $393.80; for their taxes, it is $479; and for their health insurance, it is almost $1,800. So what do they end up with? They end up with a negative amount in terms of their budget. These are people who are working—working—trying to sustain their families. But they end up in the negative if they try to provide health insurance for their families. So the answer is, they cannot provide health insurance for their families unless they get some help. Yes, one size does not fit all.

So let's look at that same family. For that family in New Jersey to get the same ability in terms of their purchasing power as a family in Louisville, KY, that needs about $55,808—for that same family, whose happenstance is that they live in New Jersey versus Louisville, KY, for the same exact things, they need $77,000, roughly, in purchasing power.

Now, why do I have to hear an argument that says those families, in fact, whether they be in Kentucky or Arizona or Oklahoma or Georgia or Tennessee or Utah or in all these other States, who, in fact, deserve to have their children covered—they deserve to have their children covered, and I am fighting for their children to be covered as well—but why do I have to listen to that, in fact, their children are more valuable than my children in New Jersey who need this amount of money to be able to meet the same goals and dreams and aspirations and health care that they have? So they can get benefits under the bill, but my children in New Jersey should be denied? That is the core of the argument here. One size does not fit all. I would love for a family in New Jersey at $55,000 to be able to make ends meet. That is simply not the fact. So we need to ensure all children are covered within this class.

I am simply baffled and I find it embarrassing that some in Washington—those who have some of the best health care coverage in the world—would propose to jeopardize coverage to some of America's neediest families.

In this economy, in this recession, we cannot allow our children to be the silent victims. It is morally wrong to jeopardize the health care of these children. What have they done? What have they done to deserve this? It is even more outrageous during a time when jobs and homes are being taken away from their parents.

Where is the moral compass in this Chamber? I hear my colleagues speaking eloquently about how our children are our most precious asset, and they certainly are. But they are also our most vulnerable asset. Is a child in New Jersey worth less than a child in other parts of the country simply because of the happenstance of where they live and the costs that are necessary in order for them to meet the same quality of life?

So I hope my colleagues, as other amendments have been rejected, will once again reject this amendment. This is about being for the value of life. You cannot fulfill your God-given potential if you do not have good health. You cannot say you are profamily when, in fact, you would take away the insurance necessary for that family to be able to realize their God-given potential. This is about all children, regardless of where they happen to reside, the happenstance of what station in life they were born into, that if they fall into this criteria that, in fact, they should be covered.

That is why this amendment should be defeated. I hope, after having considered amendment after amendment after amendment on the same fundamental issue, we can finally move to final passage of this bill.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, as we were completing our last vote last night, I explained to the Members of the Senate what our schedule would be the next few days. Following my statement, Senator LEAHY and I engaged in a discussion on the Senate floor about the timing for a vote for Attorney General-designee Eric Holder.

Chairman LEAHY expressed an opinion that he and I share: that with the many difficult challenges facing the Obama administration, and particularly the Justice Department, it is imperative for the Senate to confirm Attorney General-designee Holder as soon as possible.

Unfortunately, while it was my strong preference to conduct the vote this week—as I explained to Senator LEAHY on more than one occasion I was hoping we would do that when we completed work on CHIP, the Children's Health Insurance Program—I had to inform him that I had a conversation just a few minutes before I made my remarks on the floor with Senator MCCONNELL, and Senator MCCONNELL said he didn't want to move forward until Monday. In the conversation with

Senator MCCONNELL I was pleasant, as most of our conversations have been, and I believed I needed to explain to the Senate what the proposal was and what we were planning on doing. The one thing I didn't do is explain to Senator LEAHY first—and I should have done that—that we weren't going to be able to complete it after the Children's Health Insurance Program—on the same day at least; we would have to wait and do it later because in the Senate the power of the minority is significant.

I have privately discussed this with Chairman LEAHY, that it was an oversight on my part. He wasn't informed of the arrangement I had reached with Senator MCCONNELL before I announced it on the Senate floor. So I apologize to my friend from Vermont, the chairman of the Judiciary Committee. He has been a good friend, he and Marcel, for so many years, and I am very sorry about the misunderstanding.

Chairman LEAHY and I, along with virtually every Senator, agree that we must confirm this exceptionally qualified and talented nominee—and that includes Republicans who feel the same way—as quickly as possible so we can begin the critical work of rebuilding the Justice Department to fight terrorism, crime, and protect the constitutional rights of all Americans. There is no one who has been more of an advocate for having a strong, powerful, fair Justice Department than Senator LEAHY. So I am sorry about that confusion, and if I embarrassed him in any way, again, I tell him I am sorry.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Madam President, it is such a delight to see the Presiding Officer in the chair, the distinguished new Senator from the great State of North Carolina whom, every time I look at her wonderful smile, I think: That smile was born and bred in Florida. We are so happy to have the Presiding Officer here as a part of the Senate representing the great State of North Carolina.

Madam President, I, of course, am going to vote for S. 275, the Children's Health Insurance Program. This reauthorization is a long time coming. We went through the trauma of having it vetoed by the President last year. We attempted to override that veto and got a close vote but didn't get enough. So here we are. We will have the votes this time.

My particular additional interest in this is because in my life before the Senate, I had the privilege of being the elected State treasurer in Florida, which is also—was then—under Florida law at the time, the State insurance commissioner. In that capacity, I chaired what is known as the Florida Healthy Kids Program. It was a very innovative way in which we would reach out through the school system to make health insurance more affordable for children under the theory that if a child is sick, a child is clearly not going to learn. We know by all of the sociological studies that if a child does not get the proper medical observation and treatment during those formative years, it can manifest itself in so many more complicated ways later on in life which, just from a societal point of view, becomes a much greater expense on society; whereas, if children can get the proper health care, it is not only a good, humanitarian commonsense, Judeo-Christian kind of practice, but in an overall cost to society it is much more efficient and economical.

We saw in this innovative program in the 1990s in Florida, the Healthy Kids Program, where we could make insurance available to children through the school system according to their parents' ability to pay. We piggybacked it on top of the School Lunch Program because already there, you had a determination of a family's financial means and capability. What we saw was that it spread like wildfire throughout the Florida school system in each of the counties, and it became not only very popular, it became very effective.

Here we have a program where we are applying that concept for the whole country. It started back a couple of decades ago. We are reauthorizing it, and we are enhancing it. It makes good common sense. It clearly makes good health sense. It makes good economic sense. And in America, where we want to give the best of every opportunity for our children, it fulfills that dream and that desire as well. For these reasons, it is hard for me to believe anyone would vote against the reauthorization of this program.

I commend our leadership, that they have brought up this bill basically as the first bill for us to pass.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I rise today to speak in support of legislation that is long overdue, the reauthorization of the Children's Health Insurance Program, known as CHIP.

For those of us who have children who are young, in school, bringing home all kinds of unbelievable colds, sniffles, and all the other sickness, we realize our children today need health care. How wonderful it is, as a nation, that we have gathered to put together a comprehensive package that will help increase the number of children who can be covered.

As a mother myself, as a daughter, as a wife, as the wife of a physician, better understanding the opportunity we have as a nation to do this makes me extremely proud because I see other mothers at school who cannot afford to provide health insurance for their children.

A close friend of my boys was injured on the playground the other day and was taken by emergency vehicle to the hospital. He was OK. But the mother came up to me later and said: You know, I am working as hard as I can, but I can't afford health insurance. What am I going to do? I can't pay for this.

We have the opportunity in this job in the Senate to make an impact on the lives of working families across this great country.

This is a bipartisan program that for the last 12 years has allowed us to make health care coverage more accessible for millions of children, coverage that is critical to the lifelong health of a child and to a family's peace of mind.

In conjunction with Medicaid, CHIP has been tremendously successful in reducing the number of uninsured children in my State and across this country. We have done much work on this bill over the course of the last couple of years to improve upon it, to talk about what we can do to make it a better bill. And here we now come to the floor of the Senate with an opportunity to pass something that will be monumental in the lives of working families.

Since the program's inception, the number of children without health care coverage has dropped by one-third. I am proud that Arkansas has become a national leader in reducing its number of uninsured children from 21 percent in 1997 to 9 percent today. Now more than 70,000 of Arkansas's children currently receive coverage through CHIP which we know in Arkansas as Our Kids First, a great program that helps working families all across our State. Unfortunately, passage of SCHIP had been held hostage for the past 2 years due to President Bush's two vetoes which we tried to override and were unsuccessful.

At this critical time in our Nation's history, when working families are struggling, they are faced with economic crisis all over this country, I believe we have a moral obligation to extend this program and provide health

care coverage to millions of children who are now uninsured.

Can you think of anything more important to the households of these working families than to ease their minds, to create peace of mind by saying to them: You are now eligible for a program that can help you provide health insurance for your children.

It is interesting, when we talk about things that make us happy or things that make us feel fulfilled, as we grow older, we realize it is less and less about us and it is more and more about our children. It is no different from my family to any other family across this great land, to parents across this country who want desperately to be able to provide for their children. Here is our opportunity to help them.

As parents, we are no different. Whether you are unemployed or whether you are a Senator, what gives you that fulfillment is to be able to see your children fulfilled, to see them healthy with access to the kind of health care that will help them reach their potential because we know that unhealthy children are less likely to learn, they are less likely to become healthy adults. They are certainly going to be more costly to the system if they depend on emergency services, not to mention the chronic diseases that can occur because they are neglected from getting the health care that they need early on.

There are so many good things in this bill and so many good things this bill does. Peace of mind comes to mind, first, because I think of those parents who are unable to provide that health insurance.

The bipartisan SCHIP bill provided by the Senate Finance Committee is essentially the same bill that passed overwhelmingly in the last Congress. As I mentioned before, we have discussed this bill, and we have tried to work out compromises. Is it 100 percent of what everybody in this body wants? No, it is not. But no bill ever is. Are we going to miss an opportunity to help working families across this country because it is not 100 percent of what every one of us wants? I hope as Senators, as parents, we are not so blind that we would let that happen. It builds tremendously upon the success of the program by giving States more of the tools they need while preserving their flexibility to strengthen their programs and, ultimately, cover more children.

I would remind you, Mr. President, and I would remind all my colleagues, that we all have worked to keep flexibility in this bill. We also must keep in mind that many of the provisions in this bill are options to the States. Not a mandate that the State must cover but an option that gives States the flexibility to be what they are and to address the specific needs they may have in addressing both the chronic conditions of their children and, more importantly, covering the population of children who need coverage most in their States.

CHIP reauthorization will allow States to preserve coverage for the children currently enrolled while reaching an additional 4.1 million low-income children. I don't know of a greater way, quite frankly, that we could show other countries who we are and what our value system is than to reach out and cover 4.1 million more low-income children; to express to the world where we put our values, where we want to make an investment—an investment in future leaders, a future workforce, the future leaders not just of our country but in the global community as well.

This proposal would also provide much-needed funding to States for outreach and enrollment efforts to enroll many of those who are currently uninsured. This is critically important to me in my State of Arkansas, where two out of three uninsured children are eligible for ARKids First or Medicaid but are not enrolled. We need the resources to reach out and ensure that these children and their families understand what these great programs are and what they would mean to their children.

It also takes additional steps to ensure infants and toddlers get a healthy start by providing care for expectant mothers. At the age I was when I delivered my twins, people thought I was Methuselah, but nobody ever missed the opportunity to tell me how very important it was to care for myself if I loved my children, and I did. I did everything I possibly could to ensure that I could bring those children into this world as healthy and happy as possible. It was a blessing to me. There are other mothers out there—expectant mothers—who want desperately to ensure that they can do everything possible to bring their children into this world healthy and happy, and the key is prenatal care.

I have long been a supporter of improving access to health care coverage for expectant mothers. I understand how important it is, both as a mother myself but, more importantly, looking at what it means to us as a country to ensure that we bring as many children into this world as healthy and happy as we possibly can—not only because it is vital to the health of both the mother and the infant but also because it often reduces future health care costs, which we know can be high in premature births. In fact, it was reported in 2005 that the socioeconomic costs associated with preterm birth in the United States were at least $26.2 billion. Every year, more than 500,000 infants are born prematurely, and that is nearly one out of every eight babies.

I can remember delivering my children in the Medicaid section of the University Hospital where my husband worked, and I remember going upstairs to the NIC unit, and I took my dad with me. My dad was a dirt farmer. He is no longer with us, but he is here in spirit with me today, as he always is. But he was a dirt farmer in east Arkansas, and I took him with me to the NIC unit. I had never seen my daddy cry before then. But he looked at those premature babies, and he said: What is their life going to be like?

The more we can provide the kind of health care that expectant mothers need, we will not have to ask that question. We can ensure that babies will be born healthy and happy.

As I mentioned before, it is of particular concern for me because also, in recent reports, more than 14 percent of our births in Arkansas are premature, ranking it among the States with the highest incidence of preterm births. By taking these needed steps to improve access to care for expectant mothers, I am confident we can make strides to improve health outcomes for them and for their children.

The Finance Committee proposal also includes incentives to ensure that States reach out to the lowest income kids first and phase out the adult waivers that have been existent under the previous administration.

In addition, the bill provides the Federal authority and resources to invest in the development and testing of quality measures for children's health care. This provision will help ensure that States and other payers, providers, and consumers have the clinical quality measures they need to assess and improve the quality and performance of children's health care services. Making determinations on children's health care based on studies that have been done on adults doesn't make sense. It is critical that we focus on those quality measures based on our research and study of children and applying it in the appropriate way.

Additionally, it allows some States to use income eligibility information from other Federal programs, such as school lunch programs, to speed the enrollment of eligible children into the CHIP program or into Medicaid. We have the income information about these families for the school lunch program, which is critically important to the well-being of our children, so why wouldn't we want to ensure that those same families, meeting those same eligibility requirements, could move quickly into the CHIP program to get the other health care needs of their children met? This would certainly simplify the administrative process for States, and it would reduce paperwork burdens that are put upon hard-working, low-income families.

This bill would also provide greater access to much-needed dental care for lower income children and would ensure that children enrolled in CHIP

would have access to mental health care that is on par with the level of medical and surgical care that they are currently provided.

The dental portion, the wraparound, is twofold. I can remember when I first visited one of the very first Head Start Programs in my community, and I saw these children lined up with little Styrofoam cups they had decorated. They had a donated toothbrush and a free sample of toothpaste. They were so proud each day to be able to walk to the community sink there in the Head Start facility and brush their teeth.

Dental care is essential. It is absolutely essential. All you have to do is look at children of low-income families whose teeth are rotten, who aren't getting dental care, who aren't getting supervision or not being taught the life skills they need. When those teeth are rotten, they hurt, they make those children sick, they are unable to eat, they get no nutrition, and then we wonder why they cannot focus in the classroom or why they cannot learn. This dental wraparound program is excellent for ensuring not only that children will get the dental care they need, but the wraparound portion of it ensures that we will not see crowding out; that families who have private insurance which doesn't cover dental can then get their dental coverage in a wraparound package and maintain the other private insurance they have. Those are critical needs and critical sensitivities we have looked at in this bill to ensure that we are doing the most we possibly can for the children of our country.

As you can see, this bipartisan bill is a step in the right direction to provide care and coverage for our most precious resource—our most precious asset in this great country—and that is our Nation's children. We have to look no further than the children of this country to understand that all of what we do today means nothing if we have not given them the ability to carry on the great lessons of this great country we are blessed to be a part of. And if they do not reach their potential, whether it is because they haven't gotten dental care, they haven't gotten immunizations, they haven't gotten the proper kind of health care they need to be able to learn and flourish and reach their potential, we will have done an injustice to our country.

As we move forward, I wish to encourage my colleagues to support this important piece of legislation in the same bipartisan spirit that was demonstrated when it was created 12 years ago. We are not here to create a work of art. We are here to create a work in progress. After 12 years, we have come to understand the importance of what has changed in our communities, what has changed in our economy, what has changed among our working families, and to meet the needs that exist in today's world. After 2 years of waiting, we cannot fail our Nation's children yet again.

I hope every one of us in this body will think of a child who was born 2 years ago, unable to access CHIP coverage—a family with a child born 2 years ago. If we fail to do it now, and they have to wait 2 more years, they have missed 4 years of critical development in their life without health care. We will never, ever be able to reverse that.

This is the time. Now is the time. We have talked and talked, we have reached out to one another to come up with the best possible solutions we could, but now is the time to pass this bill. In a time when more and more Americans are struggling to find affordable health care, it is up to us to put politics aside, not only for the future of our Nation but for the well-being of millions of our children across this great Nation. It is not just our future. Most importantly, it is their future. They are depending on us, and it is time we fulfill our commitment to them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I wish to speak in favor of the Bunning amendment, which I hope we will be able to vote on a little while later this afternoon.

It is a very simple amendment that sets the maximum amount for eligibility under the SCHIP program at 300 percent of poverty. In other words, we set the poverty level in this country three times that amount that would be the qualifying level for a family to qualify their kids under the SCHIP program. That is a lot more than what was originally intended when the SCHIP program was put in effect, but it is a level that represents the maximum for all but two States in the country.

Most States are somewhere around 200 percent of poverty. My State of Arizona is exactly at 200 percent of poverty. The State of the chairman of the committee, who is from Montana, is now at 175 percent, although I understand there is legislation that will take that up to 250 percent. So with the States bunched around primarily the 200 percent of poverty level, some now at the 300 percent, that represents a good compromise on where the limit should be set, and we need to set the limit for a variety of reasons I will go into in a moment.

Let me tell you what the implications of the amendment would be. There are only two States that would have to cut back under the program. In fact, they would not have to actually cut back in the coverage of children, they would simply follow the same rules as everyone else, and their reimbursement would be at the Medicaid rate rather than the higher SCHIP rate for these higher income kids. So they could still cover them; they just don't get quite as much reimbursement from the Federal Government in order to do it.

Now, there would be some savings as a result of these two States not having Federal funding at the SCHIP level, and that additional savings, under the Bunning amendment, could be put into outreach and enrollment grants to help find eligible, uninsured, low-income children. The reason for that is, the whole point of the program is low-income children. Yet there are millions of low-income children who are not enrolled in the program. We have to find them, we have to get them enrolled. That will cost some money. So the savings that are achieved in this amendment would go toward that end.

The third and basic point here is that the Bunning amendment ensures we keep our promise to preserve the SCHIP coverage for low-income children and ensure parity amongst the States. If we have a limit of 300 percent, not all of the States would want to go to 300 percent but they would know they could do that. If they wished to keep it below 300 percent, they would be paying less. They would be receiving less from the Federal Government, but it would be uniform for everyone.

As I said, I think Senator BUNNING is wise to set it at this level, even though that means the average family of four has $66,000 in income. That is hardly low income or poverty level. But $66,000 of income would cover families who clearly could use the help. It is obviously very generous. It is clearly way above poverty, so I do not think Senator BUNNING goes very far in limiting this to 300 percent of poverty. These numbers translate to 200 percent of poverty is $44,000 income per year. Of the two States that are above the 300 percent, one is New Jersey at 350 percent. That translates into $77,175 a year. The other is New York at $88,200 per year.

We can all have some disagreements in this body, but nobody can argue that $88,000-plus in income is a poor family, is a poverty or low-income family. That is not what this program was designed to cover.

Add to that, you can add in $40,000 for expenses for transportation and clothing and housing and so on, and you can actually get above $120,000 in income and qualify for this low-income program for kids. That is not right.

One thing I know that folks in Arizona, folks in New Mexico, folks in Montana all say when they look to Washington is: We know we need to pay income taxes, we know we need to spend money on things, but stop wasteful Washington spending. I think sometimes they may view our spending as

more wasteful than it is, but the reality is there is a lot of wasteful spending here. This is a lot of spending beyond what was the original intent of the legislation.

When I talk in Arizona about low-income kids, people nod their heads and say, yes, we need to help low-income families with kids. If I said to them so that means $120,000 a year—most of the families in Arizona don't make $120,000 a year, let alone calling that low income. It is not. If only for truth in advertising purposes, we should support the Bunning amendment and, again, he sets the level at 300 percent of poverty or $66,000. In one sense you would have a tough time defending that as a low-income program. But that is where he set it. At least nobody can contend that he is trying to be too cheap here. Mr. President, $66,000 a year for a family of four to qualify for a low-income poverty program I think is quite generous.

I think I indicated I would answer a couple of questions here about why we need to do this. One argument for the folks in New Jersey is we have a higher cost of living in those States. Of course it is not twice as high. It does not cost twice as much to buy a car in New York or New Jersey or Arizona, so that argument only goes so far—and it is about ''this'' far.

Second, what these States have done is cover more kids at higher income levels because it is easier. Think about it. You expand the program to cover a lot of high-income kids. You can find those kids. It is the very low income we are having the trouble finding. Those are the ones who need to get registered in this program, but they are hard to find. They are in our Indian reservations, in our inner cities, and maybe some out in farm country in Montana or wherever. That is who we should be focused on here.

It is easy to say let's raise this up to families making $88,000 a year. Sure, you can find those kids. But the fact you are then enrolling more kids in the SCHIP program doesn't mean you are getting the ones who need the care the most.

There is another problem with that. The Congressional Budget Office notes that with these higher income family kids, there is a one-to-one ratio from adding a child onto SCHIP and losing health insurance coverage in the private sector. For every one child who is added on, a child loses health insurance coverage from an employer. The ratio generally is between 25 and 50 percent, but at the higher income level it reaches a one-to-one ratio. This is the crowdout effect we were talking about before. It doesn't do us any good to add somebody to the Government-run program if the only effect of that is to cause them to lose their insurance policy from their family's employer. You have not helped anybody in that case. All you have done is transferred the expense from the employer to the taxpayer.

In the case of these high-cost States such as New York and New Jersey, the people of New Mexico or Arizona or Montana, for example, are paying twice as much for those kids as they are for the kids in their own State.

We are sending money from Arizona to New York. Arizona has it at 200 percent of poverty, or a $44,000 income level. New York has twice that, $88,000. The net effect of that is Arizonans are simply sending money to New York to take care of the New York kids. That is not fair. That was not what this program was originally designed to do. What Senator BUNNING has done is say let's cap it, not at some low level but the relatively high level of 300 percent of poverty, $66,000 a year. If they want to cover kids higher than that, they can, but they are reimbursed at the somewhat lower Medicaid rate than the SCHIP rate, and he takes the savings from that and helps us fund the kids who need the coverage, the low-income kids.

I cannot for the life of me see why any of us, except perhaps the four Senators from New Jersey and New York, would not support this amendment. The only two States that would suffer at all under this amendment are those two States because they have chosen to go far above what the other States provide in terms of coverage. They can still cover the kids, as I said, they just don't get quite as much money from taxpayers in other States to do that.

Why wouldn't those of us from the other States support the Bunning amendment? It is going to be very hard for some people to go home to their constituents when those folks say, Why didn't you support the Bunning amendment? Why should I have to pay money for somebody making $88,000 in New York State to cover these higher income kids when that probably means that their employer takes the obligation he has and moves it over to the taxpayers? This is not very logical.

The Bunning amendment is a modest attempt to get the program back to its original intent, slightly less expensive, to generate some funds to get the low-income kids in, and have more equity among the States.

I cannot think of an amendment that would more reasonably try to deal with all these problems, and I do urge my colleagues, for a moment here, let's put partisanship aside. The President has urged us to do that. We don't have to have just partisan votes on all of these amendments—all the Democrats vote no, all the Republicans vote aye. That doesn't get us anywhere. I hope my colleagues on the other side of the aisle will put on their independent thinking hats. If they need to say something to the leadership or whatever—look, this is a reasonable amendment, I am going to support it—then do that. We do not have to be in lockstep here. It may be that there is a Republican amendment that deserves to be supported. This is one.

I urge my colleagues, let's approach this independently. This is a good amendment. Let's support it. I hope my colleagues will consider doing that when we vote on the Bunning amendment a bit later on this afternoon.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, basically the Bunning amendment is the fourth amendment that would put a cap on eligibility. Yesterday the Senate rejected the Cornyn amendment that would cap it at 200 percent of poverty, a Roberts amendment with a cap of $65,000, and a Murkowski amendment with a cap of 300 percent of poverty. All these amendments, including the Bunning amendment, have the same flaw; that is, they would raise the possibility of kicking kids off the Children's Health Insurance Plan; that is, they are diminishing amendments. They do not add, they subtract. The kids currently on the Children's Health Insurance Plan are taken off. That is not something I think we want to do.

The specific amendment in question here will have that effect. It will basically say that because the States that have been mentioned here essentially get a match rate according to the Children's Health Insurance Plan, that because of the amendment—the amendment says they will get less, they will get the Medicaid match rate, which is less than the Children's Health Insurance Plan; therefore, those kids cannot participate.

Theoretically there could be some participation because the match rate in Medicaid, which I think is around 15 percent lower—in the case of let's say New York or New Jersey—than the Children's Health Insurance Plan match. But still the effect is the same. If this amendment were to go into effect, children currently in, say, New Jersey who receive the Children's Health Insurance Plan match rate will probably get kicked off. A lot will be kicked off the Children's Health Insurance Plan because the match rate is lower, down to the Medicaid rate.

That is not right. The fact is all of these amendments, including the Bunning amendment, are restrictive. It is constrictive. It is a reducing amendment. It pressures to take children off the Children's Health Insurance Plan rather than add children.

People talk about 200 percent of poverty, 300 percent of poverty, et cetera. I think New Jersey is at 350 percent of poverty. One interesting point there is they are at that rate, A, because they asked for it and, B, because President Bush's administration gave a waiver and said, yes, go ahead and do it. President Bush, his administration, and the

Republican Secretary of HHS, said, yes, New York, go ahead and do that. That is fine. You should do that.

One can guess why they may have granted that waiver. The reason is because when you talk poverty levels, such as 200 percent of poverty, that is a national figure. It is not a different number for each State, it is what is the national number. New Jersey, I think, has the highest per capita income of any State in the Nation. Clearly, the Federal poverty level which applies to New Jersey probably does not match what the realities are in that State. The realities are if you take a family a little bit above the national median income, a family in that State, in New Jersey, is probably facing the same economic pressures and difficulties—paying for health insurance, providing for the kids and the kids' medical bills—as would the average family in a State where the median income is the same as the national median income. That is probably why New Jersey asked for that waiver and probably why the Republican Secretary of Health and Human Services granted that waiver. But that is where we are. That is history. It makes sense.

The fact is, this amendment says, no, we are going to undo that, even though New Jersey is used to it, even though New Jersey applied for the waiver and lawfully was granted the waiver, we say: No, no, not that anymore. We are going to reduce the match rate you and New Jersey get and it is again going to have the pressure of hurting kids in that State and taking kids off the Children's Health Insurance Plan. That is not the right thing to do.

I therefore respectfully urge Senators to not support this restrictive amendment which does not add kids to the Children's Health Insurance Plan. Rather, it takes kids off the Children's Health Insurance Plan.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise for the purpose of supporting the Bunning amendment. What I say will have some rebuttal to what the distinguished chairman of the committee has said just.

Medicaid and the Children's Health Insurance Plan were created to cover low-income children. An income of more than $63,000 for a family of four is not low income. I know the Senators from the State of New York and New Jersey will argue that $63,000 is low income in their States. I know they will talk about the cost of living in those States.

As an example, the median home price in Des Moines is greater than that in Binghampton, Buffalo, or Rochester in the State of New York.

The underlying bill says all States can cover above 300 percent of the Federal poverty level. I think that should be limited, as it was in the second bill that was a bipartisan bill passing the Senate in 2007. But if we are going to allow States to cover above 300 percent, all States should be treated equally, and an exception for two States—and I might emphasize only two States—is not fair, and it is not right. This amendment strikes that exception so all States are treated equally.

I urge support for the Bunning amendment that we will vote on in a little over an hour. I hope Senators coming to the Senate floor will take that into consideration. Treating all States favorably is essential.

AMENDMENT NO. 83

(Purpose: To provide H.R. 3963 (CHIPRA II) as a complete substitute)

The amendment I am going to introduce is the exact contents of the bill we call the 2007 bipartisan bill No. 2 because that is the No. 2 bill vetoed by President Bush. This amendment I am offering today, I am doing so with Senator HATCH because he was there with me through all of that discussion in 2007 that brought us to a bipartisan bill.

The amendment is the bill that, 2 years ago, Speaker PELOSI called ''a definite improvement on the first bill,'' meaning the first bill the President vetoed. This amendment I am going to soon lay before the Senate is a bill I believe is the best bipartisan compromise we could put together to cover as many low-income children as possible. This amendment is that 2007 bill that told States they could not cover children above 300 percent of poverty level in the Children's Health Insurance Program. Why do we concentrate so much on that level and not above that level?

In 2007, we thought letting States cover children above the national median income diverted attention from the mission of Medicaid and the Children's Health Insurance Program, which was obvious then and still obvious today; that is, that we ought to be putting the emphasis on low-income children.

The underlying bill allows States to cover children up to any income level and, as I said, includes a special grandfathering exclusion for New York to cover children and families with incomes up to $83,000 per year. The second bipartisan children's health insurance bill—that is the amendment before us or that I will put before us now—returns the focus where it has been since 1997 in the CHIP bill. The emphasis is upon getting low-income children into a plan so they have the health care they need.

This amendment is the bill that includes a policy to address the problem of crowdout that was the subject of an amendment yesterday. It is a policy that is not in the underlying bill, which brings me to the question: What exactly went wrong with the crowdout policies that so many of us voted for in 2007?

Certainly, it is not because the Democrats have put forward a policy that addressed crowdout in a better or more efficient manner. Certainly, it is not because the Democrats have new analyses that crowdout is no longer occurring, especially in the expansion of public programs. When Children's Health Insurance Program dollars go to higher income children who already have private coverage, that money could have gone to low-income children. Make no doubt about it, 4 million new people being covered does not take care of the problem of covering low-income children. There are still going to be millions out there who will not be covered whom we ought to have a focus on.

The second bipartisan children's health insurance bill of 2007 that is now the amendment I am going to lay before the Senate returns the focus to low-income children. Finally, this amendment-to-be is the bill that we voted on in 2007 which did not have the divisive legal immigrant issue in it. The underlying bill today has $1.3 billion of coverage for legal immigrants, more than 100,000 of whom already have private or public coverage, dollars that could have gone to cover more low-income children.

The second bipartisan children's health insurance bill—that is the amendment I am going to lay before the Senate—now returns the focus to low-income children. Now, today in the Senate, there are 43 Democrats and 12 Republicans, of which I am one, who were Members of the Senate in 2007 and voted for this bill that my amendment is going to represent.

Those 43 and 12 Republicans who are still here—that is 55 of us—if we would stand together, we could still do great things. We could show that bipartisan amendments still mean something in the Senate. When the vote count ended, we would probably have more than 70 votes for this amendment. Instead, I know if I call for a vote on this amendment, 43 ayes that were cast in 2007 would become ''no'' votes.

After watching the difficulty those 12 Republicans, including this Republican, faced by voting aye and sticking together because we thought we were doing good policy, watching 43 ayes turn to noes on the very same policy is a bitter pill to swallow.

Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 83.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 83.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I support this amendment of the distinguished Senator from Iowa. Essentially, what we are doing is striking the Baucus bill being considered on the floor and replacing it with the CHIPRA II bill that passed overwhelmingly in this body in 2007, enough votes to override a Presidential veto. Not one Democrat voted against this bill. Not one.

But what my good friend, Senator GRASSLEY, and I are offering is a bill that represents a solid bipartisan agreement that we worked out with Senators ROCKEFELLER and BAUCUS. I do not blame Senator BAUCUS for the mess we are in right now, or this partisan approach to CHIP, because he represents his side. But I do believe there has been a real lack of effort by some on the Democratic side to work with us after all of the time that we spent trying to make sure we had something that would work in the last Congress.

What we have is a true bipartisan agreement where we were there from start to finish. Senator GRASSLEY and I, Senators BAUCUS and ROCKEFELLER, and those in the House—we spent hours together, months together, working out the details of this bill. We spent morning, noon, and night for 6 months to get the bill to that point. It was built on a foundation of tough agreements and tough decisions. We were part of the process from the very beginning and stayed with the process until the very end. That resulted in a true bipartisan agreement.

The bill passed overwhelmingly in both the House and the Senate by a veto-proof margin in the Senate. Senator GRASSLEY and I worked our guts out, put our hearts and souls into both CHIPRA I and CHIPRA II. We were proud of our work with Senators ROCKEFELLER and BAUCUS because that work not only reauthorized the CHIP program for 5 additional years, it covered more low-income uninsured children. It retained the original goal of the original CHIP program, which, by anybody's measure, has worked very well over the prior 10 years.

The bill before us today does not represent that agreement. We talked to our colleagues at the beginning and then we were not included in the discussions that evolved into the CHIP bill recently considered by the Finance Committee and now on the Senate floor. We were not even invited. It seems to me once we were not needed anymore we were more or less thrown by the wayside because our votes were no longer needed.

This is not the way to start off the 111th Congress, especially after the last campaign where our President said he wants to work in a bipartisan way, he wants us to get together, he wants us to be able to work with each other, he wants us to accomplish a great deal for this country.

I think I am known for bipartisan work around here, and I certainly have taken a lot of flack for some of the President's Cabinet people I supported, and supported right off the bat, because they were qualified people. I believe the President should have his choice as long as they are qualified and not otherwise disqualified.

Well, I am going to support this amendment of Senator GRASSLEY's, which represents the true bipartisan agreement of 2007. Now, let me mention a few of the highlights in CHIPRA II.

The amendment states there will be no Federal CHIP dollars for coverage of children over 300 percent of poverty; that is around, $63,000 for a family of four. Now, to be honest with you, when we did the original CHIP bill, we wanted it to be 200 percent of poverty because those kids were the only ones left out of the health care system, the children of the working poor. We did it so we would have enough money to try and cover all of the kids who really qualified for CHIP. Even with that, we found we were not able to get to all of them. So you can imagine, with the current economic difficulties, we are going to have even more pressure to get to more and more kids. If we start allowing states to cover over 300 percent of poverty, which at least one State does and another is in the process of doing, it is not going to be long until this program becomes a Federal Government boondoggle where everybody will expect money from the Federal Government for health coverage.

This amendment eliminates the earmark to allow New York to cover children up to 400 percent of poverty, $84,800. By the time they use income disregards, some estimate that families could be making over $100,000 a year and still qualify for the CHIP program.

Now what does that do? That takes money from the 6 million kids who are low income and uninsured. It is crazy. Yet that is what this bill allows. Senator GRASSLEY and I had to agree to go to 300 percent, which is over $63,000 for a family of four in 2007. But to now go to 400 percent of poverty, admittedly New York City is an expensive place, but New York's rural areas are not that different from other States, except they are taxed to death in the State of New York. But that should not be the problem of everybody in the country.

This amendment includes the bipartisan crowdout policy that addresses the issue of families giving up private coverage in order to enroll in a public program. Our amendment would require a number of studies on crowdout, would improve data collection on the coverage of low-income children, would require all States to adopt these ''best practices'' to reduce crowdout, and would provide the Secretary with the authority to hold States accountable for covering low-income children.

With regard to crowdout, we did our best to stop it so people would not drop their health insurance that they can afford so their kids would qualify for the CHIP program. That is one of the problems with covering higher income families, because, naturally, if parents find they are going to be better off opting for CHIP coverage as opposed to private health coverage, they are going to crowd-out lower-income children from CHIP coverage. That is what this bill really does.

It is a shame because it means less money and less health coverage for those who are truly needy, those for whom this bill was meant.

If we covered the children of the working poor, the only ones who were formerly left out of the health care system, we could probably do a much better job if we kept it to 200 percent of poverty. But Senator GRASSLEY and I agreed to go to 300 percent of poverty in the interest of a bipartisan agreement even though each of us felt that probably was a mistake.

This amendment does not include the controversial legal immigrant provision allowing States to claim a Federal match for coverage of legal immigrant children and pregnant women.

Look, I started the Republican senatorial Hispanic task force. I brought Hispanic leaders from the country to Washington at least twice a year to help us understand how we could better assist Hispanic people. We brought together Democrats, Independents, and Republicans. I have a long reputation of trying to help Hispanic people.

Under our immigration laws, sponsoring families who brought others to this country legally entered an agreement to take care of those individuals for 5 years. It has worked. The current bill on the floor, the partisan bill, wipes that all out. In the process, how many children who are U.S. citizens are going to be left out because we have expanded this program in ways that will not take care of them?

Mr. DURBIN. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. DURBIN. I know he has an amendment pending relative to taking care of providing prenatal care to make certain that children are born healthy in the United States. I would like to ask the Senator if he is arguing now that we should not provide maternal care for pregnant women who are legal immigrants to the United States with the full knowledge that the lack of that care may mean the child will be born sick and the child will be a citizen of the United States?

Mr. HATCH. Heavens no.

Mr. DURBIN. Is the Senator arguing we should not provide obstetrical care to pregnant legal immigrant women?

Mr. HATCH. Certainly not. And as the Senator knows, many States today provide that care to legal immigrants through CHIP or otherwise. And let me emphasize that all expenses are supposed to be provided by the sponsoring families for 5 years. If that was the wrong time or it should have been shortened, I would have worked with the distinguished Senator to do that. But that was the deal. That was the rule. That was what we worked on. That is what we thought would work. That is what we thought was fair.

What I don't want to do is have our own children who are U.S. citizens be without care while we cover those who were supposed to be covered by their sponsor families who brought them to the United States.

Mr. DURBIN. If the Senator will yield, if a person is here legally though not a citizen, is a legal immigrant mother, is it not true that her child born here will be a legal citizen?

Mr. HATCH. Yes, it is true. And they would be covered by CHIP.

Mr. DURBIN. Then if we deny care——

Mr. HATCH. What about those who were brought in who are not legal citizens? I am not against helping them.

Mr. DURBIN. I don't think there should be a provision for undocumented illegals.

Mr. HATCH. If I may take my time back, I am not against any children receiving help. A lot of these children get help through our system of health care. But I am talking about a CHIP bill that cannot take care of our current children who are U.S. citizens and now we have included a provision that would allow legal immigrants to be covered before the 5 year waiting period.

I might add, many States today provide coverage to legal immigrant children. Many States do that. I commend them for doing it. But I am worried about having a bill that can get broad bipartisan support that literally first covers our children who are U.S. citizens. This bill does not do that. Let's be honest about it, it doesn't. Today, there are as many as 6 million or more low income, uninsured children who are U.S. citizens who do not have health coverage some of whom could potentially not be covered by CHIP because legal immigrant children will now be covered through CHIP. It is my hope that their family sponsors will take care of them. And if not, these legal immigrant children and pregnant women are still going to be taken care of by the States. I don't know of any pregnant woman who goes to an emergency room and who isn't going to be taken care of.

I think this is a principle that is very important. We should be doing what we can do. But what is more important is that we agreed to not include the legal immigrant provision in CHIPRA II. It overwhelmingly passed, and every Democrat voted for it. Now we come up with a partisan approach that basically undermines that agreement. I am very concerned about it. Frankly, I think Senator GRASSLEY is right in bringing up this amendment.

But don't let anybody fool you. There isn't a child I don't want to help. In fact, the way this bill arose, two families from Provo, UT, came to me. Both husbands worked; both wives worked. Both husbands and wives worked. Neither family, at that time in 1994, earned more than $20,000 combined income a year. Yet they were working poor who wanted to work and not be on the dole, but they couldn't afford insurance for their children, who were the only kids, the working-poor kids, the only kids left out of the process. So we came up with CHIP to try to resolve that issue. Even with that, we were not able to do everything we wanted to do, but it worked amazingly well. I don't know anybody who denies that fact. I don't know anybody who would dispute me on this statement. I would like to see them try.

The fact is, the bill worked well. Over the last 2 years, in a bipartisan way, we worked to try to solve some of the problems that arose, even with a good working CHIP bill. We worked in good faith. All of a sudden, we find a bill brought up here without any input from us that is a partisan bill, that makes it even more difficult to cover all these kids.

Everybody knows I believe in health care, and I believe we ought to cover everybody. I would like to do it, but I don't want to do it by bankrupting the country or making those who do work have to take care of those who don't. I am a very strong believer in helping those who cannot help themselves but would if they could, but I am not very excited about helping those who can help themselves but won't. Unfortunately, we have a few of those types of people in this country.

What galls me is that I know the President wants to work in a bipartisan way. But the House just acts like, so what, we are just going to do what we want to do. I can understand that type of thinking because they were irritated with some members in the House, even though we ended up with a very strong vote in the House. It just wasn't enough to override the veto. They were irritated with some of those who didn't agree with CHIPRA I or CHIPRA II. But in the Senate, we had, as I recall, 69 votes—more than we needed to override a veto. The reason we did is because it was bipartisan.

I don't know how many people are going to vote for CHIPRA II at this time, but I just remind my colleagues that every Democrat voted for it when it came up. Frankly, even if we didn't get it passed because the House sustained the veto, it was a tremendous victory.

I am not going to spend the rest of my life griping about it. But the fact is, it is a shame that with a President who wants to be bipartisan, the first thing out of the box, the first real bill out of the box happens to be a bill that they know Senator GRASSLEY and I worked hard on, that we carried a lot of water on, that we took a lot of flak for in 2007. Then we find out they are going to do something that is just plain partisan, that isn't going to work as well, and it is going to cost the American people a lot more.

I hope everybody in this body will support Senator GRASSLEY's and my amendment on the CHIPRA II bill. If they don't, personally, I can live with it, but I won't be happy. I think what is going on is not fair, and it is a direct slap in the face to those of us who worked so hard with our friends on the other side. And they are friends. I mean, they are all friends. I care for them. But this is a particularly important bill to me. Right now, it looks as if it is turning into just a partisan exercise.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. If I could interrupt this very interesting debate, as in executive session, I ask unanimous consent that on Monday, February 2, at 3:15 p.m., the Senate proceed to executive session to consider the nomination of Eric Holder to be Attorney General of the United States; that there be 3 hours of debate with respect to the nomination, with the time equally divided and controlled between Senators LEAHY and SPECTER, chairman and ranking member of the Judiciary Committee, or their designees; that at 6:15 p.m., the Senate vote on confirmation of the nomination; that upon confirmation, if there be confirmation, the motion to reconsider be laid upon the table; that there be no further motions in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 3:10 p.m. today, the Senate proceed to a series of votes in relation to the following pending amendments in the order listed: Coburn No. 47, Bunning No. 74, and Hatch No. 80; further, that no amendments be in order to these amendments prior to the votes; that there be 2 minutes of debate equally divided between the votes; and that all votes after the first vote be limited to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The assistant majority leader.

Mr. DURBIN. Mr. President, I would like to speak to the pending matter before us.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I am happy to yield to the Senator from Utah.

Mr. HATCH. I don't think I answered the question as well as I would like to. The question was, Do we want any children of pregnant women, legal immigrant children, not to be helped? Twenty-one States already pay for that. I think most of the others do through emergency rooms. They don't go without health care. But what is happening here is that we are taking what 21 States are actually doing and we are basically just alleviating them from having to do that, that which they are capable of doing and wanted to do, and just taking it over by the Federal Government when, in fact, these problems were solved in a way that was reasonable, with not only families taking care of people they brought into this country for 5 years under their obligation but also because the States would take care of them with State money. I wanted to make that clear. I do appreciate working with my colleagues on the other side, but I am a little disappointed that it has turned out this way.

Mr. DURBIN. Mr. President, let me preface my remarks by saying a word of tribute to the Senator from Utah. I hope he doesn't leave the floor because this may be historic, but I thank him personally for his support of this SCHIP bill through the years. I know it has not always been easy. Sometimes he has been a lone voice. And though we may disagree about one aspect or another, I greatly admire the fact that he has stood up and supported this. I hope at the end of the day he will continue to because bipartisan support for this program is very important. I salute him.

Mr. HATCH. If the Senator will yield, I thank him for his gracious comments. He knows our friendship means a great deal, and also with the distinguished chairman of the committee. I think he is a very fine man who has done a very good job on this committee. But I am going to have a difficult time supporting this bill without some bipartisan approach that would work a lot better than this is going to work. But I thank the Senator again.

Mr. DURBIN. Mr. President, I thank the Senator from Utah.

I want to try to bring this down to the bottom line. This really is a debate about children's health coverage. This is not a debate about immigration. I hope my colleagues will be willing to have that debate about immigration, and soon, because it is long overdue in this country.

Much of this debate is focused on the idea that this provision in the bill would call on undocumented immigrants to abuse the system and that our financially strapped system would be run down by an influx of these undocumented immigrants jumping onboard.

Let me make it clear: Undocumented immigrants have never been eligible for the major benefit programs in America, and this law does not change that. We are talking about legal immigrants, people who are in the United States legally, people who are working and paying taxes, people who are more than likely to become tomorrow's citizens.

It is a different group. These are not those hiding in the shadows because they are here illegally. These are people who have legal documentation as to their presence in the United States. They can go to work. They pay taxes. What we are talking about is making certain the children of these legal immigrants have a chance to be healthy. It is likely many of those children are already U.S. citizens, and many will become U.S. citizens. Their being unhealthy does not make sense for that family, and it certainly does not make sense for our Nation.

Legal immigrants were able to get some assistance, but the 1996 Federal welfare law restricted those benefits by enacting a 5-year waiting period. This was during the Gingrich era. The policy was instated over 10 years ago, and almost immediately we started changing it, realizing it really did not work as well as planned. Congress and many States recognized we had gone too far and we were causing serious harm to seniors and persons with disabilities and vulnerable families throughout the country.

Over time, and with the support of Presidents from both political parties—President Clinton and President George W. Bush—Congress restored eligibility to many but not all lawfully residing immigrants who needed Social Security assistance or food stamps. We have not yet restored health care services to these individuals and families. We have attempted to do so in the past.

During the debate on Medicare Part D prescription drugs for seniors, the Senate version of the Medicare bill included this same language. We all know how successful the effort was. It passed this Chamber with a strong bipartisan vote of 76 to 21. When there was an attempt to change it, water it down, it was rejected by the Senate by a vote of 65 to 33—a strong bipartisan vote.

In addition to longstanding support from Republicans, Democrats, and Independents, the removal of legal immigrant barriers to health care is also backed by diverse stakeholders. The National Governors Association and the National Conference of State Legislatures are on record supporting the approach of this bill.

In addition, the bipartisan U.S. Commission on Immigration Reform called for lifting restrictions on legal immigrants' eligibility for public benefits shortly after the 1996 restrictions went into place. The arguments for such a policy are overwhelming.

According to a 2003 factsheet from Families USA, extending health insurance to this population actually saves the health care system of America a lot of money. Covering uninsured children and pregnant women through Medicaid can reduce unnecessary hospitalizations by 22 percent. Preventing unnecessary hospital visits results in substantial savings in uncompensated care. Women without access to prenatal care are four times more likely to deliver low birth weight babies and seven times more likely to deliver prematurely with complications.

Avoiding these pregnancy complications is not only the humane thing to do, it is the economic thing to do. It produces great savings to the system. Like all of us, when immigrant kids are insured—legal immigrant kids are insured—their families make better decisions when it comes to the use of health care. They are twice as likely to have seen a primary care doctor in the last year as those who are uninsured. They are three times more likely to have preventive well-child visits. They are more likely to get a flu shot.

In contrast, uninsured immigrant children are four times as likely to have used an emergency room more than once as immigrant children who are covered. ER care is expensive, sometimes unnecessary. We can avoid it by doing the smart thing in providing health insurance for the children of these legal immigrants.

So I say this: There is a lot of debate in this Chamber, and has been over the last several days, about families, family values, life, respecting life. Those are all valuable concepts and principles. But isn't that the bottom line in this debate? If you really do respect families and family values, if you really do respect life and children, why would you deny basic health insurance to these children? They are the children of legal residents of the United States, people paying their taxes, who want the best for their kids, like we all do.

That is why this is so important. We have come at this in the last couple days—and I salute the chairman of the Finance Committee for his patience. We have come at this from 10 different directions. It is still the bottom line. The bottom line is, if you value these kids, if you want them to be healthy, if you want to give them a fighting chance for a good life so they can be happy, healthy, and good citizens of the United States, don't deny them this health care.

No child should have to wait 5 years for health care. Five years is a lifetime to a child with a medical problem. Many of these conditions have long consequences if we do not treat them early. So let's make sure we do the right thing. As someone said in some of the debate the other day, children are contagious. You cannot say, well, we are going to put in a classroom those citizen kids with those legal resident kids, and the legal resident kids do not get to go to the doctor. They have to wait until they are really sick or the parent, in desperation, has to take them to an emergency room, and it does not affect the whole classroom. It does.

We are literally in this together. Our children and grandchildren are in this together. Our country can do better. I hope we defeat these amendments and stick with this basic bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I very much thank the Senator from Illinois for his statement in several respects. One is that he complimented the Senator from Utah. That was the proper thing to do because the Senator from Utah has done a lot and led the way for children's health care. I thank the Senator for making that point very clear. It is true, Senator HATCH has been one of the real leaders in helping to protect kids. He worked a few years ago on the original Children's Health Insurance Program, and he, Senator ROCKEFELLER, and the late Senator John Chafee were several of the prime movers to get children's health insurance passed in 1997.

I would like to say a word or two about the pending amendment offered by my good friend from Iowa, Senator GRASSLEY. He mentioned—and, frankly, some of the speakers have mentioned—a lot about partisanship and seeking bipartisanship, and so forth. We all want to work together. That is clear. Frankly, to be honest, I do not like the word ''partisanship.'' I do not like the word ''bipartisanship'' because that connotes there are two sides trying to force something together. I, rather, think we should—without sounding corny about it—just try to do what is right.

The amendment offered by my friend from Iowa, Senator GRASSLEY, will have the effect of taking about three-quarters of the million children off the Children's Health Insurance Program or, to state it more accurately, if you take the current bill before us, we will add approximately 4 million children to the approximately 6 million children who are currently covered. We are told 10 million kids would be covered under the Children's Health Insurance Program.

Remember, the Children's Health Insurance Program is for low-income kids of the working poor. These are families who are not as poor as those who qualify for Medicaid. It is just the next level up, the working poor. They have had a real tough time making ends meet. The Children's Health Insurance Program is aimed at that group, at the working poor.

Under the legislation before us, not only will the 6 million who currently have children's health insurance coverage receive that care, but 4 million more will be covered under the bill for a total of 10 million.

Cutting to the chase, the bottom line, the effect of the amendment offered by Senator GRASSLEY will be to deny coverage to three-quarters of a million people who otherwise would be covered under the bill or, to state it in very gross terms, if the total under the bill is 10 million covered, that means under the Grassley amendment it would be 9.25 million covered; that is, about 750,000 kids could not be eligible. These are kids who currently in these times need help. These are kids with families where, most likely, the parent is having a hard time finding work or is maybe laid off, really struggling.

We know real wages have not gone up in this country at all in the last decade. Times are tough for a lot of people. They may have lost their house or are losing their house or they may find their rent has gone up even more. There are a lot of reasons people are facing tough economic times. These are the people we want to help.

Now, if these kids in working poor families do not get health insurance, we all know the consequences. One is deferred health care. They are not going to go to a doctor for checkups. They will not get their checkups. One is deferred medication. They do not get their medication. They will get sick more likely.

When they get sick, what happens? Well, if they get real sick, they probably have to go to the emergency room. What happens there? They get emergency care, deferred care. It is expensive care. It is postponed care.

Then what happens? Well, they get the care in the emergency room, but then what is the followup? They will not be seeing a doctor. They will not be seeing a pediatrician. They will not be seeing an internist, somebody who is a primary care doc, a family doc, who could follow up to make sure the child is doing well.

What else happens? Well, the costs in the emergency room are passed on to somebody else. Who are they passed on to? We all know they are passed on to the hospitals, they are passed on to the doctors, who then have to charge their private paying patients more. For those, frankly, who are so concerned about private health insurance—and we all are very much—the net effect of denying children coverage under the Children's Health Insurance Program is not only deferred care, it also means increased premiums for the private health insurance market. That makes it sort of a vicious circle: the higher the premiums go, the harder it is for people, for families to get private health insurance. It is a big problem.

You might ask, who are the 750,000 people the Grassley amendment would deny participation in the Children's Health Insurance Program? Really, his amendment basically strikes the bill on the floor and replaces it with what is called CHIP II. There is a big loss of coverage for perfectly legal immigrants. These are people in our country, frankly, who, for all intents and purposes, are Americans. They stood in line in some country legally to get to the point where they would enter our country. They are going through the process legally. They pay property taxes when they are in America, if they own real property. They, hopefully, pay some income taxes. That means they would have a decent job. They certainly pay sales taxes in this country. These are working people in our country.

They have served in our armed services. I am sure there are some over in Iraq, some in Afghanistan right now. These are perfectly legal folks in our country. The only difference is, they have to wait a little longer to get full citizenship. But they are in line doing all that they need to do under our law to get full citizenship.

They go to public schools in America. Legal immigrants go to school. Those are public programs. So it seems to me, if you have public programs, such as schools and the other public programs like that, then certainly children's health insurance should be fully available to them as well.

But, again, just as a basic reminder, the effect of the Grassley amendment is to deny health insurance to about three-quarters of a million people compared with the underlying bill. I do not think we want to deny coverage to the kids of the working poor who do need health insurance, especially during these very difficult economic times. So, therefore, I urge Senators not to support that amendment.

The ACTING PRESIDENT pro tempore. The senior Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will take a minute to salute the leadership of the Senator from Montana on the Finance Committee. He has done a masterful job trying to keep things together as we get ourselves back to a more stable economy. I congratulate him for the work done and ask him to continue to exert the effort and leadership he has thus far.

Mr. President, I come to the floor to protect the well-being of more than 3,000 children in New Jersey.

AMENDMENT NO. 74

A particular focus as we seek to stimulate an economic revival is to

preserve and protect the Children's Health Insurance Program which has helped millions of kids get to a doctor for regular checkups to keep them well and get them the medicines or treatment they need.

However, instead of continuing that safety net or strengthening it, the Senator from Kentucky is targeting 3,000 children in my State, putting their coverage at risk. It is an assault on equity in our diverse country. Incomes vary and certainly costs of living differ and Federal assistance to States reflects their subsistence needs.

This amendment will deprive children of essential health care. These children are from working families who are producing income—modest as it may be—not enough to take care of all their needs but, nevertheless, essential in their family circumstance.

I wish to note that while our economy is going deeper and deeper into a recession, there is an attack on children's well-being by a Senator whose State in 2005 was the ninth largest recipient of Federal assistance. His State—Kentucky—receives 90 cents more for every dollar they pay to the Federal Government than New Jersey does. With the way my Republican colleagues are talking, one might think too many children in New Jersey are receiving health insurance.

While this assault is taking place, it is important to plead our case in the Senate. Right now, the number of children in New Jersey without health coverage is far above the national average. In fact, more than a quarter of a million kids in my State do not have health insurance, and now the Bunning amendment would put more children in my State at risk of losing their health insurance.

One of the other serious problems with this amendment is it intimates that costs among States are identical in each case. The Federal poverty level cannot be applied, for instance, equally in New Jersey and Kentucky. In New Jersey, we have the twin problems of very high costs of living and very high health insurance costs. The cost of living in the State of New Jersey is 30 percent higher than the national average. In fact, only two other States have a higher cost of living than New Jersey. Nearly all the families who rely on this program to get medical care for their children still have to pay copays, monthly premiums, and other out-of-pocket expenses.

This amendment is a bomb intended to disrupt the process the entire country desperately wants to see accomplished—and that is protecting children's health.

Given New Jersey's contribution when it comes to filling other States' needs, I find it particularly offensive. We know other States have different needs than we do, and we join in supporting these needs. If there is a natural disaster in a particular State, for example, the other 49 chip in. That is what our Republic demands.

Time and time again, New Jersey's taxpayers are asked to shoulder the burden to help other areas of the country that are in need, and for every dollar New Jersey gives to the Federal Government, we only receive 61 cents back. As a matter of fact, we are last in the list of States. Compare that with Kentucky. For every dollar Kentucky pays to the Treasury, it gets back $1.51.

Whether it is the Universal Service Fund for phone service, Essential Air Service in aviation or other programs, New Jersey gives far more than it gets back.

The Bunning amendment is contrary to everything we are trying to accomplish on the floor this week. More than 3,000 children in New Jersey are depending upon us now to protect their health. Whether it is illness, disease, violence, toxic pollution, terrorism or other threats, it is our job to protect our children, particularly when they are holding out their hands in need. Children in New Jersey are depending on the Members of this institution to oppose the Bunning amendment.

Two years ago, on a bipartisan vote, the Senate rejected a similar amendment that was offered by the Senator from Kentucky. It is an assault he continues with. I ask my colleagues to reject this amendment once again. Do it with a flourish, and do it with emphasis, because we have to stop States picking on other States in our moments of great need.

Mr. President, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 47

Mr. BAUCUS. Mr. President, I wish to address one of the amendments that will be coming up. There is a series of votes at 3:10 this afternoon. That is about 25 minutes from now. The first vote scheduled will be on the Coburn amendment No. 47. That is the amendment that deals with premium assistance.

Essentially, this amendment requires States to substitute premium assistance for the traditional Children's Health Insurance Program and Medicaid for children above the income eligibility determined by a State as of January 1, 2009. Basically what that says is this: If a State decides it wants to cover more children—let's not forget, when this program was enacted in 1997, the decision was that this would be a block grant program to give States the option, first, as to whether they want to participate in the program and also the option to design programs the way they think makes most sense in their States.

In 1997, the debate was should this be an entitlement program, such as Medicaid, where children of the working poor are entitled to get health insurance, as people are entitled to get health care under Medicaid. This Congress made the decision, no, it should not be an entitlement program, it should be a block grant program.

What does that mean? It means Congress, roughly every 5 years, reauthorizes the Children's Health Insurance Program. It provides money for the programs and money is allocated to the States under a formula. Obviously, larger population States would get more dollars than lower population States. But there is a match; that is, the Federal Government will pay a certain percentage for the program and the States pay another percentage. Under the formula, the Federal Government pays a little more than do the States.

Nevertheless, that is what Congress decided in 1997, and this legislation before us basically continues that same approach. It is a State option. States can decide for themselves what children they want to include. They can determine what level of poverty applies.

The Coburn amendment says: OK, let's say some States currently set their eligibility rates for low-income children, let's say, at 175 percent of poverty. That is not unlikely. There are a lot of States that are in that neighborhood. In fact, my State of Montana, until this last year, had 175 percent of poverty. They passed a referendum raising that to 250 percent of poverty.

This legislation says if a State wants to increase its eligibility rate, any increase that is in effect after January 1 of this year means that the State cannot put those children into the Children's Health Insurance Program but, rather, must take the money and apply it to premium assistance.

What does that mean? That means that money has to go to families to buy private health insurance coverage for their children. They cannot go into the program. But that money they get has to buy private health insurance. The fancy term is ''premium assistance.''

The amendment goes further. It says, in addition to that, when you have to buy private health insurance, with premium assistance, you have to wait 6 months. You cannot get it right away. You have to wait 6 months. So there is going to be a period, 6 months, where kids will have no health insurance. Not only are they not covered under the Children's Health Insurance Program, but they cannot get health insurance.

What if somebody gets sick during that 6-month period? They cannot get insurance in the public program. They cannot get private health insurance. They have to wait. Tell me what sense that makes. I cannot understand how that makes any sense at all. The first requirement makes no sense to me. It is wrong, in my view. The second adds insult to injury.

For those reasons, I strongly encourage Members not to support the Coburn amendment. It has a very restrictive effect. It makes it very difficult for kids in working poor families to get health insurance. Let's not forget we are in difficult times. These are recession times. People do not have jobs. Health insurance is very expensive, extremely expensive in the private market. There is discrimination in the individual market. Insurance companies can discriminate against you. If you have a preexisting condition, they can say: no health insurance. If you have a history of medical care, they can say: Sorry, you have been sick too much; we are not going to cover you, and for other reasons.

Let's say a child falls into this category; that is, the State raises eligibility and this child is currently in a family that is 175 percent of poverty, now at 250 percent of poverty. They are still the working poor. That is a very poor family. Let's say that person applies for health insurance because they lost their job. Let's say the insurance company applies normal preexisting rules in the market. Not only can that person not get health insurance in that 6-month period, they may not get it at all.

I strongly urge Members not to support this amendment. The practical effect of this amendment is to significantly discourage health insurance for poor kids, kids belonging to working poor families. I urge the amendment be defeated.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 83

Mr. BAUCUS. Mr. President, there are a lot of amendments around here flying fast and furious. Frankly, we have read them in the past several minutes. I have one amendment in my hand. We received that a few minutes ago. It is hard to go through it quickly. I am not complaining. That is sometimes the way the Senate operates.

As a consequence, I think I overstated, after my staff read the full amendment, the number of kids that the Grassley amendment would cover compared with the underlying bill.

As I mentioned earlier, current law covers about 6 million children. The bill before us would add approximately 4 million more—roughly 10 million. I stated the amendment offered by Senator GRASSLEY from Iowa would have the effect of reducing coverage by about three-quarters of a million people. I said about 750,000 fewer kids would be covered if the Grassley amendment were adopted to this bill.

It looks as if I have overstated that figure. We checked with CBO. On the other hand, we don't know what the right figure is. CBO does not know. While I probably overstated the figure, it is probably less than or fewer than 750,000 kids, but we don't know how much less.

Looking at the bill rationally, analytically, clearly the Grassley substitute will cover fewer kids. Why? Because the Grassley substitute does not allow coverage for legal immigrants who have not waited 5 years. That clearly means there are a lot of kids in that category. Obviously, there are going to be fewer kids covered.

Second, the Grassley amendment uses the formulation in the second vetoed bill in 2007, and that second vetoed bill is more restrictive than the first vetoed bill. If we look at those two different categories, first, legal immigrants, and, second, with the definition of coverage under the second bill, compare the two with the underlying bill and a good number of kids will not be covered.

We do not know exactly how many, but it will be quite a few. We pretty much think it will not be 750,000 fewer, but it is going to be quite a bit fewer.

I apologize to my good friend from Iowa for making that mistake. It was an honest mistake. Things happen fast around here, and that was our first impression looking at the amendment. After we called CBO and studied it further to find the exact number, we realized I was incorrect in the statement I gave. But again, we don't know what the exact number is.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUNNING. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

AMENDMENT NO. 74, AS MODIFIED

Mr. BUNNING. Mr. President, I ask unanimous consent to modify my amendment, No. 74.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and the amendment is so modified.

The amendment, as modified, is as follows:

Beginning on page 75, strike line 18 and all that follows through page 76, line 2.

Mr. BUNNING. Mr. President, when I have a chance during the 2 minutes of debate, I will explain what the modification is.

I yield the floor.

VOTE ON AMENDMENT NO. 47

The PRESIDING OFFICER. Under the previous order, there is 2 minutes, equally divided, prior to the vote on the Coburn amendment No. 47.

Mr. BAUCUS. Mr. President, I do not see Senator COBURN. I ask unanimous consent that all time be yielded back on that amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. All time is yielded back.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Corker	Isakson	Voinovich
Cornyn	Johanns	Wicker

NAYS—62

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Begich	Inouye	Pryor
Bennet	Johnson	Reed
Bingaman	Kaufman	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Sanders
Burris	Kohl	Schumer
Byrd	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Collins	Lincoln	Udall (CO)
Conrad	Lugar	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murkowski	

NOT VOTING—1

Kennedy

The amendment (No. 47) was rejected.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 74

Mr. BAUCUS. Mr. President, the next amendment is the Bunning amendment. I think under the agreement Senator BUNNING is recognized to speak for 1 minute.

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on the Bunning amendment, as modified.

Mr. BUNNING. Mr. President, I have had to modify my amendment slightly because CBO says directing more money to outreach and enrollment creates a score. So I have taken the outreach section out.

However, the amendment is still very simple. It removes the exception for New York and New Jersey to cover families above 300 percent of poverty and get the highest SCHIP matching rate. Instead, they would get the lower Medicaid matching rate covering these families like every other State in the Union. So you have a choice today: Require the people of your State to pay more taxes so New York and New Jersey can cover families who make $77,000 or $88,000 or treat every State the same.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. The Bunning amendment is the fourth amendment this week that would put a cap on the eligibility of the Children's Health Insurance Program, a cap to prevent kids from entering the program. Yesterday, we rejected a Cornyn amendment with a cap of 200 percent of poverty, a Roberts amendment with a $65,000 cap, and a Murkowski amendment with a conditional cap of 300 percent of poverty. Now the Bunning amendment would set a hard cap at 300 percent of poverty. We should vote this down for the same reasons we voted the others down; that is, because it deprives kids of getting health insurance.

Mr. BUNNING. Mr. President, I ask for the yeas and nays.

Mr. BAUCUS. Mr. President, I move to table the Bunning amendment and ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—54

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NAYS—44

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Carper	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Specter
Cochran	Johanns	Thune
Collins	Kohl	Vitter
Corker	Kyl	Voinovich
Cornyn	Lugar	Wicker
Crapo	Martinez	

NOT VOTING—1

Kennedy

The motion was agreed to.

Mr. CARDIN. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 80

The PRESIDING OFFICER. There is now 2 minutes equally divided on the Hatch amendment No. 80.

The Senator from Utah.

Mr. HATCH. Mr. President, this amendment would codify the 2002 HHS regulation which gives States the option of providing CHIP coverage to children before as well as after birth. Fourteen States have already approved plans to provide CHIP coverage to children before birth: Arkansas, California, Illinois, Louisiana, Maine, Minnesota, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Washington, and Wisconsin.

This amendment also allows States to provide health services to the mother for 60 days after the birth of her child. In addition, the amendment also would provide health coverage to pregnant women for issues not relating to the pregnancy. This amendment will continue allowing States to promote the health of children and their mothers before and after birth by codifying the 2002 HHS regulation.

I am happy to have a number of cosponsors on this amendment, including the distinguished Presiding Officer. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, the Hatch amendment would codify the divisive Bush regulation that only covers the unborn child but not the mother. In other words, they separate the two. What we do in the underlying bill is we cover both. We cover the pregnant woman and the child she is carrying. There is no reason to have this amendment. Look at page 50 of the bill. It clearly states that prenatal care will be delivered to that pregnant woman. This is about adding abortion to this debate. It doesn't belong in this debate. It is not necessary. We have already voted this down twice. I trust we will vote it down now.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 80.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—39

Alexander	Crapo	Lugar
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Nelson (NE)
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Casey	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker

NAYS—59

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murkowski	

NOT VOTING—1

Kennedy

The amendment (No. 80) was rejected.

Mrs. BOXER. Madam President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Madam President, I voted against the Hatch amendment for the following reasons.

This amendment sought to codify in law a legal concept of unborn children, therefore establishing the fetus as protected separately from the mother. The need to provide health care coverage for expectant mothers is clear and the State Children's Health Insurance Program reauthorization being considered allows States to provide coverage to pregnant mothers.

While I support the policy of providing health coverage to pregnant mothers in the pending legislation, this amendment is an effort to advance a political cause rather than provide a medical necessity.

This amendment has no practical effect in terms of health care coverage for pregnant women.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I am aware of only a couple more amendments that require rollcall votes before we go to final passage. I expect we may have a DeMint amendment on tax deductions. I expect that amendment may require a rollcall vote. Second, shortly we will hear from Senator COBURN on his substitute amendment No. 86, and I expect this amendment may also require a rollcall vote. In addition, I hope we can address two amendments by the ranking Republican member, Senator GRASSLEY, and I have some hope that we will be able to address those amendments with voice votes. I am hoping the remaining amendments may only require voice votes. So Senators should be aware that we are getting close to finishing this bill. I am hoping we might be able to vote again in an hour or 90 minutes, but we are closing in.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 85

Mr. DEMINT. Madam President, I ask unanimous consent to set aside the pending amendment and call up DeMint amendment No. 85.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 85.

Mr. DEMINT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an above-the-line Federal income tax deduction for health care costs of certain children in an amount comparable to the average federal share of the benefit provided to any non-citizen child for medical assistance or child health assistance)

At the appropriate place, insert the following:

SEC. —. INCOME TAX DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

(a) IN GENERAL.—Part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

"SEC. 224. DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible taxpayer, there shall be allowed as a deduction for the taxable year an amount equal to so much of the qualified child health care costs of the taxpayer for the taxable year as does not exceed the amount that is—

"(1) $1,500, multiplied by

"(2) the number of qualifying children of the taxpayer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer whose taxable income for the taxable year does not exceed the exemption amount applicable to such taxpayer under section 55(d) for such taxable year.

"(2) QUALIFIED CHILD HEALTH CARE COSTS.—The term 'qualified child health care costs' means the aggregate amount paid by the taxpayer for medical care (as defined in section 213(d)) for all qualifying children of the taxpayer.

"(3) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given such term by section 24(c).

"(c) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the name and taxpayer identification number of such qualifying child on the return of tax for the taxable year.

"(d) DENIAL OF DOUBLE BENEFIT.—The amount of the deduction otherwise allowed under this section with respect to any qualifying child for any taxable year shall be reduced by the amount of any deduction allowed under section 213 with respect to such child for such taxable year.

"(e) COORDINATION WITH SCHIP AND OTHER HEALTH BENEFITS.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child if such child is eligible for any benefit under any health assistance program funded in whole or in part with Federal funds.".

(b) ABOVE-THE-LINE DEDUCTION.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(22) DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.—The deduction allowed by section 224.".

(c) CLERICAL AMENDMENTS.—The table of sections for part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by striking the item relating to section 224, and

(2) by adding at the end the following new items:

"Sec. 224. Deduction for health care costs of certain children.

"Sec. 225. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Mr. DEMINT. Madam President, in deference to my colleague from Oklahoma, I won't speak on the amendment at this point, but I will briefly state its purpose.

The purpose of this amendment is to help American taxpayers pay for their children's health care to the same degree we are forcing them to help pay for the health care of noncitizen children in this underlying bill. Specifically, it would provide all eligible American families with an above-the-line Federal income tax deduction for each child comparable to the average Federal share of the benefit provided to any noncitizen child under the SCHIP legislation.

I will speak more about the bill following Senator COBURN's introduction of his amendment, but for now I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 86

(Purpose: To ensure that American children have high-quality health coverage that fits their individual needs)

Mr. COBURN. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 86.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself, Mr. BURR, and Mr. GREGG, proposes an amendment numbered 86.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. COBURN. Madam President, the bill we are considering is designed to help low-income kids have coverage and have care. What do we know about the kids who are in those programs and the care they have? Here is one of the things we know: They don't have access to 60 percent of the doctors in this country because the reimbursement rates are so low they won't be seen. That is the first thing. No. 2 is they don't have access to the best drugs because a lot of Medicaid programs and SCHIP won't pay for the best drugs for those children.

I got to thinking about this bill and what it does and what it is intended to do. What is in agreement in the Senate is that we want all of the kids covered. We want every child in this country to be able to have access to quality care with no limitation of their choice of who their doctor is going to be—the one the child and the parent feel the most comfortable with—because we know if that is the case, they are going to be most compliant. So we want them to have the greatest care, and we want every one of them to be able to have access to care.

This bill brings up Government payments under SCHIP to 300 percent of

the poverty level—60,000 bucks, essentially. Anybody making, essentially, over that wouldn't be benefited by this bill but everybody under it. It adds $70 billion worth of taxes to the American people to be able to do that. As it does it, it takes 2 million kids who are presently covered by insurance off insurance and gets 2 million out of the 8.9 million or 9.8 million kids who aren't covered today with anything. So we are going to spend $70 billion to get 4 million kids, a little less than 4 million kids covered, of which we are going to absorb the costs that are already being paid by businesses for those kids right now.

By the way, I ask unanimous consent to add Senators MCCONNELL, ENZI, CORNYN, DEMINT, JOHANNS, KYL, ALEXANDER, GRAHAM, BURR, CHAMBLISS, THUNE, and BARRASSO as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. So maybe it is instructive for us to look at what we are doing right now and say: What could we do with that money? Right now, we have 31 million kids in America who don't have private coverage. In other words, we have 31 million out of the 78 million kids who don't get to choose where they want to go, don't get to have the best drugs, don't get the referral to the best centers, don't get the referral to the best doctors because they are on a Government-run program. So 8.9 million kids aren't even covered by any program right now, and not all of those 8.9 million kids are in families who are at 300 percent of the poverty level or less. This is based on 2005 numbers, and we know it is greater now, but these numbers for the number of children are accurate right now. We are spending $67 billion to do that.

What does that mean? That means we are spending $2,160 each to cover 22 million kids. Well, if you divided the 31 million kids who are out there into this number, you would get $2,160 available for every child at 300 percent of the poverty level who is not covered right now by their parents, and that includes Medicaid and SCHIP. So you have $2,160 to work with.

Now, the average price in the individual market in this country is less than $1,200 a year. Some will say: Well, that coverage is not as good. Well, let's make it $1,700, which is $300 more than what our kids cost. Let's make it $1,700, or let's make it $1,800, or let's make it $2,160. What could we buy for $2,160 for every kid at 300 percent of the poverty level or less who is not on the program? What we could buy for all of them is a top-grade policy outside of Government-run programs that would give insurance to 100 percent of the children who don't have insurance and give them 100 percent access to every quality doctor in this country on a competitive basis and give them access to the drugs the Members of Congress' kids have access to and the same doctors to whom the Members of Congress have access.

The important point is, we have a government-run program and the administrative costs and the inefficiencies of it cost more than private insurance, than if we would just go out and buy every one of these guys an FEHPB—Federal Employees Health Benefits Plan—a top-drawer plan. Why would we run it through the Government? Why would we take away choice? Why would we take away access by running it through a government-run program and one that is highly inefficient?

There is another thing we should know. The rate of fraud in private insurance products is about 3 percent. The rate of fraud in Medicaid is 10.4 percent, and in SCHIP it is 14 percent. So because the Government is running the program and we can't run it well and we don't run it well, we are losing about 11 percent or 11 cents out of every dollar that we are trying to get to kids because we can't run efficient or effective programs.

So wouldn't it be smarter, rather than to have all of this gobbledygook government, to make sure that every kid in this country whose parents don't make $60,000, who isn't covered with insurance today, has access to a top-drawer health insurance policy that gives them 100 percent access, gives them 100 percent quality, and gives them 100 percent access to the drugs and the physicians they want? Who is going to argue with that?

As a matter of fact, several of my colleagues are cosponsors of the Healthy Americans Act, and that is exactly what it does. It is going to be very interesting to see if they are cosponsors of this bill but yet don't vote for this for kids. And that is a bipartisan bill. So if it is good enough for all of America and if it is good enough for the Members of Congress and their kids and if it is good enough for Federal employees, why can't we give that to the children of this country who don't have health insurance? Why can't we do that? We can't do it because it doesn't fit into the partisan rancor of Washington.

This is a commonsense proposal that doesn't cost a penny more than what we spent in 2005. And we cover all of the kids, not just 4 million more; we cover 8.9 million more with the same amount of money. All the children have access.

It is not a child's fault if their parents can't afford or don't have a job that gives them access to 100 percent of physicians or access to the best medicines or access to equal care. It is not the child's fault. So if we are going to spend this much of the American taxpayers' money, why don't we get value for it? Why don't we decide we want value for this money?

So if you take all the kids out there—31 million—on what we spent in 2005, you can spend $2,160 on every one of them—every one of them—and get them a top-drawer health insurance policy. Top drawer. Top of the line. That is almost double what the charge is for an individual policy now. So we could spend almost twice as much to get that same coverage. Why would we not do that? What is going to keep us from helping all the kids?

I will tell my colleagues the other aspect of it. We are also not going to raise taxes $71 billion if we do this plan. Let me say that again. President Obama said your taxes won't be raised. This bill raises $71 billion—granted, from tobacco products, which I don't have any objection to—but let's save the $71 billion on tobacco products for something else when we can efficiently buy our kids health care and buy them a health insurance policy.

Another key point: As somebody who has cared for Medicaid kids and Medicaid moms, when you have the ''Medicaid'' stamp on your forehead, it is not equivalent care. When we give all these children access to a private insurance policy of their own, it is no longer a Medicaid program, it is their insurance policy. Providers will never know how they got that policy. They will never know if it was an employment-based policy, an individually bought policy, or a policy that comes through SCHIP and Medicaid.

What we do is we take the demeaning qualities and characteristics of having to be dependent through a government program, and we throw that out. So the bias goes out, the discrimination goes out, and the self-esteem goes up.

What will happen if this passes? The first thing that will happen is we will save $70 billion. The second thing that will happen is not 4 million kids—actually, it is a net 2 million kids will get coverage—8.9 million kids will get coverage, and we will do it with the same amount of money we spent in 2005. Every child will be covered. There will be a real choice of who is going to be your provider. Right now you get hustled into whoever will take care of you in these programs. Some are great and some are not. Confidence will be restored. There will be increased quality of outcome and increased access to specialists who now today cannot afford to see a Medicaid or SCHIP patient because their overhead is so great.

Finally, $70 billion—I know we are talking about $1 trillion in the stimulus package—doesn't seem like much, but $70 billion is a lot of money. If you look at it, it is about $2,000 per man, woman, and child over the next 5 years that we will save in this country.

If the goal of SCHIP and all the speeches we have heard all week long is to care for kids, to make sure kids have access, to make sure they have

care, if that is the goal, then anybody who is not going to vote for this amendment is not secure in saying they want to cover all the kids. This one will.

This substitute allows the Secretary to develop autoenrollment. There is $100 million in this amendment so we can have outreach, trying to get kids coverage. This takes away the negative consequences of applying for Medicaid or applying for SCHIP when your parents cannot afford to get you coverage.

The other thing it does is there is a compensation in terms of making sure we help people who have insurance keep their insurance by compensating to keep them on their employer's insurance, which costs a whole lot less. It costs maybe $200 or $300 a year. But the most important thing it does is it provides liberty and freedom and equal access for every child in this country.

They are going to say this will not work. But notice there is not going to be a point of order filed against this amendment because this amendment does not cost any money. It saves money. It does not cost a penny. It will not cost us and will cover so many more children.

My question to my colleagues, as we wrap up the SCHIP bill, is: Do you want to do it right? Do you want to do it better? Do you want to cover all the kids. Or do you want to play the games of Washington and political gamesmanship and partisanship and say: Yes, I care about the kids, but I couldn't do the right thing, the easy thing, the commonsense thing, the things that are associated with order, priority, and common sense that says: Gosh, we can buy and get better coverage for less money; why wouldn't we do that?

We are going to hear all the reasons. We may not hear any because most of the amendments I offered nobody will debate them. They know they have the votes to defeat them so they will not debate. They will not come out and say why this would not be a good idea.

The American taxpayers ought to think: Here is a great opportunity for us to save a ton of money and do something very good socially: cover innocent children with quality health care that they do not have access to today, with no increase in cost—with no increase in cost. Yet we are going to see a vote where they are going to say no. Then we are going to know if you care about kids and whether you care about access for kids.

I will end my debate at this time and yield to my colleague from North Carolina, Senator BURR.

I ask unanimous consent to add Senator VITTER as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. BURR. Madam President, we are at a point where the rubber meets the road. We are challenged daily in this institution and across the country by the American people to find solutions to real problems. In 1997, we found a problem. It was called uninsured children. In the House Energy and Commerce Committee, I was one of those who crafted the original SCHIP program. It was the right way to go at that time.

Health care has changed a lot since 1997. We have continued to reauthorize SCHIP. We have talked about expansions. As a matter of fact, we debated, over the last couple days, why an expansion of eligibility actually hurts low-income children, the ones below 300 percent of poverty. Why does a State want to increase the eligibility income of beneficiaries under SCHIP? It is because there are some kids who are hard to get to. They are hard to find to give them health care. Rather than leave anything on the table, states would like for us to make it easier by expanding the pool of eligibility so we can take higher income kids and put them in the program.

In 2008, there were 7.4 million kids enrolled in SCHIP. It is a 4-percent increase from 2007, but it is a little bit misleading because within that 7.4 million, the monthly average was 5.5 million kids enrolled in SCHIP. What that implies is there are 1.9 million kids who sort of rotate in and rotate out of SCHIP because they possibly migrate from one State to another. So they are not permanent enrollees.

Throughout these days, we have heard Members say our objective is that we want to cover as many kids as possible. Now we have Members standing and saying, as many kids as possible is not what the goal should be of the Senate. The goal should be every child under 300 percent should be covered.

Dr. COBURN did a very good job of spelling out for us that we have quite a large pool of individuals. We have 49 million kids under 300 percent of the poverty level. Of the 78 million kids in America, 22.1 million are currently under Federal programs—Medicaid and SCHIP; 8.9 million kids are uninsured.

We have a proposal in front of this body. That Baucus proposal is to raise taxes of $70 billion-plus and to cover 5.7 million of the 8.9 million uninsured. Actually, that is not the case because of the 5.7 million, 2 million are currently covered by their parents' insurance. We are actually going to increase the rolls by 3.7 million children for $70 billion-plus. We still leave quite a few kids out there without insurance, without coverage. Even though their families have too much money for Medicaid, and they are not enrolled in SCHIP.

This is the time to reform this program. This is the time to say let's design a program that catches 100 percent of the kids at 300 percent of poverty and below. This is the time to totally rethink how we deliver this care.

As a matter of fact, the proposal that Dr. COBURN has made not only can be funded without the $70 billion tax increase and cover 100 percent of the kids, but it actually saves the American taxpayers $144 billion over 5 years. There is the part you did not hear from Dr. COBURN. We actually save $144 billion over 5 years.

You see, the current Baucus proposal on the table is going to increase enrollment of uninsured children under 300 percent of poverty, and it is going to cost $74 billion. If you add that to the number of uninsured who remain in the pot, which is 2.9 million, under the way they have approached this bill, it would cost roughly $70 billion more to cover that pool of 2.9 million. So, in fact, for my colleagues, if you want to know what we have done in this amendment, as Dr. COBURN said, we have come up with a health care proposal that covers 100 percent of the uninsured children under 300 percent of the poverty level, and in doing it, we have saved the American taxpayers $144 billion over the next 5 years if—if—the goal is to cover 100 percent of the uninsured children under 300 percent of poverty. We only save $144 billion if that is the intent to cover all.

If the intent is to cover all, why in the world would you spend $144 billion more dollars if you can do it with today's dollars?

Congress—the Senate and the House—has been deficient since the beginning of this program because we do not cover all the kids. Yet I remember that was the objective the day we wrote the bill. Let's get on a path to cover all.

We are also deficient in the fact that the way SCHIP is structured, we rely on the 60 percent of all health care providers who actually see this population. Forty percent of the health care professionals in this country restrict access to Medicaid beneficiaries or SCHIP beneficiaries. We have now limited the pool of professionals to 40 percent.

With the changes in this amendment, we now open the pool to 100 percent. We increase the choice of a child with Medicaid and SCHIP, and we have now put them in a product where 100 percent of the health care professionals, in fact, will invite them in and be their medical home or their primary doctor, their pediatrician. Without this amendment, we will continue to serve less than 100 percent of the 300 percent of poverty and below, and we also limit the number of health care professionals who are going to see these children, that generation whom we feel incredibly committed to make sure are successful, not just in life but in health.

This does not need to go on, but I do wish to make this point to my colleagues. This is not another amendment. I know we have had votes on

amendments for the last 2 days, and we routinely come down here and it is pretty much a party-line vote, although I learned earlier in this debate that when one Republican votes for it out of committee, it is now bipartisan. I am not sure that is the definition President Obama had of ''bipartisanship'' when he gave a wonderful inauguration speech on these Capitol stairs. Given that one Republican did vote for the bill, it is now bipartisan.

This amendment is about the next generation. It is about the most at-risk children in this country. It is about a real option and a real choice, where that population has full coverage, sees any doctor, enters any medical delivery point in the system, and saves $144 billion over what we would have to spend under the current method. It does not eliminate SCHIP. As a matter of fact, we reauthorize SCHIP for 2 additional years while the Secretary is able to put together the architecture for this product to be in the marketplace.

This is a real opportunity for this body to change the direction and, more importantly, to fulfill the promise that is made over and over on this Senate floor, that what we are doing is to make sure every child in America has health care coverage. If we adopt this amendment, if we vote yes for TOM COBURN's amendment, we will have completed that promise we made to America's children.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise for three or four purposes that I will do in succession.

No. 1, I would like to define bipartisanship for the Senator from North Carolina. No. 2, I want to give a statement in support of the Coburn amendment. No. 3, I would like to bring to final debate my amendment 83, if the majority manager would like to vote on it at that time—and that would be a voice vote—and then I would have my last amendment to introduce, which is amendment No. 71 that I would speak about.

First of all, I think I know something about establishing bipartisanship in the Senate. I was part of a bipartisan proposal 2 years ago that maybe Senator BURR didn't like, but it was very bipartisan. It is kind of an institutional thing, bipartisanship, as far as I practice it in the Senate and as Senator BAUCUS has practiced it, up until this particular amendment. What you do to get to be bipartisan, you sit across the table from each other, Republican and Democrat—and maybe more than one Republican, maybe more than one Democrat—with expert staff, and you build up a piece of legislation that is eventually put before the committee as a Baucus-Grassley bill or as a Grassley-Baucus bill, depending on who is in the majority. Then what you do is you make up your mind that you are going to be arm in arm defending that through the committee process, through the Senate, through conference, and all the way to the President. And you try to maintain 65 to 70 votes within the Senate. That is the way I define bipartisanship.

It is a little bit like if you and your wife were going to buy a new car for that old jeep that you drive around. If you said it is going to be a family affair, you would be sitting down with your wife and asking: What kind of a car do you want? What color do you want? What accessories do you want? You wouldn't go up to your wife, I hope, and say: Honey, we are going to buy a new car. This is what we are going to buy and it is a mutual decision. You wouldn't do that. You would work with your wife to decide what kind of car you want.

So if you want bipartisanship in the Congress of the United States—and I am sure that is what our President was talking about during his campaign—you have to work together to get it. But it is not like this issue was handled—or maybe I can speak more accurately about the stimulus issue that will be up next week—where 48 hours or 24 hours before it comes up, Republicans are given a document and are notified that this is what we are going to do.

So I say to the Senator from North Carolina, that is my definition on what bipartisanship is. I don't know whether you agree with it, but at least that is what I have tried to practice, and I think Senator BAUCUS has basically tried to practice that as well.

Mr. BURR. If the Senator will yield, that is the definition I understand exactly. But that is not the process we completed on SCHIP or the stimulus package. My hope is the President will win at the end of the day.

Mr. GRASSLEY. Madam President, one of the reasons I said I came to the floor was to speak about the Coburn amendment and to say why I am going to vote for it. This amendment, which has been the product of Senator COBURN's and Senator BURR's speeches a few minutes ago, presents a fundamental choice about how we will go forward with health care reform in this country. Now, I wish to emphasize ''how we will go forward with health care reform,'' which is maybe the next health care issue that is going to be before our Senate.

The underlying bill covers 4 million kids. It leaves 2 million kids without coverage. Why? Well, as CBO has told us so often, if you ask State government to go out and cover kids, as we do in Medicaid and the Children's Health Insurance Program, States need more and more Federal dollars to do so. So let's face it, that is exactly how this bill works. We throw billions of dollars at the States, and the States go out and find kids and pay for their health care. The more money we throw at the States, the more kids they cover. The less money we throw at States, the fewer kids they cover.

The Coburn amendment takes a totally different approach. This amendment generally follows the successful way that the Medicare Part D benefit works. By the way, let me say parenthetically about Medicare Part D, which has been law now for 4 or 5 years, it is about the only Federal program I know about that has come in under budget. I am not talking about just for 1 year, I am talking about the projections CBO made for it at that time for the 10 years into the future. I don't have an exact figure in mind now, but maybe 6 months ago I used a figure that was in the billions of dollars that it was under what we anticipated spending.

So we are talking about a Coburn amendment that follows the pattern of Part D Medicare, which works, and it is financially a protection for the taxpayers' dollars. If the Federal and State governments work together to create a healthier market, the private sector will be more efficient in covering kids. That is the Part D model. That is the model we have before us in the Coburn amendment. It is the private sector, on the one hand, in that philosophy, versus the public sector on the other hand.

I wish my colleagues had more time to fully develop this with the Congressional Budget Office because the contrast this amendment paints is one we are going to be facing in the health care reform. So I wish to emphasize that the next health care debate we have is going to be health care reform and we ought to have that debate and we ought to bring about the reform that is necessary.

So let's think of that as laying the groundwork for a lot of debate that we are going to have in the upcoming issue of health care reform. Basic questions: Do we want a government-run solution? Is growing our Government bureaucracy in the area of health care the pathway to covering all Americans? Or do we want governments to help the market work better; or possibilities of Government and private partnerships? Do we want to harness the ingenuity that is out there in the private sector in covering all Americans?

Now, I don't answer those questions, but those are questions everybody in this body, and I hope grassroots America, will look at in the coming months. With this vote, I am giving you a partial answer to my approach to these questions.

I would like to go on to, hopefully, what will lead us to a vote on amendment No. 83, I believe is the number of the amendment, but before I do that, I

would like to speak about an issue that came up when I was off the floor earlier this afternoon. The chairman of the Senate Finance Committee, my friend, Senator BAUCUS, characterized the Grassley-Hatch amendment I offered earlier as not covering 750,000 individuals as compared to the underlying bill. This is about my amendment 83.

Now, I understand Senator BAUCUS later came to the floor to acknowledge that his characterization of the Grassley-Hatch amendment was incorrect and he apologized, and I thank him for that. However, the chairman is still inaccurate, from my point of view, in some characterizations of the Grassley-Hatch amendment, and that is what I wish to go into.

The chairman stated my amendment would cover fewer individuals because it does not include the legal immigrant provision. I would like to draw all my colleagues' attention, but particularly Senator BAUCUS' attention, to footnote ''f'' on the enrollment table of the Congressional Budget Office production on the underlying bill. Footnote ''f'' states:

> The Medicaid and SCHIP figures and the Medicaid SCHIP total may include some legal immigrant children and pregnant women who receive health insurance provided through State-funded programs.

In other words, the so-called new enrollments of legal immigrants are actually individuals who are currently insured with State or local funds. In terms of additional enrollment figures, the chairman notes correctly that we don't have a CBO table. He is correct that we don't know the actual enrollment numbers resulting from the Grassley-Hatch amendment.

I would reiterate what I said earlier. The amendment we are going to be voting on is the same bill that 55 Members of this body—and they are presently Members of this body—voted on and successfully passed by a wide margin in 2007. So I have to ask the question, before we vote on my amendment: If it was good enough then, why isn't it good enough now?

If the majority doesn't want to vote on this now, I will go on to offer my other amendment. Do I ask for the question, Madam President, on amendment No. 83?

The PRESIDING OFFICER. The amendment is not the pending amendment.

The Senator from Montana.

Mr. BAUCUS. Madam President, there is no reason we can't make it the pending amendment. But I would like to say, first, very briefly, that I deeply appreciate the remarks by my good friend. I know all of us are trying to get the right numbers, the accurate numbers. It is a search for the truth, and CBO has not given us the right number, so it is hard to know exactly what the effect will be.

It seemed to me, somewhat logically, that the inclusion of legal immigrants would mean probably more people covered, even though some may be covered some other ways. We don't know the number, but that is sort of the effect. Therefore, I say to my colleagues, I think it is better to include more people, more kids, in the Children's Health Insurance Program and not fewer.

With respect to the vote on the last bill, where 55 Members of the Senate supported it, and the Senator's question: If not then, why not now, the answer is because now the underlying bill is a little better. It covers more kids. It is better to cover a few more kids than not to cover a few more kids. So that is why it is not right now where it might have been right then.

Madam President, I ask unanimous consent that we proceed to the Grassley amendment. Notwithstanding the other amendments, I ask that we proceed to the Grassley amendment at this point.

VOTE ON AMENDMENT NO. 83

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is now pending.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 83) was rejected.

AMENDMENT NO. 71

Mr. GRASSLEY. Madam President, I would, first of all, like to give my rationale for an amendment I am going to present to the Senate before I actually present it. It will be amendment No. 71, though.

Congress has known for some time that the Children's Health Insurance Program faces expiration March 31 of this year. We all knew Congress would have to act quickly once the new session got underway. The majority had three different options they could have taken in moving forward. First, they could have simply picked up one of the two vetoed bills and quickly passed it. It would have received bipartisan support. I would have preferred the second bill over the first, but I could have probably found a way to support the first bill. Either of those bills would have moved quickly and would have had significant bipartisan support.

The second option the majority could have taken was to do a short-term extension of the Children's Health Insurance Program while we worked on broader health care reform. That is what this amendment does. It is a six-quarter extension of SCHIP through the end of the next fiscal year.

Now, I do understand there is a point of order against this amendment. This amendment actually should have been done on the stimulus bill, where everything and the kitchen sink appears to be going, but that is a debate for next week. It would have been a drop in the bucket on that bill.

If the underlying bill is enacted, it will provide coverage to many people who were previously uninsured—approximately 4 million children—by the year 2013. While I don't want to denigrate the accomplishments of this bill, everyone in this Chamber knows we need to roll up our sleeves and get to work on covering the other 42 million uninsured Americans who will not benefit from this bill—millions of whom are children this bill does not provide coverage for.

I wish to focus on that task. I want us to work in a bipartisan manner to get coverage for all Americans, and everything in that process so far has been bipartisan, but it is something we are going to have to deal with on SCHIP again. So I am willing and ready to do the hard work it is going to take. We could have set aside SCHIP while we focused on that most important task of full-fledged health care reform. Instead, the majority has chosen a third option: to bring up a bill that walks away from the bipartisanship of 2007 and threatens relationships moving forward with broad health care reform. I want to emphasize ''threatens'' because so far everything has been bipartisan in meetings and discussions and everything.

I have made no secret of my disappointment in the changes made in the underlying bill. It is very important that people watching the debate understand how totally unnecessary a partisan fight is. The majority had bipartisan bills they could have brought up for consideration. I had an amendment earlier that would have replaced the underlying bill with the second of those earlier bills. The majority could have done a simple extension of SCHIP while we worked together on covering 46 million uninsured, not just the 4 million covered by this legislation. That is what this amendment does. It is the last chance for cooler heads to prevail.

It was reported recently that the Speaker of the House said, ''We won the election. We write the bills.'' Seeing the majority take that approach on the Children's Health Insurance Program, an issue that always had broad bipartisan support, does not give me comfort moving forward on health care reform.

I ask unanimous consent to set aside the pending amendment and call up my amendment, No. 71. I do not know how much debate there will be on it, but I have nothing more to say on that amendment.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 71.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the State Children's Health Insurance Program for 6 quarters in order to enact bipartisan, comprehensive health care reform)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SCHIP Funding Extension Act of 2009''.

SEC. 2. FUNDING THROUGH FISCAL YEAR 2010.

(a) THROUGH FISCAL YEAR 2010.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)), as amended by section 201(a)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(A) in subsection (a)(11), by striking ''and 2009'' and inserting ''through 2010''; and

(B) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(2) AVAILABILITY OF EXTENDED FUNDING.—Funds made available from any allotment made from funds appropriated under subsection (a)(11) or (c)(4)(B) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal year 2009 or 2010 shall not be available for child health assistance for items and services furnished after September 30, 2010.

(b) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by striking subsection (l) and inserting the following new subsections:

''(l) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2009.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $3,000,000,000 for fiscal year 2009.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2009 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2009.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2009, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) ONE-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2009, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2009. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

''(m) ADDITIONAL ALLOTMENTS TO MAINTAIN SCHIP PROGRAMS FOR FISCAL YEAR 2010.—

''(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $4,000,000,000 for fiscal year 2010.

''(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2010 will exceed the sum of—

''(A) the amount of the State's allotments for each of fiscal years 2008 and 2009 that will not be expended by the end of fiscal year 2009;

''(B) the amount, if any, that is to be redistributed to the State during fiscal year 2010 in accordance with subsection (f); and

''(C) the amount of the State's allotment for fiscal year 2010.

''(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2010, the Secretary shall allot—

''(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

''(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

''(4) PRORATION RULE.—If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2010, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

''(6) AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2010, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2010. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).''.

(c) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall be in effect through September 30, 2010.

(3) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is repealed.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, very simply, I do not agree with this amendment. Why? Because here we are. It is about 5 o'clock. We are on the verge of passing a 4½ year reauthorization of the Children's Health Insurance Program. We are on the 2-yard line. We are about ready to put this ball across the goal to score a touchdown, to get this passed. This amendment sets us back several yards, quite a few yards. We are on the 2-yard line for a 4½ year reauthorization. If this is agreed to, we are back to the 50-yard line.

I think it is better to get this bill past the goal line and pass this 4½ year legislation. I urge we do not adopt this amendment that sets us back.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I wish to emphasize that I do not disagree with what he said, he said it accurately, but here is the point I am trying to make. In just a few months, we are going to be working on health care reform and we are going to be working, within those few months, on how the Children's Health Insurance Program fits in with it. We are going to be going through this exercise once again, so we wasted a lot of time here for nothing.

I yield the floor.

Mr. BAUCUS. Mr. President, I hope not for nothing. This is pretty productive.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 71) was rejected.

Ms. KLOBUCHAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 85

Mr. DEMINT. Mr. President, I would like to make some comments about DeMint amendment No. 85. This is an amendment that I believe is very important to American families, taxpayers. Here in Washington, there seems to always be enough money to help those who cannot take care of themselves. Most of the time, that is a good thing because we certainly want to have those safety nets for those families, particularly families who need health care for their children. The difficulty is that those families who are working and are struggling and are being independent often have to pay the price for that.

I have personal family experience that drives this whole issue home. As we consider the expansion of the children's health bill to expand it to folks with higher incomes, I realize that affects my own family.

My oldest son is married with a child, expecting another. He is back in graduate school, doing some part-time work, struggling to make ends meet and pay for his own health insurance. As they expect their second child, with that high-deductible policy, they are paying for most of their health care themselves.

As he heard about the debate on this issue as well as some of the other bailout issues, he mentioned to me—he said: Dad, it is hard in my situation to make enough money to pay for our own health care. I want to be independent, but I realize the tax dollars I do pay are paying for the benefits of others who are often making more than I am.

He has friends in school who are on welfare and food stamps and Medicaid, taking everything they can from the Government. But most Americans, most middle-class Americans and even those who fall below middle class, are struggling today to make ends meet on their own and not be dependent on the Government. The amendment I have introduced tries to achieve some level of fairness to those American taxpayers who are working and trying to make ends meet.

My son could qualify for SCHIP, this children's health program. Certainly while he is in school he is below 200 percent of poverty. But right now he pays for his own health care. We even charge him taxes on the amount he has to spend for his own health care. Then his regular taxes have to go to help all his friends who are living off the Government dole.

If we are going to help families with children, we ought to be fair about it. This bill we are considering expands the children's health plan. The current law in America certainly covers American citizens, but the Federal money is not allowed to be used for noncitizens. That is basically part of our immigration deal. When folks come here and they are sponsored, the agreement is that for 5 years they take care of themselves and they are not a burden on the American taxpayer.

But the bill we are debating today changes that law. It gives benefits, health care, to noncitizens at the expense of middle-class working Americans. I do not want to take that away. That is not what this bill is about, my amendment. I am not changing anything this bill already offers.

But what this amendment does is it gives every American family with children, qualifying children under the children's health plan we are debating, an above-the-line deduction of up to $1,500. And what it is, it gives American citizens the same benefit we are giving non-Americans, noncitizens, in this underlying bill.

We do not ask the Government to pay for their health care. We say, as a matter of fairness, we are not going to make them pay income taxes on what they have to spend on health care for their children. That is what this is about, a deduction for the cost of health care for children.

We phase this out as income goes up. If a family qualifies for the AMT, they cannot get this deduction. So this is about middle-class Americans, people who are actually out there today trying to make it on their own without Government help, paying for their own health care. We are not going to charge them taxes on the cost of their health care with this amendment.

Specifically, the DeMint amendment, a taxpayer fairness amendment, would allow American families, citizens and legal immigrant families, the ability to receive a tax deduction of up to $1,500 for each child to cover health care-related costs.

This deduction, per child, is comparable to the average Federal share of the benefit provided to any child under this SCHIP bill, the underlying child health care bill. But no family who is already claiming SCHIP or Medicaid or any Federal health plan would be able to use this deduction.

This deduction is for Americans with that spirit of independence who, regardless of how little they are making, want to pay their own way. And let's not penalize them for it. Let's not tax what they have to pay for health care and then give it free to someone else. Let's not make them pay taxes to help pay for someone else's health care and still leave them out in the cold.

This is a matter of basic fairness. I encourage my colleagues, Republican and Democrat, if the whole point of this legislation is to help struggling families with children make sure they have health care for their children, let's be fair to American citizens and at least give them an equal benefit that we are giving to noncitizens. Let's not make middle-class working Americans pay for health care for noncitizens while we are basically taxing the struggling American worker who is trying to pay for it on their own.

I think a vote on this amendment will be coming up relatively shortly. Again, I encourage all of my colleagues to vote for the DeMint taxpayer fairness amendment.

I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUY AMERICAN

Mr. DORGAN. Mr. President, this morning the Washington Post has a front-page story that says ''Buy American Rider Sparks Trade Debate, Proviso Limits Steel and Iron from Abroad.'' This is a story about a provision that is in both the House stimulus bill and the Senate stimulus bill that encourages, to the extent we are stimulating investment in infrastructure projects—building roads and bridges and dams and schools and repairing libraries and so on in order to try to put people back to work—that the acquisitions to come from American sources, where possible. If you are going to buy steel, buy iron, skid steer loaders, any number of different kinds of equipment, it ought to be coming from American factories so that we put people back on factory floors and back to work.

The Washington Post has editorialized in opposition to this. The story itself almost sounds a bit like an opinion piece. It talks about ''opponents say it amounts to a declaration of war against free trade'' and ''will spark retaliation'' and so on.

I wanted to make a comment about this, because I think it is an important issue and one we ought to discuss. If today is like most other days recently, 20,000 people will have lost their jobs; 20,000 people will come home tonight and have to tell someone in the family that they lost their job. And 20,000 people every day are losing their jobs, 500,000 to 600,000 people a month. We don't know exactly what the menu is to try to put this economy back on track, but we know that doing nothing is not a solution. So the Congress is putting together a stimulus proposal, an economic recovery proposal to try to do things that would put people back on payrolls.

The quickest way to restore confidence is to put people back to work so

they are earning a salary, have a job, and can provide for their families. And in the context of creating legislation that would put people back to work, building roads and bridges and building water projects and repairing schools and so on, the question is, we should spend American taxpayer money on U.S.-made products in order to make these repairs and build these projects. It's just common sense.

The Washington Post story had a number of things attached to it that were not accurate. I want to talk about it for a moment. This provision in the Senate bill says that public works projects that are funded by this stimulus bill should use American steel, iron, and manufactured goods. That is not radical. We ought not be embarrassed to suggest that we try to use, where we can, products that are built in this country so that we put people back to work on the manufacturing floors and the plant floors building these products. That is the purpose of this legislation.

The Washington Post suggests that the proposal has few exceptions. That is not true. The proposal has a broad public interest exemption, one that allows the administration to waive the ''Buy America'' program if it deems it to be in the public interest to waive it. There are exceptions where the products are not available. There are exceptions where using domestic material would increase the cost of the project by over 25 percent. There are plenty of exemptions and exceptions here—public interest, 25 percent, not available. But in circumstances where a domestic product is available, where it is available at a price that is within the bounds of reason, and where we want to try to find a way to acquire products that are made in this country in order to put people back to work, that is a perfectly reasonable and important thing to do.

The Washington Post also suggested and had other people suggest as well that asking that we would purchase iron and steel and manufactured products in this stimulus bill made in America would somehow violate our trade agreements. That is simply untrue again. The Federal grant programs that are in this stimulus bill to the States for infrastructure investments, construction, repair and so on are not covered by our international trade agreements. So it is not true that what we are doing here would somehow violate trade agreements.

I had a reporter say to me: Some economists have said this harkens back to 1920s protectionism. I said: Give me a break. I am so tired of that nonsense. It cannot possibly be a sober economist. This country has a $700 billion a year trade deficit. We buy $2 billion more each day than we sell to foreign countries. We consume 3 percent more than we produce. We have a giant trade deficit. How could anyone in their right mind suggest this country is protectionist? It is absurd. How can anybody decide that when we put together a stimulus package to try to put people back to work, that we ought not buy things, to the extent we can, that are manufactured and produced in this country? It makes no sense to me.

The Washington Post also indicated that the foreign Governments could retaliate if we did this. Again, we have a $700 billion trade deficit, so it's hard to see how our trade imbalance could be less favorable.

But at any rate, let me say that Mr. Sarkozy in France said last month, with respect to their stimulus package, they want to make sure they are purchasing things that are made in France. It is a perfectly logical thing.

No, this is not creating a trade war. This is an emergency situation in which each of our countries is trying to put people back to work. That is a perfectly logical thing to do.

The Washington Post story also pointed out that the previous stimulus package, of which a fair amount was provided in tax cuts, went to stimulate manufacturing in China. A fair amount of it went to Wal-Mart. Eighty percent of the products in the Wal-Mart store shelves are made in China. So we are not going to stimulate economic jobs by purchasing Chinese goods. I am not suggesting somebody ought to stop their car at the moment and not walk into Wal-Mart. That is not my point at all. My point is, if we want to put people back on payrolls to try to put this country back on track and give people some confidence at a time when 20,000 people are losing their jobs every single day, the way to do that, with the hundreds of billions of dollars that are in this bill, is to say, at least try to buy things that are made in America. That is not unfair. It is not selfish. It is the right thing to do.

It is only in areas of the rarified air of our Nation's capital and some other areas where we have ground our heads to such a point that we don't understand what is logical. I understand it is a global economy. I fully understand that. There are circumstances where you perhaps cannot buy a product that is made here because there aren't any made here. There are circumstances where the domestic product's price is truly exorbitant. We don't want to do that. I understand all of that. All of that is provided for in this Buy American provision. Yet you see folks out in the hallways here having an apoplectic seizure over what some economist is saying about something that is so fundamentally sound in terms of what we ought to be doing to try to strengthen the economy of this country, to reach out to American citizens and say: We understand a job is important for you. We understand you have lost your job. We understand it wasn't your fault, and we will see if we can help you get a job back on the plant floor, back on the factory floor someplace, producing products made in this country. It is a fair thing to do and a critically important thing to do, if the result of this stimulus program is going to do as advertised, and that is put Americans back to work.

We have been through a long and tortured trail in recent months trying to determine what has happened and what needs to happen to try to fix what is wrong. What unites all of us is, none of us has been here before. We have never seen the convergence of the collapse of our financial system, the largest names in American finance sitting there with toxic assets in their financial bellies trying to figure out how they overcome the dreadful mistakes of the last 10 years with asset bubbles and a carnival of greed. At the same time that we see this collapse at the top of the financial system, we read about the subprime loan scandal and the nearly unbelievable circumstances of bad business that created it.

In addition to that, we read about companies that have taken massive quantities of money from the American taxpayers in the form of TARP funds, in the form of the Federal Reserve Board. By the way, it is about $7.5 trillion that has now been committed in the name of the American taxpayer in ways that I don't think is written in the Constitution. But we have watched all this happen and we still see what is going on on Wall Street. We hear about airplanes on order. We hear about bonuses. We have watched that for the last 10 years and wondered, how on Earth can this kind of house of cards continue to exist? The answer is, it couldn't and it doesn't, except there is a lot for this Congress to do with respect to oversight, investigation, and to require accountability.

One piece of business, an attempt to try to deal with the wreckage of this economy from this past decade of excess, one piece of business is to try to see if we can stimulate the economy to put people back to work. It is interesting how at the top everybody is interested in bringing a pillow and some aspirin to say: Are you comfortable? Can we help you? That is what happens if you are a big bank. But how about at the bottom, the people who lost their job and their house. Anybody around to say: We want to help you?

In a stimulus program, if we put together construction projects, projects to create an asset for this country's future, and if we say: We would like you to see if you can buy the products with which you will produce those assets here in America so we can put people back on the payroll and get them working once again, that is not radical; that is the right thing to do. If there is a big, old dust storm and a whole lot of angst about asking people if they can

buy in this country during this stimulus, that is too bad. That is exactly what we should do.

It is my intent, with respect to this legislation—I believe the intent of many others—that we continue to keep this provision in the stimulus bill as it moves through the Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside so that the Senator from New Mexico, Mr. BINGAMAN, can call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

AMENDMENT NO. 63

Mr. BINGAMAN. Mr. President, I call up amendment No. 63.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment Numbered 63.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that new paperwork and enrollment barriers are not created in the Express Lane Enrollment option and that income may be determined by Express Lane agencies based on State income tax records or returns)

On page 99, beginning on line 8 strike ''through'' and all that follows through ''application,'' on line 10, and insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary and''.

On page 108, between lines 3 and 4, insert the following:

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.''.

AMENDMENT NO. 63, AS MODIFIED

Mr. BINGAMAN. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 99, beginning on line 9 after ''mation'' insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary or by''.

On page 108, between lines 3 and 4, insert the following:

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.''.

Mr. BINGAMAN. Mr. President, I wish to briefly describe the import of this amendment, as modified.

Express Lane enrollment seeks to address the problem that up to 6 million children in this country are eligible but are not enrolled in either Medicaid or CHIP and that the vast majority of these children are enrolled in other Federal programs at the same time.

Eligibility for other Federal programs—here I am speaking about food stamps or the National School Lunch Program or the WIC Program—enrollment in those programs is at lower levels of income eligibility than Medicaid and CHIP, so those children identified by those other Federal programs as low income are virtually, by definition, eligible for Medicaid or for CHIP.

I have worked with Senator BAUCUS and my colleagues in the Finance Committee to write a provision in the bill which will provide a State option to utilize Express Lane eligibility to enroll children into the CHIP program.

This amendment provides a very simple technical clarification that parents may consent to their children's enrollment in CHIP or Medicaid through various means established by the Secretary, including orally, through electronic signatures, and otherwise. Without this clarification, a child could be determined eligible through Express Lane, but a parent might have to go to a State Medicaid agency to sign a form instead of providing an electronic signature or authorizing coverage over the phone. This is the exact kind of needless bureaucratic hurdle Express Lane is intended to prevent.

So I urge my colleagues to support this amendment, as modified.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 85

Mr. BAUCUS. Mr. President, I wish to address two pending amendments. The first one I will address is the DeMint amendment which provides for a deduction for health care costs for certain children.

Essentially, the DeMint amendment allows for a deduction for health care costs of children who are not in a Federal program, either Medicaid or the Children's Health Insurance Program, up to $1,500. That is up to the average federally funded program, which I understand is up to $1,500.

On the face of it, that might sound like something people might want to do, to give an extra tax deduction for children's health care expenses. The trouble is, we are here today trying to make sure that the Children's Health Insurance Program works and works better. A lot of effort has gone into this legislation, and there have been a lot of amendments from various Senators trying to improve on the bill.

First, this is not a tax bill. The Tax Code does allow employees who receive health care benefits from their employer to not count that as taxable income. That is true. It is a big provision in the Tax Code today. I think it amounts to roughly $250 billion, $260 billion a year. The employer is able to take the deduction of employer health care expenses, whatever the expenses might be, and there is no limit today in current law. All health care that is provided by the employer is not taxable income to the employee. In fact, when we deal with health care reform, we will have to look at that. We do not want to move away from employer-provided coverage. That is something the American public is used to. They understand it. Companies are used to it. They understand it.

Some have suggested abolishing that tax and basically saying individuals have to find their own insurance, irrespective of employment. I do not think that is a good idea, and I think that is the judgment of the Congress.

Senator DEMINT wishes to add a tax provision basically providing the children who are not covered by either the Children's Health Insurance Program or Medicaid, as I understand the amendment, with a deduction for health care expenses up to $1,500 every year. I do not think this is the time and place to be coming up with single rifleshot, arbitrary tax amendments on a nontax bill. These provisions have to be considered together. These tax provisions have to be considered together, certainly in the context of health care reform. We take up various ways to give incentives to people to get health insurance, especially in the private market, in the individual market right now because right now it is very difficult for some people in the individual market to get health insurance. We will probably provide health credits to assist people in the private market.

We also could look to the employer exclusion and see if that can be modified. All this should be addressed in the context of comprehensive health care reform. We need comprehensive health care reform in this country. We already know how much we pay for health care in this country. We pay twice as much per capita than the next expensive country. We have 46 million Americans not covered by health insurance. It is an abomination. We are the only industrialized country in the world that does not provide a mechanism to provide

health insurance for its people. That makes no sense. The United States is slipping, frankly, in a lot of areas. Look at our financial banking system. It is crumbling. In Davos, Switzerland, we have been roundly criticized as a country for letting this happen to us. Of course, the credit markets seized up. It is very complex. The fact is, it has happened and we Americans have let it happen.

We also have to reform our health care system and reform it in a way so Americans can get health care more easily than they can now, make sure they are all covered, improve the costs, and improve our delivery system. Our delivery system is in the dark ages. We in America compensate doctors and hospitals on the basis of volume, not on the basis of quality.

Many of us have ideas. We have to put all this together into comprehensive health reform. I wrote a white paper months ago. I don't mean to pat myself on the back, but most people feel that is the best beginning to get comprehensive health care reform. Others have a lot of ideas to add to it, subtract from it. But it is probably a pretty good foundation of where we have to reform our health care system. That is where we should take up provisions such as the DeMint amendment. That is where we should decide whether it makes sense to change the Tax Code to get better health care, outside of the children's health care program.

This is not an amendment addressed to the Children's Health Insurance Program. This is an amendment that has to do generally with children, irrespective of income of families. This amendment has nothing to do with income of families. It says basically if you are not covered, you get a $1,500 contribution. I guess in some sense the proponents of the amendment could argue this is for upper income people, for moderate income people, for families whose children are not enrolled in the Children's Health Insurance Program. That may be. But that issue must be addressed in the context of comprehensive health care reform. That is the best place. I do not think it makes sense to adopt this kind of amendment. Then somebody else will have an amendment for a tax break here, a tax break there, and who knows what. This should be taken up in comprehensive health care reform or a comprehensive tax bill.

We are going to take up tax legislation later this year. There will be lots of opportunities to address health care in our Tax Code. But this is not the time and place. I urge Senators to resist the siren's song, resist temptation because this is not the road we should go down, not at this time. There is a time and place for everything. There is a time and place for health care tax amendments. This is not the time and place.

Frankly, I think the more we as a Congress are strategic, we plan a little more, we don't just react to the idea of the instant but think things through a little bit more, we will be a lot better off and we will be serving our people better than we are at this moment.

I strongly urge Members to resist this amendment so we can get on to health care reform and tax reform at a later date. I urge Senators not to vote for the DeMint amendment because it, frankly, does not belong on this bill.

AMENDMENT NO. 86

On another matter, I wish to speak to the Coburn amendment No. 86. Essentially, this amendment would get rid of the Children's Health Insurance Program, abolish it. That is right, abolish it. This is the same program that had such strong support in America. Republicans have supported it and Democrats have supported it over the decade. It currently serves almost 7 million people, and with the legislation before us, we will boost that to 10 million people. The same CHIP program, the underlying bill, as I said, 10 million people, it works. It worked for 12 years. It is effective. People like it. Why? Because it works. It is a shared partnership between Uncle Sam and the States. It makes no sense to throw this away because it has worked so well.

To be fair, the Senator from Oklahoma wants to not only abolish the program but replace it with a private system. As I understand it—I don't want to put words in his mouth—a private account system. It sounds a lot like Social Security privatization, which is roundly criticized. It is a good thing we didn't adopt that with the shape the stock market is in. People putting savings in a private Social Security account would find they would have lost a lot.

In the meantime, Social Security is strong, it is there, the benefits are there. It is kind of like a defined benefit plan, a defined contribution plan. Seniors can count on it. Social Security is there. It is financed by the payroll tax. The trust fund is in very good shape. The Social Security trust fund is not in jeopardy for, gosh, 30 years from now essentially. Seniors know that Social Security is there.

In the same vein, families, working poor families, families who do not have the same income as others, should rest assure the Children's Health Insurance Program is there. They need that constancy, that predictability. Therefore, I urge Senators not to support the Coburn amendment which essentially abolishes the CHIP program and replaces it with a private system which is precarious at best, certainly given these times.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first, this does not get rid of the system, and it certainly does not privatize it. What it does is it guarantees every child in this country, all 31 million—which is something this bill does not do—all 31 million who don't have an insurance policy today will be insured with a plan equal to what we have for our children.

What it doesn't get rid of is access. They only have access to 40 percent of the physicians now. It gives them access to 100 percent of all the physicians. We are defending a system that, first, is only going to enroll 4 million new kids, is still going to leave 5 million not covered and 2 million of the 4 million they enroll are from those who already have private insurance, and we are going to say we will stick with a system to take care of the ones we have now and we are not going to give real access, and with the not real access comes no choice of a physician because we limited the number of physicians who can participate because of the economics of it.

I will tell you what it does get rid of. It gets rid of $70 billion of taxpayers' money that we are not going to use to cover every one of these kids. Based on the 2005 numbers, we can buy a premium health insurance policy for all 31 million kids—the 8.9 million who do not have any coverage now and the 22 million who are covered in either SCHIP or Medicaid today. We save all the administrative expense. We autoenroll them so we don't have to worry about picking up only 4 million with an additional $70 billion in taxes.

To say this is privatization is a total mischaracterization of it. What it does is it guarantees that all children will not have a Medicaid stamp or SCHIP stamp on their forehead that says: Yes, we are giving you coverage but you can't see all the physicians, you can't get referrals to the best because you have a government-run program.

Not only do we increase access and quality, we save tremendous amounts of money, and it will still be a government-run program because it will be administered by the Secretary in a way that guarantees these kids are autoenrolled. They will have premium health insurance coverage and we still save money, even after that. We are spending $2,160 per kid now based on 2005 numbers, and we will cover every one of these kids and not spend more money than that.

To characterize this as getting rid of coverage is wrong. What it does is greatly create and increase access for children in this country to have the same access that our children have. It saves money and markedly improves quality for those children. Every American child ought to have access, and what we do is take the money we are spending now and spend it more wisely, and create a system where they all have coverage.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, in closing today—and I know we have a few votes, but we are about done—I wish to talk about bipartisanship. I believe I have a history of getting bipartisan compromises done. Over the last several years, I have worked to deliver important bipartisan legislation on taxes, trade, and health care. We work together, we make commitments, and we sometimes have to say no to Members of our own party who would put their specific interests ahead of bipartisanship. It is tough at times, but when we work together to produce legislation, we are better off for doing so.

Lately, I have seen a disturbing change in the way bipartisanship appears to be working around the Senate. Last year, on Medicare, we were working together for months—I am talking about for months—on a bipartisan bill to extend a lot of things in Medicare. It was jointly drafted. There were many provisions in the bill I strongly supported. But when we came to an impasse on some of the tough political issues, the majority solved the tough issues the way they wanted them and moved forward. That is not the way I think bipartisanship should work.

Then we have this bill before us today. It is largely the work of Senators BAUCUS, HATCH, ROCKEFELLER, and myself. It should be a bipartisan piece of legislation, but it is not. In this case, the majority decided to make some very political changes in the bill and presented it to us as a ''take it or leave it'' proposition. Today, I choose to leave it.

Some Senators have tried to argue that this bill is 90 percent the bill we voted in 2007. I wonder that those Senators don't realize how insulting it is to me to hear that. It is an open admission that the majority unilaterally changed 10 percent of the bill and has presented it to me as a take it or leave it; it can still be bipartisan, CHUCK GRASSLEY, if you will just do what we tell you to do.

The stimulus bill coming next week is no better. We were presented with a bill and asked if we wanted to sign on to it and call it bipartisan. That approach shouldn't come as a surprise to anybody or much of a surprise at all. As the Speaker said: We won the election, we write the bills. I must admit I appreciate why House Republicans decided yesterday they would not sign off on Speaker PELOSI's version of bipartisanship.

We need to get back to real bipartisanship around here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENTS NOS. 94, 95, AND 96

Mr. BAUCUS. Mr. President, I have a series of amendments in the nature of technical corrections that I have worked out with the ranking Republican Member, so Senator GRASSLEY and I send these to the desk. I understand they have been cleared all the way around. So I send this package of amendments to the desk, and I ask unanimous consent that they be considered en bloc; that the amendments be agreed to and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 94

(Purpose: To make a technical correction to the option to cover legal immigrant children and pregnant women)

Beginning on page 135, strike line 21 and all that follows through page 136, line 2, and insert the following:

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

AMENDMENT NO. 95

(Purpose: To make technical corrections to the State option to provide dental-only supplemental coverage)

Beginning on page 216, strike line 8 and all that follows through page 219, line 21, and insert the following:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

AMENDMENT NO. 96

(Purpose: To clarify that no eligible entity that receives an outreach and enrollment grant is required to provide matching funds)

Beginning on page 80, strike line 22 and all that follows through page 81, line 7, and insert the following:

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

''(1) STATE MAINTENANCE OF EFFORT.—In the case of a State that is awarded a grant under this section, the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded.

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 7:30 p.m.

the Senate proceed to votes in relation to the following amendments in the order listed: DeMint No. 85; Coburn No. 86, with 4 minutes equally divided to debate prior to this vote; Coburn No. 50; Coburn No. 49; Bingaman No. 63, as modified; Hutchison amendment—which doesn't have a number, nevertheless the Hutchison amendment.

Further, that no amendments be in order to the amendments prior to the votes; upon disposition of the amendments listed, that no other amendments be in order to the bill; the bill be read a third time; that there be up to 4 minutes of debate equally divided between the chairman and the ranking member, or their designee, prior to a vote on passage of H.R. 2, the Children's Health Insurance Program Reauthorization bill, as amended; that upon passage, the Senate insist on its amendment; request a conference with the House on the disagreeing votes of the two Houses and that the chair be authorized to appoint conferees on the part of the Senate, with concurrence of the managers and the two leaders; that there be 2 minutes of debate equally divided between the votes; and that all votes after the first vote in the sequence be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 85

Mr. DEMINT. Mr. President, I would like to make a few comments about my amendment, No. 85. Senator BAUCUS commented about it after I brought it up. There are a few matters I would like to clear up.

The Senator mentioned this is not a tax bill, his children's health bill. Yet it is a tax bill. There is a large tax increase on cigarettes to pay for this bill, so it is very much dealing with taxes.

He also said this is not the place to deal with families with children who have insurance through their employers or may be paying for their own insurance. This is a time to deal with Americans with children who cannot pay for health care. The underlying bill itself increases the criteria all the way up to twice the poverty level or more. It is dealing with many families with substantial incomes. It is giving benefits to some families who are not paying for their own insurance at the expense of those who are struggling to pay for their own health insurance.

My amendment is very appropriate to the underlying bill. It is about children's health care, and it is about being fair to American citizens. The bill we are considering today gives generous benefits to children who are not citizens of the United States. They are here and my amendment does not change those benefits. But we should be fair and give equal benefits to American families, workers, taxpayers, who are paying for their own insurance.

My colleague, Senator BAUCUS, mentioned many of these families are getting insurance through their employers. But just about all of them, if not all of them, have to pay a part of that expense themselves, which is very difficult. They cannot deduct that money.

We need to make sure this bill is fair. My amendment makes the bill fair to every family with children. It gives them an above-the-line deduction for up to $1,500 of their expenses, and that is up to the amount we give to noncitizens in this children's health bill.

This is fair to Americans, and it is time we start being fair to Americans. We cannot take money continuously from the middle class to do our good deeds all over the country and then leave middle-class Americans empty-handed. If they are going to work and struggle to pay for their own health insurance, the very least we can do is not tax the money they spend to pay for their own health care. Why do we penalize people who are trying to live themselves without government money? Most Americans are doing everything they can to get by without government support. Let's stop penalizing them. Let's stop asking them to pay for all of our good deeds and good intentions.

This is a simple amendment that gives a deduction for people who are paying for their own health insurance, a deduction that is equal to what we are giving to noncitizens in this underlying bill.

Again, I encourage my colleagues to think twice, think about Americans, our own middle-class workers. Give them a fair shot. Vote for this amendment.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 97

Mr. ROCKEFELLER. Mr. President, notwithstanding the previous order, I ask unanimous consent that the technical amendment which is at the desk be considered and agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 97) was agreed to, as follows:

On page 283, line 21, insert '', 2009'' after April 1.

Mr. ROCKEFELLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 85

Under the previous order, the question is on agreeing to amendment No. 85 offered by the Senator from South Carolina.

Mr. TESTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 58, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—40

Alexander	Crapo	McCaskill
Barrasso	DeMint	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Cantwell	Hutchison	Thune
Chambliss	Inhofe	Vitter
Coburn	Isakson	Webb
Cochran	Johanns	Wicker
Corker	Kyl	
Cornyn	Lugar	

NAYS—58

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	Martinez	Voinovich
Dorgan	McCain	Warner
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Gillibrand	Murray	

NOT VOTING—1

Kennedy

The amendment (No. 85) was rejected.

Mrs. BOXER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 86

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 86 offered by the Senator from Oklahoma.

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, this amendment really is the amendment that is going to take care of our children. It is going to take the Medicaid stamp and SCHIP stamp off their foreheads. It is going to create access to the finest doctors, not just 40 percent of the doctors as we see in Medicaid and SCHIP. It is going to give the same care to all the children—those at the 300 percent poverty level and under—that we give to our own kids. It does all that not spending the $70 billion in increased taxes that is in this bill and auto-enrolling children so that we don't just pick up 4 million kids, we pick up all 8.9 million kids who are not insured.

To my colleagues who sponsored the Wyden bill, the Healthy Americans bill, that is exactly what is in that bill, except we are going to do it for children without increasing costs but increasing the quality, increasing the care, and increasing the outcomes. We are going to truly make children on the same level we are in terms of their access. They are going to get to choose their doctor rather than have their doctor chosen for them. They are going to get a referral to the best rather than to one who will just take them. They are going to get the same thing we get, and they deserve it, and we are not going to spend a penny more than we are spending today.

We don't do away with SCHIP, we don't privatize SCHIP; what we do is say we really care about kids and we are going to give them the same thing we have. At the same time, we are going to save the American taxpayers $70 billion.

I yield my time.

Mr. BAUCUS. Mr. President, this amendment phases out the Children's Health Insurance Program as we know it. It strikes the underlying bill and phases out the Children's Health Insurance Program over the next 2 years and replaces it with a competitive bidding procedure, somewhat similar to Medicare Part D, where private plans that want to cover kids will submit bids, submit their plans to Uncle Sam for approval. So essentially it totally eliminates the Children's Health Insurance Program over a 2-year period and replaces it with a competitive-bidding process not too dissimilar from Medicare Part D where private plans offer health insurance to participants. I think it is much too much of a radical departure, and I urge its defeat.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a second.

All time is yielded back.

The question is on agreeing to amendment No. 86.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	Lugar
Bennett	Ensign	Martinez
Bond	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Wicker

NAYS—62

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Nelson (NE)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Lincoln	Udall (NM)
Conrad	McCaskill	Voinovich
Dodd	Menendez	Warner
Dorgan	Merkley	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murkowski	Wyden
Feinstein	Murray	

NOT VOTING—1

Kennedy

The amendment (No. 86) was rejected.

Ms. STABENOW. Mr. President, I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 50

Mr. BAUCUS. Mr. President, I say to my good friend from Oklahoma, we are prepared to accept the next Coburn amendment. I wonder if the Senator is prepared to yield back the balance of his time so we can accept it. He does. That is great.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 50.

The amendment (No. 50) was agreed to.

AMENDMENT NO. 49

Mr. BAUCUS. We are on the next amendment.

The PRESIDING OFFICER. There is 2 minutes equally divided on the next amendment.

Mr. COBURN. Will the Chair state what the amendment is?

The PRESIDING OFFICER. Amendment No. 49.

Mr. COBURN. Mr. President, what this amendment does is it says you have 14 percent improper payment rate in SCHIP, we have 10.6 percent improper payment in Medicaid. The average improper payment rate across the rest of the Federal Government on every agency—this amendment says that before New York can go to 400 percent, they have to bring their improper payment rates in line with the rest of the Federal Government. The improper payment rate in New York—New York alone—accounts for 50 percent of the fraud in Medicaid. Fifty percent of that is in New York State alone.

So what this amendment would do is it would delay the improper payment reporting requirements and limit earmark program expansion until the Medicaid and SCHIP improper payment rates match the Federal average of improper payment rates. It is meant to help us get back on track. We just started getting improper payment rates on Medicaid, and they are out of control. We should not be delaying the onset of that, and we should put teeth into it so that where it is bad, we don't expand it and make it worse.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, this is yet another way to throw kids out of or off the Children's Health Insurance Program. It is a cap. It is a cap, the effect of which is to deny children coverage. It is similar to several other amendments brought up in the past, where there is sometimes a dollar cap, sometimes a percentage cap, and there are various other ways. This is another one of those caps, and I think it is not right to take kids off the Children's Health Insurance Program rolls. So I urge its defeat.

Mr. COBURN. Mr. President, I ask for the yeas and nays.

Mr. BAUCUS. Mr. President, I think we could voice vote this.

Mr. COBURN. I agree. I withdraw my request.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 49.

The amendment (No. 49) was rejected.

Mrs. BOXER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 63

Mr. BAUCUS. Mr. President, I think the next amendment is the Bingaman amendment No. 63.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, there are about 6 million children in the country who are eligible for Medicaid

or CHIP who are not enrolled. In many of these cases, these are children who are also eligible for and enrolled in other Federal programs that have similar or even more severe requirements for eligibility. To fix this problem, we put a provision in the bill—Senator BAUCUS and those in the Finance Committee—included a provision for so-called express lane eligibility as a way to sign up children for the CHIP program.

My amendment simply clarifies that the consent of the parent—not the determination of eligibility but the consent of the parent—for the enrollment of the child in the CHIP program or Medicaid can be accomplished through something other than a formal signed document at the Medicaid office. We give the Secretary the discretion to set that up. We believe this is a great change and will help us to register the children who ought to be registered for the CHIP program.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is where you get the wool pulled over your eyes. Here we are, in the last moments of a very partisan debate, and we have one last vote to abandon further compromises we made in 2007. This one weakens fraud protection.

In that bill 2 years ago, we reached a carefully crafted compromise, balancing access and program integrity. With this amendment, the majority backs away from that compromise further. In 2007, we agreed that an express lane application would require a signature from the applicant acknowledging they were applying for Medicaid or SCHIP. This change eliminates the signature requirement.

It is not technical, it is substantive, and it is going to lead to fraud. We should vote this down because we don't want to promote fraud.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 63, as modified.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRASSLEY. What do you mean there is not a sufficient second?

The PRESIDING OFFICER. Now there is a sufficient second.

The question is on agreeing to amendment No. 63, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—55

Akaka	Harkin	Nelson (FL)
Baucus	Inouye	Nelson (NE)
Bayh	Johnson	Pryor
Begich	Kaufman	Reed
Bennet	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Brown	Kohl	Sanders
Burris	Landrieu	Schumer
Byrd	Lautenberg	Shaheen
Cantwell	Leahy	Snowe
Cardin	Levin	Specter
Carper	Lieberman	Stabenow
Casey	Lincoln	Tester
Conrad	Lugar	Udall (CO)
Dodd	McCaskill	Udall (NM)
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Gillibrand	Mikulski	
Hagan	Murray	

NAYS—43

Alexander	DeMint	McCain
Barrasso	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Risch
Boxer	Feinstein	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Thune
Chambliss	Hatch	Vitter
Coburn	Hutchison	Voinovich
Cochran	Inhofe	Warner
Collins	Isakson	Webb
Corker	Johanns	Wicker
Cornyn	Kyl	
Crapo	Martinez	

NOT VOTING—1

Kennedy

The amendment (No. 63), as modified, was agreed to.

AMENDMENT NO. 93

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 1 minute.

Mrs. HUTCHISON. Mr. President, I call up amendment 93 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 93.

Mrs. HUTCHISON. I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide assistance for States with percentages of children with no health insurance coverage above the national average)

Beginning on page 42, strike line 20 and all that follows through page 43, line 11, and insert the following:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) SPECIAL RULE EXTENDING AVAILABILITY FOR OUTREACH AND ENROLLMENT FOR CERTAIN STATES.—

''(A) IN GENERAL.—In the case of a State described in subparagraph (B), any amounts allotted or redistributed to the State pursuant to this subsection for a fiscal year that are not expended by the State by March 31, 2009, (including any amounts available to the State for the first 2 quarters of fiscal year 2009 from the fiscal year 2009 allotment for the State or from amounts redistributed to the State under subsection (k) or allotted to the State under subsection (l) for such quarters), shall remain available for expenditure by the State through the end of fiscal year 2012, without regard to the limitation on expenditures under section 2105(c)(2)(A).

''(B) STATE DESCRIBED.—A State is described in this subparagraph if the State is 1 of the 5 States with the highest percentage of children with no health insurance coverage (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).

''(3) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

On page 38, line 18, insert ''subject to paragraph (5),'' after ''(3)(A),''.

On page 42, between lines 15 and 16, insert the following:

''(5) AUTHORITY TO MODIFY REQUIRED NUMBER OF ENROLLMENT AND RETENTION PROVISIONS.—Upon the request of a State in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009), the Secretary may reduce the number of enrollment and retention provisions that the State must satisfy in order to meet the conditions of paragraph (4) for a fiscal year, but not below 2.''.

On page 84, line 20, insert ''The Secretary shall prioritize implementation of such campaign in States in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).'' after ''title XIX.''.

Mrs. HUTCHISON. I yield for 30 seconds to the Senator from Florida.

Mr. MARTINEZ. Mr. President, can I ask the Senate be in order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Florida is recognized for 30 seconds.

Mr. MARTINEZ. Mr. President, the amendment of the Senator from Texas allows the States with the highest percentage of uninsured children to be given priority for outreach and enrollment. Most importantly, it contains language that ensures the five States with the highest number of uninsured kids be given sufficient time to spend their current SCHIP allocations and will be given the flexibility for using these funds for outreach and enrollment.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, the CBO scores this as an actual savings. There will be no additional cost to the program and it has no impact over any other State's funding.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we are prepared to vote in favor of the amendment.

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, people on my side asked for a vote. That is why I am asking for it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 17, nays 81, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—17

Barrasso	Cornyn	Martinez
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Reid
Bennet	Hutchison	Udall (CO)
Bingaman	Inhofe	Udall (NM)
Bond	Inouye	

NAYS—81

Akaka	Feinstein	Merkley
Alexander	Gillibrand	Mikulski
Begich	Graham	Murkowski
Bennett	Grassley	Murray
Boxer	Gregg	Nelson (NE)
Brown	Hagan	Pryor
Brownback	Harkin	Reed
Bunning	Hatch	Risch
Burr	Isakson	Roberts
Burris	Johanns	Rockefeller
Byrd	Johnson	Sanders
Cantwell	Kaufman	Schumer
Cardin	Kerry	Sessions
Carper	Klobuchar	Shaheen
Casey	Kohl	Shelby
Chambliss	Kyl	Snowe
Coburn	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Crapo	Lincoln	Voinovich
DeMint	Lugar	Warner
Dodd	McCain	Webb
Dorgan	McCaskill	Whitehouse
Durbin	McConnell	Wicker
Feingold	Menendez	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 93) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, this will be the last vote today. We are going to have the Holder debate Monday from 3:15 to 6:15. We will have the vote at 6:15. Monday at about 2 o'clock, we are going to lay down the economic recovery package. That is the stimulus. That will be the Appropriations and Finance pieces. After the Holder vote, we encourage Members to speak about the economic recovery package.

Tuesday, we are going to have a full day of amendments and I hope a number of votes.

On Wednesday, we have a longstanding retreat that the Democrats are going to have a short distance from here off campus. We are going to be in session, come in at 10:30. We solicit the Republicans, while we are in that retreat, to offer amendments. We would hope we would be back by 4:30 and could start voting on some amendments that were offered that day.

Next week will be a long, hard slog. It is up to us how long this takes. We hope we can work things out. I have had a number of conversations with the Republican leader on a way to expedite what we do. We want to make sure everyone has the opportunity to do what they think is appropriate on this bill.

We are going to have some late nights next week. We will do everything we can not to have to work next weekend, but I think that is stretching things. But we will certainly try.

We have had no morning business all week, so, Senators, speak your hearts out tomorrow.

SECTION 214

Mr. AKAKA. Mr. President, my understanding is that section 214 of H.R. 2 applies to pregnant women and children who are citizens of the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia, and who are lawfully residing in the United States under the terms of the Compacts of Free Association between the United States and each of these three Pacific island nations.

Mr. INOUYE. I agree with my colleague from Hawaii. Section 214 applies to pregnant women and children who are nonimmigrants lawfully residing in the United States under the terms of the Compacts of Free Association.

Mr. AKAKA. Does the chairman agree with our interpretation?

Mr. BAUCUS. Mr. President, I agree with the interpretations of the Senators from Hawaii regarding section 214.

Mr. AKAKA. I thank the Senator very much for that clarification.

Mr. President, I support the Children's Health Insurance Program Reauthorization Act of 2009. This legislation increases access to health care for an estimated 4.1 million children who are currently uninsured. The legislation also includes $100 million in new grant opportunities to fund outreach and enrollment efforts to increase the participation of children in Medicaid and the Children's Health Insurance Program. By increasing access to health insurance, more children will be able to learn, be active, and grow into healthy adults.

Mr. President, the legislation will also provide much needed assistance to Hawaii hospitals that care for Medicaid beneficiaries and the uninsured. Hawaii hospitals continue to struggle to meet the increasing demands placed on them by a growing number of uninsured patients and rising costs.

The legislation extends Medicaid disproportionate share Hospital, DSH, allotments for Hawaii until December 31, 2011. This additional extension authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals that is consistent with the requirements of existing law relating to DSH payments. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services, CMS, or to reduce in any way the level of Federal funding for Hawaii's QUEST program. The extension included in this act provides an additional $7.5 million for fiscal year 2010, $10 million for fiscal year 2011, and $2.5 million for the first quarter of fiscal year 2012. These additional DSH resources are intended to strengthen the ability of hospitals to meet the increasing health care needs of our communities.

I look forward to the swift enactment of this legislation so that children have increased access to health care and so that our hospitals in Hawaii are better able to care for the uninsured and Medicaid beneficiaries.

Mr. SPECTER. Mr. President, I seek recognition to voice my support for the Children's Health Insurance Program Reauthorization Act. In voicing my support, I must note that the bipartisan support that accompanied the drafting of this bill's predecessor in the 110th Congress was absent in this bill's introduction in the 111th Congress. The legislation was revised without working across the aisle, which has resulted in a bill that is not as widely supported as its predecessor. Children's health is the wrong issue on which to push partisan politics.

When we last debated the Children's Health Insurance Program in the 110th Congress, I was proud to lend my support to what I believe was a good, bipartisan bill. I voted in favor of the legislation twice, on August 2, 2007 and again on September 25, 2007. I was very disappointed in President Bush's veto of the legislation resulting in the delay of critical access to health care for millions of children.

This important legislation will revise and expand the State Children's Health

Insurance Program, SCHIP, enabling it to provide access to medical coverage to an additional 5.5 million children whose parents earn too much to qualify for Medicaid, but not enough to afford private health insurance. Nationwide, 7 million children are currently enrolled in SCHIP, including 183,981 in Pennsylvania.

The reauthorized bill will provide an estimated 4.1 million children with access to health care coverage. To achieve that increase, the bill extends coverage to children in families with an annual income at or below 300 percent of the poverty level, or $66,150 for a family of four. The triple-the-poverty-level rate would bring the Nation in line with Pennsylvania's current plan.

It is imperative that we take steps to ensure health care coverage for our most important resource, our children. In a January 12, 2009, column in The Washington Post, E.J. Dionne wrote, ''[S]tates have enacted budget cuts that will leave some 275,000 people without health coverage . . . By the end of this year, if further proposed [State budget] cuts go through, the number losing health coverage nationwide could rise to more than 1 million, almost half of them children.'' Congress can, and should, act to make sure children's health care does not suffer as a result of the economic downturn.

Throughout my time in the Senate, I have consistently supported providing quality health care to children, including prenatal care. To improve pregnancy outcomes for women at risk of delivering babies of low birth weight and reduce infant mortality and the incidence of low-birth-weight births, I initiated action that led to the creation of the Healthy Start program in 1991. Working with the first Bush administration and Senator HARKIN, as chairman of the Appropriations Subcommittee, we allocated $25 million in 1991 for the development of 15 demonstration projects. For fiscal year 2008, we secured $99.7 million for 96 projects in this vital program. Health care initiatives like the Healthy Start program and the Children's Health Insurance Program are key to improving the health and well-being of children in this country.

The health care work of the 111th Congress will not be complete with just the reauthorization of the State Children's Health Insurance Program. This legislation will address the needs of some of the most vulnerable children, but Congress must act in a bipartisan fashion to address health reform so that all of America's 47 million uninsured have access to adequate health care.

Mr. COCHRAN. Mr. President, I strongly support the Children's Health Insurance Program and its reauthorization, and I am disappointed that the Senate did not approve the Kids First Act that was offered as an amendment. This legislation would have provided funding to cover low-income children whose families are otherwise unable to afford coverage. Instead of providing health coverage for American children, the Senate decided to consider a bill that will expand government programs, increase the burden on taxpayers, and shift the focus from the primary reason for the creation of the SCHIP, which is the coverage of low-income children. Before the Senate considers expanding SCHIP, we should ensure that all children under 200 percent of the Federal poverty level are covered. Under the current program, the State of Mississippi is unable to cover all children under the current limit of 200 percent of poverty, $44,000 per year. The Senate is now considering legislation that will take tax money paid by Mississippians out of the State and allow other States to cover children in families making up to $88,000 a year. The expansion of benefits to legal immigrant children is also a point of serious concern. Under current law, legal immigrants sign a statement that they will not use Federal assistance programs such as Medicaid and SCHIP for 5 years. This legislation would waive that 5-year waiting period, thus further expanding this program to noncitizens, while American children remain without health coverage. I cannot support any legislation that disadvantages the children of Mississippi even more. I hope this legislation will be changed in the amendment process to reflect the original intent of the legislation and ensure that low-income American children are provided health coverage.

Mr. LEVIN. Mr. President, Americans are fortunate to have access to some of the best medical facilities and services in the world. Yet, shamefully, 2007 U.S. Census data demonstrated that there are 45.7 million uninsured people in our country, of which, 8.7 million are children, who do not have the access they need to these services. Unfortunately, these numbers will likely increase as the Nation continues to lose more jobs and the ranks of the unemployed continue to rise.

How to provide everyone in America access to affordable, quality health care is the subject of extensive debate. Over the years, though, we have made some progress in making sure that the most vulnerable members of our communities—including children—can receive basic medical services.

The State Children's Health Insurance Program was created in the Balanced Budget Act of 1997 in recognition of the need to provide medical services for children from middle-income to lower income families and has been widely hailed as a successful program. In the past 12 years, we have seen that CHIP coverage leads to better access to preventative and primary care services, better quality of care, better health outcome and improved performance in school. CHIP currently provides health care benefits to more than 7.4 million children, of which more than 90 percent are from families with incomes below $35,000 a year for a family of three, or 200 percent below the Federal poverty level.

Michigan's CHIP program, called MIChild, has had impressive results: Michigan currently has the second lowest rate of uninsured children in the Nation, trailing only Massachusetts, which provides universal health care coverage.

While CHIP has been a successful program nationwide, many children who qualify for the program are unable to receive insurance because of inadequate funding. In Michigan, approximately 50,000 children are covered under CHIP every month, but there are still 158,000 uninsured children in my home State, and more than 8 million uninsured children nationwide.

To help address this problem, I am pleased that the Senate is taking up a bipartisan bill—the Children's Health Insurance Program Reauthorization Act of 2009—that would increase funding for the program by approximately $32.8 billion over 4½ years. This bill will allow more than 4 million additional children to enroll beyond the 7.4 million children already in CHIP. For Michigan, this means that more than an estimated 80,000 more Michigan children would have access to much needed health insurance.

A hardworking mother from Royal Oak, Michigan, wrote: ''As a single working mother, I could not afford the family insurance that my employer offered, and definitely could not afford private [insurance]. Without this insurance I do not know what I would have done. [CHIP] offered us options, doctors instead of emergency rooms, less time missed at work and school.''

We have a moral obligation to provide Americans access to affordable and high quality health care. No person, young or old, should be denied access to adequate health care, and the expanded and improved Children's Health Insurance Program is an important step toward achieving that goal.

Mr. LEAHY. Mr. President, I wish to express my strong support for the reauthorization of the Children's Health Insurance Program. At a time when our country is moving in a new direction, it is fitting that we are considering this important measure among the first bills considered this Congress. I believe the extension of CHIP will stand out as one of the great accomplishments of this body. By passing this legislation, we would state clearly that the health of children in this country is an issue too important to be dealt with as business as usual.

Last time the Senate considered an expansion of CHIP, the measure passed

with bipartisan support and represented what can happen when members from both sides of the aisle come together to form a consensus. Unfortunately, providing health coverage for millions of kids was not a priority of our former President and he vetoed the measure. By standing in the way of this legislation, nearly 4 million children have had to wait to receive critical health coverage. With families struggling more than ever to make ends meet, passing this legislation is essential to protecting our Nation's children.

This legislation is a matter of priorities, and I see no more important issue than caring for our kids. Regrettably, there are some who remain opposed to this legislation. I have heard some argue that this bill should be opposed because it raises taxes. Anyone who opposes the bill on these grounds is choosing big tobacco over children's health.

Others have argued against including a provision that allows States to waive the 5-year waiting period for legal immigrant children. These children, who are lawful immigrants and who will eventually be U.S. citizens, already have the ability to receive CHIP services. Requiring kids to wait 5 years for health care is unconscionable and could create life-long consequences for children. I have heard some claim that allowing legal immigrant children to receive public health care services would violate the conditions on which they entered the United States. This argument is contrary to the position taken by the U.S. Citizenship and Immigration Services, which does not believe an immigrant's use of health care services such as Medicaid and SCHIP constitutes a violation of these conditions. An immigrant can only become a public charge if they receive direct cash benefits, such as welfare, for their income. Health benefits are expressly removed from this category. During hard economic times, we should give states the ability to remove the restrictive barriers for legal immigrant children and allow them to receive critical health care services. Investing in early health care for all children is sound policy.

I support this bill because I believe it is a travesty that in the richest, most powerful, country in the world, there are more than 47 million people without health insurance. That is an absolutely shocking number. It represents roughly one in six people who are going without regular trips to the doctor, forgoing needed medications and are forced to use the emergency room for care because they have no where else to turn. These are our friends, our neighbors, and millions of our children.

The legislation before us will extend and renew health care coverage for over 10 million children. After years of increases to the number of uninsured in this country, this is a solid step in the right direction. Our recent economic crisis has left more Americans jobless and without health coverage for themselves and their family members. No one is arguing that this bill is the solution to our health care crisis, but this bill represents significant progress. It covers 4 million more kids and represents the first important step to begin reforming our health care system.

In my home State of Vermont, we have been a national leader on children's health care. Even before the creation of CHIP, we knew that this was the right thing to do. Because of our early action, Vermont has one of the lowest rates for uninsured kids in the country. This bill will get us even closer to the goal of covering the thousands of eligible kids in our State who remain uninsured. Further, the provisions in this bill will reverse the Bush administration policies to cut kids off the program and will ensure that thousands of Vermont kids will still have health care.

We are faced with many choices here in the Senate. When it comes to our Nation's kids, the choice is clear. This is a must-pass bill that takes important steps to cover all children who deserve to have every opportunity to lead a healthy and productive life. I urge all my colleagues to stand with the children and support this bill.

Mr. McCONNELL. Mr. President, there is no debate among Republicans concerning access to affordable health care for children—we believe every child should have access to quality affordable health care.

Many of us are proud of our role in creating the children's health program, SCHIP. We think it ought to be reauthorized responsibly.

But we are troubled by the direction the program has taken in recent years. It has strayed from its original purpose—the purpose Republicans support—of providing coverage to low-income, uninsured children.

This bill before us would only exacerbate those troubling trends.

That is why I offered an alternative—the Kids First Act—to return the children's health program to its original purpose of covering low-income children.

Senate Republicans also believe we need to focus scarce resources on those families who need it most. Mr. CORNYN offered an amendment to use any leftover state funds to help insure children who are eligible, but not enrolled, rather than expanding to high-income beneficiaries.

Senate Republicans believe SCHIP should cover those children who don't have insurance yet. Senator KYL offered a commonsense amendment which says kids should be able to keep the coverage they have, freeing up resources to enroll more children who don't have insurance.

Senate Republicans believe that States should cover low-income children who are not yet enrolled before they expand subsidies to wealthier families. Senators MURKOWSKI, SPECTER, COLLINS, and JOHANNS offered an amendment to require just that.

Regrettably, our friends across the aisle rejected each and every one of these commonsense proposals.

As a result, we are left with a bill that fails to address the fundamental problems facing this children's health program—and that I cannot support.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, there is now 4 minutes of debate equally divided.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, today the Senate can right a wrong. In 2007, more than 3 million low-income, uninsured American kids were waiting to be included in the Children's Health Insurance Program. Those millions of low-income, uninsured children needed doctors visits and medicines. But in 2007, President Bush wrongly vetoed the legislation renewing and expanding the children's health program. The chance at health insurance for those 3 million kids was lost.

We cannot get those 2 years back for those kids, but today the Senate can keep all the children currently in CHIP covered—that is nearly 7 million—and we can reach more than 4 million more low-income, uninsured children who are waiting—waiting on us, colleagues—to do the right thing, who are waiting on us to fulfill the promise of the program.

I strongly urge all of us to give a big vote. The winners are the kids.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, we all know the rest of this year in health care we have big things ahead of us. We know the bill before us today will make the difference for 4 million or so uninsured kids. So 4 million uninsured Americans down but 42 million uninsured Americans to go. That is not going to be an easy task. If we are going to reform our health care system to cover all Americans, if we are going to improve the quality of care to provide for all Americans, if we are going to bring down the cost of health care for all Americans, we need to work together.

If we are going to work together, we need to get a better understanding of what bipartisanship really means. It is not, we will write 90 percent of the bill together and ask the minority to vote

for the last 10 percent, like it or not. It is not: here is the bill, does the minority want to sign off on it and let us call it bipartisan?

It is, frankly, very difficult for me to believe we can return to true bipartisanship. But we will finish this bill today, and then I am going to roll up my sleeves. I am going to sit down with the majority to try to improve our health care system for all Americans despite recent evidence that true bipartisanship is elusive here in the Senate.

I know the issues in front of us are too important for me to do anything less than my very best for all those Americans out there who expect us to solve the problems of the day and make a better America for tomorrow's children and all of us.

The PRESIDING OFFICER. All time is yielded back.

The question is, Shall the bill, as amended, pass?

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—66

Akaka	Feinstein	Mikulski
Alexander	Gillibrand	Murkowski
Baucus	Hagan	Murray
Bayh	Harkin	Nelson (FL)
Begich	Hutchison	Nelson (NE)
Bennet	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Rockefeller
Burris	Klobuchar	Sanders
Byrd	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Snowe
Carper	Leahy	Specter
Casey	Levin	Stabenow
Collins	Lieberman	Tester
Conrad	Lincoln	Udall (CO)
Corker	Lugar	Udall (NM)
Dodd	Martinez	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NAYS—32

Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Cornyn	Johanns	Wicker
Crapo	Kyl	

NOT VOTING—1

Kennedy

The bill (H.R. 2), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BAUCUS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House on the disagreeing votes on this measure.

The Presiding Officer appointed Senators BAUCUS, ROCKEFELLER, CONRAD, GRASSLEY, and HATCH conferees on the part of the Senate.

Mr. FEINGOLD. Mr. President, I am pleased that the Senate has successfully passed the reauthorization of a popular program that has reduced the number of uninsured children in our country by over 7 million. The Children's Health Insurance Program has helped lower the rate of uninsured low-income children by one-third since its enactment in 1997. That is a huge accomplishment, and has helped address a problem in our country that is unacceptable—the millions of families lacking insurance. Moreover, while the bill has a price tag of roughly $31 billion over 4½ years, it is fully offset and would cover over 4 million more uninsured, low-income children. This program, according to CBO and numerous economists, is the most efficient method of getting health care insurance to low-income kids and parents, and that means CHIP provides the best coverage available for low-income families.

In my home State of Wisconsin, CHIP is known as BadgerCare and it provides health insurance for over 370,000 children and 17,000 pregnant women. My State has done a very good job of covering uninsured families, and the positive effects of this program are felt at schools, in the workforce, and at home. This bill helps support Wisconsin's efforts and provides low-income children in my State with better access to preventive care, primary care, and affordable care. The end result is healthier families. BadgerCare is vital to the well-being of many families in Wisconsin and I am very pleased that this bill supports the program in my State.

I am very pleased that Congress has taken a first step to relieve States from unnecessary and burdensome barriers to enrolling low-income children. The onerous citizenship documentation requirements established in the 2005 Deficit Reduction Act, DRA, are keeping hundreds of thousands of eligible beneficiaries from the health care they need. This provision has created a serious new roadblock to coverage. As a result of the provision, which requires U.S. citizens to document their citizenship and identity when they apply for Medicaid or renew their coverage, a growing number of States are reporting a drop in Medicaid enrollment, particularly among children, but also among pregnant women and low-income parents. Health care coverage is being delayed or denied for tens of thousands of children who are clearly citizens and eligible for Medicaid but who cannot produce the limited forms of documentation prescribed by the regulations. These children are having to go without necessary medical care, essential medicines and therapies. In addition, community health centers are reporting a decline in the number of Medicaid patients due to the documentation requirements and are faced with treating more uninsured patients as a result.

Over the first year and a half that the documentation requirements were in effect, the Wisconsin Department of Health Services reported that almost 33,000 children and parents lost Medicaid or were denied coverage solely because they could not satisfy the Federal documentation requirements. About two-thirds of these people are known by the State to be U.S. citizens; most of the remainder are likely to be citizens as well, but have yet to prove it.

A study of 300 community health centers, conducted by George Washington University, found that the citizenship documentation requirements have caused a nationwide disruption in Medicaid coverage. Researchers estimate a loss of coverage for as many as 319,500 health center patients, which will result in an immediate financial loss of up to $85 million in Medicaid revenues. The loss of revenue hampers the ability of safety net providers to adequately respond to the medical needs of the communities they serve.

In addition to consequences suffered by eligible U.S. citizens, States have reported incurring substantial new administrative costs associated with implementing the requirement. They have had to hire additional staff, retool computer systems, and pay to obtain birth records. States are also reporting that the extra workload imposed by the new requirement is diverting time and attention that could be devoted to helping more eligible children secure and retain health coverage.

States are in the best position to decide if a documentation requirement is needed and, if so, to determine the most effective and reasonable ways to implement it. States that do not find it necessary to require such documentation could return to the procedures they used prior to the DRA and avoid the considerable administrative and financial burdens associated with implementing the DRA requirement. Most importantly, these States could avoid creating obstacles to Medicaid coverage for eligible U.S. citizens.

Despite significant support for allowing States to determine the best way to document citizenship, that complete fix is not included in the underlying bill. The restrictions are eased, and

this is an important first step, but I hope we can continue to move forward on this issue and return this requirement to a State option.

I am also very pleased that this bill will allow States to waive the Federal 5-year waiting period for legal immigrant children and legal immigrant pregnant women to become eligible to enroll in the Children's Health Insurance Program. The idea that a sick child or pregnant woman legally in this country must wait 5 years to receive the care they need is absurd. Timely coverage means that families will have the opportunity to both prevent and treat conditions that can dramatically affect a child's daily life, and long-term health. And in those tragic incidences where a child suffers from life-threatening illnesses like cancer, denying that child necessary health care is unacceptable. Giving States the option to waive the 5-year waiting period is a positive step towards removing barriers to enrollment that are preventing our children from receiving the care they need.

In the midst of this recession, it is even more important that we renew our commitment to this valued program. We know that for every 1 percent increase in unemployment, approximately 1 million Americans become newly eligible for their State's Medicaid or CHIP programs. Reauthorization of the Children's Health Insurance Program will help millions of children and their families stay afloat and continue to receive the health care they need. Over the past few days, my colleagues have shared tragic stories of children who have suffered as a result of being uninsured, and we have listened to the heartwarming stories of families who have—quite literally—been saved by the Children's Health Insurance Program. The Children's Health Insurance Program Reauthorization marks an important leap forward in getting coverage to those who need it. I was pleased to support this bill's final passage, and I look forward to the day that everyone in our country has access to the basic right of health care.

Mrs. BOXER. Mr. President, I am pleased that today the Senate voted to reauthorize and expand the Children's Health Insurance Program, which will extend health care to millions of children across the Nation.

Right now, our Nation faces one of the gravest economic crises in our history, and more and more Americans are having difficulty making ends meet—especially when it comes to the rising costs of health care. All too often it is children who pay the price.

For almost 12 years, the Children's Health Insurance Program has provided health care for millions of children from working families that do not qualify for Medicaid but cannot afford private insurance. These are the children of working families.

Millions of Americans have found that as the cost of health insurance rises an increasing number of employers are unable or unwilling to provide health insurance to their employees and their families. Approximately 45 million Americans, including nearly nine million children, are living without health insurance, and the number of families who do not have health insurance has continued to rise.

Currently, the Children's Health Insurance Program provides coverage for 6.7 million children nationwide. This reauthorization provides health care coverage for an additional 4.1 million children who are uninsured today.

This bill is largely based on legislation that was twice vetoed by President Bush. This legislation includes several improvements to the Children's Health Insurance Program that would fund outreach and enrollment efforts, allow States to use information from food stamp programs and other initiatives for low-income families to find and enroll eligible children, and give States the option to cover pregnant women for prenatal care vital to healthy newborn children.

I also support a provision in this bill that gives States the option to cover legal immigrant children and pregnant women under Medicaid and CHIP with no waiting period. Under current law, lawfully present pregnant women and children who entered the country after August 22, 1996 are barred from Medicaid and CHIP for the first 5 years they are in the country. These restrictions have severely undermined the health status of immigrant families across the Nation.

My home State of California has a higher cost of living than most others, a lower rate of employer sponsored coverage, and a higher rate of the uninsured. In California, CHIP funds cover approximately 1.4 million children and pregnant women. Currently, there are approximately 1.2 million children in California who do not have health insurance, and about 694,000 of these children are eligible for CHIP coverage.

This legislation not only extends this essential program, but gives States like California the flexibility they need to design a program that best fits the needs of their children.

I would like to thank Senators BAUCUS and ROCKEFELLER and the other members of the Finance Committee who worked so tirelessly to keep the focus of this bill where it should be—on the children.

There is not a man or woman in this chamber who wouldn't do everything within their power to ensure the health of their own children—we should do no less for the children of our Nation.

The PRESIDING OFFICER. The Senator from Montana.

MORNING BUSINESS

Mr. BAUCUS. I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

DTV DELAY ACT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 352 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 352) to postpone the DTV transition date.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the bill be read three times and passed, a motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 352) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(c) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of the Digital Television

Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(b) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(c) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

(d) CONDITION OF MODIFICATIONS.—The amendments made by this section shall not take effect until the enactment of additional budget authority after the date of enactment of this Act to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act, including section 90.545 of the Commission's rules (47 C.F.R. § 90.545).

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, Senator ROCKEFELLER and I, as the chairman and the ranking member of the Commerce Committee, have worked on a bill that will delay for 3 months, basically until June 12, this transition. It is voluntary. That was very important. Because many broadcast companies have made the investment for digital transmission, and they will be able to go to that digital transmission. It also allows people, even if they have coupons that are expired, to reapply and get coupons.

But I do wish to serve notice that I will not support another delay in implementation. By now people have had the notice, and we have done everything to help mitigate the cost of this transition. I talked to Senator ROCKEFELLER about that, and I think we are in agreement that now is the time for people to get their coupons and get their boxes because June 12 this transition will be made.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I wish to not only recognize what the Senator from Texas has indicated, but also I wish to say that these last couple days, weeks—whatever it is—have been a study in bipartisan cooperation. We have been up, we have been down. It wasn't going to work, it could work, it might work. What we have concentrated on is going to the people who have concerns and answering every single question they might have. In a deliberative body such as the Senate, where we actually do that and people actually know we are trying to answer all their questions, and are answering all their questions, and when you have a chairman and a ranking member who are in tandem, working together on a very important matter, it counts.

I yield the floor.

KENTUCKY ICE STORM

Mr. MCCONNELL. Mr. President, this week people all across Kentucky are dealing with the effects of a massive snow and ice storm that ravaged the entire Commonwealth on Tuesday. This storm has caused the worst power outage in Kentucky history—more than 600,000 are without power.

This number is all the more devastating given that the previous record had been set only 4 months ago when the remnants of Hurricane Ike battered Kentucky last fall.

The power outages cover the entire Bluegrass State and have caused enormous problems, as you can imagine. Many schools and businesses are closed. Many roads are blocked from downed trees or power lines. Most dangerous of all, some people are unable to heat their homes in this time of freezing temperatures.

Given the severity of the storm, the Governor of Kentucky, Steve Beshear, rightly reached out to President Obama to request a Federal declaration that a major emergency exists. I also contacted the President to ask that he respond quickly to the Governor's request.

I am pleased to say that the President did respond quickly and declared a Federal emergency in most of Kentucky. Doing that has triggered the release of urgently needed Federal authority and funds that will give the people of my State the help they desperately need.

I want to thank the Governor for his quick and decisive action, as well as President Obama for his speedy response. It is making a real difference in the lives of Kentuckians as we speak.

Governor Beshear and his team have been working day and night to ensure all parts of the State are getting the relief they need. Our offices have been in close contact since the storm, and I am proud of the leadership he is demonstrating.

Most of all, I want to thank the many men and women across Kentucky who are working to aid their communities during this disaster.

From the police and firefighters, to the first responders, the power company employees, the shelters taking in those without power, and the people knocking on doors to check on their neighbors, everyone is pitching in to make sure Kentucky makes it through this storm.

And I am sure that we will. Mr. President, I ask my colleagues to keep the citizens of Kentucky in their prayers during this difficult time.

COMMITTEE ON APPROPRIATIONS, RULES OF PROCEDURE

Mr. INOUYE. Mr. President, pursuant to paragraph 2 of rule XXV of the Standing Rules of the Senate, I ask that the rules of the Appropriations Committee for the 111th Congress be printed in the CONGRESSIONAL RECORD. These rules were adopted by the full committee membership on January 27, 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE APPROPRIATIONS COMMITTEE RULES—111TH CONGRESS

I. MEETINGS

The Committee will meet at the call of the Chairman.

II. QUORUMS

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or

subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of staff members at closed sessions of the Committee shall be limited to those members of the Committee staff who have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARINGS

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the full Committee for its decision.

VI. AVAILABILITY OF SUBCOMMITTEE REPORTS

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. AMENDMENTS AND REPORT LANGUAGE

To the extent possible, amendments and report language intended to be proposed by Senators at full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. POINTS OF ORDER

Any member of the Committee who is floor manager of an appropriations bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriations bill.

IX. EX OFFICIO MEMBERSHIP

The Chairman and Ranking Minority Member of the full Committee are ex officio members of all subcommittees of which they are not regular members but shall have no vote in the subcommittee and shall not be counted for purposes of determining a quorum.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

WHITE HOUSE OFFICE OF CONSUMER AFFAIRS

• Mr. KENNEDY. Mr. President, I welcome this opportunity to support consumer advocates across the country in encouraging the new administration to restore the White House Office of Consumer Affairs. For the past 8 years, the safety and rights of consumers have taken a back seat to special interests. We are all aware of troubling reports about unsafe toys for our children, unsafe household products for our families, and even unsafe food.

With a new administration focused on bringing needed change to the Nation, a new focus on consumer safety should be part of this change. During the Clinton administration, consumers had an effective advocate with a long record of commitment to protection in Ann Brown, chairman of the U.S. Consumer Product Safety Commission. But staff cutbacks in the Food and Drug Administration and the U.S. Consumer Product Safety Commission have further undermined effective efforts to protect consumers. Bipartisan legislation has attempted to address these challenges, but more progress is needed.

Now is the time for action. The new administration can go a long way in restoring the trust of Americans in the safety of the products they use by restoring the Office of Consumer Affairs to its rightful place in the White House. I urge the administration to do so, and I ask that the editorial from the January 4 New York Times may be printed in the RECORD.

The editorial follows.

[From the New York Times, Jan. 4, 2009]

A VOICE FOR THE CONSUMER

The time has come to give the American consumer a much stronger voice in Washington. President-elect Barack Obama has already named what amounts to an energy and environmental czar in the White House, and America's beleaguered consumers deserve no less.

Mr. Obama should restore the White House Office of Consumer Affairs, which vanished during the Clinton years, and appoint a director who has both the president's ear and the authority to rebuild the consumer protection agencies that were undercut or hollowed out by the fiercely anti-regulatory Bush administration.

There is no shortage of agencies ostensibly designed to protect consumers. But without an emergency like killer spinach or lead in children's toys, the Bush administration has mostly failed to hear customers' complaints. The consumer safety net is simply far too weak.

The Food and Drug Administration has suffered cutbacks in expert personnel, and still relies too heavily on industry to police itself. Credit-card holders who have been subject to all kinds of Dickensian tricks and traps were finally told by the Federal Reserve that relief is in sight—in 2011. Not so long ago, there was only one official toy tester at the Consumer Product Safety Commission, and oversight generally was so weak that Congress was forced to step in with new protections, which still could be strengthened.

It will be up to the Obama administration to bring these agencies back to life. In part this means restoring the morale of government workers who have too often been stymied by the anti-regulators at the top. It will also mean stronger consumer protection policies and hiring more skilled people. It will mean giving one official responsibility for coordinating the entire apparatus.

Presidents Johnson and Carter both recognized the need for a strong person to do that job. Both chose Esther Peterson, who during about eight years in office pushed for then-radical ideas like nutritional labeling on food and truth in advertising. As the Reagan anti-government era began, the consumer protection job steadily lost clout until it was shuttered in the late 1990s.

During his campaign, Mr. Obama promised consumers that he would help them get a fairer deal. As the victims of lead toys and predatory lenders can attest, they certainly need one. Restoring the Office of Consumer Affairs and appointing a director as strong and capable as Mrs. Peterson would be an encouraging first step.•

ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, in the 4 years since the federal ban on assault weapons was allowed to expire, hundreds of people in this country have died and been injured by previously banned weapons. The Brady Center to Prevent Gun Violence report, ''Assault Weapons: Massed Produced Mayhem,'' details the deaths of 165 people and the injury of 185 people by assault weapons since the ban expired. This includes the death and injury of 38 police officers. The simple fact is, our communities are less safe than they were 4 years ago.

The Bureau of Alcohol, Tobacco, Firearms and Explosives described assault weapons in their Assault Weapons Profile as weapons ''designed for rapid fire and close quarter shooting at human beings. That is why they were put together the way they were. You will not find these guns in a duck blind or at the Olympics. They are mass produced mayhem.'' Unlike semiautomatic hunting rifles, which are designed to be fired from the shoulder and rely on the accuracy of a precisely aimed projectile, assault weapons are designed to be fired at the hip and to maximize their ability to rapidly shoot multiple human targets.

The report also outlines the dangerous weapons race law enforcement officers have been forced to enter in an effort to counter the increasing likelihood that they will be confronted by a criminal wielding an assault weapon. In addition to the common criminal, assault weapons are highly attractive weapons for terrorists. The ease with which they can currently be purchased, combined with their designed ability to inflict as much damage as possible, make them ideal tools for conspiring terrorists. Just last year five men were arrested in New Jersey with a stockpile of assault weapons, while planning to attack the U.S. States Army base at Fort Dix.

Despite the overwhelming support of the law enforcement community, the ongoing threat of terrorism and bipartisan support in the Senate, the assault weapons ban was not allowed to expire. Now, 4 years later, 19 previously banned military-style assault weapons, some capable of firing up to 600 rounds per minute, are once again pervading our streets and neighborhoods. This Congress we must take up and pass sensible gun safety legislation, including reinstating the assault weapons ban.

BLAIR NOMINATION

Mr. FEINGOLD. Mr. President, I support the nomination of ADM Dennis Blair to be Director of National Intelligence. I do so as a strong supporter of intelligence reform and in the belief that Admiral Blair brings not only a keen understanding of the current challenges to interagency cooperation but an enthusiasm for reform. I am also encouraged by his consistent and repeated commitments to keep the congressional intelligence committees fully and currently informed, and his desire to end the stonewalling conducted by the Bush administration. The confirmation process has raised a number of issues of concern that I believe have been adequately addressed, although it is my hope and expectation that Admiral Blair, if confirmed, will work with me and other members of the committee on these, as well as other important matters.

Admiral Blair has committed to ending the Bush administration practice of hiding programs such as the CIA detention program and the President's warrantless wiretapping program from the full committee and has said that these programs ''were less effective and did not have sufficient legal and constitutional foundations because the intelligence committees were prevented from carrying out their oversight responsibilities.'' He has also committed to breaking down the stovepiping of oversight whereby Intelligence Committee members are denied access to important Department of Defense activities. These commitments are a critical first step in ensuring effective oversight and in reestablishing a collaborative relationship between our two branches of Government.

While I was disappointed with Admiral Blair's refusal, at his hearing, to characterize waterboarding as torture, I am confident that he will carry out President Obama's Executive order prohibiting ''enhanced interrogation techniques.'' I am also assured by his statement that ''the United States must not render or otherwise transfer anyone to a country unless we have credible assurances that they will not be subject to torture or other unacceptable treatment.''

His statements on privacy, civil liberties and checks and balances have also been reassuring. He has expressed concern about the U.S. Government's accumulation of detailed private information on U.S. citizens. He has reaffirmed that FISA is the ''only legal authority for conducting surveillance within the United States for intelligence purposes.'' He told me at his hearing that he would submit intelligence programs to the Justice Department's Office of Legal Counsel at the outset, so that they are conducted under clear legal authorities. And, more generally, he has stated that he sees it has his responsibility to ''make clear that protecting the privacy and civil liberties of Americans is as important as gathering intelligence.'' I do have concerns about his statement that he supports immunity for companies that allegedly cooperated with President Bush's illegal warrantless wiretapping program and will urge him to reconsider his position once he is more familiar with the program.

I have found Admiral Blair to be very forthcoming with regard to reform. He clearly understands the importance not only of integrating the intelligence community but of developing coherent strategies that bring the intelligence community together with other departments of the U.S. Government, as well as budgets that reflect those strategies. These efforts have been central to my work in the Intelligence Committee, as I sought—through legislation and classified letters—to obtain interagency counterterrorism and other national security strategies from the Bush administration. I am confident that Admiral Blair will work to change this longstanding gap in our strategic capabilities. I am also reassured by his statement, at his confirmation hearing, that he agrees with the need to bring together the ways the U.S. Government obtains information, through the IC as well as through diplomatic reporting and other nonclandestine means. This critical priority was the subject of legislation introduced last year by Senator Hagel and myself and passed by the Intelligence Committee, and I will continue working to enact that bill.

A related issue is the need to ensure that Department of Defense intelligence activities are conducted under the policies of the DNI and under chief of mission authorities. In this regard, Admiral Blair has not indicated any new policy positions. On the other hand, he has stated that he understands the importance of ''a coherent and coordinated approach to foreign governments and intelligence services'' and has promised to ''act quickly to put in place procedures to accomplish the directed alignment of foreign intelligence and counterintelligence agreements and to institutionalize it for the future.'' This is a critical issue, and I look forward to working closely with Admiral Blair, should he be confirmed, as well as other members of the administration.

Another issue on which I expect to work with Admiral Blair, should he be confirmed, is human rights. I have, and no doubt will continue to have, disagreements with him about U.S. engagement with the Indonesian military, notwithstanding the lack of accountability for human rights abuses. While Admiral Blair has helped clarify his role when he was at Pacific Command, those substantive differences remain. Going forward, I am encouraged by his statement that the intelligence community ''needs to emphasize in its relationships around the world that the United States respects and seeks to advance respect for human rights and that IC agencies do not condone behavior that violates this core American value.'' I expect to work with Admiral Blair to ensure that that message is conveyed convincingly.

Finally, I have raised concerns about Admiral Blair's past conflicts of interest. He has acknowledged mistakes, including his failure to seek counsel before deciding not to recuse himself. I have asked him whether he would seek counsel in the future, including of ethics officers, and he has assured me that he would.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I am a single, 55-year-old female. I commute Monday through Friday to Boise for work. Currently it costs me approximately one week's pay check (take home pay) per month, just to put gas in the car to make the commute. Needless, to say, by the time rent, utilities, and gas are paid, this leaves very little for anything else—including groceries. Weekends? Unless it is one trip to the grocery store, the car and I sit at home out of necessity, not by choice. Now that summer is here, I do not even have the option of walking to places in downtown Caldwell, as I cannot manage the heat. I guess I have officially become one of the working poor.

CYNDI, *Caldwell.*

Hi Mike, I had sent you two times about what is going on with coal to liquid and I receive no reply; what gives?

As long as we do not have the technology for hydrogen fuel cars and batteries are not good enough yet, we are still dependant on fossil fuels. Do something constructive and start pushing for coal to liquid. This is the only way, at this time to solve our energy crisis, as I mentioned before, the process is

almost identical to cracking oil, clean diesel and all the other chemicals, except for gasoline.

I want an answer from you about this subject and no generic answer.

ED, *Sandpoint*.

Thank you for asking us Idahoans on how the gas prices are affecting our lives. I was unable to do a vacation trip to the coast, due to the high prices of gas. Instead of costing $25 to fill my tank; it now takes about $75 to fill it up. I now fill up every time it goes to a half of a tank. I have to decide if I am going to put gas in my car or groceries that I need. I do not do much now, just go back and forth to work and pretty much nothing else. I cannot believe how things have gotten out of hand. Everything has gone up within the last 6 months. I have a home and do not want to risk losing [it]. I have been at my job for the past 8 years and have not gotten any type of raise in the last 4 years. My father is on a limited income, and he cannot afford to put gas in his vehicle, he just barely makes ends meet now. I take him to the grocery store and take him on his errands, when he needs to go somewhere. Thank you for taking the time to ask us how we are doing here in Idaho.

PATRICIA, *Meridian*.

I find it empowering that you are involving the people that are so affected by the recent hikes in energy costs, in this case, the price of fuel. I know that I share the pain of trying to keep up with every American that has to depend on gas and diesel to make it to work to survive and, due to inevitable geography, visit loved ones throughout the U.S. I must drive a full-sized truck and trailer to make a living and filling it up yesterday was $124.40. That will last four or five days depending on mileage. My wife commutes from Caldwell to Payette, and even with a new Subaru that gets good mileage, has to fill up every five days as well at a new high price of $650. This is very difficult. Progressing with a plan to save a little money, perhaps work on a much-needed retirement someday has taken a back burner to simply making it to work. Conservatively, we spend around $560 a month in fuel prices. We do indeed need to find a solution, perhaps in house drilling . . . I am not sure.

With further concern, both of our fathers are 71 and 74 years old and in failing health. Both lives have been full and, as we all know, the inevitable is upon us. Rising fuel prices make it that much more difficult to see them. This is a long list of complaints which I do not like to do, but this is the voice of a country in desperate need. Thank you for this opportunity, may we work together.

HOWARD.

I want to get the attention of Congress. You people need to listen to these letters from Senator Crapo. Who are you representing? I do not believe the Constitution has ''We, the special interest groups'' in it. We, ''The People'' want to drill for oil on our own soil, use hydroelectric power, solar power, wind power, nuclear power, any power that is available to us in this country.

We the people are hurting. Do not you guys get it? We are the United States of America! We can accomplish anything. We the people are powerful, resourceful, proud of this land we call America! Remove the road blocks so this innovation can happen.

I am not the only frustrated citizen out there. Congress is supposed to represent the people of this nation. [But it seems that they are so disconnected, it is scary. I think Congress should get the same Social Security plan and insurance plan (or lack thereof) we get. Then things might change. You just do not realize how much this rise in gas and food prices are hurting Americans. I wish we the people could vote on this issue. I think you would see a different outcome. We would immediately be drilling for oil on our own soil and finding innovative ways to create our own power. We need to remove the handcuffs that government has put on companies so this innovation could begin. America has always been independent. What happened?

Even if the roadblocks were removed today, it is going to take time to get these new energy systems up and running. Why are not we starting? Is it going to take people starving to death here in America to get congress's attention? People are having to choose between buying gas and buying food? Here in America?

Why are we depending upon getting oil from countries that hate us? That is just not an intelligent strategy.

DEBBIE.

Thank you for reaching out to gain the opinions of the people. Charles Krauthammer states his opinion beautifully in the editorial below. The only points I would add is that the world has only so much oil. If the U.S. begins drilling offshore, it will give Americans a continued false sense of confidence and for how long . . . 30 years . . . maybe. Together Americans need to come together and develop technology that is not oil based. We can do it now or we can leave it for our children. There are other ways to help relieve families of the financial difficulties the high cost of oil is creating. I encourage you to focus on them.

MARION, *Boise*.

AT $4, EVERYBODY GETS RATIONAL

(By Charles Krauthammer)

Friday, June 6, 2008

So now we know: The price point is $4.

At $3 a gallon, Americans just grin and bear it, suck it up and, while complaining profusely, keep driving like crazy. At $4, it is a world transformed. Americans become rational creatures. Mass transit ridership is at a 50-year high. Driving is down 4 percent. (Any U.S. decline is something close to a miracle.) Hybrids and compacts are flying off the lots. SUV sales are in free fall.

The wholesale flight from gas guzzlers is stunning in its swiftness, but utterly predictable. Everything has a price point. Remember that ''love affair'' with SUVs? Love, it seems, has its price too.

America's sudden change in car-buying habits makes suitable mockery of that absurd debate Congress put on last December on fuel efficiency standards. At stake was precisely what miles-per-gallon average would every car company's fleet have to meet by precisely what date.

It was one out-of-a-hat number (35 mpg) compounded by another (by 2020). It involved, as always, dozens of regulations, loopholes and throws at a dartboard. And we already knew from past history what the fleet average number does. When oil is cheap and everybody wants a gas guzzler, fuel efficiency standards force manufacturers to make cars that nobody wants to buy. When gas prices go through the roof, this agent of inefficiency becomes an utter redundancy.

At $4 a gallon, the fleet composition is changing spontaneously and overnight, not over the 13 years mandated by Congress. (Even Stalin had the modesty to restrict himself to five-year plans.) Just Tuesday, GM announced that it would shutter four SUV and truck plants, add a third shift to its compact and midsize sedan plants in Ohio and Michigan, and green-light for 2010 the Chevy Volt, an electric hybrid.

Some things, like renal physiology, are difficult. Some things, like Arab-Israeli peace, are impossible. And some things are preternaturally simple. You want more fuel-efficient cars? Do not regulate. Do not mandate. Do not scold. Do not appeal to the better angels of our nature. Do one thing: Hike the cost of gas until you find the price point. Unfortunately, instead of hiking the price ourselves by means of a gasoline tax that could be instantly refunded to the American people in the form of lower payroll taxes, we let the Saudis, Venezuelans, Russians and Iranians do the taxing for us—and pocket the money that the tax would have recycled back to the American worker.

This is insanity. For 25 years and with utter futility (starting with ''The Oil-Bust Panic,'' the New Republic, February 1983), I have been advocating the cure: a U.S. energy tax as a way to curtail consumption and keep the money at home. On this page in May 2004 (and again in November 2005), I called for ''the government—through a tax—to establish a new floor for gasoline,'' by fully taxing any drop in price below a certain benchmark. The point was to suppress demand and to keep the savings (from any subsequent world price drop) at home in the U.S. Treasury rather than going abroad. At the time, oil was $41 a barrel. It is now $123.

But instead of doing the obvious—tax the damn thing—we go through spasms of destructive alternatives, such as efficiency standards, ethanol mandates and now a crazy carbon cap-and-trade system the Senate is debating this week. These are infinitely complex mandates for inefficiency and invitations to corruption. But they have a singular virtue: They hide the cost to the American consumer.

Want to wean us off oil? Be open and honest. The British are paying $8 a gallon for petrol. Goldman Sachs is predicting we will be paying $6 by next year. Why have the extra $2 (above the current $4) go abroad? Have it go to the U.S. Treasury as a gasoline tax and be recycled back into lower payroll taxes.

Announce a schedule of gas tax hikes of 50 cents every six months for the next two years. And put a tax floor under $4 gasoline, so that as high gas prices transform the U.S. auto fleet, change driving habits and thus hugely reduce U.S. demand—and bring down world crude oil prices—the American consumer and the American economy reap all of the benefit.

Herewith concludes my annual exercise in futility. By the time I write next year's edition, you'll be paying for gas in bullion.

I am writing in response to your request for stories about energy prices. I was surprised to see that the average family spends $200 a month on gasoline. Our family is spending $700 a month on gasoline, not including vacations. In a relatively rural area such as Middleton, we travel 15–20 miles for work, church and shopping, and 5–10 miles to schools and any other activities in which our children are involved. Of these five—work, church, shopping, school, and activities, we could cut down on the activities our children are involved in (and we have), but the other four are not an option.

Add to this the fact that our property taxes in Middleton were raised by a third,

which we are starting to pay for this month, and it makes our budget extremely tight. So tight, in fact, that we have put our home up for sale, and I will be adding substitute teaching onto my busy schedule as a mother of six to be able to make ends meet; well, I should say some of the ends—many needs will still remain unfilled because our budget will be so tight.

My suggestions for Congress: 1) Drill for more oil in our own country, being as environmentally friendly as you can; 2) Use much more nuclear power; 3) Find out who is suppressing the technologies that will allow us to move away from dependence on gasoline in our cars.

Thank you for inviting us to share our stories and suggestions.

LORENA, *Middleton.*

I am writing [because] you want to know what is going on in the real world. Well, I am here to tell you that it is not easy to do. I am a single mom [who] is raising a teenage son. I am fighting cancer with no insurance because it is too expensive. So it is now down to do I pay the medical bills and keep fighting the cancer or do I put gas in my car to go back and forth to work? Do I put gas in the car or do I put food on the table for me and my son? We are in a war with Iraq but yet we are still importing oil from that country and supporting them after they bombed our country. Where is the smarts in that? We have oil wells here in the U.S. that are capped off and not being used when we could support our country put our own people back to work. We have fuel in reserve for war time, [but we are in war time]. [We should] open the reserves and show them we do not need their oil and the prices would come down per barrel. They say the reason that the cost per barrel is so high is because of the danger of getting the oil out well that is because we are in a war with them.

Thanks for listening.

TRACY.

Every issue needs balance. I ask you to take this letter with all the other to the Hill to give balance to your argument to off-shore oil drilling.

Two years ago our family made some changes. We traded in our 10 miles to the gallon SUV and purchased a vehicle that would get 21 mpg. We tuned up our bicycles and ride them at every opportunity, and we walk to places we would have driven years ago. We also use conservation methods and turn off lights, recycle, and encourage everyone we meet to do the same.

Mr. Crapo, this is the answer to your call to off-shore drilling. It is conservation, not more oil. It is reducing the size of trucks and cars and homes. It is limiting the use of recreational vehicles that waste millions of gallons daily. It is a new consciousness that we must ultimately learn to live with to survive with our earth and the changing dynamics of our energy use.

The call for MORE is only a stop gap. It does little to solve the problem and does everything to get you through one more election. Remember, you are riding on the coattails of the most unpopular President in our history. That alone should cause you concern.

I would be surprised if this letter makes the stack that is presented to the Senate. It does little to support your argument but does express the issue the mood of one of many of the voters in your home state.

Thank you

KIRK, *Boise.*

It is time we stopped building homes no one will buy and started building nuclear power plants, putting up windmills, and using this land these developers have gobbled up to grow corn to feed our families. Building more houses (as in Boise when 9,000 homes are up for sale due to a loss of jobs) is nonproductive in this housing market. This would also put people to work and possibly help with the illegal problem we have in Nampa. These people come here to build houses and do landscaping.

When I used to fill my truck for $56 and it would last a month, now it is $82. I live on Social Security Disability. Cutting food, I have already done. Cutting utility costs, I did this month. I cannot cut my meds or my insurance, but I do not go see my Dr. as often as I should.

BARBARA, *Boise.*

I really appreciate your willingness to step up and getting the information from the people about problems in our economy. This is my story—myself and my family, which includes four children ages from 12 to 5 years, and my wife. We just bought a house that made our life a lot easier about 1 year and a half ago. This house is a lot bigger than the one we had. I needed a house that could fit all of us. So I went from a 1,146 square foot home to a 2,000 square foot home, a lot better. But ever since the prices of gas started going up, it has put us in a bind. Right now I am now about 2 months behind on my mortgage and really do not have any way of making it up. So we have the house on the market for a short sale. Since the gas prices are rising, people are not shopping like they used to, so my wife's work is affected hence her hours are cut. I work all the way in Boise and live in Nampa. I have been at my job for 9 years now, and it seems like I am just working to get back and forth.

I really think that we should start drilling other places now. The economy is going or is already taking a big hit on everything. Since the price of gas basically controls the price of everything like food and since I have four kids, my grocery bill has [gone] up, also. Another option maybe is to have the oil companies cut the Americans a stimulus check at the end of every fiscal year. They are making a huge profit. That tells me that the price can go down a lot and they can still make a little money. Instead they want to help hurt the economy. In my eyes, they are no better than terrorists.

Thanks for taking the time to read my email and hopefully since we the people actually put you guys into these positions to help the economy and keep our country, state, city safe and running like a well-oiled machine, I really hope that something can come of this. I really believe that if gas prices run around $2.50 a gallon they can still make a profit and keep things going in our country with no problem.

JASON.

ADDITIONAL STATEMENTS

CONGRATULATING THE WARREN COUNTY PREVENTION PARTNERSHIP

• Mr. BUNNING. Mr. President, today I congratulate the members of the Warren County Prevention Partnership, an antidrug group that represented the Commonwealth of Kentucky in the 2009 inaugural parade. I was pleased to learn that such an outstanding organization represented Kentucky on the national stage.

The Warren County Prevention Partnership holds the distinct honor of representing Kentucky in three consecutive Presidential inaugurations: 2001, 2005, and 2009. The Warren County Prevention Partnership works for a drug-free America and its ''Reach for Your Dreams'' antidrug and antiviolence program is motivated to help America achieve that goal.

I am proud that such a superior association represented Kentucky on such a historical day in our Nation's history, and I support the organization, as well as others that strive for a drug- and violence-free country. I hope that this recognition assists the Warren County Prevention Partnership in getting its message heard by all Americans.

Again, I congratulate the members of the Warren County Prevention Partnership on their remarkable feat of representing Kentucky in the past three inaugurations. I hope that its accomplishments inspire others to work for a drug-free America.•

TRIBUTE TO MARLENE ELLIOTT BROWN

• Mr. CARPER. Mr. President, today I honor Marlene Elliott Brown, who was appointed in 2001 by former President George W. Bush as the Delaware/Maryland Director for USDA Rural Development where she oversaw housing, business, water and waste loan programs, community facilities and grant programs for my State of Delaware and neighboring Maryland.

My staff and I have had the great privilege of working with her on rural development projects including economic development, housing and the provision of critical public utilities throughout rural Delaware.

She started her remarkable career in politics in 1982 when she served as State director for my predecessor, Senator Bill Roth. While Senator Roth was known for his many accomplishments on the national level, in Delaware, he was best known for providing outstanding constituent services. No one was more responsible for building and sustaining this high level of service than Marlene. Striving to meet this standard has been one of my highest priorities as a U.S. Senator and a great challenge for my staff because Marlene set the bar so high. She truly represents the highest level of excellence in public service. More importantly, Marlene has the heart of a public servant which is a rare quality but one that is sorely needed in the world today.

First and foremost, Marlene was a proud southern Delawarean. She grew up on a family farm near Laurel, DE, graduated as valedictorian of her class at Laurel High School, and subsequently graduated from Delaware

Technical and Community College and Salisbury University with a major in business administration. In addition to her public service, she has been, and remains, very active in her church and community, having served as past president of the Georgetown-Millsboro Rotary Club, former vice chairman of the Republican State Committee, a past Honorary Wing Commander at the Dover Air Force Base, a member of the Laurel Chamber of Commerce, a board member of the Delmarva Christian High School, and a member of the Delaware Tech Educational Foundation Council.

She has also received numerous awards, including Outstanding Young Women of America in 1982, Delaware Young Careerist for Delaware Business and Professional Women in 1985, and the first recipient of the William Roth Outstanding Achievement Award in 2004, just to name a few.

I have had the great pleasure of working with Marlene Elliott Brown for many years and joined her frequently to announce USDA funding for projects throughout southern Delaware. Her hard work and dedication to the betterment of rural communities has helped enrich the lives of many Delawareans. Marlene's vibrant spirit is unwavering and her fervent commitment to public service reflects the desire of an individual devoted to making a difference. She is truly a generous and caring friend who has provided inspiration to many. While representing the U.S. Department of Agriculture in Delaware and Maryland, Marlene somehow found time to help train not one but two people who have served as my county directors in Sussex County. For that, I will always be grateful.

Marlene and her husband still live on a family farm near Laurel where she grew up, and I know that her family, community and our state are very proud of her accomplishments. I want to personally thank Marlene's family for their willingness to share her with all of us. Marlene is quite simply a very good person with a great heart, and I wish her well on the next stage of her noteworthy career.●

REMEMBERING AUSTIN CUNNINGHAM

● Mr. GRAHAM. Mr. President, Orangeburg, SC, has lost one of its finest citizens with the passing of 94-year-old Austin Cunningham. Mr. Cunningham led a most distinguished life and his contributions to the people and community will be greatly missed.

During his life, Mr. Cunningham was a soldier, businessman, community leader, writer, lawyer and citizen of the year. His hometown newspaper, the Orangeburg Times and Democrat, summed up his life—Mr. Cunningham was, ''the definition of a Renaissance man.''

If there was a business or civic endeavor that would improve the life of his town and community, Mr. Cunningham was involved. From putting in new street lights to tackling the war on drugs on the streets of Orangeburg, Mr. Cunningham was proof that one person could make a difference.

Mr. Cunningham played an instrumental role in helping young, underprivileged, at-risk teenagers find employment and learn the value of hard work. In 1984, he was invited to the White House to meet with President Reagan who thanked him for participating in this program.

He was also a patron of the arts who supported and encouraged the choir at South Carolina State University, one of our Nation's foremost historically Black universities. The university awarded him its Distinguished Service Award in 1995.

Orangeburg, SC, has lost a fine citizen, friend, and community leader with the passing of Austin Cunningham. His life work deserves recognition on the contributions he made to his fellow citizens.

Our thoughts and prayers are with the family and citizens of Orangeburg, SC, on the passing of Austin Cunningham.●

TRIBUTE TO JAMIL SABA

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate Jamil Saba, who served as the sheriff of Dougherty County, GA, for more than two decades until he retired in December 2008.

Sheriff Saba was born and raised in Albany, GA, which is located in Dougherty County. He remained there, serving his community proudly. Jamil served his country in the U.S. Army from 1960 through 1962 and began his career in law enforcement in April of 1970 as a deputy Sheriff with the Dougherty County Sheriff's Office. He was later promoted to chief investigator in 1972, the job he held for more than a decade until he won election and became sheriff in 1985.

As a true leader, Sheriff Saba has served as president of the Georgia Sheriff's Association and president of the Georgia Sheriffs' Youth Homes, as well as on the Georgia Sheriffs' Retirement Board of Directors. He was a board member of the Georgia Public Safety Committee, the Dougherty County Child Abuse Protocol Committee, the Child Death Investigations Protocol Committee, Sexual Assault Protocol Committee, and many others.

His service efforts and accomplishments at the local level are plentiful as well. Jamil was the chairman of the advisory board for the Albany-Dougherty Drug Unit and is a charter member of the Albany Sports Hall of Fame.

Jamil worked tirelessly for Daugherty County as sheriff and plans to continue serving a cause that touched him the most deeply, the Georgia Sheriffs' Youth Homes Foundation Board. I want to recognize and thank his wife Donna Jaye Adams and their son, Jim, and daughter, Lauren, for making the sheriff's job easier and sharing him with the community. I hope you all find joy in the coming years together during Jamil's retirement.●

TRIBUTE TO JERRY L. LANCASTER

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate Jerry L. Lancaster, who served as the sheriff of Pulaski County, GA, for 28 years and retired on December 31, 2008.

Jerry was born and raised in Hawkinsville, GA, which is located in Pulaski County. He remained there in order to serve his community proudly for many years. Jerry worked with the Georgia State Patrol for nearly 10 years before being elected sheriff in 1980. As sheriff, he strived to live out the values he was taught as a child—hard work, fairness, honesty, respect, and discipline. His gifts to the community have been immeasurable. The level of respect the community has for him is evidenced in the fact that he is the longest serving sheriff in the history of the county and was never defeated in an election.

Jerry not only worked tirelessly for Pulaski County as sheriff, but he also gave of his time through his service on the Board of the Georgia Sheriff's Boys' Ranch. He gives credit to his wife Nell Goss Lancaster for her unfailing support, and I honor and thank her, their two children and three grandchildren for making Jerry's job easier and sharing him with the community. I hope you all find joy in the coming years together during Jerry's retirement.●

TRIBUTE TO GARY L. LEMONDS

● Mr. ISAKSON. Mr. President, today I wish to honor in the RECORD of the Senate SSG Gary Lemonds, a lifelong citizen of Walton County, real estate broker, and decorated Vietnam veteran who passed away on January 8, 2009.

Gary Lemonds served with Company F, 75th Ranger Regiment in Cu Chi, Vietnam, and was inducted into the Ranger Hall of Fame on August 25, 1994, at a ceremony in Fort Benning, GA. His induction was based on his involvement in a conflict with an armed hostile force in the Republic of Vietnam. Staff Sergeant Lemonds served as a team leader during an ambush patrol maneuver on April 9 and April 10, 1969. When an enemy force launched a massive attack, Sergeant Lemonds led his men in an assault on the enemy emplacements. He single-handedly charged a bunker and destroyed it with

grenades, then, sighting another fortification, he crawled through fierce enemy fire and silenced it with his rifle. After eliminating the hostile entrenchment system, he continued his patrol mission. On April 10, 1969, his patrol was attacked a second time. From his patrol position in a bomb crater, he called in artillery and air support on the large enemy element. When withdrawing his troops to a nearby landing zone for evacuation, he came under sniper fire from two North Vietnamese soldiers, whom he quickly eliminated with a grenade. Intense enemy fire thwarted the extraction aircraft's first landing attempt, so he directed a gun ship on the enemy location and effected a successful extraction.

His extraordinary heroism earned him the Distinguished Service Cross, a Silver Star, two Bronze Stars, three Purple Hearts as well as numerous other awards and medals. He also continued to honor other service men and women well after his tour in Vietnam through his involvement with the Patriot Guard Riders.

Gary is survived by two daughters and a son-in-law, Kimberly Lemonds and Jennifer and Jason Needham; his mother Dorothy Lemonds; sister and brother-in-law Glenda and Tom Lewis; grandchildren Jessica Lemonds, John Cwiek, and Pressley Needham, and a niece and nephew. Along with Gary, I would like to recognize his family today and thank them for sharing their beloved family member with our proud Nation.●

REMEMBERING JOHN A. BAKER

● Ms. MURKOWSKI. Mr. President, I wish to praise a citizen from my State who recently passed away. In December John A. Baker who was loved and respected by those who knew and worked with him lost his battle with pancreatic cancer.

John A. Baker is survived by his wife Judy of 42 years, son Jesse M. Baker Sr., daughter Leslie Cummings, grandchildren Maria Graham, April Blakemore, Jesse M. Baker Jr., great grandson Joseph, mother-in-law Lenora Moore, sister-in-law Susan Wooden, nephews Jim and Mark Wooden, great niece Marina Lenora Wooden, brother-in-law Charles Moore, nephews Richard, Ryan, Mathew, and Kyle Moore. John is also survived by sister Lena Susort, brother Cecil Baker, nieces Lavonne Ruggles, Mary Beth Dagit, Barbara Collins and nephew Frank Baker, and several great, great great nieces and nephews.

John A. Baker was like many Alaskans. He was born in Iowa in 1937 and graduated from Everett High School in Everett, Washington in 1949 before finding his way to our great State. I have to tell you, what was Washington and Iowa's loss, was Alaska's gain.

John found his way to Alaska after serving in the U.S. Army in Australia during the Korean conflict. Upon coming to Alaska he first worked in Ketchikan where he was employed by Ketchikan Soda Works. He also flew part time for Weber Air and worked at Ellis Airlines as a mechanic in the landing gear section where he met and later partnered with Chuck Traylor.

He and Chuck Traylor formed a floatplane operation, Stikine Air Service, out of Wrangell in 1962. John held both an airframe and power plant mechanic license and was one of our Alaskan bush pilots. After selling his interest in the Stikine Air Service he moved to Juneau to work for Channel Flying Service.

John met Judy Moore Churchill in 1964, they were married on March 11, 1966, and moved to Juneau. After 3 years John and Judy returned to Wrangell where John worked at Wrangell's first television station. In conjunction with John's position at the TV station Judy opened Forget-Me-Not Florist, which provided many, many flower arrangements that went to the grand opening of the brand new saw mill office and other businesses in town.

Always the entrepreneurs and getting tired of never being able to purchase milk at the end of the week, John and Judy rented a small building from C.V. Hendersen and began a home milk delivery and small ''cash and carry'' market. As things changed John, along with wife, Judy entered the field of rentals and real estate where they devoted over 35 years of their lives and presently own Grand View Bed and Breakfast which overlooks Zimovia Strait and the Elephants' Nose. Also, during this time John continued to occasionally fly for Stikine Air Service and worked as a truck driver on the North Slope until his retirement.

During this time Judy also served as the business manager for the Wrangell District of the U.S. Forest Service where she and John served as surrogate parents and guardians for many of the new Forest Service employees and couples who came to Alaska to work in the Wrangell Ranger District. It was through their wisdom and kindness and John's sense of humor that dozens of young families learned how to assimilate themselves into the Wrangell community.

John was a 1961 active Past Master Mason of the Ketchikan Masonic Lodge No. 19, a member of Ducks Unlimited, Muskeg Meadows Golf Club, Friends of the Museum, Wrangell Elks Lodge No. 1595, Pioneers of Alaska Igloo No. 15, and a member of Teamsters Local 959. He served on the Inter-Island Ferry Authority from its inception until 1999. John also spent many volunteer hours working as a docent at the Wrangell Museum when tour ships were in.

John was also a man who invested in his community. He served on the Wrangell City Council five different times including: October 1989–October 1990; November 1993–October 1994; October 1994–October 1997; January 1998–October 1998; and finally from April 1999–October 1999.

As I said, the Bakers are well known in Wrangell for helping young couples new to Alaska learn the ways of Alaska as well as for John's sense of humor. When asked why he moved to Wrangell he would always tell people it was his ''youthful exuberance.'' And when asked in the 1980s why he had decided to work on the Alaska pipeline instead of continuing his flying career he simply said ''there are not many old, bold, pilots in Alaska—besides work on the pipeline paid more.''

Judy and John were always willing to lend a hand and help their neighbors and to make their community—Wrangell—a better place for everyone to live. John invested himself in southeast Alaska and made Wrangell a ''better community'' and made all that knew him ''better people.'' He will be missed by his family and friends and most importantly by his loving wife of 42 years, Judy. God grant him his just reward, he will be missed in Wrangell and in the hearts of those who knew him—God's speed John Baker, may the wind always be under your wings.●

TRIBUTE TO FATHER NORMAN ELLIOTT

● Ms. MURKOWSKI. Mr. President, today I wish to celebrate the 90th birthday of one of Alaska's most beloved religious leaders, Father Norman Elliott. When people think of Alaska, they think of the natural beauty and skylines defined by mountains; rarely are the religious leaders that bind our lives together recognized for their devotion to our communities.

Father Elliott began his record of service in 1941 by enlisting in the U.S. Army, serving in Europe for 5 years. After the conclusion of World War II, he returned to school and earned his B.A., followed by a master of divinity from the Virginia Theological Seminary in Alexandria in 1951.

He knew from an early age that he wanted to serve as a missionary and began seeking an appointment overseas, hoping for a post in India or the Philippines. Retired Reverend William J. Gordon, Jr., the Bishop of Alaska, convinced him to serve in Alaska, a position that changed his life. Since 1952, he has served all over our State. Father Elliott was ordained in Anchorage at the All Saints' Episcopal Church, earned his pilot's license, and then was transferred to Fort Yukon, where he flew missions to nearby villages. He then spent some time in Fairbanks and Ketchikan before returning to Anchorage, where he forged a strong relationship between the Greek Orthodox

Church, the Jewish Congregation, and the All Saints' Episcopal Church.

He retired in 1990, but between almost daily visitations at the Providence Hospital and the Alaska Native Medical Centers, and his service as Chaplain at the Port of Anchorage, he can hardly be considered a retiree.

For more than 50 years, Father Elliott has been a beloved pastor and key leader in interreligious relationships throughout Alaska. I speak for so many Alaskans in wishing Father Norman Elliott a happy 90th birthday. We extend our best wishes to him for continued good health and good works.●

MESSAGE FROM THE HOUSE

At 4:16 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 350. An original bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 343. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage services of qualified respiratory therapists performed under the general supervision of a physician; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. LEVIN):

S. 344. A bill to require hedge funds to register with the Securities and Exchange Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, and Mr. KAUFMAN):

S. 345. A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes; to the Committee on Foreign Relations.

By Mr. WICKER (for himself, Mr. VITTER, Mr. DEMINT, Mr. ENZI, Mr. BROWNBACK, Mr. MARTINEZ, Mr. VOINOVICH, Mr. THUNE, Mr. COBURN, and Mr. INHOFE):

S. 346. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Mr. ROCKEFELLER):

S. 347. A bill to amend title 38, United States Code, to allow the Secretary of Veterans Affairs to distinguish between the severity of a qualifying loss of a dominant hand and a qualifying loss of a non-dominant hand for purposes of traumatic injury protection under Servicemembers' Group Life Insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 348. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 350. An original bill to provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health; from the Committee on Finance; placed on the calendar.

By Mr. ENSIGN (for himself and Mr. BAYH):

S. 351. A bill to require United States Government representatives to present to the Government of Iraq a plan to establish an oil trust; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. DORGAN, Mr. SCHUMER, Mr. KOHL, Mr. SANDERS, Mr. HARKIN, and Mr. CASEY):

S. 352. A bill to postpone the DTV transition date; considered and passed.

By Mr. BROWN (for himself and Mr. BOND):

S. 353. A bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. MENENDEZ, Mrs. MCCASKILL, Mr. CASEY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. SANDERS, Ms. STABENOW, and Mrs. GILLIBRAND):

S. 354. A bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 85

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 85, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 96

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 144

At the request of Mr. KERRY, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Kansas (Mr. ROBERTS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 195

At the request of Mr. DORGAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 195, a bill to extend oversight, accountability, and transparency provisions of the Emergency Economic Assistance Act of 2008 to all Federal emergency economic assistance to private entities, to impose tough conditions for all recipients of such emergency economic assistance, to set up a Federal task force to investigate and prosecute criminal activities that contributed to our economic crisis, and to establish a bipartisan financial market investigation and reform commission, and for other purposes.

S. 260

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 260, a bill to amend the Internal Revenue Code of 1986 to provide for the

taxation of income of controlled foreign corporations attributable to imported property.

S. 321

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 321, a bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes.

S. 340

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 340, a bill to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

S. 342

At the request of Ms. MURKOWSKI, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 342, a bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

S. RES. 25

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 25, a resolution expressing support for designation of January 28, 2009, as ''National Data Privacy Day''.

AMENDMENT NO. 39

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 39 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 74

At the request of Mr. BUNNING, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 74 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 80

At the request of Mr. HATCH, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Pennsylvania (Mr. CASEY), the Senator from Nebraska (Mr. NELSON) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 80 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 81

At the request of Mr. BUNNING, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of amendment No. 81 intended to be proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. LEVIN):

S. 344. A bill to require hedge funds to register with the Securities and Exchange Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRASSLEY. Mr. President, 3 years ago, I started conducting oversight of the Securities and Exchange Commission. That oversight began in response to a whistleblower who came to my office complaining that SEC supervisors were impeding an investigation into a major hedge fund.

Soon afterward, I came to the floor of the Senate to introduce an important piece of legislation based on what I learned from that oversight. The bill was aimed at closing a loophole in securities law that allows hedge funds to operate under the cloak of secrecy. Unfortunately, that bill, S. 1402, was never taken up by the Banking Committee in the last Congress.

In light of the current instability in our financial system, I think it is very critical for the Senate to deal with this issue and do it in the near future. Therefore, I am pleased Senator LEVIN, who is on the floor, and I worked together to produce an even better version of the bill than I introduced previously, and we are now doing that in the 111th Congress.

I thank Senator LEVIN because he is on a very important oversight committee as well and does a lot of oversight, as I do. I appreciate everything he does in maybe a lot of different areas than I do, but I appreciate working together with him on this issue.

This new bill, the Hedge Fund Transparency Act, does everything the previous version did, but it does more and does it better.

As in the previous version, it clarifies current law to remove any doubt that the Securities and Exchange Commission has the authority to require hedge funds to register—simply to register—so the Government knows who they are and what they are doing. It removes the loophole previously used by hedge funds to escape the definition of an ''investment company'' under the Investment Company Act of 1940.

Under this legislation, hedge funds that want to avoid the stringent requirements of the Investment Company Act will only be exempt if, one, they file basic disclosure forms; and two, cooperate with requests for information from the Securities and Exchange Commission.

I thank Senator LEVIN for not only cosponsoring this legislation but also contributing a key addition to this new version of the bill. In addition to requiring basic disclosure, this version also makes it clear that the hedge funds have the same obligations under our money laundering statutes as other financial institutions. They must report suspicious transactions and establish anti-money laundering programs.

One major cause of the current crisis is a lack of transparency. Markets need a free flow of reliable information to function properly. Transparency was the focus of our system of securities regulations adopted way back in the 1930s. Unfortunately, over time, the wizards on Wall Street figured out a million clever ways to avoid transparency. The result is the confusion and uncertainty fueling the crisis today that we see.

This bill is an important step toward renewing commitment to transparency on Wall Street and establishing credibility in our financial sector among the American populace. Unfortunately, there was not much of an appetite for this sort of commonsense legislation when I first introduced it before the financial crisis erupted. Hopefully, attitudes have changed, given all that has happened since the collapse of Bear Stearns last March. It is all very obvious to us, and particularly connected with the credit crunch and with the recession.

Hedge funds are pooled investment companies that manage billions of dollars for groups of wealthy investors, and do it in total secrecy. Hedge funds affect regular investors. They affect the market as a whole. My oversight of the SEC convinces me that the Commission needs much more information about the activities of hedge funds in order to protect the markets. Any group of organizations that can wield hundreds of billions of dollars in market power every day should be transparent and disclose basic information about their operations to the agency that Americans rely on as the watchdogs of our Nation's financial markets.

As I explained when I first introduced this bill, the Securities and Exchange Commission already attempted to oversee the hedge fund industry by regulation. Congress needs to act now because of a decision of a Federal appeals court. In 2006, the DC Circuit Court of Appeals overturned an SEC administrative rule requiring the registration of hedge funds. That decision effectively ended all registration of hedge funds with the Securities and Exchange Commission, unless and until we in Congress take action.

The Hedge Fund Transparency Act would respond to that court decision by, one, including hedge funds in the definition of investment company; and

two, bringing much needed transparency to this supersecretive industry. The Hedge Fund Transparency Act is a first step in ensuring that the Securities and Exchange Commission has clear authority to do what it has already tried to do. Congress must act to ensure that our laws are kept up to date as new types of investments appear.

Unfortunately, this legislation hasn't had many friends. These funds don't want people to know what they do or who participates in them. They have fought hard to keep it that way. Well, I think that is all the more reason to shed some light—particularly some sunlight—on them to see what they are doing.

So I urge my colleagues to cosponsor and support this legislation, to support Senator LEVIN of Michigan and me in this effort as we work to protect all taxpayers, large and small.

Once again I thank Senator LEVIN. And before I yield the floor, Mr. President, I ask unanimous consent to have printed in the RECORD a background paper on the Hedge Fund Transparency Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEDGE FUND TRANSPARENCY ACT

Background: This bill is a revised version of S. 1402, which Sen. Grassley introduced in the 110th Congress. While the previous bill amended the Investment Advisers Act of 1940, this bill amends the Investment Company Act of 1940 (''ICA''). However, the purpose is the same: to make it clear that the Securities and Exchange Commission has the authority to require hedge fund registration. This version also adds a provision authored by Sen. Levin to require hedge funds to establish anti-money laundering programs and report suspicious transactions.

HEDGE FUND REGISTRATION REQUIREMENTS

Definition of an Investment Company: Hedge Funds typically avoid regulatory requirements by claiming the exceptions to the definition of an investment company contained in §3(c)(1) or §3(c)(7) of the ICA. This bill would remove those exceptions to the definition, transforming them to exemptions by moving the provisions, without substantive change, to new sections §6(a)(6) and §6(a)(7) of the ICA.

Requirements for Exemptions: An investment company that satisfies either §6(a)(6) or §6(a)(7) will be exempted from the normal registration and filing requirements of the ICA. Instead, a company that meets the criteria in §6(a)(6) or §6(a)(7) but has assets under management of $50,000,000 or more, must meet several requirements in order to maintain its exemption. These requirements include:

1. Registering with the SEC.
2. Maintaining books and records that the SEC may require.
3. Cooperating with any request by the SEC for information or examination.
4. Filing an information form with the SEC electronically, at least once a year. This form must be made freely available to the public in an electronic, searchable format. The form must include:

a. The name and current address of each individual who is a beneficial owner of the investment company.

b. The name and current address of any company with an ownership interest in the investment company.

c. An explanation of the structure of ownership interests in the investment company.

d. Information on any affiliation with another financial institution.

e. The name and current address of the investment company's primary accountant and primary broker.

f. A statement of any minimum investment commitment required of a limited partner, member, or investor.

g. The total number of any limited partners, members, or other investors.

h. The current value of the assets of the company and the assets under management by the company.

Timeframe and Rulemaking Authority: The SEC must issue forms and guidance to carry out this Act within 180 days after its enactment. The SEC also has the authority to make a rule to carry out this Act.

Anti-Money Laundering Obligations: An investment company exempt under §6(a)(6) or §6(a)(7) must establish an anti-money laundering program and report suspicious transactions under 31 U.S.C.A 5318(g) and (h). The Treasury Secretary must establish a rule within 180 days of the enactment of the Act setting forth minimum requirements for the anti-money laundering programs. The rule must require exempted investment companies to ''use risk-based due diligence policies, procedures, and controls that are reasonably designed to ascertain the identity of and evaluate any foreign person that supplies funds or plans to supply funds to be invested with the advice or assistance of such investment company.'' The rule must also require exempted investment companies to comply with the same requirements as other financial institutions for producing records requested by a federal regulator under 31 U.S.C. 5318(k)(2).

Mr. LEVIN. Mr. President, history has proven time and time again that the markets are not self-policing. Today's financial crisis is due in part to the Government's failure to regulate key market participants, including hedge funds that have become unregulated financial heavyweights in the U.S. economy. So I am joining today with my colleague Senator GRASSLEY of Iowa to introduce the Hedge Fund Transparency Act, and I thank Senator GRASSLEY for his leadership on this and in so many other areas involving oversight of our financial institutions.

Hedge funds sound complicated, but they are simply private investment funds in which investors have agreed to pool their money under the control of an investment manager. What distinguishes them from other investment funds is that hedge funds are typically open only to ''qualified purchasers,'' an SEC term referring to institutional investors such as pension funds and wealthy individuals with assets over a specified minimum amount. In addition, most hedge funds have 100 or fewer beneficial owners. By limiting the number of their beneficial owners and accepting funds only from investors of means, hedge funds have been able to qualify for the statutory exclusions provided in the Investment Company Act and avoid the obligation to comply with that law's statutory and regulatory requirements. In short, hedge funds have been able to operate outside of the reach of the Securities and Exchange Commission.

The primary argument for allowing these funds to operate outside SEC regulation and oversight is that because their investors are generally more experienced than the general public, they need fewer government protections and their investment funds should be permitted to take greater risks than investment funds open to the investing public which need greater SEC protection. Indeed, the ability of hedge funds to take on more risk is the very reason that many individuals and institutions choose to invest in them. These investors accept more risk because that might lead to bigger rewards.

The compensation system employed by most hedge funds encourages that risk taking. Typically, investors agree to pay hedge fund investment managers a management fee of 2 percent of the fund's total assets, plus 20 percent of the fund's profits. The hedge fund managers profit enormously if a fund does well, but due to the guaranteed management fee, get a hefty payment even when the fund underperforms or fails. The analysis up to now has been that if wealthy people want to take big risks with their money, all else being equal, they should be allowed to do so without the safeguards normally required for the general public.

So what is the problem with allowing their investment funds to operate outside of Federal regulation and oversight? The problem is that hedge funds have gotten so big and are so entrenched in U.S. financial markets that their actions can now significantly impact market prices, damage other market participants, and can even endanger the U.S. financial system and the economy as a whole.

The systemic risks posed by hedge funds first became obvious 10 years ago. Back then, Long-Term Capital Management—or LTCM—was a hedge fund that, at its peak, had more than $125 billion in assets under management and, due to massive borrowing, a total market position of $1.3 trillion. When it began to falter, the Federal Reserve worried that it might unload its assets in a rush, drive down prices, and end up damaging not only other firms but U.S. markets as a whole. To prevent a financial meltdown, the Federal Reserve worked with the private sector to engineer a rescue package.

That was just over a decade ago. Since then, according to a recent report issued by the Congressional Research Service, the hedge fund industry has expanded roughly tenfold. In 2006, the SEC testified that hedge funds represented 5 percent of all U.S. assets under management and 30 percent of all equity trading volume in the United States. By 2007, an estimated 8,000

hedge funds were managing assets totaling roughly $1.5 trillion. The most current estimate is that 10,000 hedge funds are managing approximately $1.8 trillion in assets, after suffering losses over the last year of over $1 trillion.

In addition, over the last 10 years, billions of dollars being managed by hedge funds have been provided by pension plans. A 2007 report by the U.S. Government Accountability Office found that the amount of money that defined benefit pension plans have invested in hedge funds has risen from about $3.2 billion in 2000 to more than $50 billion in the year 2006. That total is probably much higher now. And while most individual pension funds invest only a small slice of their money in hedge funds, a few go farther. For example, according to the GAO report, as of September 2006, the Missouri State Employees Retirement System had invested over 30 percent of its assets in hedge funds. Universities and charities have also directed significant assets to hedge funds. The result is that hedge fund losses threaten every economic sector in America, from the wealthy to the working class relying on pensions, to our institutions of higher learning, to our nonprofit charities.

A third key developed is that over the last 10 years, some of the largest U.S. banks and security firms have set up their own hedge funds and used them to invest not only client funds but also their own cash. In some cases, these hedge funds have commingled client and institutional funds and linked the fate of both to high-risk investment strategies. These hedge fund affiliates are typically owned by the same holding companies that own federally insured banks or federally regulated broker-dealers. Because of their ownership, their size and reach, their clientele, and the high-risk nature of their investments, the failure of hedge funds today can imperil not only their direct investors, but also the financial institutions that own them, that lent them money, or did business with them. From there, the effects can ripple through the markets and impact the entire economy.

It is time for Congress to step into the breach and establish clear authority for Federal regulation and oversight of hedge funds. That is the backdrop for the introduction of the Grassley-Levin Hedge Fund Transparency Act.

The purpose of this bill is to institute a reasonable and practical regulatory regime for hedge funds. The bill contains four basic requirements to make hedge funds subject to SEC regulation and oversight.

It requires them to register with the SEC, to file an annual disclosure form with basic information that will be made publicly available, to maintain books and records required by the SEC, and to cooperate with any SEC information request or examination.

In addition, the bill directs Treasury to issue a final rule requiring hedge funds to establish anti-money laundering programs and, in particular, to guard against allowing suspect offshore funds into the U.S. financial system. The Bush Administration issued a proposed anti-money laundering rule for hedge funds seven years ago, in 2002, but never finalized it. A 2006 investigation by the Permanent Subcommittee on Investigations, which I chair, showed how two hedge funds brought millions of dollars in suspect funds into the United States, without any U.S. controls or reporting obligations, and called on a bipartisan basis for the proposed hedge fund anti-money laundering regulations to be finalized, but no action was taken. Hedge funds are the last major U.S. financial players without anti-money laundering obligations, and it is time for this unacceptable regulatory gap to be eliminated.

Our bill imposes a set of basic disclosure obligations on hedge funds and makes it clear they are subject to full SEC oversight while, at the same time, exempting them from many of the obligations that the Investment Company Act imposes on other types of investment companies, such as mutual funds that are open for investment by all members of the public. The bill imposes a more limited set of obligations on hedge funds in recognition of the fact that hedge funds do not open their doors to all members of the public, but limit themselves to investors of means. The bill also, however, gives the SEC the authority it needs to impose additional regulatory obligations and exercise the level of oversight it sees fit over hedge funds to protect investors, other financial institutions, and the U.S. financial system as a whole.

The bill imposes these requirements on all entities that rely on Sections 80a–3(c)(1) or (7) to avoid compliance with the full set of the Investment Company Act requirements. A wide variety of entities invoke those sections to avoid those requirements and SEC oversight, and they refer to themselves by a wide variety of terms—hedge funds, private equity funds, venture capitalists, small investment banks, and so forth. Rather than attempt a futile exercise of trying to define the specific set of companies covered by the bill and thereby invite future claims by parties that they are outside the definitions and thus outside the SEC's authority, the bill applies to any investment company that has at least $50 million in assets or assets under its management and relies on Sections 80a–3(1) or (7) to avoid compliance with the full set of Investment Company Act requirements. Instead, those companies under the bill have to comply with a reduced set of obligations, which include filing an annual public disclosure form, maintaining books and records specified by the SEC, and cooperating with any SEC information request or examination.

Finally, our bill makes an important technical change. It moves paragraphs (c)(1) and (7)—the two paragraphs that hedge companies use to avoid complying with the full set of Investment Act Company requirements—from Section 80a–3 to Section 80a–6 of the Investment Company Act. While our bill preserves both paragraphs and makes no substantive changes to them, it moves them from the part of the bill that defines ''investment company'' to the part of the bill that exempts certain investment companies from the Investment Company Act's full set of requirements.

The bill makes this technical change to make it clear that hedge funds really are investment companies, and they are not excluded from the coverage of the Investment Company Act. Instead, they are being given an exemption from many of that law's requirements, because they are investment companies which voluntarily limited themselves to one hundred or fewer beneficial owner accepting funds only from investors of means. Under current law, the two paragraphs allow hedge funds to claim they are excluded from the Investment Company Act—they are not investment companies at all and are outside the SEC's reach. Under our bill, the hedge funds would qualify as investment companies—which they plainly are—but would qualify for exemptions from many of the Act's requirements by meeting certain criteria.

It is time to bring hedge funds under the federal regulatory umbrella. With their massive investments, entanglements with U.S. banks, securities firms, pension funds, and other large investors, and their potential impact on market equilibrium, we cannot afford to allow these financial heavyweights to continue to operate free of government regulation and oversight.

When asked at a recent hearing of the Senate Homeland Security and Government Affairs Committee whether hedge funds should be regulated, two expert witnesses gave the exact same one-word answer: ''Yes.'' One law professor, after noting that disclosure requirements don't apply to hedge funds, told the Committee: ''If you asked a regulator what . . . role did hedge funds play in the current financial crisis, I think they would look at you like a deer in the headlights, because we just don't know.'' It is essential that federal financial regulators know what hedge funds are doing and that they have the authority to prevent missteps and misconduct.

The Hedge Fund Transparency Act will protect investors, and it will help protect our financial system. I hope

our colleagues will join us in support of this bill and its inclusion in the regulatory reform efforts that Congress will be undertaking later this year.

By Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, and Mr. KAUFMAN):

S. 345 A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Tropical Forest and Coral Conservation Act of 2009, a bill to protect outstanding tropical forests and coral reefs in developing countries through Debt for Nature Swaps that then-Senator Biden and myself first passed more than ten years ago.

This bill reauthorizes a proven program which enjoys the ardent support of the Treasury Department and State Department for the third time since 1998. It will help developing countries reduce foreign debt and provide comprehensive environmental preservation programs to protect tropical forests and endangered marine habitats around the world. This bill will also serve as an important diplomatic tool to provide for our national security.

As one of the most successful U.S. conservation assistance programs, the agreements concluded under the Tropical Forest Conservation Act so far will together generate over $188 million to help conserve over 50 million acres of tropical forests in Asia, the Caribbean, Central and South America. In addition, private donors, including the Nature Conservancy, the World Wildlife Fund, the Wildlife Conservation Society, and Conservation International, have contributed more than $12 million to TFCA swaps, leveraging U.S. Government funds. This is an effective use of scarce Federal conservation dollars. But the rate of deforestation continues to accelerate across the globe.

This bill is an example of how we can use economic incentives and opportunities to change behavior and to influence personal and societal choices. Clearly, there are economic opportunities in clean energy sources, solar, wind and biofuels, and carbon sequestration and storage technologies. But improvements in farming and forestry practices may be among the lowest hanging fruit in the quest to deal with climate change.

During the global climate change discussions in the late 1990s in Kyoto, the concept of carbon sinks provided by forestry and agriculture was taken off the table. Last year during the Bali discussions, the topic of carbon sequestration through forestry and agricultural practices was revived. This is an important development, and it should be embraced by the United States.

Also alarming is the rapid rate of coral reef and coastal exploitation. The burden of foreign debt falls especially hard on nations with few natural resources that often resort to harvesting or otherwise exploiting coral reefs and other marine habitats to earn hard currency to service foreign debt. According to the National Oceanic and Atmospheric Administration, NOAA, 61 percent of the world's coral reefs may be destroyed by the year 2050 if the present rate of destruction continues.

The Tropical Forest and Coral Conservation Act expands the current tropical forest conservation programs to include the protection and conservation of these vital coral ecosystems. This legislation will make available resources for environmental stewardship that would otherwise be of the lowest priority in a developing country. It will reduce debt by investing locally in programs that will strengthen indigenous economies by creating long-term management policies that will preserve the natural resources upon which local commerce is based.

Both Indonesia and Brazil have been declared eligible for Tropical Forest Conservation Act funds. Brazil is the second most populous nation in our hemisphere. It wields enormous influence over neighboring states in South America and has expressed interest in a leading global role. It would be a diplomatic mistake to hinder our outreach to a nation on an issue—conservation—where we have mutual goals. Similarly, we should not encumber conservation cooperation with one the largest democracies in the world, Indonesia. The United States cannot afford to squander diplomatic opportunities that allow us to establish working relationships with key agencies in such strategically important nations.

This legislation has enormous consequences for the existence of critical ecosystems, the health of our planet, the livelihoods of millions of people across the globe, and even the security of Americans here at home.

I would like to provide additional information about activities under this act.

Fourteen TFCA agreements have been concluded to date in Bangladesh, El Salvador, Belize, Peru, the Philippines, Panama, Guatemala, Colombia, Paraguay, Botswana, Costa Rica, and Jamaica. With the reauthorization of TFCA, the U.S. Government will be able to pursue agreements to conserve threatened coral reefs along with tropical forests.

The Tropical Forest and Coral Reef Conservation Act of 2009 authorizes appropriations for debt reduction for eligible countries at $25,000,000 in fiscal year 2009; $30,000,000 in fiscal year 2010; $30,000,000 in fiscal year 2011; and $30,000,000 in fiscal year 2012 subject to appropriations.

First, the bill authorizes a Debt Swap option under which a third party may purchase the debt of a TFCA-eligible country in exchange for the creation of a fund to support tropical forest or coral reef conservation. The terms of the agreement are negotiated with the country, the third party and the U.S. Government.

Under this option, there may be no cost to the United States Government because the financial assistance involved would come from nongovernmental or private entities. Third-party funding may be leveraged, in part, with U.S. Government appropriated funds.

Second, the bill authorizes a debt reduction option in which principal and interest payments due to the U.S. Government may be wholly or partially reduced. In return, the country accepts a new obligation to make payments to a conservation fund to be administered by a tropical forest or coral reef board within that country.

The bill authorizes appropriations to compensate the United States Treasury for the reduction in the revenues caused by TFCA debt treatment. However, these funds would be effectively leveraged because the amounts placed by an eligible country in its conservation fund would exceed the cost of debt reduction to the United States Treasury.

Third, under the Buy Back option, an eligible country is able to buy back its debt at its asset value in exchange for its willingness to place an additional amount based on the purchase price in local currency in a tropical forest fund.

Under this third option, there would be no cost to the United States Government since the debt is being bought back at its value as determined under the Federal Credit Reform Act of 1990.

The Tropical Forest Conservation and Coral Act applies to concessional loans made under the Foreign Assistance Act of 1961 and credits granted under the Agricultural Trade and Assistance Act of 1954. It is consistent with established Treasury Department debt reduction practices as well as with the Federal Credit Reform Act of 1990.

Within each developing country, the conservation fund would be administered by a commission representing a majority of local nongovernmental, community development and scientific and academic organizations, representatives of the host government and a representative of the United States Government.

The conservation fund could be used to provide grants for the following purposes: to preserve, maintain or restore the tropical forest or coral reef of the beneficiary country through establishing parks and reserves; to develop and implement scientifically sound systems of natural resource management; to provide training programs to strengthen the scientific, technical and managerial capacities of individuals

and organizations involved in conservation; to provide for restoration, protection and sustainable use of diverse animal and plant species; to provide research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health-related concerns; to develop and support individuals living in or near a tropical forest or coral reef, including the cultures of such individuals.

Oversight of this program would continue through multiple mechanisms including the following: funds for this program are subject to periodic formal evaluations and annual fund evaluations recently required as part of OMB's Program Assessment Rating Tool, PART. TFCA Evaluation Scorecard is completed each year on each TFCA Fund. The Evaluation Scorecard was developed to provide for consistent, on-going evaluation and reporting across local TFCA programs.

Local TFCA funds are subject to regular audits. In addition, the local board or oversight committee monitors performance under each grant agreement to make sure that time schedules and other performance goals are being achieved. Grant agreements include budgets, timelines, and provisions requiring periodic progress reports from the grantee to the board.

In addition, the U.S. Government uses the annual management budget provided by Congress to fund evaluations of local TFCA programs. Evaluations undertaken with these funds include local site visits to determine that activities are being carried out consistent with the terms of the TFCA agreement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tropical Forest and Coral Conservation Reauthorization Act of 2009''.

SEC. 2. AMENDMENT TO SHORT TITLE OF ACT TO ENCOMPASS EXPANDED SCOPE.

(a) IN GENERAL.—Section 801 of the Tropical Forest Conservation Act of 1998 (Public Law 87–195; 22 U.S.C. 2151 note) is amended by striking ''Tropical Forest Conservation Act of 1998'' and inserting ''Tropical Forest and Coral Conservation Act of 2009''.

(b) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Conservation Act of 1998'' shall be deemed to be a reference to the ''Tropical Forest and Coral Conservation Act of 2009''.

SEC. 3. EXPANSION OF SCOPE OF ACT TO PROTECT FORESTS AND CORAL REEFS.

(a) IN GENERAL.—Section 802 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431), as renamed by section 2(a), is amended—

(1) in subsections (a)(1), (a)(6), (a)(7), (b)(1), (b)(3), and (b)(4), by striking ''tropical forests'' each place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking ''resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops'' and inserting ''resources''; and

(B) in subparagraph (C), by striking ''farflung''; and

(3) in subsection (b)(2)—

(A) by striking ''tropical forests'' the first place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(B) by striking ''tropical forests'' the second place it appears and inserting ''areas'';

(C) by striking ''tropical forests'' the third place it appears and inserting ''tropical forests and coral reefs and their associated coastal marine ecosystems''; and

(D) by striking ''that have led to deforestation'' and inserting ''on such countries''.

(b) AMENDMENTS RELATED TO DEFINITIONS.—Section 803 of such Act (22 U.S.C. 2431a) is amended—

(1) in paragraph (5)—

(A) in the heading, by striking ''TROPICAL FOREST'' and inserting ''TROPICAL FOREST OR CORAL REEF'';

(B) in the matter preceding subparagraph (A), by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(C) in subparagraph (B)—

(i) by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(ii) by striking ''tropical forests'' and inserting ''tropical forests or coral reefs''

(2) by adding at the end the following new paragraphs:

''(10) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), and Coenothecalia (blue coral), of the class Anthoza; and

''(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

''(11) CORAL REEF.—The term 'coral reef' means any reef or shoal composed primarily of coral.

''(12) ASSOCIATED COASTAL MARINE ECOSYSTEM.—The term 'associated coastal marine ecosystem' means any coastal marine ecosystem surrounding, or directly related to, a coral reef and important to maintaining the ecological integrity of that coral reef, such as seagrasses, mangroves, sandy seabed communities, and immediately adjacent coastal areas.''.

SEC. 4. CHANGE TO NAME OF FACILITY.

(a) IN GENERAL.—Section 804 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431b), as renamed by section 2(a), is amended by striking ''Tropical Forest Facility'' and inserting ''Conservation Facility''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(8) of such Act (22 U.S.C. 2431a(8)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST FACILITY''; and inserting ''CONSERVATION FACILITY''; and

(2) by striking ''Tropical Forest Facility'' both places it appears and inserting ''Conservation Facility''.

(c) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Facility'' shall be deemed to be a reference to the ''Conservation Facility''.

SEC. 5. ELIGIBILITY FOR BENEFITS.

Section 805(a) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431c(a)), as renamed by section 2(a), is amended by striking ''tropical forest'' and inserting ''tropical forest or coral reef''.

SEC. 6. UNITED STATES GOVERNMENT REPRESENTATION ON OVERSIGHT BODIES FOR GRANTS FROM DEBT-FOR-NATURE SWAPS AND DEBT-BUYBACKS.

Section 808(a)(5) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431f(a)(5)), as renamed by section 2(a), is amended by adding at the end the following new subparagraph:

''(C) UNITED STATES GOVERNMENT REPRESENTATION ON THE ADMINISTERING BODY.—One or more individuals appointed by the United States Government may serve in an official capacity on the administering body that oversees the implementation of grants arising from a debt-for-nature swap or debt buy-back regardless of whether the United States is a party to any agreement between the eligible purchaser and the government of the beneficiary country.''.

SEC. 7. CONSERVATION AGREEMENTS.

(a) RENAMING OF AGREEMENTS.—Section 809 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431g), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST AGREEMENT**'' and inserting ''**CONSERVATION AGREEMENT**''; and

(2) in subsection (a)—

(A) by striking ''AUTHORITY'' and all that follows through ''(1) IN GENERAL.—The Secretary'' and inserting ''AUTHORITY.—The Secretary''; and

(B) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''.

(b) ELIMINATION OF REQUIREMENT TO CONSULT WITH THE ENTERPRISE FOR THE AMERICAS BOARD.—Such subsection is further amended by striking paragraph (2).

(c) ROLE OF BENEFICIARY COUNTRIES.—Such section is further amended—

(1) in subsection (e)(1)(C), by striking ''in exceptional circumstances, the government of the beneficiary country'' and inserting ''in limited circumstances, the government of the beneficiary country when needed to improve governance and enhance management of tropical forests or coral reefs or associated coastal marine ecosystems, without replacing existing levels of financial efforts by the government of the beneficiary country and with priority given to projects that complement grants made under subparagraphs (A) and (B)''; and

(2) by amending subsection (f) to read as follows:

''(f) REVIEW OF LARGER GRANTS.—Any grant of more than $250,000 from a Fund must be approved by the Government of the United States and the government of the beneficiary country.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(2)(A)(i), by inserting ''to serve in an official capacity'' after ''Government'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''tropical forests'' and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems related to such coral reefs'';

(B) in paragraph (5), by striking ''tropical forest''; and

(C) in paragraph (6), by striking ''living in or near a tropical forest in a manner consistent with protecting such tropical forest'' and inserting ''dependent on a tropical forest or coral reef or an associated coastal marine ecosystem related to such coral reef and related resources in a manner consistent with conserving such resources''.

(e) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(7) of such Act (22 U.S.C. 2431a(7)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST AGREEMENT'' and inserting ''CONSERVATION AGREEMENT''; and

(2) by striking ''Tropical Forest Agreement'' both places it appears and inserting ''Conservation Agreement''.

SEC. 8. CONSERVATION FUND.

(a) IN GENERAL.—Section 810 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431h), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST FUND**'' and inserting ''**CONSERVATION FUND**''; and

(2) in subsection (a)—

(A) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''; and

(B) by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Such Act is further amended—

(1) in section 803(9) (22 U.S.C. 2431a(9))—

(A) in the heading, by striking ''TROPICAL FOREST FUND'' and inserting ''CONSERVATION FUND''; and

(B) by striking ''Tropical Forest Fund'' both places it appears and inserting ''Conservation Fund'';

(2) in section 806(c)(2) (22 U.S.C. 2431d(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''; and

(3) in section 807(c)(2) (22 U.S.C. 2431e(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

SEC. 9. REPEAL OF AUTHORITY OF THE ENTERPRISE FOR THE AMERICAS BOARD TO CARRY OUT ACTIVITIES UNDER THE TROPICAL FOREST AND CORAL CONSERVATION ACT OF 2009.

(a) IN GENERAL.—Section 811 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431i), as renamed by section 2(a), is repealed.

(b) CONFORMING AMENDMENTS.—Section 803 of such Act (22 U.S.C. 2431a), as renamed by section 2(a), is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

SEC. 10. CHANGES TO DUE DATES OF ANNUAL REPORTS TO CONGRESS.

Section 813 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431k), as renamed by section 2(a), is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—Not later than December 31'' and inserting ''Not later than April 15'';

(B) by striking ''Facility'' both places it appears and inserting ''Conservation Facility''; and

(C) by striking ''fiscal year'' both places it appears and inserting ''calendar year''; and

(2) by striking subsection (b).

SEC. 11. CHANGES TO INTERNATIONAL MONETARY FUND CRITERION FOR COUNTRY ELIGIBILITY.

Section 703(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2430b(a)(5)) is amended—

(1) by striking ''or, as appropriate in exceptional circumstances,'' and inserting ''or'';

(2) in subparagraph (A)—

(A) by striking ''or in exceptional circumstances, a Fund monitored program or its equivalent,'' and inserting ''or a Fund monitored program, or is implementing sound macroeconomic policies,''; and

(B) by striking ''(after consultation with the Enterprise for the Americas Board)''; and

(3) in subparagraph (B), by striking ''(after consultation with the Enterprise for Americas Board)''.

SEC. 12. NEW AUTHORIZATION OF APPROPRIATIONS FOR THE REDUCTION OF DEBT AND AUTHORIZATION FOR AUDIT, EVALUATION, MONITORING, AND ADMINISTRATION EXPENSES.

Section 806 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431d), as renamed by section 2(a), is amended—

(1) in subsection (d), by adding at the end the following new paragraphs:

''(7) $25,000,000 for fiscal year 2009.

''(8) $30,000,000 for fiscal year 2010.

''(9) $30,000,000 for fiscal year 2011.

''(10) $30,000,000 for fiscal year 2012.''; and

(2) by amending subsection (e) to read as follows:

''(e) USE OF FUNDS TO CONDUCT PROGRAM AUDITS, EVALUATIONS, MONITORING, AND ADMINISTRATION.—Of the amounts made available to carry out this part for a fiscal year, $300,000 is authorized to be made available to carry out audits, evaluations, monitoring, and administration of programs under this part, including personnel costs associated with such audits, evaluations, monitoring and administration.''.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 348. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I am proud to reintroduce, with my colleague Senator OLYMPIA SNOWE of Maine, a bipartisan effort to ensure that all universal service programs can continue to operate smoothly and effectively. While Congress has annually taken action to deal with this issue, our hope is to enact a permanent solution.

For many years, we have fought hard for universal service, including the E-Rate. It is essential for all of the universal service programs to operate in a timely manner.

The Universal Service Fund is accomplishing its mission, and every member who has worked with us should be proud of the progress of this program. Our country has a strong telecommunications network, and rural customers are getting service at affordable rates. Lifeline and Linkup programs help the poorest of customers keep basic telephone access which is essential in our modern world. Rural health care is helping connect our rural clinics to modern medicine and specialists.

In 1996, when the Telecommunications Act passed, only 14 percent of all classrooms were connected, while just 5 percent of the poorest classrooms were connected. The latest data is encouraging with 93 percent of all classrooms connected and 89 percent of the poorest classrooms connected. Since 1998, West Virginia schools and libraries have received over $101 million in E-Rate discounts. While this is an extraordinary success, the need for E-Rate discounts remains because schools and libraries face monthly telecommunication costs and Internet access fees. Additionally, every school and library will periodically need to upgrade its internal connections as the demand of technology grows and institutions need greater bandwidth to handle ever increasing demand. At the beginning of the debates in 1996, schools were talking about dial-up access, now every school wants—and needs—broadband.

This legislation gives the Universal Service Fund a permanent exemption from the Antideficiency Act which will provide sustainability and consistency for the program. Over the last few years, we have done one-year exemptions. Other Federal programs have permanent exemptions for the Antideficiency Act, and it is common sense to grant an exemption for the Universal Service Fund.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce legislation that would establish the Susquehanna Gateway National Heritage Area in York and Lancaster Counties, Pennsylvania. Since 1984, Congressionally-designated National Heritage Areas have fostered partnerships between the public and private sectors for undertaking preservation, educational, and recreational initiatives in diverse regions throughout the country. Through these efforts, National Heritage Areas have helped to protect our nation's natural and cultural resources while promoting local economic development. Today, I am proud once again to join my colleague from Pennsylvania Senator ARLEN SPECTER to propose a bill that would grant national recognition to the Susquehanna Gateway region, an area that has played a key role in the development of our nation's cultural, political, and economic identity.

As the Senate continues its work in the 111th Congress, I look forward to working with my colleagues to pass the Susquehanna Gateway National Heritage Area Act soon so that the region

can begin to play a national role in sharing America's story.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Susquehanna Gateway National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) numerous sites of significance to the heritage of the United States are located within the boundaries of the proposed Susquehanna Gateway National Heritage Area, which includes the Lower Susquehanna River corridor and all of Lancaster and York Counties in the State of Pennsylvania;

(2) included among the more than 200 historically significant sites, structures, districts, and tours in the area are—

(A) the home of a former United States President;

(B) the community where the Continental Congress adopted the Articles of Confederation;

(C) the homes of many prominent figures in the history of the United States;

(D) the preserved agricultural landscape of the Plain communities of Lancaster County, Pennsylvania;

(E) the exceptional beauty and rich cultural resources of the Susquehanna River Gorge;

(F) numerous National Historic Landmarks, National Historic Districts, and Main Street communities; and

(G) many thriving examples of the nationally significant industrial and agricultural heritage of the region, which are collectively and individually of significance to the history of the United States;

(3) in 1999, a regional, collaborative public-private partnership of organizations and agencies began an initiative to assess historic sites in Lancaster and York Counties, Pennsylvania, for consideration as a Pennsylvania Heritage Area;

(4) the initiative—

(A) issued a feasibility study of significant stories, sites, and structures associated with Native American, African-American, European-American, Colonial American, Revolutionary, and Civil War history; and

(B) concluded that the sites and area—

(i) possess historical, cultural, and architectural values of significance to the United States; and

(ii) retain a high degree of historical integrity;

(5) in 2001, the feasibility study was followed by development of a management action plan and designation of the area by the State of Pennsylvania as an official Pennsylvania Heritage Area;

(6) in 2008, a feasibility study report for the Heritage Area—

(A) was prepared and submitted to the National Park Service—

(i) to document the significance of the area to the United States; and

(ii) to demonstrate compliance with the interim criteria of the National Park Service for National Heritage Area designation; and

(B) found that throughout the history of the United States, Lancaster and York Counties and the Susquehanna Gateway region have played a key role in the development of the political, cultural, and economic identity of the United States;

(7) the people of the region in which the Heritage Area is located have—

(A) advanced the cause of freedom; and

(B) shared their agricultural bounty and industrial ingenuity with the world;

(8) the town and country landscapes and natural wonders of the area are visited and treasured by people from across the globe;

(9) for centuries, the Susquehanna River has been an important corridor of culture and commerce for the United States, playing key roles as a major fishery, transportation artery, power generator, and place for outdoor recreation;

(10) the river and the region were a gateway to the early settlement of the ever-moving frontier;

(11) the area played a critical role as host to the Colonial government during a turning point in the Revolutionary War;

(12) the rural landscape created by the Amish and other Plain people of the region is of a scale and scope that is rare, if not entirely unknown in any other region, in the United States;

(13) for many people in the United States, the Plain people of the region personify the virtues of faith, honesty, community, and stewardship at the heart of the identity of the United States;

(14) the regional stories of people, land, and waterways in the area are essential parts of the story of the United States and exemplify the qualities inherent in a National Heritage Area;

(15) in 2008, the National Park Service found, based on a comprehensive review of the Susquehanna Gateway National Heritage Area Feasibility Study Report, that the area meets the 10 interim criteria of the National Park Service for designation of a National Heritage Area;

(16) the preservation and interpretation of the sites within the Heritage Area will make a vital contribution to the understanding of the development and heritage of the United States for the education and benefit of present and future generations;

(17) the Secretary of the Interior is responsible for protecting the historic and cultural resources of the United States;

(18) there are significant examples of historic and cultural resources within the Heritage Area that merit the involvement of the Federal Government, in cooperation with the management entity and State and local governmental bodies, to develop programs and projects to adequately conserve, support, protect, and interpret the heritage of the area;

(19) partnerships between the Federal Government, State and local governments, regional entities, the private sector, and citizens of the area offer the most effective opportunities for the enhancement and management of the historic sites throughout the Heritage Area to promote the cultural and historic attractions of the Heritage Area for visitors and the local economy; and

(20) the Lancaster-York Heritage Region, a 501(c)(3) nonprofit corporation and State-designated management entity of the Pennsylvania Heritage Area, would be an appropriate management entity for the Heritage Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 4(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the management entity under section 6(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT OF SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) IN GENERAL.—There is established in the State the Susquehanna Gateway National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include a core area located in south-central Pennsylvania consisting of an 1869-square-mile region east and west of the Susquehanna River and encompassing Lancaster and York Counties.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file in the appropriate offices of the National Park Service.

SEC. 5. DESIGNATION OF MANAGEMENT ENTITY.

(a) MANAGEMENT ENTITY.—The Lancaster-York Heritage Region shall be the management entity for the Heritage Area.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this Act—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to pay for operational expenses of the management entity;

(3) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(4) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(5) to hire and compensate staff;

(6) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(7) to contract for goods and services.

(c) DUTIES OF MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare a management plan for the Heritage Area in accordance with section 6;

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) the entities to which the management entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or any interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) CONTENTS.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this Act, including recommendations for the role of the National Park Service in the Heritage Area.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the management entity may not receive additional funding under this Act until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the management entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the management entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this Act may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using funds made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, today, along with Senators WHITEHOUSE, MURRAY, CARDIN and DODD, I am introducing a bill to triple the number of Foreign Service officers working with USAID.

As we take stock of America's image in the world, it's clear that we need to do more to help countries stabilize their society and their economy.

Our own security depends on the stability of far-flung places beyond our borders.

America's generosity and ability to help other countries is becoming more important to the effectiveness of our foreign policy.

In the U.S., the responsibility for development falls largely to the U.S. Agency for International Development, or USAID.

USAID was founded by the Kennedy administration in 1961. It became the first U.S. foreign assistance organization with the primary goal of long term economic and social development efforts overseas.

During its first decade, it had more than 5,000 Foreign Service Officers serving all over the world, often in the most difficult of conditions.

Today—at a time when the U.S. needs to show its leadership overseas more than ever—USAID operates with just 1,000 Foreign Service Officers.

With so few people to deploy, our hands are tied and we're missing opportunities to build bridges and foster diplomacy.

For example, more than seven years after U.S. took military action in Afghanistan, the Taliban and al Qaeda continue to undermine progress toward a more stable state.

Our military has done a heroic job in Afghanistan. But success in Afghanistan also depends on improving the lives of the Afghan people—jobs, agriculture, stability, and a functional government.

We have not done enough to win the hearts and minds of the Afghan people. And the military cannot bear this burden alone.

The last time I went to Afghanistan there were only six American agricultural experts for the entire country—I think today there are only slightly more.

For a nation with an agricultural economy and record poppy harvest, we have been able to lend just a handful of agricultural development experts.

Secretary of Defense Robert Gates understands this critical need to partner our military efforts with civilian development expertise. Last month he said:

> The problem is that the civil side of our government—the Foreign Service and foreign-policy side, including our aid for international development—[has] been systematically starved of resources for a quarter of a century or more . . . We have not provided the resources necessary, first of all, for our diplomacy around the world; and second, for communicating to the rest of the world what we are about and who we are as a people.

Many people on both sides of the aisle agree that USAID is no longer equipped to do its job effectively. We simply are not meeting the international development goals of the United States.

USAID has been shortchanged—and America's efforts abroad have suffered as a result.

Now we have a lot of needs here at home, to be sure. But one important lesson of the last few years is that America must be engaged if we are to remain a leader in world affairs.

The Increasing America's Global Development Capacity Act of 2009 would take the first step toward putting the Agency for International Development on firmer footing. As Secretary Clinton said in her remarks to USAID employees last week, it is ironic that that our very best young military leaders are given unfettered resources to spend as they see fit to build a school, to open a health clinic, to pave a road, and our diplomats and development experts have to go through miles of paperwork to spend ten cents. Secretary Clinton said, and I agree, that this is not a sensible approach.

The bill would authorize USAID to hire an additional 700 Foreign Service Officers this year. This would basically double the current number of development officers available to work in targeted countries.

This is fundamental to rebuilding the agency's capacity.

Senator LEAHY, Chair of the Foreign Operations Appropriations Subcommittee, shares a commitment to rebuilding USAID. I am heartened by the Subcommittee's recommended increase in funding for USAID's operating expenses for fiscal year 2009. This was a priority for me in the bill, and Chairman LEAHY has been very supportive.

My bill also would establish a goal of hiring an additional 1,300 Foreign Service Officers by 2012.

After three years, USAID would have more than 3,000 talented, committed Americans serving in the world's most difficult locations helping to improve the lives of others. It won't be the 5,000 experts of the 1960s, but it will be a big improvement from today.

With a stronger development work force, we can send talented public servants to help improve child and maternal health, treat people with AIDS, TB and malaria, provide clean water and sanitation, help farmers and women start or improve their business, and assist reformers and civic leaders to build stronger democratic institutions.

We all recall the renewed interest in public service that emerged after 9/11—many of those people have answered the call, and I bet there are as many more who would welcome an opportunity to serve.

Foreign development assistance is as important a foreign policy tool as diplomacy and defense.

Secretary of Defense Robert Gates is perhaps the most persuasive advocate for rebuilding our civilian development capacity. He argues that we need to engage in non-military ways to pursue global development goals.

The civilian instruments of national security—diplomacy, development assistance, sharing expertise on civil society—are becoming more and more important.

Secretary Gates argues that these tools are good for the world's poor, our national security, and our country.

I agree.

Let us take one concrete step to rebuild that important civilian capacity, which would help improve our ability to help the world's poorest countries and people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing America's Global Development Capacity Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) foreign development assistance is an important foreign policy tool in addition to diplomacy and defense;

(2) development assistance is part of any comprehensive United States response to regional conflicts, terrorist threats, weapons proliferation, disease pandemics, and persistent widespread poverty;

(3) in 2002 and 2006, the United States National Security Strategy included global development, along with defense and diplomacy, as the 3 pillars of national security;

(4) in its early years, the United States Agency for International Development (referred to in this Act as ''USAID'') had more than 5,000 full-time Foreign Service Officers;

(5) in 2008, USAID had slightly more than 1,000 full-time Foreign Service Officers;

(6) the budget at USAID, calculated in real dollars, has dropped 27 percent since 1985;

(7) this decline in personnel and operating budgets has diminished the capacity of USAID to provide development assistance and implement foreign assistance programs; and

SEC. 3. HIRING OF ADDITIONAL FOREIGN SERVICE OFFICERS AS USAID EMPLOYEES.

(a) INITIAL HIRINGS.—Except as provided under subsection (c), not later than 1 year after the date of the enactment of this Act, the Administrator of USAID (referred to in this section as the ''Administrator'') shall increase by not less than 700 the total number of full-time Foreign Service Officers employed by USAID compared to the number of such officers employed by USAID on September 30, 2008. These officers shall be used to enhance the ability of USAID to—

(1) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(2) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(3) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient.

(b) SUBSEQUENT HIRINGS.—

(1) IN GENERAL.—Except as provided under subsection (c), during the 2-year period beginning 1 year after the date of the enactment of this Act, the Administrator shall increase by not less than 1,300 the total number of full-time Foreign Service Officers over the number of such officers at the beginning of such 2-year period to carry out the activities described in subsection (a), contingent upon sufficient appropriations.

(2) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current USAID employees with technical, management, leadership, and language skills;

(B) a staffing plan for the subsequent 5 years; and

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans.

(c) EXCEPTION.—If the Administrator determines that USAID has competing needs that are more urgent than the hirings described in subsection (a) or (b), or finds a shortage of qualified individuals for such hirings, the Administrator may reduce the number of such hirings and use the available funds for competing needs if the Administrator submits a report describing such competing needs and, if applicable, the nature of the shortage, to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on Foreign Relations of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on Foreign Affairs of the House of Representatives.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, I rise today to introduce the Community Choice In Real Estate Act of 2009. I am pleased to have Senator BURR join me in introducing this bill. In previous Congresses, this bill was introduced by former Senators Allard and Clinton, and I am happy to continue their efforts.

The Community Choice in Real Estate Act of 2003 would clarify Congressional intent that real estate brokerage and management are not financial activities and would therefore retain the separation of commerce and banking that was intended during consideration of the Gramm-Leach-Bliley Act.

The Gramm-Leach-Bliley Act got many things wrong when it repealed the firewall between the activities of banks and those of the stock market, bonds and insurance and allowed these institutions to engage in riskier activities. But one thing that it did get right was maintaining the firewalls separating the financial and commercial sectors.

We already have seen the damage to our economy and real estate market caused when banks began to engage in certain previously prohibited activities. If the firewall separating banking and commerce also were to be torn down, it would further undermine banks' ability to be neutral arbiters of capital and lend based on financial principles and without bias. The S&L crisis of the 1980's has already shown us what can happen when federal rules keeping financial services separate from commercial activities are weakened.

Real estate brokerage and management have always been considered by Congress to be commercial transactions, and not financial matters. This was further reflected when Congress specifically chose not to include real estate activities as one of the powers given to national banks and financial holding companies as part of Gramm-Leach-Bliley.

However, following the passage of that Act, the Federal Reserve and the Treasury Department proposed rules in response to a petition by some financial services entities that would have allowed them to own and operate local real estate brokerage and property management companies.

Since fiscal year 2003, Congress has included language in the annual appropriations bill for the Treasury Department to prevent the use of funds to implement these regulations. These have only been temporary fixes, however, and we ought to resolve this issue once and for all in the 111th Congress.

I urge my colleagues to support this legislation.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, our founding fathers did a remarkable job in drafting the United States Constitution and the Bill of Rights. Their work was so superb that in the 217 years since the ratification of the Bill of Rights, the Constitution has only been amended 17 times. But every so often, a situation arises that so clearly exposes a flaw in our constitutional structure that it requires a constitutional remedy.

Over the past several months, our country has witnessed multiple controversies surrounding appointments to vacant Senate seats by governors. The vacancies in Illinois and New York have made for riveting political theater, but lost in the seemingly endless string of press conferences and surprise revelations is the basic fact that the citizens of these states have had no say in who should represent them in the Senate. The same is true of the recent selections in Delaware and Colorado. That is why I will introduce today a constitutional amendment to end gubernatorial appointments to the U.S. Senate and require special elections to fill these vacancies, as is currently required for House vacancies. I am pleased that the recently elected Senator from Alaska, Senator BEGICH, and the distinguished senior Senator from Arizona, Senator MCCAIN, have agreed to be original cosponsors of the amendment.

I do not make this proposal lightly. In fact, I have opposed dozens of constitutional amendments during my time in the Senate, particularly those that would have interfered with the Bill of Rights. The Constitution should not be treated like a rough draft. Constitutional amendments should be considered only when a statutory remedy to a problem is not available, and when the impact of the issue at hand on the structure of our government, the safety, welfare, or freedoms of our citizens, or the survival of our democratic republic is so significant that an amendment is warranted. I believe this is such a case.

In 1913, the citizens of this country, acting through their elected state legislatures, ratified the 17th Amendment to the Constitution. Our esteemed colleague Senator BYRD, in Chapter 21 of his remarkable history of the United States Senate, lays out in fascinating detail the lengthy struggle to obtain for the citizens of this country the right to elect their Senators. The original Constitution, as we all know, gave state legislatures the right to choose the Senators for their states. While the first proposal to amend the Constitution to require the direct election of Senators was introduced in the House in 1826, the effort only really picked up steam after the Civil War.

As Senator BYRD recounts: ''In the post-Civil War period, state legislatures became increasingly subject to

intimidation and bribery in the selection of Senators.'' Nine cases of bribery came before the Senate between 1866 and 1906. And between 1891 and 1905, the state legislatures from 20 different states deadlocked 45 times when trying to pick a Senator. At one point, a Senate seat from Delaware remained vacant for 4 years because of deadlocks.

The political theater occasioned by these Senate appointment fights dwarfs even the extraordinary events we have witnessed in recent months. Senator BYRD quotes from an account by the historian George Haynes about efforts to select a Senator in Missouri in 1905:

Lest the hour of adjournment should come before an election was secured, an attempt was made to stop the clock upon the wall of the assembly chamber. Democrats tried to prevent its being tempered with; and when certain Republicans brought forward a ladder, it was seized and thrown out of the window. A fist-fight followed, in which many were involved. Desks were torn from the floor and a fusillade of books began. The glass of the clock-front was broken, but the pendulum still persisted in swinging until, in the midst of a yelling mob, one member began throwing ink bottles at the clock, and finally succeeded in breaking the pendulum. On a motion to adjourn, arose the wildest disorder. The presiding officers of both houses mounted the speaker's desk, and, by shouting and waving their arms, tried to quiet the mob. Finally, they succeeded in securing some semblance of order.

Popular sentiment for direct election of Senators slowly grew in response to events like these. Some states held popular referenda on who should be Senator and attempted to require their legislatures to select the winners of those votes. More and more Senators were chosen in such processes, leading to more support in the Senate for a constitutional amendment. Congress finally acted in 1911 and 1912. There was high drama in the Senate as Vice President James Schoolcraft Sherman broke a tie on a crucial substitute amendment offered by Senator Joseph Bristow of Kansas during Senate consideration of the joint resolution. A few days of parliamentary wrangling ensued over whether the Vice President's tie breaking role in the Senate extends to such situations, and that precedent still stands today. In May 1912, an impasse of almost a year was broken and the House receded to the Senate version of the amendment, allowing it to be sent to the States for ratification. Less than a year later, on April 8, 1913, Connecticut became the 36th State to ratify the amendment, and it became the 17th Amendment to the Constitution.

I recount this summary of the history of the 17th Amendment, and again, I commend to my colleagues Senator BYRD's chapter on the subject, first to make the point that even though it seems obvious to us that the Senate should be elected by the people, the struggle for that right was not easy or fast. But the cause was just and in the end the call for direct elections was too strong to be ignored. I believe the same result will occur here. It may take time, but in the end, I am confident that the principle that people must elect their representatives will prevail.

Second, this history shows that the public's disgust with the corruption, bribery, and political chicanery that resulted from having Senators chosen by state legislatures was a big motivation for passing the amendment. Gubernatorial appointments pose the same dangers, and demand the same solution—direct elections.

Finally, the history indicates that the proviso in the 17th amendment permitting gubernatorial appointments to fill temporary vacancies was not the subject of extensive debate in the Congress. The proviso originated in the substitute amendment offered by Senator Bristow. The Bristow substitute was designed, its sponsor explained, to ''make[] the least possible change in the Constitution to accomplish the purposes desired; that is the election of Senators by popular vote.'' Most significantly, it deleted a provision in the resolution as originally introduced that year that would have amended Article I, section 4 of the Constitution to remove Congress's supervisory authority to make or alter regulations concerning the time and manner of Senate elections.

The proviso, explained Senator Bristow, ''is practically the same provision which now exists in the case of such a vacancy. The governor of the State may appoint a Senator until the legislature elects.'' Although significant debate over other provisions in the Bristow amendment is found in the Record before the climactic tie vote, which was broken by the Vice President, there seems to have been no further discussion of the proviso.

Thus, it appears that the proviso was simply derived from the original constitutional provision in Article I, Section 3, which gave the power to choose Senators to the state legislatures, but allowed governors to appoint temporary replacements when the legislatures were not in session. It was unremarkable at the time of the 17th Amendment to allow governors to have the same temporary replacement power once direct elections were required. That would explain the apparent lack of debate on the question. The long and contentious debate over the amendment was dominated by much more basic issues, such as whether the people should elect their Senators at all, and whether Congress should also amend the ''time, place, or manner clause'' of Article I, section 4.

Nearly 100 years later, that proviso has allowed a total of 184 Senators to be appointed by governors, and we have a situation in today's Senate where the people of four states, comprising over 12 percent of the entire population of the country, will be represented for the next two years by someone they did not elect. It is very hard to imagine that the Congress that passed the 17th Amendment and the states that ratified it would have been comfortable with such an outcome. Indeed, some argue that the intent of the 17th Amendment was that temporary appointments to fill early vacancies should last only until a special election can be scheduled, rather than for an entire two-year Congress until the next general election. A number of states have adopted that approach, but many have not.

That is not to say that the people appointed to Senate seats are not capable of serving, or will not do so honorably. I have no reason to question the fitness for office of any of the most recent appointees, and I look forward to working with them. But those who want to be a U.S. Senator should have to make their case to the people whom they want to represent, not just the occupant of the governor's mansion. And the voters should choose them in the time-honored way that they choose the rest of the Congress of the United States.

I want to make it clear that this proposal is not simply a response to these latest cases that have been in the news over the past few months. These cases have simply confirmed my longstanding view that Senate appointments by state governors are an unfortunate relic of the pre-17th Amendment era, when state legislatures elected U.S. Senators. Direct election of Senators was championed by the great progressive Bob La Follette, who served as Wisconsin's Governor and a U.S. Senator. Indeed, my State of Wisconsin is now one of only 4 States, Oregon, Massachusetts, and Alaska are the others, that clearly require a special election to fill a Senate vacancy in all circumstances.

The vast majority of states still rely on the appointment system, while retaining the right to require direct elections, as the Massachusetts legislature and the voters of Alaska have done in recent years. But changing this system state by state would be a long and difficult process, even more difficult than the ratification of a constitutional amendment, particularly since Governors have the power to veto state statutes that would take this power away from them. Furthermore, the burden should not be on Americans to pass legislation in their states protecting their fundamental voting rights—the right to elect one's representatives is a bedrock principle and should be reaffirmed in the nation's ruling charter.

We need to finish the job started by La Follette and other reformers nearly a century ago. Nobody can represent

the people in the House of Representatives without the approval of the voters. The same should be true for the Senate.

In the several days since I announced my intention to introduce this amendment, I have heard a number of arguments raised against it. I would like to briefly address them. First of all, some suggest this amendment is an overreaction to the headlines of the day. But there are several precedents for amending the provisions of the Constitution that relate to the structure of government based on specific events. The 22nd Amendment, limiting the presidency to two terms, passed in 1951 in response to President Franklin D. Roosevelt's four-term presidency. The 25th Amendment, revising presidential succession, was passed in 1967 in response to confusion that occurred after the assassination of President Kennedy. If events demonstrate that there is a problem with our government structure, sooner or later we must take steps to address those problems. There is no better time to do that than when the effects of the structural flaw are most evident and most prominently part of the public debate.

Another objection I have heard to this proposal is the potential financial burden on the states that must pay for special elections. As someone with a reputation for fiscal discipline, I always consider a proposal's impact on the taxpayer. But the cost to our democracy of continuing the anachronism of gubernatorial Senate appointments is far greater than the cost of infrequent special elections. And weighing the costs associated with the most basic tenet of our democracy—the election of the government by the governed—sets us on a dangerous path. Besides, the Constitution already requires special elections when a House seat becomes vacant, a far more frequent occurrence since there are so many more Representatives than Senators. I find the cost argument wholly unconvincing.

Another argument I have heard is that special elections garner very low turnouts, or favor wealthy or well known candidates. They are not particularly democratic, the argument goes. And that may very well be true. But they are a whole lot more democratic than the election held inside the mind of one decisionmaker—the governor. Special elections may not be ideal, but they are elections, and every voter has the opportunity to participate. As Winston Churchill said, ''It has been said that democracy is the worst form of government except all the others that have been tried.''

I have also heard the argument that the candidates for the special election will be selected by party bosses because there won't be time for a primary. That is simply not true. Under this amendment, each state can decide how to set up its special elections. My home State of Wisconsin provides for a special election within about 10 weeks of the vacancy, with a primary one month earlier. It's a compressed schedule to be sure, because the state doesn't want to be without representation for too long. But it can be done. I would hope that most states would want to hold primaries, but the point of this amendment is to make clear that only Senators who have been elected by the people can serve, not to micromanage how the states want to implement that requirement.

I believe the core issue here is whether we are going to have a government that is as representative of and responsive to the people as possible. The time to require special elections to fill Senate vacancies has come. Congress should act quickly on this proposal, and send it to the states for ratification.

AMENDMENTS SUBMITTED AND PROPOSED

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, supra.

SA 84. Mr. COBURN (for himself, Mr. BURR, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 85. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 86. Mr. COBURN (for himself, Mr. BURR, Mr. GREGG, Mr. MCCONNELL, Mr. ENZI, Mr. CORNYN, Mr. DEMINT, Mr. JOHANNS, Mr. KYL, Mr. ALEXANDER, Mr. GRAHAM, Mr. CHAMBLISS, Mr. THUNE, Mr. BARRASSO, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 87. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 88. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 89. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 90. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 91. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 92. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 93. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra.

SA 94. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 95. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 96. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 97. Mr. ROCKEFELLER (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, supra.

TEXT OF AMENDMENTS

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPLIANCE WITH STATE AND FEDERAL LAWS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider to reimburse such provider for providing an unemancipated minor with a prescription contraceptive drug or device, including the surgical insertion of a contraceptive device or an injection of a contraceptive drug, unless such provider complies with State and Federal child abuse, child molestation, sexual abuse, rape, statutory rape, and incest reporting laws.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2009''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSE.

It is the purpose of this Act to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION; CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.

(a) GENERAL EFFECTIVE DATE.—Unless otherwise provided in this Act, subject to subsections (b) through (d), this Act (and the amendments made by this Act) shall take effect on April 1, 2009, and shall apply to child health assistance and medical assistance provided on or after that date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, if funds are appropriated under any law (other than this Act) to provide allotments to States under CHIP for all (or any portion) of fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

(d) RELIANCE ON LAW.—With respect to amendments made by this Act (other than title VII) that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

TITLE I—FINANCING

Subtitle A—Funding

SEC. 101. EXTENSION OF CHIP.

Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by amending paragraph (11), by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(3) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $9,125,000,000;

''(13) for fiscal year 2010, $10,675,000,000;

''(14) for fiscal year 2011, $11,850,000,000;

''(15) for fiscal year 2012, $13,750,000,000; and

''(16) for fiscal year 2013, for purposes of making 2 semi-annual allotments—

''(A) $1,150,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

''(B) $1,150,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.''.

SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES FOR FISCAL YEARS 2009 THROUGH 2013.

Section 2104 (42 U.S.C. 1397dd) is amended—

(1) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)'';

(2) in subsection (c)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)(4)''; and

(3) by adding at the end the following new subsection:

''(m) ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) FOR FISCAL YEAR 2009.—

''(A) FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

''(i) The total Federal payments to the State under this title for fiscal year 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(ii) The Federal share of the amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iii) Only in the case of—

''(I) a State that received a payment, redistribution, or allotment under paragraph (1), (2), or (4) of subsection (h), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary;

''(II) a State whose projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the May 2006 estimates certified by the State to the Secretary, were at least $95,000,000 but not more than $96,000,000 higher than the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the November 2006 estimates, the amount of the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the May 2006 estimates; or

''(III) a State whose projected total Federal payments under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary, exceeded all amounts available to the State for expenditure for fiscal year 2007 (including any amounts paid, allotted, or redistributed to the State in prior fiscal years), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary,

multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iv) The projected total Federal payments to the State under this title for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

''(B) FOR THE COMMONWEALTHS AND TERRITORIES.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting 'the United States' for 'the State'.

''(C) ADJUSTMENT FOR QUALIFYING STATES.—In the case of a qualifying State described in paragraph (2) of section 2105(g), the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

''(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

''(i) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2010.—For fiscal year 2010, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

''(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

''(ii) REBASING IN FISCAL YEAR 2011.—For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

''(iii) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2012.—For fiscal year 2012, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

''(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

''(3) FOR FISCAL YEAR 2013.—

''(A) FIRST HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

''(B) SECOND HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

''(i) the amount of the allotment to such State under subparagraph (A); to

''(ii) the total of the amount of all of the allotments made available under such subparagraph.

''(C) FULL YEAR AMOUNT BASED ON REBASED AMOUNT.—The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

''(D) FIRST HALF RATIO.—The first half ratio described in this subparagraph is the ratio of—

''(i) the sum of—

''(I) the amount made available under subsection (a)(16)(A); and

''(II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to

''(ii) the sum of the—

''(I) amount described in clause (i); and

''(II) the amount made available under subsection (a)(16)(B).

''(4) PRORATION RULE.—If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2013, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

''(5) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

''(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

''(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census

before the beginning of the fiscal year involved, plus 1 percentage point.

''(6) INCREASE IN ALLOTMENT TO ACCOUNT FOR APPROVED PROGRAM EXPANSIONS.—In the case of one of the 50 States or the District of Columbia that—

''(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this title that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2013); and

''(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

''(i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year; and

''(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year, subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010 or fiscal year 2012.

''(7) AVAILABILITY OF AMOUNTS FOR SEMI-ANNUAL PERIODS IN FISCAL YEAR 2013.—Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2013 shall remain available for expenditure under this title for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.''.

SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.

Section 2104 (42 U.S.C. 1397dd), as amended by section 102, is amended by adding at the end the following new subsection:

''(n) CHILD ENROLLMENT CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Child Enrollment Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

''(B) AGGREGATE CAP.—The total amount available for payment from the Fund for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), taking into account deposits made under subparagraph (C), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) AVAILABILITY OF EXCESS FUNDS FOR PERFORMANCE BONUSES.—Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 2105(a)(3) for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

''(3) CHILD ENROLLMENT CONTINGENCY FUND PAYMENTS.—

''(A) IN GENERAL.—If a State's expenditures under this title in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, or a semi-annual allotment period for fiscal year 2013, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

''(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

''(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved (or in which the period occurs).

''(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this paragraph, the target average number of child enrollees for a State—

''(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

''(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

''(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

''(D) PRORATION RULE.—If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

''(E) TIMELY PAYMENT; RECONCILIATION.—Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 2105 shall apply to payments under this subsection in the same manner as they apply to payments under such section.

''(F) CONTINUED REPORTING.—For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.''.

SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

Section 2105(a) (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

''(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

''(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

''(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number

of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under the State plan under title XIX, respectively; exceeds

''(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under title XIX, respectively;

but not to exceed 10 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under title XIX as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) BASELINE NUMBER OF CHILD ENROLLEES.—Subject to subparagraph (H), the baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points;

''(II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points;

''(III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and

''(IV) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the fiscal year involved begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 2 percentage points.

''(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

''(i) INITIAL APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there are appropriated $3,225,000,000 for fiscal year 2009 for making payments under this paragraph, to be available until expended.

''(ii) TRANSFERS.—Notwithstanding any other provision of this title, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

''(I) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2009 THROUGH 2012.—As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2013.—As of December 31 of fiscal year 2013, the portion, if any, of the sum of the amounts appropriated under subsection (a)(16)(A) and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2013.—As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B) for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(II) UNEXPENDED ALLOTMENTS NOT USED FOR REDISTRIBUTION.—As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 2104 for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 2104(f) during the period in which such allotments are available for obligation.

''(III) EXCESS CHILD ENROLLMENT CONTINGENCY FUNDS.—As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 2104(n).

''(IV) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—As of October 1, 2011, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2011.

''(iii) PROPORTIONAL REDUCTION.—If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

''(F) QUALIFYING CHILDREN DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clauses (ii) and (iii), the term 'qualifying children' means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.

''(ii) LIMITATION.—A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a 'qualifying child' only if the child is determined to be eligible for medical assistance under title XIX.

''(iii) EXCLUSION.—Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v).

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—The provisions of subparagraph (G) of section 2104(n)(3) shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

''(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—In the case of a State that provides coverage under section 115 of the Children's Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

''(i) any child enrolled in the State plan under title XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and

''(ii) in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under title XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX for such third fiscal year.

''(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each

subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

''(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

''(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

''(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

''(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

''(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

''(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

''(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

''(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

''(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

''(i) IN GENERAL.—The State provides, in the case of renewal of a child's eligibility for medical assistance under title XIX or child health assistance under this title, a preprinted form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

''(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State's possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant's parent or caretaker relative.

''(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is implementing the option of providing premium assistance subsidies under section 2105(c)(10) or section 1906A.''.

SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.

(a) BEGINNING WITH FISCAL YEAR 2007.—

(1) IN GENERAL.—Section 2104(f) (42 U.S.C. 1397dd(f)) is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''States that have fully expended the amount of their allotments under this section.'' and inserting ''States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).''; and

(C) by adding at the end the following new paragraph:

''(2) SHORTFALL STATES DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

''(i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

''(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

''(iii) the amount of the State's allotment for the fiscal year.

''(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

''(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.

(b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C. 1397dd(k)) is amended—

(1) in the subsection heading, by striking ''THE FIRST 2 QUARTERS OF'';

(2) in paragraph (1), by striking ''the first 2 quarters of''; and

(3) in paragraph (6)—

(A) by striking ''the first 2 quarters of''; and

(B) by striking ''March 31'' and inserting ''September 30''.

SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN.

(a) IN GENERAL.—Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

(1) in paragraph (1)(A), as amended by section 201(b)(1) of Public Law 110–173—

(A) by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

(B) by striking ''2008, or 2009'' and inserting ''or 2008''; and

(2) by adding at the end the following new paragraph:

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2009 through 2013 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is repealed.

SEC. 108. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $13,700,000,000 to accompany the allotment made for the period beginning on October 1, 2012, and ending on March 31, 2013, under section 2104(a)(16)(A) of the Social

Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under paragraph (3) of section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(i)), as added by section 102, for the first 6 months of fiscal year 2013 in the same manner as allotments are provided under subsection (a)(16)(A) of such section 2104 and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(16)(A).

SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID.

(a) REMOVAL OF FEDERAL MATCHING PAYMENTS FOR DATA REPORTING SYSTEMS FROM THE OVERALL LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE XIX.—Section 1108(g) (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2009, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

(b) GAO STUDY AND REPORT.—Not later than September 30, 2010, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding Federal funding under Medicaid and CHIP for Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The report shall include the following:

(1) An analysis of all relevant factors with respect to—

(A) eligible Medicaid and CHIP populations in such commonwealths and territories;

(B) historical and projected spending needs of such commonwealths and territories and the ability of capped funding streams to respond to those spending needs;

(C) the extent to which Federal poverty guidelines are used by such commonwealths and territories to determine Medicaid and CHIP eligibility; and

(D) the extent to which such commonwealths and territories participate in data collection and reporting related to Medicaid and CHIP, including an analysis of territory participation in the Current Population Survey versus the American Community Survey.

(2) Recommendations regarding methods for the collection and reporting of reliable data regarding the enrollment under Medicaid and CHIP of children in such commonwealths and territories.

(3) Recommendations for improving Federal funding under Medicaid and CHIP for such commonwealths and territories.

Subtitle B—Focus on Low-Income Children and Pregnant Women

SEC. 111. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 112(a), is amended by adding at the end the following new section:

''SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

''(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR PREGNANT WOMEN AND CHILDREN.—The State has established an income eligibility level—

''(A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and

''(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

''(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

''(d) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

''(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

''(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that

provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting ''**OR PREGNANCY-RELATED ASSISTANCE**'' after ''**PREVENTIVE SERVICES**''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

(1) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF 2009.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2009, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only through December 31, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on the date of the enactment of this subsection and ending on December 31, 2009.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the year involved over the preceding year, as most recently published by the Secretary.

''(b) RULES AND CONDITIONS FOR COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN.—

''(1) TWO-YEAR PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2011.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during the third and fourth quarters of fiscal year 2009 and during fiscal years 2010 and 2011.

''(2) RULES FOR FISCAL YEARS 2012 THROUGH 2013.—

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 2104(a)(16) and any reduction in the allotment for either such period under section 2104(m)(4) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2012 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE

BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraph (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2013.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply. For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

''(v) NO FEDERAL PAYMENTS OTHER THAN FROM BLOCK GRANT SET ASIDE.—No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2011;

''(ii) implemented 1 or more of the enrollment and retention provisions described in section 2105(a)(4) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest ⅓ of States in terms of the State's percentage of low-income children without health insurance.

''(C) STATE INCREASING ENROLLMENT OF LOW-INCOME CHILDREN.—The State qualified for a performance bonus payment under section 2105(a)(3)(B) for the most recent fiscal year applicable under such section.

''(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect on October 1, 2008.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(i) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

(ii) in the first sentence, by inserting ''or a parent (as defined in section 2111(c)(2)(A)), who is not pregnant, of a targeted low-income child'' before the period;

(iii) by striking the second sentence; and

(iv) by adding at the end the following new paragraph:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009 that would waive or modify the requirements of section 2111.''.

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 112 of the Children's Health Insurance Program Reauthorization Act of 2009, nothing''.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of whether—

(A) the coverage of a parent, a caretaker relative (as such term is used in carrying out section 1931), or a legal guardian of a targeted low-income child under a State health plan under title XXI of the Social Security Act increases the enrollment of, or the quality of care for, children, and

(B) such parents, relatives, and legal guardians who enroll in such a plan are more likely to enroll their children in such a plan or in a State plan under title XIX of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall report the results of the study to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations (if any) for changes in legislation.

SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

(a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) [reserved]''.

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking ''so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance''.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) (42 U.S.C. 1396r–1(b)) is amended by adding after paragraph (2) the following flush sentence:

''The term 'qualified provider' also includes a qualified entity, as defined in section 1920A(b)(3).''.

SEC. 114. DENIAL OF PAYMENTS FOR COVERAGE OF CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for child health assistance furnished after the date of the enactment of this paragraph, no payment shall be made under this section for any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, has an approved State plan amendment or waiver to provide expenditures described in such subparagraph under the State child health plan.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as—

(1) changing any income eligibility level for children under title XXI of the Social Security Act; or

(2) changing the flexibility provided States under such title to establish the income eligibility level for targeted low-income children under a State child health plan and the methodologies used by the State to determine income or assets under such plan.

SEC. 115. STATE AUTHORITY UNDER MEDICAID.

(a) STATE AUTHORITY TO EXPAND INCOME OR RESOURCE ELIGIBILITY LEVELS FOR CHILDREN.—Nothing in this Act, the amendments made by this Act, or title XIX of the Social Security Act, including paragraph (2)(B) of section 1905(u) of such Act, shall be construed as limiting the flexibility afforded States under such title to increase the income or resource eligibility levels for children under a State plan or waiver under such title.

(b) STATE AUTHORITY TO RECEIVE PAYMENTS UNDER MEDICAID FOR PROVIDING MEDICAL ASSISTANCE TO CHILDREN ELIGIBLE AS A RESULT OF AN INCOME OR RESOURCE ELIGIBILITY LEVEL EXPANSION.—A State may, notwithstanding the fourth sentence of subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) or subsection (u) of such section—

(1) cover individuals described in section 1902(a)(10)(A)(ii)(IX) of the Social Security Act and thereby receive Federal financial participation for medical assistance for such individuals under title XIX of the Social Security Act; or

(2) receive Federal financial participation for expenditures for medical assistance under Medicaid for children described in paragraph (2)(B) or (3) of section 1905(u) of such Act based on the Federal medical assistance percentage, as otherwise determined based on the first and third sentences of subsection (b) of section 1905 of the Social Security Act, rather than on the basis of an enhanced FMAP (as defined in section 2105(b) of such Act).

SEC. 116. PREVENTING SUBSTITUTION OF CHIP COVERAGE FOR PRIVATE COVERAGE.

(a) FINDINGS.—

(1) Congress agrees with the President that low-income children should be the first priority of all States in providing child health assistance under CHIP.

(2) Congress agrees with the President and the Congressional Budget Office that the substitution of CHIP coverage for private coverage occurs more frequently for children in families at higher income levels.

(3) Congress agrees with the President that it is appropriate that States that expand CHIP eligibility to children at higher income levels should have achieved a high level of health benefits coverage for low-income children and should implement strategies to address such substitution.

(4) Congress concludes that the policies specified in this section (and the amendments made by this section) are the appropriate policies to address these issues.

(b) ANALYSES OF BEST PRACTICES AND METHODOLOGY IN ADDRESSING CROWD-OUT.—

(1) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives and the Secretary a report describing the best practices by States in addressing the issue of CHIP crowd-out. Such report shall include analyses of—

(A) the impact of different geographic areas, including urban and rural areas, on CHIP crowd-out;

(B) the impact of different State labor markets on CHIP crowd-out;

(C) the impact of different strategies for addressing CHIP crowd-out;

(D) the incidence of crowd-out for children with different levels of family income; and

(E) the relationship (if any) between changes in the availability and affordability of dependent coverage under employer-sponsored health insurance and CHIP crowd-out.

(2) IOM REPORT ON METHODOLOGY.—The Secretary shall enter into an arrangement with the Institute of Medicine under which the Institute submits to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives and the Secretary, not later than 18 months after the date of the enactment of this Act, a report on—

(A) the most accurate, reliable, and timely way to measure—

(i) on a State-by-State basis, the rate of public and private health benefits coverage among low-income children with family income that does not exceed 200 percent of the poverty line; and

(ii) CHIP crowd-out, including in the case of children with family income that exceeds 200 percent of the poverty line; and

(B) the least burdensome way to gather the necessary data to conduct the measurements described in subparagraph (A).

Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated $2,000,000 to carry out this paragraph for the period ending September 30, 2010.

(3) INCORPORATION OF DEFINITIONS.—In this section, the terms ''CHIP crowd-out'', ''children'', ''poverty line'', and ''State'' have the meanings given such terms for purposes of CHIP.

(4) DEFINITION OF CHIP CROWD-OUT.—Section 2110(c) (42 U.S.C. 1397jj(c)) is amended by adding at the end the following:

''(9) CHIP CROWD-OUT.—The term 'CHIP crowd-out' means the substitution of—

''(A) health benefits coverage for a child under this title, for

''(B) health benefits coverage for the child other than under this title or title XIX.''.

(c) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Within 6 months after the date of receipt of the reports under subsections (a) and (b) of section 116 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(d) REQUIREMENT TO ADDRESS CHIP CROWD-OUT; SECRETARIAL REVIEW.—Section 2106 (42 U.S.C. 1397ff) is amended by adding at the end the following:

''(f) REQUIREMENT TO ADDRESS CHIP CROWD-OUT; SECRETARIAL REVIEW.—

''(1) IN GENERAL.—Not later than 6 months after the best practice application date described in paragraph (2), each State that has a State child health plan shall submit to the Secretary a State plan amendment describing how the State—

''(A) will address CHIP crowd-out; and

''(B) will incorporate recommended best practices referred to in such paragraph.

''(2) BEST PRACTICE APPLICATION DATE.—The best practice application date described in this paragraph is the date that is 6 months after the date of publication of recommendations regarding best practices under section 2107(g)(1).

''(3) SECRETARIAL REVIEW.—The Secretary shall—

''(A) review each State plan amendment submitted under paragraph (1);

''(B) determine whether the amendment incorporates recommended best practices referred to in paragraph (2);

''(C) in the case of a higher income eligibility State (as defined in section 2105(c)(9)(B)), determine whether the State meets the enrollment targets required under reference section 2105(c)(9)(C); and

''(D) notify the State of such determinations.''.

(e) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of April 1 of 2011 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, subject to subparagraph (E), no payment shall be made as of October 1 of such year on or after October 1, 2011, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the State establishes it is in compliance with such requirement.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—

''(i) IN GENERAL.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a $p=0.05$ level) less than the target rate of coverage specified in clause (ii).

''(ii) TARGET RATE.—The target rate of coverage specified in this clause is the average rate (determined by the Secretary) of health benefits coverage (both private and public) as of January 1, 2011, among the 10 of the 50 States and the District of Columbia with the highest percentage of health benefits coverage (both private and public) for low-income children.

''(iii) STANDARDS FOR DATA.—In applying this subparagraph, rates of health benefits coverage for States shall be determined using the uniform standards identified by the Secretary under section 2107(g)(2).

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income

child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).

''(E) NOTICE AND OPPORTUNITY TO COMPLY WITH TARGET RATE.—If the Secretary makes a determination described in subparagraph (A)(ii) in April of a year, the Secretary—

''(i) shall provide the State with the opportunity to submit and implement a corrective action plan for the State to come into compliance with the requirement of subparagraph (C) before October 1 of such year;

''(ii) shall not effect a denial of payment under subparagraph (A) on the basis of such determination before October 1 of such year; and

''(iii) shall not effect such a denial if the Secretary determines that there is a reasonable likelihood that the implementation of such a correction action plan will bring the State into compliance with the requirement of subparagraph (C).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section shall be construed as authorizing the Secretary to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(9)(B) of such Act, as added by paragraph (1)).

(f) TREATMENT OF MEDICAL SUPPORT ORDERS.—Section 2102(b) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following:

''(5) TREATMENT OF MEDICAL SUPPORT ORDERS.—

''(A) IN GENERAL.—Nothing in this title shall be construed to allow the Secretary to require that a State deny eligibility for child health assistance to a child who is otherwise eligible on the basis of the existence of a valid medical support order being in effect.

''(B) STATE ELECTION.—A State may elect to limit eligibility for child health assistance to a targeted low-income child on the basis of the existence of a valid medical support order on the child's behalf, but only if the State does not deny such eligibility for a child on such basis if the child asserts that the order is not being complied with for any of the reasons described in subparagraph (C) unless the State demonstrates that none of such reasons applies in the case involved.

''(C) REASONS FOR NONCOMPLIANCE.—The reasons described in this subparagraph for noncompliance with a medical support order with respect to a child are that the child is not being provided health benefits coverage pursuant to such order because—

''(i) of failure of the noncustodial parent to comply with the order;

''(ii) of the failure of an employer, group health plan or health insurance issuer to comply with such order; or

''(iii) the child resides in a geographic area in which benefits under the health benefits coverage are generally unavailable.''.

(g) EFFECTIVE DATE OF AMENDMENTS; CONSISTENCY OF POLICIES.—The amendments made by this section shall take effect as if enacted on August 16, 2007. The Secretary may not impose (or continue in effect) any requirement, prevent the implementation of any provision, or condition the approval of any provision under any State child health plan, State plan amendment, or waiver request on the basis of any policy or interpretation relating to CHIP crowd-out, coordination with other sources of coverage, target rate of coverage, or medical support order other than under the amendments made by this section. In the case of a State plan amendment which was denied on or after August 16, 2007, on the basis of any such policy or interpretation in effect before the date of the enactment of this Act, if the State submits a modification of such State plan amendment that complies with title XXI of the Social Security Act as amended by this Act, such submitted State plan amendment, as so modified, shall be considered as if it had been submitted (as so modified) as of the date of its original submission, but such State plan amendment shall not be effective before the date of the enactment of this Act and the exception described in subparagraph (B) of section 2105(c)(8) of the Social Security Act, as added by section 114(a), shall not apply to such State plan amendment.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 111, is amended by adding at the end the following:

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2013 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

''(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO STATE MATCH REQUIRED.—In the case of a State that is awarded a grant under this section—

''(1) the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded; and

''(2) no State matching funds shall be required for the State to receive a grant under this section.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to nongovernmental entities.

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $100,000,000 for the period of fiscal years 2009 through 2013, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR INTERPRETATION SERVICES UNDER CHIP AND MEDICAID.—

(1) CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as amended by section 113, is amended—

(A) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ''and'' at the end;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(2) MEDICAID.—

(A) USE OF MEDICAID FUNDS.—Section 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, children of families for whom English is not the primary language; plus''.

(B) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(i) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397bb(c)(1)) is amended by inserting ''(through community health workers and others)'' after ''Outreach''.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting ''(such as through community health workers and others)'' after ''including practices''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended to read as follows:

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE xix.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13) EXPRESS LANE OPTION.—

''(A) IN GENERAL.—

''(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (G)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (F)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B) and 1137(d) or any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

''(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an

eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

''(II) NOTICE REQUIREMENT.—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency's finding of such child's income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its regular policies and of the procedures for requesting such an evaluation.

''(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

''(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9), as applicable for verifications of citizenship or nationality status.

''(V) CODING.—The State meets the requirements of subparagraph (E).

''(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

''(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

''(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

''(i) IN GENERAL.—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

''(ii) ESTABLISHING A SCREENING THRESHOLD.—

''(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

''(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

''(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

''(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State's regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for medical assistance under this title using such regular procedures.

''(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

''(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

''(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

''(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child's eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

''(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

''(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child's parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

''(V) AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

''(D) OPTION FOR AUTOMATIC ENROLLMENT.—

''(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation and signature on an Express Lane agency application, if the requirement of clause (ii) is met.

''(ii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

''(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iv), the requirement of this subparagraph for a State is that the State agrees to—

''(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's election under this paragraph;

''(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate (as described in clause (iv)) with respect to the enrollment of such children (and shall not include such children in any data or samples used for purposes of complying with a Medicaid Eligibility Quality Control (MEQC) review or a payment error rate measurement (PERM) requirement);

''(III) submit the error rate determined under subclause (II) to the Secretary;

''(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State elects to apply this paragraph, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

''(V) if such error rate exceeds 3 percent for any fiscal year in which the State elects to apply this paragraph, a reduction in the amount otherwise payable to the State under section 1903(a) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year that are in excess of a 3 percent error rate with respect to such children.

''(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

''(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as relieving a State that elects to apply this paragraph from being subject to a penalty under section 1903(u), for payments made under the State Medicaid plan with respect to ineligible individuals and families that are determined to exceed the error rate permitted under that section (as determined without regard to the error rate determined under clause (i)(II)).

''(iv) ERROR RATE DEFINED.—In this subparagraph, the term 'error rate' means the

rate of erroneous excess payments for medical assistance (as defined in section 1903(u)(1)(D)) for the period involved, except that such payments shall be limited to individuals for which eligibility determinations are made under this paragraph and except that in applying this paragraph under title XXI, there shall be substituted for references to provisions of this title corresponding provisions within title XXI.

''(F) EXPRESS LANE AGENCY.—

''(i) IN GENERAL.—In this paragraph, the term 'Express Lane agency' means a public agency that—

''(I) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of one or more eligibility requirements described in subparagraph (A)(i);

''(II) is identified in the State Medicaid plan or the State CHIP plan; and

''(III) notifies the child's family—

''(aa) of the information which shall be disclosed in accordance with this paragraph;

''(bb) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

''(cc) that the family may elect to not have the information disclosed for such purposes; and

''(IV) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

''(ii) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such term includes the following:

''(I) A public agency that determines eligibility for assistance under any of the following:

''(aa) The temporary assistance for needy families program funded under part A of title IV.

''(bb) A State program funded under part D of title IV.

''(cc) The State Medicaid plan.

''(dd) The State CHIP plan.

''(ee) The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

''(ff) The Head Start Act (42 U.S.C. 9801 et seq.).

''(gg) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(hh) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(ii) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(jj) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

''(kk) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

''(ll) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(II) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

''(III) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

''(iii) EXCLUSIONS.—Such term does not include an agency that determines eligibility for a program established under the Social Services Block Grant established under title XX or a private, for-profit organization.

''(iv) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(I) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

''(II) authorizing a State Medicaid agency that elects to use Express Lane agencies under this subparagraph to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

''(v) ADDITIONAL DEFINITIONS.—In this paragraph:

''(I) STATE.—The term 'State' means 1 of the 50 States or the District of Columbia.

''(II) STATE CHIP AGENCY.—The term 'State CHIP agency' means the State agency responsible for administering the State CHIP plan.

''(III) STATE CHIP PLAN.—The term 'State CHIP plan' means the State child health plan established under title XXI and includes any waiver of such plan.

''(IV) STATE MEDICAID AGENCY.—The term 'State Medicaid agency' means the State agency responsible for administering the State Medicaid plan.

''(V) STATE MEDICAID PLAN.—The term 'State Medicaid plan' means the State plan established under title XIX and includes any waiver of such plan.

''(G) CHILD DEFINED.—For purposes of this paragraph, the term 'child' means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.

''(H) APPLICATION.—This paragraph shall not apply with respect to eligibility determinations made after September 30, 2013.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the option provided under the amendments made by subsection (a). Such evaluation shall include an analysis of the effectiveness of the option, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such plans through reliance on a finding made by an Express Lane agency improves the ability of a State to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans;

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

(D) any recommendations for legislative or administrative changes that would improve the effectiveness of enrolling children in such plans through reliance on such findings.

(2) REPORT TO CONGRESS.—Not later than September 30, 2012, the Secretary shall submit a report to Congress on the results of the evaluation under paragraph (1).

(3) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out the evaluation under this subsection $5,000,000 for the period of fiscal years 2009 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of such amount to conduct the evaluation under this subsection.

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant's signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.''.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX is amended by adding at the end the following new section:

''SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in section 1902(e)(13)(F), information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

''(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

''(1) The individual whose circumstances are described in the data or information (or such individual's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

''(B) verifying the eligibility of individuals for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

''(c) PENALTIES FOR IMPROPER DISCLOSURE.—

''(1) CIVIL MONEY PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to $10,000 for each such unauthorized publication or disclosure. The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(2) CRIMINAL PENALTY.—A private entity described in the subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than $10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

''(F) Section 1942 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ''(and, at State option, individuals who apply or whose eligibility for medical assistance is being evaluated in accordance with section 1902(e)(13)(D))'' after ''with respect to individuals who are eligible''; and

(B) by inserting ''under this title (and, at State option, child health assistance under title XXI)'' after ''the State plan''.

(e) AUTHORIZATION FOR STATES ELECTING EXPRESS LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall enter into such agreements as are necessary to permit a State that elects the Express Lane option under section 1902(e)(13) of the Social Security Act to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under a State child health plan under CHIP or a State plan under Medicaid from the following:

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.

(f) EFFECTIVE DATE.—The amendments made by this section are effective on January 1, 2009.

Subtitle B—Reducing Barriers to Enrollment

SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

(a) ALTERNATIVE STATE PROCESS FOR VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID.—

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a), as amended by section 203(c), is amended—

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

(III) by adding at the end the following new subparagraph:

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (ee);''; and

(ii) by adding at the end the following new subsection:

''(ee)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the Commissioner of Social Security as part of the program established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number, or the declaration of citizenship or nationality, of the individual is inconsistent with information in the records maintained by the Commissioner—

''(i) the State makes a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality and by taking such additional actions as the Secretary, through regulation or other guidance, or the State may identify, and continues to provide the individual with medical assistance while making such effort; and

''(ii) in the case such inconsistency is not resolved under clause (i), the State—

''(I) notifies the individual of such fact;

''(II) provides the individual with a period of 90 days from the date on which the notice required under subclause (I) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or resolve the inconsistency with the Commissioner of Social Security (and continues to provide the individual with medical assistance during such 90-day period); and

''(III) disenrolls the individual from the State plan under this title within 30 days after the end of such 90-day period if no such documentary evidence is presented or if such inconsistency is not resolved.

''(2)(A) Each State electing to satisfy the requirements of this subsection for purposes of section 1902(a)(46)(B) shall establish a program under which the State submits at least monthly to the Commissioner of Social Security for comparison of the name and social security number, of each individual newly enrolled in the State plan under this title that month who is not described in section 1903(x)(2) and who declares to be a United States citizen or national, with information in records maintained by the Commissioner.

''(B) In establishing the State program under this paragraph, the State may enter into an agreement with the Commissioner of Social Security—

''(i) to provide, through an on-line system or otherwise, for the electronic submission of, and response to, the information submitted under subparagraph (A) for an individual enrolled in the State plan under this title who declares to be citizen or national on at least a monthly basis; or

''(ii) to provide for a determination of the consistency of the information submitted with the information maintained in the records of the Commissioner through such other method as agreed to by the State and the Commissioner and approved by the Secretary, provided that such method is no more burdensome for individuals to comply with than any burdens that may apply under a method described in clause (i).

''(C) The program established under this paragraph shall provide that, in the case of any individual who is required to submit a social security number to the State under subparagraph (A) and who is unable to provide the State with such number, shall be provided with at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the inconsistent submissions bears to the total submissions made for comparison for such month. For purposes of this subparagraph, a name, social security number, or declaration of citizenship or nationality of an individual shall be treated as inconsistent and included in the determination of such percentage only if—

''(i) the information submitted by the individual is not consistent with information in records maintained by the Commissioner of Social Security;

''(ii) the inconsistency is not resolved by the State;

''(iii) the individual was provided with a reasonable period of time to resolve the inconsistency with the Commissioner of Social Security or provide satisfactory documentation of citizenship status and did not successfully resolve such inconsistency; and

''(iv) payment has been made for an item or service furnished to the individual under this title.

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 3 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided inconsistent information as the number of individuals with inconsistent information in excess of 3 percent of such total submitted bears to the total number of individuals with inconsistent information.

''(C) The Secretary may waive, in certain limited cases, all or part of the payment under subparagraph (B)(ii) if the State is unable to reach the allowable error rate despite a good faith effort by such State.

''(D) Subparagraphs (A) and (B) shall not apply to a State for a fiscal year if there is an agreement described in paragraph (2)(B) in effect as of the close of the fiscal year that provides for the submission on a real-time basis of the information described in such paragraph.

''(4) Nothing in this subsection shall affect the rights of any individual under this title to appeal any disenrollment from a State plan.''.

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

(ii) by adding at the end the following new subparagraph:

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(ee) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

(3) CONFORMING AMENDMENTS.—Section 1903 (42 U.S.C. 1396b) is amended—

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(4) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Commissioner of Social Security $5,000,000 to remain available until expended to carry out the Commissioner's responsibilities under section 1902(ee) of the Social Security Act, as added by subsection (a).

(b) CLARIFICATION OF REQUIREMENTS RELATING TO PRESENTATION OF SATISFACTORY DOCUMENTARY EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

(1) ACCEPTANCE OF DOCUMENTARY EVIDENCE ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.—Section 1903(x)(3)(B) (42 U.S.C. 1396b(x)(3)(B)) is amended—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

(3) CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—

(A) CLARIFICATION OF RULES.—Section 1903(x) (42 U.S.C. 1396b(x)), as amended by paragraph (2), is amended—

(i) in paragraph (2)—

(I) in subparagraph (C), by striking ''or'' at the end;

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

(ii) by adding at the end the following new paragraph:

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

(4) TECHNICAL AMENDMENTS.—Section 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

(A) in subparagraph (B)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left; and

(B) in subparagraph (C)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left.

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(ii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect on October 1, 2009.

(B) TECHNICAL AMENDMENTS.—The amendments made by—

(i) paragraphs (1), (2), and (3) of subsection (b) shall take effect as if included in the enactment of section 6036 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 80); and

(ii) paragraph (4) of subsection (b) shall take effect as if included in the enactment of section 405 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 2996).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2009, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

(3) SPECIAL TRANSITION RULE FOR INDIANS.—During the period that begins on July 1, 2006, and ends on the effective date of final regulations issued under subclause (II) of section 1903(x)(3)(B)(v) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by subsection (b)(1)(B)), an individual who is a member of a federally-recognized Indian tribe described in subclause (II) of that section who presents a document described in subclause (I) of such section that is issued by such Indian tribe, shall be deemed to have presented satisfactory evidence of citizenship or nationality for purposes of satisfying the requirement of subsection (x) of section 1903 of such Act.

SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Secretary of Health and Human Services shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.

(a) CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by sections 114(a) and 211(c), is amended by adding at the end the following:

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph. No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

''(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(D) APPLICATION OF SECONDARY PAYOR RULES.—The State shall be a secondary payor for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

''(G) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the

State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

''(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(iii) CLARIFICATION OF PAYMENT FOR ADMINISTRATIVE EXPENDITURES.—Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this title.

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906 or 1906A, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

''(M) SATISFACTION OF COST-EFFECTIVENESS TEST.—Premium assistance subsidies for qualified employer-sponsored coverage offered under this paragraph shall be deemed to meet the requirement of subparagraph (A) of paragraph (3).

''(N) COORDINATION WITH MEDICAID.—In the case of a targeted low-income child who receives child health assistance through a State plan under title XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1906A shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.''.

(2) DETERMINATION OF COST-EFFECTIVENESS FOR PREMIUM ASSISTANCE OR PURCHASE OF FAMILY COVERAGE.—

(A) IN GENERAL.—Section 2105(c)(3)(A) (42 U.S.C. 1397ee(c)(3)(A)) is amended by striking ''relative to'' and all that follows through the comma and inserting ''relative to

''(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

''(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families.''.

(B) NONAPPLICATION TO PREVIOUSLY APPROVED COVERAGE.—The amendment made by subparagraph (A) shall not apply to coverage the purchase of which has been approved by the Secretary under section 2105(c)(3) of the Social Security Act prior to the date of enactment of this Act.

(b) MEDICAID.—Title XIX is amended by inserting after section 1906 the following new section:

''PREMIUM ASSISTANCE OPTION FOR CHILDREN

''SEC. 1906A. (a) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subsection (c)) for qualified employer-sponsored coverage (as defined in subsection (b)) to all individuals under age 19 who are entitled to medical assistance under this title (and to the parent of such an individual) who have access to such coverage if the State meets the requirements of this section.

''(b) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(1) IN GENERAL.—Subject to paragraph (2)), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(A) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(B) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(C) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(2) EXCEPTION.—Such term does not include coverage consisting of—

''(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(3) TREATMENT AS THIRD PARTY LIABILITY.—The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1902(a)(25).

''(c) PREMIUM ASSISTANCE SUBSIDY.—In this section, the term 'premium assistance subsidy' means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family. Premium assistance subsidies under this section shall be considered, for purposes of section 1903(a), to be a payment for medical assistance.

''(d) VOLUNTARY PARTICIPATION.—

''(1) EMPLOYERS.—Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

''(2) BENEFICIARIES.—No subsidy shall be provided to an individual under age 19 under this section unless the individual (or the individual's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. State may not require, as a condition of an individual under age 19 (or the individual's parent) being or remaining eligible for medical assistance under this title, apply for enrollment in qualified employer-sponsored coverage under this section.

''(3) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of an individual under age 19 receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

''(e) REQUIREMENT TO PAY PREMIUMS AND COST-SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In the case of the participation of an individual under age 19 (or the individual's parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916 or, if applicable, section 1916A). The fact that an individual under age 19 (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual's (or parent's) eligibility for medical assistance under the State plan, except insofar as section 1902(a)(25) provides that payments for such assistance shall first be made under such coverage.''.

(c) GAO STUDY AND REPORT.—Not later than January 1, 2010, the Comptroller General of the United States shall study cost and coverage issues relating to any State premium assistance programs for which Federal matching payments are made under title XIX or XXI of the Social Security Act, including under waiver authority, and shall submit a report to the Committee on Finance of the Senate and the Committee on

Energy and Commerce of the House of Representatives on the results of such study.

SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

(a) REQUIREMENT TO INCLUDE DESCRIPTION OF OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following new paragraph:

''(3) PREMIUM ASSISTANCE SUBSIDIES.—In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 211(c)(2), is amended by adding at the end the following new clause:

''(iii) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE xix THROUGH PREMIUM ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).''.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE; COORDINATION OF COVERAGE.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the

employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

(ii) by inserting before the period the following: '', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside''.

(C) WORKING GROUP TO DEVELOP MODEL COVERAGE COORDINATION DISCLOSURE FORM.—

(i) MEDICAID, CHIP, AND EMPLOYER-SPONSORED COVERAGE COORDINATION WORKING GROUP.—

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

(aa) A determination of whether the employee is eligible for coverage under the group health plan.

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

(dd) The premiums and cost-sharing required under the plan.

(ee) Any other information relevant to coverage under the plan.

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(iii) COMPENSATION.—The members of the Working Group shall serve without compensation.

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

(E) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking ''or (8)'' and inserting ''(8), or (9)''; and

(ii) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following:

''(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

''(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State

child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

''SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

''(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

''(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

''(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

''(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability and effectiveness of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth, prevent and treat premature birth, and detect the presence or risk of physical or mental conditions that could adversely affect growth and development; and

''(ii) treatments to correct or ameliorate the effects of physical and mental conditions, including chronic conditions, in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children, including children with special needs, and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2011, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2011, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing children, including children with disabilities and children with chronic conditions;

''(F) national organizations representing consumers and purchasers of children's health care;

''(G) national organizations and individuals with expertise in pediatric health quality measurement; and

''(H) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2013, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(7) CONSTRUCTION.—Nothing in this section shall be construed as supporting the restriction of coverage, under title XIX or XXI or otherwise, to only those services that are evidence-based.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2010, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2009 through 2013, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

''(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A Federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problemsolving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2009 through 2013.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2010, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored

by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI.

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2009 through 2013, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following new clause:

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMATION REGARDING ENROLLMENT OF CHILDREN IN CHIP AND MEDICAID.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

(2) by adding at the end the following new subsection:

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) STANDARDIZED REPORTING FORMAT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act, as added by subsection (a)(2).

(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act that includes the information required under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).

(c) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary for fiscal year 2009 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of providing more timely data on enrollment and eligibility of children under Medicaid and CHIP and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be designed and implemented (including with respect to any necessary guidance for States to report such information in a complete and expeditious manner) so that, beginning no later than October 1, 2009, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

(d) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

(a) IN GENERAL.—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

''(3) COMPLIANCE WITH MANAGED CARE REQUIREMENTS.—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2009.

TITLE V—IMPROVING ACCESS TO BENEFITS

SEC. 501. DENTAL BENEFITS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(ii) in paragraph (1), by inserting ''at least'' after ''that is''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) DENTAL BENEFITS.—

''(A) IN GENERAL.—The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

''(B) PERMITTING USE OF DENTAL BENCHMARK PLANS BY CERTAIN STATES.—A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

''(C) BENCHMARK DENTAL BENEFIT PACKAGES.—The benchmark dental benefit packages are as follows:

''(i) FEHBP CHILDREN'S DENTAL COVERAGE.—A dental benefits plan under chapter 89A of title 5, United States Code, that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(ii) STATE EMPLOYEE DEPENDENT DENTAL COVERAGE.—A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(iii) COVERAGE OFFERED THROUGH COMMERCIAL DENTAL PLAN.—A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.''.

(2) ASSURING ACCESS TO CARE.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to coverage of items and services furnished on or after October 1, 2009.

(b) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(c) PROVISION OF DENTAL SERVICES THROUGH FQHCS.—

(1) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (70);

(B) by striking the period at the end of paragraph (71) and inserting ''; and''; and

(C) by inserting after paragraph (71) the following new paragraph:

''(72) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397g(e)(1)), as amended by subsections (a)(2) and (d)(2) of section 203, is amended by inserting after subparagraph (B) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(C) Section 1902(a)(72) (relating to limiting FQHC contracting for provision of dental services).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2009.

(d) REPORTING INFORMATION ON DENTAL HEALTH.—

(1) MEDICAID.—Section 1902(a)(43)(D)(iii) (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting ''and other information relating to the provision of dental services to such children described in section 2108(e)'' after ''receiving dental services,''.

(2) CHIP.—Section 2108 (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

''(e) INFORMATION ON DENTAL CARE FOR CHILDREN.—

''(1) IN GENERAL.—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

''(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

''(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

''(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

''(2) INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(e) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act, on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually.

(f) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a), as added by section 401(a), is amended—

(1) in paragraph (3)(B)(ii), by inserting ''and, with respect to dental care, conditions requiring the restoration of teeth, relief of pain and infection, and maintenance of dental health'' after ''chronic conditions''; and

(2) in paragraph (6)(A)(ii), by inserting ''dental care,'' after ''preventive health services,''.

(g) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas;

(B) children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(i) the extent to which dental providers are willing to treat children eligible for such programs;

(ii) information on such children's access to networks of care, including such networks that serve special needs children; and

(iii) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(C) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) REPORT.—Not later than 18 months year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by inserting after paragraph (5), the following:

''(6) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance abuse benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance abuse benefits are no more restrictive than the financial requirements and treatment limitations applied to substantially all medical and surgical benefits covered by the plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), as amended by section 501(a)(1)(A)(i), in the matter preceding paragraph (1), by inserting ‘‘, (6),’’ after ‘‘(5)’’; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 501(c)(2) is amended by inserting after subparagraph (C) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

‘‘(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).’’.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2009.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2009, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(D) of the Social Security Act (as added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2011, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 504. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

‘‘(C) PREMIUM GRACE PERIOD.—The State child health plan—

‘‘(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

‘‘(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

‘‘(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

‘‘(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term ‘new coverage period’ means the month immediately following the last month for which the premium has been paid.’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after January 1, 2010.

SEC. 505. DEMONSTRATION PROJECTS RELATING TO DIABETES PREVENTION.

There is authorized to be appropriated $15,000,000 during the period of fiscal years 2009 through 2013 to fund demonstration projects in up to 10 States over 3 years for voluntary incentive programs to promote children's receipt of relevant screenings and improvements in healthy eating and physical activity with the aim of reducing the incidence of type 2 diabetes. Such programs may involve reductions in cost-sharing or premiums when children receive regular screening and reach certain benchmarks in healthy eating and physical activity. Under such programs, a State may also provide financial bonuses for partnerships with entities, such as schools, which increase their education and efforts with respect to reducing the incidence of type 2 diabetes and may also devise incentives for providers serving children covered under this title and title XIX to perform relevant screening and counseling regarding healthy eating and physical activity. Upon completion of these demonstrations, the Secretary shall provide a report to Congress on the results of the State demonstration projects and the degree to which they helped improve health outcomes related to type 2 diabetes in children in those States.

SEC. 506. CLARIFICATION OF COVERAGE OF SERVICES PROVIDED THROUGH SCHOOL-BASED HEALTH CENTERS.

Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by adding at the end the following new paragraph:

‘‘(8) AVAILABILITY OF COVERAGE FOR ITEMS AND SERVICES FURNISHED THROUGH SCHOOL-BASED HEALTH CENTERS.—Nothing in this title shall be construed as limiting a State's ability to provide child health assistance for covered items and services that are furnished through school-based health centers.’’.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(a), is amended by adding at the end the following new paragraph:

‘‘(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.’’.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 302(b)), is amended by adding at the end the following:

‘‘(iv) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).’’.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ‘‘PERM’’) requirements to CHIP until after the date that is 6 months after the date on which a final rule implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such final rule in effect for all States may only be inclusive of errors, as defined in such final rule or in guidance issued within a reasonable time frame after the effective date for such final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State's verification of an applicant's self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant's self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(d) OPTION FOR APPLICATION OF DATA FOR STATES IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL RULE.—After the final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ‘‘MEQC’’) requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social

Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) STATE OPTION TO APPLY MEQC DATA.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, as in effect on September 1, 2007, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with fiscal year 2009, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

SEC. 602. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2009''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine the child population growth factor under section 2104(m)(5)(B) and any other data necessary for carrying out this title.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.

Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

''(5) SUBSEQUENT EVALUATION USING UPDATED INFORMATION.—

''(A) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

''(B) SELECTION OF STATES AND MATTERS INCLUDED.—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

''(C) SUBMISSION TO CONGRESS.—Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

''(D) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.''.

SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.

Section 2108(d) (42 U.S.C. 1397hh(d)) is amended to read as follows:

''(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.—For the purpose of evaluating and auditing the program established under this title, or title XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.''.

SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DISALLOWANCE FOR UNAUTHORIZED EXPENDITURES.

Nothing in this Act allows Federal payment for individuals who are not legal residents. Titles XI, XIX, and XXI of the Social Security Act provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively.

Subtitle B—Miscellaneous Health Provisions

SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i)—

(i) by striking ''Notwithstanding any other provision of this title'' and inserting ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability) and any other provision of this title which would be directly contrary to the authority under this section and subject to subsection (E)''; and

(ii) by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(B) in clause (i), by inserting ''provides'' after ''(i)''; and

(C) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(2) in subparagraph (C)—

(A) in the heading, by striking ''**WRAP-AROUND**'' and inserting ''**ADDITIONAL**''; and

(B) by striking ''wrap-around or''; and

(3) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2);

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(iii) affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise.''.

(b) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are

made available under part B of title IV on the basis of being a child in foster care or''.

(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—With respect to a State plan amendment to provide benchmark benefits in accordance with subsections (a) and (b) that is approved by the Secretary, the Secretary shall publish on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out the plan amendment and the reason for each such determination on the date such approval is made, and shall publish such list in the Federal Register and not later than 30 days after such date of approval.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 612. REFERENCES TO TITLE XXI.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

SEC. 614. GAO REPORT ON MEDICAID MANAGED CARE PAYMENT RATES.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives analyzing the extent to which State payment rates for medicaid managed care organizations under title XIX of the Social Security Act are actuarially sound.

SEC. 615. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the FMAP (as defined in subsection (e)) for a State for a fiscal year (beginning with fiscal year 2006) and applying the FMAP under title XIX of the Social Security Act, any significantly disproportionate employer pension or insurance fund contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION AND INSURANCE FUND CONTRIBUTION.—

(1) IN GENERAL.—For purposes of this section, a significantly disproportionate employer pension and insurance fund contribution described in this subsection with respect to a State is any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such State for a calendar year (beginning with calendar year 2003) if the increase in the amount so estimated exceeds 25 percent of the total increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjustment a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than May 15, 2009, the Secretary shall submit to the Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of Economic Affairs calculations for the FMAP and for Medicaid and on possible alternative methodologies to mitigate such problems.

(e) FMAP DEFINED.—For purposes of this section, the term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396(d)).

SEC. 616. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

SEC. 617. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) (42 U.S.C. 1396r–4(f)(6)), as amended by section 202 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended—

(1) in the paragraph heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012'';

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''and 2009'' and inserting '', 2009, 2010, and 2011''; and

(II) by striking ''such portion of''; and

(ii) in the third sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for period in fiscal year 2012''; and

(C) in clause (iv)—

(i) in the clause heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012''; and

(ii) in each of subclauses (I) and (II), by striking '' or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for a period in fiscal year 2012''; and

(3) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence, by striking ''2009'' and inserting ''2011''; and

(ii) in the second sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011''.

Subtitle C—Other Provisions

SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''52.75 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''40.26 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$105.69 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.15 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.30 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.51'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50.33 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8311 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$24.78''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, INVENTORIES, REPORTS, AND RECORDS REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMIT.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES, REPORTS, AND PACKAGES.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(C) PACKAGES, MARKS, LABELS, AND NOTICES.—Section 5723 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products'' each place it appears.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 5702(h) of such Code is amended by striking ''tobacco products and cigarette papers and tubes'' and inserting ''tobacco products or cigarette papers or tubes or any processed tobacco''.

(B) Sections 5702(j) and 5702(k) of such Code are each amended by inserting '', or any processed tobacco,'' after ''tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) IN GENERAL.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles imported after the date of the enactment of this Act.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—

(1) IN GENERAL.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) DISCLOSURE.—

(1) IN GENERAL.—Paragraph (1) of section 6103(o) of such Code is amended by designating the text as subparagraph (A), moving such text 2 ems to the right, striking ''Returns'' and inserting ''(A) IN GENERAL.—Returns'', and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.''.

(2) CONFORMING AMENDMENT.—Section 6103(p)(4) of such Code is amended by striking ''(o)(1)'' both places it appears and inserting ''(o)(1)(A)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on or after the date of the enactment of this Act.

(g) TRANSITIONAL RULE.—Any person who—

(1) on April 1 is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF TOBACCO SMUGGLING IN THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study concerning the magnitude of tobacco smuggling in the United States and submit to Congress recommendations for the most effective steps to reduce tobacco smuggling. Such study shall also include a review of the loss of Federal tax receipts due to illicit tobacco trade in the United States and the role of imported tobacco products in the illicit tobacco trade in the United States.

SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.5 percentage point.

SA 84. Mr. COBURN (for himself, Mr. BURR, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was orderd to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to ensure that American children have high-quality health coverage that fits their individual needs.

SEC. 2. CONTINUATION OF SCHIP FUNDING DURING TRANSITION PERIOD.

(a) THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $7,780,000,000; and

''(13) for fiscal year 2010, $8,044,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(b) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(2) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is repealed.

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

SEC. 3. HIGH-QUALITY HEALTH COVERAGE FOR AMERICAN CHILDREN.

(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') shall establish a program to ensure that American children have high-quality health coverage that fits their individual needs (in this section referred to as ''the program'').

(b) CRITERIA FOR ELIGIBILITY.—The program shall ensure that—

(1) all children eligible for medical assistance under a State Medicaid plan under title XIX of the Social Security Act or child health assistance under a State child health plan under title XXI of such Act (or under a waiver of either such plan) and whose gross family income ((as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r) of such Act)) does not exceed 300 percent of the poverty line (as defined in section 2110(c)(5) of the Social Security Act) are eligible for coverage under the program; and

(2) all children who do not have health insurance coverage (as defined in section 2791 of the Public Health Service Act) and whose gross family income (as so determined) does not exceed 300 percent of the poverty line (as so defined) are eligible for coverage under the program.

(c) BENEFITS.—Under the program, health insurance issuers shall offer children (who are not within a category of individuals described in section 1937(a)(2)(B) of the Social Security Act) private health insurance coverage that—

(1) is actuarially equivalent to the coverage requirements for State child health plans specified in section 2103(a) of the Social Security Act or any other health benefits coverage that the Secretary determines will provide appropriate coverage; and

(2) provides for total annual aggregate cost-sharing that does not exceed 5 percent of a family's income for the year involved.

(d) REIMBURSEMENTS.—The Secretary shall establish an annual process for awarding contracts on a competitive basis to health insurance issuers to provide private health insurance coverage for eligible children under the program. Such process shall ensure that—

(1) payments to such issuers shall be determined through a competitive bidding process;

(2) payments to such issuers shall be risk-adjusted;

(3) at least 2 plan options are available for every eligible child; and

(4) with respect to each eligible child, each State maintains the appropriate and equitable share of the cost of providing health insurance coverage to the child under the program that the State would have maintained but for the establishment of the program.

(e) ENROLLMENT.—The Secretary shall establish a fair and responsible process for the enrollment, disenrollment, termination, and changes in enrollment of eligible children under the program and shall conduct activities to effectively disseminate information about the program and initial enrollment.

(f) CONSUMER PROTECTIONS.—Health insurance issuers awarded contracts under the program shall—

(1) provide clear information on the coverage provided by such issuers under the program;

(2) establish meaningful procedures for hearing and resolving of any grievances between such issuers and enrollees that include an independent review and appeals process for coverage denials;

(3) be licensed to provide coverage in the State in which coverage is offered under the program; and

(4) provide market-based rates for provider reimbursements for coverage provided under the program.

(g) GEOGRAPHICAL ACCESS AND QUALITY.—The Secretary shall establish statewide plan regions or other appropriate regions in order to maximize competition and patient access under the program.

(h) OPTION FOR ASSISTANCE WITH EMPLOYER-SPONSORED INSURANCE.—The Secretary shall establish procedures under the program to provide premium assistance for children with access to employer-sponsored health insurance coverage.

(i) FINANCING.—

(1) MAINTENANCE OF FEDERAL-STATE PARTNERSHIP.—The Federal government and States shall maintain their appropriate and equitable share of premiums for providing health insurance coverage to eligible children under the program.

(2) ADDITIONAL OUTLAYS.—In the event that additional outlays are required to carry out the program for any fiscal year, Congress shall enact legislation to offset such outlays by cutting non-priority spending, making government spending more accountable and efficient, and ending wasteful government spending.

SEC. 4. ALLOTMENT LIMITS FOR MEDICAID ADMINISTRATIVE COSTS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''(subject, except with respect to medical assistance expenditures under paragraph (1), to the allotment limits under subsection (aa))'' after ''under this title''; and

(2) by adding at the end the following new subsection:

''(aa) STATE ADMINISTRATIVE COST LIMITATION.—

''(1) IN GENERAL.—Payments to a State under paragraphs (2) through (7) of subsection (a) for fiscal years beginning with fiscal year 2009, shall not exceed, in the aggregate, an amount equal to the State's administrative cost allotment, as determined under this subsection.

''(2) ALLOTMENT FORMULA.—The administrative allotment for a State for fiscal years beginning with fiscal year 2009 shall be determined as follows:

''(A)(i) FISCAL YEAR 2009.—For fiscal year 2009, the administrative allotment for a State shall be an amount equal to the Federal share of total allowable costs claimed by the State under paragraphs (2) through (7) of subsection (a) for calendar quarters in fiscal year 2007, determined as of December 31, 2007, adjusted in accordance with clause (ii).

''(ii) ADJUSTMENT.—For purposes of clause (i), the amount specified in clause (i) shall be increased by a percentage equal to the sum of the percentages described in clause (iii).

''(iii) PERCENTAGES DESCRIBED.—The percentages described in this clause are, with respect to each consecutive 12-month period in the 36-month period ending March 30, 2009, the percentage change in the consumer price index (for all urban consumers; U.S. city average).

''(B) SUCCEEDING FISCAL YEARS.—For each fiscal year after fiscal year 2009, the administrative allotment for a State shall be the State's administrative allotment for the preceding fiscal year, increased by the percentage change in the consumer price index (for all urban consumers; U.S. city average) for the 12-month period ending on March 30 of the fiscal year.''.

SEC. 5. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to 1/4 of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 6. APPLICATION OF MEDICARE PAYMENT ADJUSTMENT FOR CERTAIN HOSPITAL-ACQUIRED CONDITIONS TO PAYMENTS FOR INPATIENT HOSPITAL SERVICES UNDER MEDICAID.

(a) STATE PLAN REQUIREMENT.—Section 1902(a)(13)(A)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)(iv)) is amended—

(1) by striking ''rates take'' and inserting ''rates—

''(I) take'';

(2) by striking the semicolon and inserting a comma; and

(3) by adding at the end the following:

''(II) ensure that higher payments are not made for services related to the presence of a condition that could be identified by a secondary diagnostic code described in section 1886(d)(4)(D);''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on October 1, 2009.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 7. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 8. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SA 95. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. —. INCOME TAX DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

(a) IN GENERAL.—Part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by redesignating section 224 as section 225, and

(2) by inserting after section 223 the following new section:

"SEC. 224. DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.

''(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible taxpayer, there shall be allowed as a deduction for the taxable year an amount equal to so much of the qualified child health care costs of the taxpayer for the taxable year as does not exceed the amount that is—

''(1) $1,500, multiplied by

''(2) the number of qualifying children of the taxpayer.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer whose taxable income for the taxable year does not exceed the exemption amount applicable to such taxpayer under section 55(d) for such taxable year.

''(2) QUALIFIED CHILD HEALTH CARE COSTS.—The term 'qualified child health care costs' means the aggregate amount paid by the taxpayer for medical care (as defined in section 213(d)) for all qualifying children of the taxpayer.

''(3) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given such term by section 24(c).

''(c) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child unless the taxpayer includes the name and taxpayer identification number of such qualifying child on the return of tax for the taxable year.

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of the deduction otherwise allowed under this section with respect to any qualifying child for any taxable year shall be reduced by the amount of any deduction allowed under section 213 with respect to such child for such taxable year.

''(e) COORDINATION WITH SCHIP AND OTHER HEALTH BENEFITS.—No deduction shall be allowed under this section to a taxpayer with respect to any qualifying child if such child is eligible for any benefit under any health assistance program funded in whole or in part with Federal funds.''.

(b) ABOVE-THE-LINE DEDUCTION.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DEDUCTION FOR HEALTH CARE COSTS OF CERTAIN CHILDREN.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENTS.—The table of sections for part VII of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended—

(1) by striking the item relating to section 224, and

(2) by adding at the end the following new items:

''Sec. 224. Deduction for health care costs of certain children.

''Sec. 225. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 86. Mr. COBURN (for himself, Mr. BURR, Mr. GREGG, Mr. MCCONNELL, Mr. ENZI, Mr. CORNYN, Mr. DEMINT, Mr. JOHANNS, Mr. KYL, Mr. ALEXANDER, Mr. GRAHAM, Mr. CHAMBLISS, Mr. THUNE, Mr. BARRASSO, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to ensure that American children have high-quality health coverage that fits their individual needs.

SEC. 2. CONTINUATION OF SCHIP FUNDING DURING TRANSITION PERIOD.

(a) THROUGH FISCAL YEAR 2010.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $7,780,000,000; and

''(13) for fiscal year 2010, $8,044,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2010''.

(b) EXTENSION OF TREATMENT OF QUALIFYING STATES.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(2) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is repealed.

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

SEC. 3. HIGH-QUALITY HEALTH COVERAGE FOR AMERICAN CHILDREN.

(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') shall establish a program to ensure that American children have high-quality health coverage that fits their individual needs (in this section referred to as ''the program'').

(b) CRITERIA FOR ELIGIBILITY.—The program shall ensure that—

(1) all children eligible for medical assistance under a State Medicaid plan under title XIX of the Social Security Act or child health assistance under a State child health plan under title XXI of such Act (or under a waiver of either such plan) and whose gross family income ((as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r) of such Act)) does not exceed 300 percent of the poverty line (as defined in section 2110(c)(5) of the Social Security Act) are eligible for coverage under the program; and

(2) all children who do not have health insurance coverage (as defined in section 2791 of the Public Health Service Act) and whose gross family income (as so determined) does not exceed 300 percent of the poverty line (as so defined) are eligible for coverage under the program.

(c) BENEFITS.—Under the program, health insurance issuers shall offer children (who are not within a category of individuals described in section 1937(a)(2)(B) of the Social Security Act) private health insurance coverage that—

(1) is actuarially equivalent to the coverage requirements for State child health plans specified in section 2103(a) of the Social Security Act or any other health benefits coverage that the Secretary determines will provide appropriate coverage; and

(2) provides for total annual aggregate cost-sharing that does not exceed 5 percent of a family's income for the year involved.

(d) REIMBURSEMENTS.—The Secretary shall establish an annual process for awarding contracts on a competitive basis to health insurance issuers to provide private health insurance coverage for eligible children under the program. Such process shall ensure that—

(1) payments to such issuers shall be determined through a competitive bidding process;

(2) payments to such issuers shall be risk-adjusted;

(3) at least 2 plan options are available for every eligible child; and

(4) with respect to each eligible child, each State maintains the appropriate and equitable share of the cost of providing health insurance coverage to the child under the program that the State would have maintained but for the establishment of the program.

(e) ENROLLMENT.—The Secretary shall establish a fair and responsible process for the enrollment, disenrollment, termination, and changes in enrollment of eligible children under the program and shall conduct activities to effectively disseminate information about the program and initial enrollment.

(f) CONSUMER PROTECTIONS.—Health insurance issuers awarded contracts under the program shall—

(1) provide clear information on the coverage provided by such issuers under the program;

(2) establish meaningful procedures for hearing and resolving of any grievances between such issuers and enrollees that include an independent review and appeals process for coverage denials;

(3) be licensed to provide coverage in the State in which coverage is offered under the program; and

(4) provide market-based rates for provider reimbursements for coverage provided under the program.

(g) GEOGRAPHICAL ACCESS AND QUALITY.—The Secretary shall establish statewide plan regions or other appropriate regions in order to maximize competition and patient access under the program.

(h) OPTION FOR ASSISTANCE WITH EMPLOYER-SPONSORED INSURANCE.—The Secretary shall establish procedures under the program to provide premium assistance for children with access to employer-sponsored health insurance coverage.

(i) FINANCING.—

(1) MAINTENANCE OF FEDERAL-STATE PARTNERSHIP.—The Federal government and States shall maintain their appropriate and equitable share of premiums for providing health insurance coverage to eligible children under the program.

(2) ADDITIONAL OUTLAYS.—In the event that additional outlays are required to carry out the program for any fiscal year, Congress shall enact legislation to offset such outlays by cutting non-priority spending, making government spending more accountable and efficient, and ending wasteful government spending.

SEC. 4. ALLOTMENT LIMITS FOR MEDICAID ADMINISTRATIVE COSTS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting "(subject, except with respect to medical assistance expenditures under paragraph (1), to the allotment limits under subsection (aa))" after "under this title"; and

(2) by adding at the end the following new subsection:

"(aa) STATE ADMINISTRATIVE COST LIMITATION.—

"(1) IN GENERAL.—Payments to a State under paragraphs (2) through (7) of subsection (a) for fiscal years beginning with fiscal year 2009, shall not exceed, in the aggregate, an amount equal to the State's administrative cost allotment, as determined under this subsection.

"(2) ALLOTMENT FORMULA.—The administrative allotment for a State for fiscal years beginning with fiscal year 2009 shall be determined as follows:

"(A)(i) FISCAL YEAR 2009.—For fiscal year 2009, the administrative allotment for a State shall be an amount equal to the Federal share of total allowable costs claimed by the State under paragraphs (2) through (7) of subsection (a) for calendar quarters in fiscal year 2007, determined as of December 31, 2007, adjusted in accordance with clause (ii).

"(ii) ADJUSTMENT.—For purposes of clause (i), the amount specified in clause (i) shall be increased by a percentage equal to the sum of the percentages described in clause (iii).

"(iii) PERCENTAGES DESCRIBED.—The percentages described in this clause are, with respect to each consecutive 12-month period in the 36-month period ending March 30, 2009, the percentage change in the consumer price index (for all urban consumers; U.S. city average).

"(B) SUCCEEDING FISCAL YEARS.—For each fiscal year after fiscal year 2009, the administrative allotment for a State shall be the State's administrative allotment for the preceding fiscal year, increased by the percentage change in the consumer price index (for all urban consumers; U.S. city average) for the 12-month period ending on March 30 of the fiscal year.".

SEC. 5. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking "section 1919(g)(3)(B)" and inserting "subsection (h)";

(2) in subsection (a)(2)(D) by inserting ", subject to subsection (g)(3)(C) of such section" after "as are attributable to State activities under section 1919(g)"; and

(3) by adding after subsection (g) the following new subsection:

"(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).".

SEC. 6. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 7. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SA 87. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. CRITICAL ACCESS HOSPITAL DESIGNATION.

Section 1820(c)(2)(B)(i)(I) of the Social Security Act (42 U.S.C. 1395i–4(c)(2)(B)(i)(I)) is amended—

(1) by striking "or in areas" and inserting ", in areas"; and

(2) by inserting ", or a hospital that is located in the county of Berrien County, Michigan" after "available".

SA 88. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. TREATMENT OF A CERTAIN CANCER HOSPITAL.

(a) IN GENERAL.—Section 1886(d)(1) of the Social Security Act (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by striking "or" at the end of subclause (II),

(B) by striking the semicolon at the end of subclause (III) and inserting ", or"; and

(C) by adding the following after subclause (III):

"(IV) a hospital that is a nonprofit corporation, the sole member of which is affiliated with a university that has been the recipient of a cancer center support grant from the National Cancer Institute of the National Institutes of Health, and which sole member (or its predecessors or such university) was recognized as a comprehensive cancer center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, if the hospital's articles of incorporation specify that at least 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in subparagraph (E)) and if, of December 31, 2005, the hospital was licensed for less than 150 acute care beds, or"; and

(2) in subparagraph (E), by striking "subclauses (II) and (III)" and inserting "subclauses (II), (III), and (IV)".

(b) EFFECTIVE DATE; PAYMENTS.—

(1) APPLICATION TO COST REPORTING PERIODS.—Any classification by virtue of the application of the provisions of section 1886(D)(1)(B)(v)(IV) of the Social Security Act, as inserted by subsection (a), shall apply to cost reporting periods beginning on or after January 1, 2006.

(2) BASE PERIOD.—Notwithstanding the provisions of subsection (b)(3)(E) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital described in subsection (d)(1)(B)(v)(IV) of such section, as inserted by subsection (a), shall be the first full 12-month cost reporting period beginning on or after January 1, 2006, and the hospital's target amount under subsection (b)(3)(E)(i) of such section for the first cost reporting period shall be the allowable operating costs of inpatient hospital services (referred to in subclause (I) of such subsection) for such first cost reporting period.

(3) OUTPATIENT SERVICES.—The ''pre-BBA'' amount, with respect to covered OPD services furnished by any hospital described in subsection (d)(1)(B)(v)(IV) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), as inserted by subsection (a), or for any other hospital described in clause (v) of subsection (d)(1)(B) of such section that did not submit a cost report prior to 2001, for purposes of section 1833(t)(7)(F) of such Act (42 U.S.C. 13951(t)(7)(F)), shall be determined by using the weighted average ''base payment-to-cost'' ratio, as determined by the Secretary of Health and Human Services on a volume-related basis, of all hospitals described in such clause (v) that did submit a cost report prior to 2001, as such ratio is determined for each such hospital under section 1833(t)(7)(F)(ii) of such Act (42 U.S.C. 13951(t)(7)(F)(ii)).

SA 89. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. PRESERVING CARE FOR VENTILATOR-DEPENDENT PATIENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended, in the flush matter following subclause (II), by adding at the end the following: ''In the case of a hospital which provides acute care services to ventilator-dependent patients who are entitled to benefits under part A and are eligible for medical assistance under a State plan approved under title XIX, the Secretary shall not exclude from the numerator in subclause (II) for such period any patient days of such ventilator-dependent patients unless such patient days are included in the numerator in subclause (I).''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in and effective upon the enactment of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554).

SA 90. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. MEDICARE HOSPITAL GEOGRAPHIC RECLASSIFICATION.

(a) RECLASSIFICATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2010, 2011, and 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to a hospital described in paragraph (2), such hospital shall be deemed to be located in a Metropolitan Statistical Area in the State in which the hospital is located with an area wage index value that is not less than 90 percent of the area wage index value of teaching hospitals in that Metropolitan Statistical Area.

(2) HOSPITAL DESCRIBED.—A hospital described in this paragraph is a hospital that—

(A) is a teaching hospital;

(B) is located in a Metropolitan Statistical Area in which there are only 2 subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B));

(C) has an average hourly wage that is at least 88 percent of the average hourly wage of other teaching hospitals in the Metropolitan Statistical Area to which the hospital would be reclassified under paragraph (1);

(D) is located within 200 yards of the boundary of the Metropolitan Statistical Area to which the hospital would be reclassified under paragraph (1); and

(E) was not reclassified under the process established under section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2297).

(b) RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) NON-APPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SA 91. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. MEDICARE HOSPITAL GEOGRAPHIC RECLASSIFICATION.

(a) RECLASSIFICATION.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2010, 2011, and 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), any hospital that is co-located in Marinette, Wisconsin and the Menominee, Michigan is deemed to be located in Chicago, Illinois.

(b) RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) NON-APPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SA 92. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. ENSURING ACCESS TO, AND THE CHOICE OF, HIGH QUALITY HEALTH CARE PROVIDERS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider that—

(1) restricts the right of a physician to refer an individual to any secondary physician who is, in the professional judgment of the physician, of the highest quality and expertise; or

(2) discriminates against a physician who makes such a referral.

SA 93. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 42, strike line 20 and all that follows through page 43, line 11, and insert the following:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) SPECIAL RULE EXTENDING AVAILABILITY FOR OUTREACH AND ENROLLMENT FOR CERTAIN STATES.—

''(A) IN GENERAL.—In the case of a State described in subparagraph (B), any amounts allotted or redistributed to the State pursuant to this subsection for a fiscal year that are not expended by the State by March 31, 2009, (including any amounts available to the State for the first 2 quarters of fiscal year 2009 from the fiscal year 2009 allotment for the State or from amounts redistributed to the State under subsection (k) or allotted to the State under subsection (l) for such quarters), shall remain available for expenditure by the State through the end of fiscal year 2012, without regard to the limitation on expenditures under section 2105(c)(2)(A).

''(B) STATE DESCRIBED.—A State is described in this subparagraph if the State is 1 of the 5 States with the highest percentage of children with no health insurance coverage (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).

''(3) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

On page 38, line 18, insert ''subject to paragraph (5),'' after ''(3)(A),''.

On page 42, between lines 15 and 16, insert the following:

''(5) AUTHORITY TO MODIFY REQUIRED NUMBER OF ENROLLMENT AND RETENTION PROVISIONS.—Upon the request of a State in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the

basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009), the Secretary may reduce the number of enrollment and retention provisions that the State must satisfy in order to meet the conditions of paragraph (4) for a fiscal year, but not below 2.''.

On page 84, line 20, insert ''The Secretary shall prioritize implementation of such campaign in States in which the percentage of children with no health insurance coverage is above the national average (as determined by the Secretary on the basis of the most recent data available as of the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009).'' after ''title XIX.''.

SA 94. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 135, strike line 21 and all that follows through page 136, line 2, and insert the following:

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

SA 95. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 216, strike line 8 and all that follows through page 219, line 21, and insert the following:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

SA 96. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Beginning on page 80, strike line 22 and all that follows through page 81, line 7, and insert the following:

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

''(1) STATE MAINTENANCE OF EFFORT.—In the case of a State that is awarded a grant under this section, the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded.

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

SA 97. Mr. ROCKEFELLER (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

On page 283, line 21, insert '', 2009'' after April 1.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Crossing the Quality Chasm in Health Reform'' on Thursday, January 29, 2009. The hearing will commence at 2 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, January 29, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, on behalf of Senator LEVIN, I ask unanimous consent that Kevin Wack, a congressional fellow in his office, be granted the privilege of the floor for today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JANUARY 30, 2009

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. Friday, January 30; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAUCUS. Mr. President, there will be no rollcall votes tomorrow. The next rollcall vote will occur at 6:15 p.m. Monday on the confirmation of the Holder nomination.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BAUCUS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:15 p.m., adjourned until Friday, January 30, 2009, at 9:30 a.m.

SENATE—*Friday, January 30, 2009*

The Senate met at 9:31 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, our shelter in the time of storm, our rock in a weary land, Lord, we live in challenging times that require more than human solutions for our problems. In the midst of these days, help our lawmakers to find in You a sure place to stand and a strong support they can absolutely trust. Lord, give them such faith in You that they will seek and follow Your guidance, living lives that honor Your Name. Rule in their hearts as they deliberate so that Your higher wisdom will prevail. Help them to remember that they must give an account to You for how responsible they are in carrying out their duties.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 30, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, we are going to be in a period for the transaction of morning business today. Senators will be allowed to speak for up to 10 minutes each. There will be no rollcall votes today, as we announced last night. We will proceed to the consideration of the American Recovery and Investment Act of 2009 on Monday. Under a previous agreement, the Senate will debate and vote on the Holder nomination to be Attorney General of the United States. That will occur at 6:15 p.m. on Monday.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I also ask unanimous consent to speak for as much time as I may use in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Texas is recognized.

NOMINATION OF ERIC HOLDER

Mr. CORNYN. Mr. President, on Monday, the Senate will take up the nomination of Eric Holder to be the next Attorney General of the United States. I serve on the Senate Judiciary Committee, and that committee held hearings regarding Mr. Holder's confirmation. Regrettably, last Wednesday, when the Senate Judiciary Committee voted that nomination out of the committee, I was a ''no'' vote.

I wish to say that originally I approached this nomination with an open mind and a determination to ask—indeed to demand—answers to legitimate questions. I think that is the responsibility of each Senator under the Constitution in performing our duties of advice and consent. I also think it is important for me to explain why, even though I approached that nomination with an open mind and a predisposition to vote for Mr. Holder's nomination, I ultimately concluded, as a result of some of the evidence, which I will lay out, I could not do so in good conscience.

Mr. Holder, of course, served as Deputy Attorney General during the Clinton administration, and if there is any public service that is more illustrative of how someone will actually perform as Attorney General, I think it would be in performing as Deputy Attorney General. The Deputy Attorney General is the one job on Earth most similar to the job for which Mr. Holder will be confirmed on Monday. It is rare to have such a clear picture of the job a nominee will do if confirmed. Thus, I reviewed Mr. Holder's record with great care, as you might expect, and also with great interest.

Unfortunately, two of Mr. Holder's actions as Deputy Attorney General: the recommendation that President Clinton commute the sentences of 16 Puerto Rican separatist terrorists and the recommendation that President Clinton pardon the billionaire fugitive Marc Rich, raised serious questions about Mr. Holder's judgment and independence from the wishes of his political sponsors—two key qualities I would hope the Senate would want for any Attorney General, independence, adherence and fidelity only to the rule of law—and good judgment.

Two other aspects of Mr. Holder's record also raised concerns for me. Mr. Holder's record demonstrates a failure to understand the profound threat posed by radical Islamic terrorism; and, second, Mr. Holder has often appeared to be hostile to the second amendment, to the constitutional right to keep and bear arms.

As I said, in the Judiciary Committee, Mr. Holder failed to answer my questions, regrettably, and the questions of my colleagues in a way that alleviated these concerns. As I will explain, I indeed found Mr. Holder's answers to be nothing short of evasive in some key respects. Because I have doubts about Mr. Holder's judgment and independence, I am opposing this nomination, and the four reasons, as I tried earlier to summarize but which I will repeat are Mr. Holder's role in the FALN and Los Macheteros commutations, his role in the Marc Rich pardon, his misjudgments and shifting opinions with regard to the

war on terror, and his record of hostility toward the individual's right to keep and bear arms.

First, I would ask my colleagues to consider Mr. Holder's role in the FALN and Los Macheteros commutations. In August 1999, President Clinton offered clemency to 16 members of two Puerto Rican separatist terrorist organizations, FALN and Los Macheteros. Deputy Attorney General Eric Holder made the recommendation that he should do so. The FALN was a clandestine terrorist group devoted to bringing about the independence of Puerto Rico through violent means. Its members waged open war on the United States, with more than 150 bombings, arsons, kidnappings, prison escapes, threats and intimidation, which resulted in the deaths of at least six people and injuries to many more between 1974 and 1983.

The most gruesome attack was in 1975 in lower Manhattan. Timed to explode during the lunch hour, the bomb decapitated 1 of the 4 people killed and injured another 60. In another attack in Puerto Rico, Los Macheteros opened fire on a bus of U.S. sailors. Two American sailors were killed and nine were wounded. Fortunately, much of the leadership and membership of these terrorist groups was captured and brought to justice in the late 1970s and early 1980s. By the late 1980s, the worst of the FALN's reign of terror was over.

In the early 1990s, sympathetic activists petitioned for clemency on behalf of these terrorists, and it was an easy call for the pardon attorney. The pardon attorney is the attorney at the Department of Justice who reviews clemency requests and makes recommendations. They make sure the record is thoroughly reviewed and, as I said, then make recommendations. The fact is these unrepentant terrorists who were given clemency by the Clinton administration never even petitioned for clemency. They never even asked for it.

Pardon attorney Margaret Love, who worked for then-Deputy Attorney General Jamie Gorelick, recommended against clemency for any of these prisoners, and a recommendation was transmitted to the President. Shortly thereafter, when Eric Holder became Deputy Attorney General, he rescinded that recommendation opposing clemency and recommended that President Clinton grant clemency to these unrepentant terrorists.

Strangely, Mr. Holder still stands behind this recommendation, saying he considered it reasonable. But the reasons he gives are not persuasive. Mr. Holder claims these men were not linked to violence. That is false. These men were active members of a terrorist organization that had committed dozens of violent crimes, including, as I mentioned earlier, bombings, murder, and arson. It is true the particular crimes for which these individuals were convicted were not, in and of themselves, violent crimes, but by that standard, Saddam Hussein did not commit crimes, unless he pulled the trigger himself. Likewise, Osama bin Laden, responsible for the deaths of thousands of innocent American citizens, would not be linked to crime under the standard Mr. Holder posits.

There is ample evidence that at least some of the men for whom Eric Holder recommended clemency were, in fact, murderers. These commutations were, at the time, widely believed to have some political motivation. Indeed, the Clinton White House discussed how these clemencies would affect then-Vice President Gore's political standing within the Puerto Rican community. For this reason, I believe a full accounting of whom Mr. Holder met with, what they discussed, and what went into his decision to recommend these commutations is in order.

But there is another equally important reason that these questions must be answered. The victims of the FALN and the Los Macheteros deserve answers. I would encourage all my colleagues, before voting, to review the testimony of Joseph Connor, whose father was killed in the bombing in lower Manhattan in 1975. Mr. Connor testified that Mr. Holder did not consult with him, did not inform him or his family or other victims before recommending that the President set FALN terrorists free.

I cannot vote for Mr. Holder until I can explain my vote to Joseph Connor. Because Mr. Holder has failed to answer my questions about the FALN commutations, I do not have an explanation I can give to Mr. Connor.

One of the reasons Mr. Holder has refused to answer some questions is, it appears he is invoking executive privilege. But it is very odd because this apparent assertion of executive privilege comes despite the fact that President Clinton waived executive privilege for all testimony concerning these commutations. That is in the record of the hearing before the Judiciary Committee. I think it is unfortunate that the current administration's first apparent assertion of executive privilege seems to come for no purpose other than to protect Mr. Holder's record from scrutiny.

As I said, in 2001, President Clinton waived executive privilege with regard to the commutations and pardons he granted. In a letter to the House of Representatives, President Clinton's lawyer explicitly stated President Clinton "will interpose no executive privilege objections to the testimony of his former staff concerning these pardons, or to other pardons and commutations he granted."

Nonetheless, Mr. Holder continues to assert he is not authorized to testify about the so-called options memorandum, which is part of the record underlying these commutations. Instead of forthright answers about Mr. Holder's decision to recommend these commutations or present the options memo to then-President Clinton, he has repeatedly refused to answer questions submitted by Judiciary Committee members, including me.

For example, I asked Mr. Holder whether he was aware at the time he made his commutation recommendation of the leadership positions of three of these terrorists and their alleged involvement of another murder of a U.S. Navy sailor—more than one. Mr. Holder responded that this information "was included in [their] presentence reports which in the ordinary course would be requested and reviewed by the Office of Pardon Attorney as one of the first investigative steps."

This answer, I have to say, is a very lawyerly answer, but it is nonresponsive to my question. It avoids the question of whether he was aware of these matters when he recommended commutation. In fact, Chairman LEAHY and Ranking Member SPECTER sent a letter to the Department of Justice citing President Clinton's waiver of executive privilege and requesting the relevant documents regarding the clemency decision. This request, inexplicably, has been denied.

Because President Clinton has waived this privilege, this assertion of privilege is apparently now being made by the present administration of President Obama. Of course, executive privilege only belongs to the principal, to the client—in this case the Executive—so it has to be either President Clinton or President Obama, and clearly President Clinton has waived it.

The Justice Department has apparently advanced the argument that the Clinton waiver applied only to testimony and not to documents, but Mr. Holder's testimony about the options paper is clearly testimony and not a document. Thus, his assertion of privilege is indeed broader than the most restrictive reading of the Clinton waiver. So who is denying the Holder authorization to testify about the options paper? Apparently, I conclude, it could only be President Obama.

Assertions of executive privilege, as we know, raise questions about the balance of power between the executive branch and the legislative branch. The Executive's interest in secrecy and confidential communications, and Congress's right to information, particularly in the context of a confirmation hearing when performing our constitutional duty of advice and consent, are in tension and, in this case, conflict. It is up to the branches to negotiate and work together to take both interests into account and to make public relevant information that bears on the qualifications and experience of members of the President's Cabinet—in

this instance, Mr. Holder. I believe President Obama owes the American people—consistent with his ideals on open government, which I enthusiastically support—to make his assertion of privilege plainly and in the light of day.

Moreover, it is hard to imagine any significant executive branch interest in keeping this information secret. These documents are a decade old and concern crimes committed about 30 years ago. President Clinton, of course, is no longer in office, and he has waived the privilege. The context of these documents has been alluded to in U.S. major newspapers and even by Mr. Holder himself. So it seems to me there is no further executive branch interest in continuing to hide these documents, only a desire to shield Mr. Holder from hard questions.

In short, Mr. Holder's responses to questions regarding these commutations has been evasive. The Senate and the American people deserve forthright answers to questions that pertain to Mr. Holder's judgment, his independence, his seriousness of mind when it comes to the threat of Islamic extremism, and his qualifications to be Attorney General.

I also believe the families of the victims of the terrorist acts by the FALN and Los Macheteros terrorists deserve a full accounting for the release of terrorists who were partly to blame for their loved one's deaths. Instead of providing a forthright accounting, Mr. Holder has simply dodged the question, hidden behind an apparent claim of executive privilege, and refused to cooperate with the Judiciary Committee in getting to the bottom of some of these matters.

The next concern I have has to do with the Rich pardon I alluded to at the very beginning. Less than 2 years after the controversy surrounding the FALN commutations, on the very last night of the Clinton administration, Mr. Holder made a very similar error of judgment when he recommended that President Clinton pardon the notorious fugitive by the name of Marc Rich. At the time, Mr. Rich was No. 6 on the FBI's Ten Most Wanted List.

In 1983, then-U.S. attorney Rudy Giuliani in the Southern District of New York, obtained an indictment of international commodities trader Marc Rich and his business partner, Pincus Green. The indictment charged 65 counts of tax evasion, racketeering, and trading with the enemy.

Specific charges include illegally trading with the Ayatollah Khomeini's Iranian terrorist regime in violation of U.S. energy laws and a trade embargo against Iran.

Indeed, Mr. Rich made a fortune trading with the Ayatollah's regime at the same time that 52 American diplomats were still being held hostage in the U.S. Embassy in Iran. Mr. Rich profited by trading with Cuba, Libya, and South Africa during apartheid—all despite U.S. embargoes. Rather than face these charges head on, Mr. Rich simply fled to Switzerland where he remained a fugitive for 17 years. Federal law enforcement, with help from the CIA, the NSA, and other agencies, expended substantial resources in an effort to apprehend Mr. Rich. These efforts included extradition requests and attempts by U.S. marshals to arrest him abroad. Rich refused to return to the United States, despite an offer by prosecutors to drop the racketeering charges in exchange for his return.

In an effort to avoid his extradition, though, Mr. Rich went so far as to renounce his U.S. citizenship, and he tried to become a citizen of Bolivia. It is hard to imagine a more inappropriate candidate for a pardon than a fugitive from justice accused of trading with the enemy. Mr. Rich's own lawyer told him he ‘‘spit on the American flag’’ by avoiding the jurisdiction of U.S. courts.

According to those involved in the pardon process, including President Clinton and Marc Rich's lawyer, Eric Holder was more responsible for this controversial decision than any other member of the Clinton administration with the exception of the President himself.

In fact, on the last evening of the Clinton administration, White House counsel called Mr. Holder to solicit his views on the Rich pardon application. As Deputy Attorney General, Holder was effectively speaking for the entire Department of Justice during this crucial phone call.

Disregarding the strongly held views of hundreds of Department of Justice prosecutors and FBI agents who worked nearly two decades to bring Marc Rich to justice, Mr. Holder told Nolan he was ‘‘neutral, leaning to favorable.’’

What is crucial to understand is that Mr. Holder was not just speaking for himself but the entire Department of Justice. But with this recommendation from the Deputy Attorney General, President Clinton granted the Rich pardon, one of his last and most despicable actions.

Even after having ample opportunity to explain himself, it is unclear what Mr. Holder's rationale was for recommending this despicable pardon, as I said, which former FBI Director Louis Freeh called a ‘‘corrupt act’’ on the part of President Clinton.

Mr. Holder has admitted he made a mistake, which is commendable. But never in a full day of hearings and in answers to several written questions did Mr. Holder offer a persuasive reason for supporting this pardon—other than, apparently, caving in to pressure from the Clinton White House. Mr. Holder defends himself by claiming he was naive; and, again, we have all made mistakes. I grant that. He now admits the Rich pardon was a mistake and promises he will never make a similar mistake again. In fact, he takes the position he will be a better Attorney General because of learning from this mistake.

But this pledge is difficult to square with the fact that Mr. Holder had essentially made the same error in judgment less than 2 years before with the FALN commutation. I am also concerned that Mr. Holder's testimony regarding key conversations and meetings on the Rich pardon seem to contradict the recollections of members of the Marc Rich legal and lobbying team.

In the fall of 2000, there was an e-mail from former White House Counsel Jack Quinn—who was representing Rich in his quest for a pardon—to the rest of the Rich legal team indicating Mr. Rich told Mr. Quinn to ‘‘go straight to the White House.’’

This suggests that Holder was telling Quinn to bypass the typical pardon process through the Department of Justice, where opponents of the Rich pardon were legion. Mr. Holder disputes this interpretation, arguing that an application sent to the White House would be forwarded to the Department of Justice in any case. Whether this is true, it is indisputable that the prosecutors in the Southern District of New York who indicted Marc Rich for the crimes I mentioned earlier—they were never asked about their views on the Rich pardon, as they would have been if the normal pardon process had been followed at the Department of Justice.

If Mr. Holder advised the Rich pardon team on strategic matters, it would be a serious violation of his duties as the second highest law enforcement officer in the land. Such aid would be particularly disappointing because a House committee had specifically reprimanded Mr. Holder for improperly aiding and facilitating the clemency application of the FALN terrorists 2 years earlier. It is not disputed, though, that the Rich pardon application was fast-tracked and sheltered from its many opponents.

It is clear to me that Mr. Holder played a role in clearing the way for this pardon and, at a minimum, he knew it had not been appropriately handled through the Department of Justice pardon process.

Nevertheless, he declared himself as ‘‘neutral, leaning favorable’’ when the White House asked him about his opinion.

In summary, Mr. Holder appears once again to simply have given President Clinton the answer he wanted. The Rich pardon recommendation is the most recent major action by Mr. Holder as a public official. I believe the evidence casts doubt on his independence and his judgment once again.

My greatest concerns, however, are that Mr. Holder fails to fully understand the unique challenges and threats posed to our country by radical Islamic terrorism. I want to explain why I say that. I agree with Mr. Holder when he says the most important duty of the Attorney General is to protect America from another terrorist attack. But his public statements regarding the war on terror too often betray a willingness to advance ideological rhetoric without fully appreciating the sensitivity and the complexity of this issue.

I find it especially troubling that Mr. Holder's legal views on national security have seemed to shift, depending upon the political mood of the day and the audience to whom he is speaking.

Shortly after the terrorist attacks of 9/11, Mr. Holder voiced support for the Bush administration's interpretation of the status of terrorist detainees. Mr. Holder said, in January 2002, that al-Qaida terrorists:

. . . are not, in fact, people entitled to the protection of the Geneva Convention. They are not prisoners of war.

He went on to endorse indefinite detention of terrorist prisoners at Guantanamo Bay and argued that such prisoners should not be afforded Geneva Conventions protections so that they could, in fact, be interrogated to provide actionable intelligence.

He did insist, as did the Bush administration at the time, that these detainees should be treated humanely, though. But more recently, as the political winds have shifted, Mr. Holder has chastised the Bush administration for policies he now seems to believe defy the law.

There is a disturbing Jekyll-and-Hyde quality to Mr. Holder's legal pronouncements concerning our counterterrorism policies. I wish to quote from an Associated Press article entitled ''Obama AG pick defended Guantanamo policy,'' dated November 22, 2008. I ask unanimous consent that this article be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. Asked whether terrorism suspects could be held forever, Holder responded:

It seems to me that you can think of these people as combatants and we are in the middle of a war.

Holder said in a CNN interview in January 2002:

And it seems to me that you could probably say, looking at precedent, that you are going to detain these people until the war is over, if that is ultimately what we wanted to do.

Just weeks later, Holder told CNN he did not believe al-Qaida suspects qualified as prisoners of war under the Geneva Conventions.

One of the things that we clearly want to do with these prisoners is to have an ability to interrogate them and find out what their future plans might be, where other cells are located. Under the Geneva Convention, you are really limited to the amount of information that you can elicit from people.

Holder said it was important to treat detainees humanely, but he said they:

. . . are not, in fact, people entitled to the protection of the Geneva Convention. They are not prisoners of war.

He also downplayed criticism that prisoners were being mistreated.

Those in Europe and other places who are concerned about the treatment of al-Qaida members should come to Camp X-ray and see how people are, in fact, being treated.

Those were essentially the same arguments the Bush administration made with regard to Guantanamo Bay with regard to holding enemy combatants who wear no uniform, who do not obey the laws of war, and are not citizens of a state, a nation state, but, in fact, are a terrorist organization bent on killing innocent civilians here and abroad in an effort to pursue their ideology.

Since then, however, these arguments have been heavily criticized, as we know, by human rights activists and leading Democrats and, inexplicably to me, Mr. Holder himself.

He said in June of 2008:

We must close our detention center at Guantanamo Bay.

He said that in a speech to the American Constitution Society. He said:

A great nation should not detain people, military or civilian, in dark places beyond the reach of law. Guantanamo Bay is an international embarrassment.

Holder added he never thought he would see the day when the ''Supreme Court would have to order the President of the United States to treat detainees in accordance with the Geneva Convention.''

These sharply contrasting legal conclusions were made, again inexplicably by one and the same person, Eric Holder, the nominee for the highest law enforcement officer in the United States. One can only wonder what he truly believes.

In a 2008 speech to the liberal American Constitution Society, he attacked many of the same legal positions he once held as ''making a mockery of the rule of law.''

In that same speech, Holder called for a ''reckoning'' over the Bush administration's ''unlawful practices in the war on terror.''

He also accused the Bush administration of ''act[ing] in direct defiance of Federal law'' and railed against counterterrorism policies that he claimed ''violate international law and the United States Constitution.''

In this way, Mr. Holder appears to have already publicly prejudged a potential prosecutorial question that may come before him as Attorney General, without knowing all the facts.

Now, it is one thing to change your mind, but it is quite different to change your mind and then attack the very same position you once held as one that could only be held in bad faith, describing it as ''making a mockery of the rule of law.''

I can only conclude that as an act of pure cynicism, somebody who tells you, particularly a lawyer who takes a legal position he once embraced, as now only being able to be held in bad faith, is a person who has made a bad-faith legal argument at least once.

The recent terrorist attacks in India, in Mumbai, have reminded Americans of the possibility of further attacks on U.S. soil or literally anywhere around the world. On November 26, last year, Mumbai, as we know, was ravaged by a gang of terrorists. One of the attackers was captured while the rest were killed.

More than 170 individuals died as a result of bombings and gunfire, including 6 Americans. If a U.S. city was targeted in the same way Mumbai was, or worse, biological, chemical, other even nuclear weapons being used, it is critical that we be able to obtain the intelligence from captured terrorists in order to assess whether any other imminent attacks are in the works.

If we captured the terrorist in an ongoing attack on an American city, it is critically important that we not treat him as an ordinary criminal, with all the rights conferred by the Constitution on an American citizen. That, I believe, is one of the most important lessons we must recall and never forget from the tragedy of 9/11. To do so would effectively shut down the intelligence-gathering process and risk American lives.

When this sort of unpredictable legal challenge arises in the war on terrorism, I wish to know whether the Eric Holder of 2002 or the Eric Holder of 2008 will be calling the shots. I was not encouraged by Mr. Holder's refusal to say he would authorize aggressive interrogation against terrorists, even if he knew that to do so would prevent a major attack on an American city.

I also fear his recommendation for and continued endorsement of the FALN terrorist commutations is evidence of a failure to appreciate the continuing dangers of terrorism. At his confirmation hearing, Mr. Holder attempted to defend his poor judgment on the terrorist clemency issue by noting these commutations occurred long before 9/11.

But as I reminded him, the FALN clemencies came after the first World Trade Center bombing of 1993, and the al-Qaida attacks on U.S. embassies in Kenya and Tanzania in 1998. As Senator COBURN rightly pointed out, his clemency recommendation came in the wake of the 1995 Oklahoma City bombing right here on our own soil, the most horrific domestic terror attack that has ever occurred in our country.

So I worry that Mr. Holder is not prepared to lead the Department of Justice at a moment when this Nation is waging an asymmetric war whose battlefield extends across the globe and even onto U.S. soil.

If confirmed as the next Attorney General, Mr. Holder will inherit a complex legal architecture constructed to prevent terrorist attacks here in America and against our allies. That has admittedly been controversial. But I do not think anyone can question its effectiveness given the fact that we have not had another terrorist attack on our own soil since 9/11.

If Mr. Holder is confirmed, I hope he will study these issues and treat them more carefully and with greater deliberation and greater soundness of judgment than he has demonstrated by his conflicting positions in 2002 and 2008. I hope that rather than shifting his opinions with the political winds, he will do his very best to uphold the rule of law and the Constitution of the United States while protecting the American people by making sure we are protected within the limits of our law from future attacks.

The final issue I wish to mention is my concern about Mr. Holder's adherence to the Supreme Court ruling in the District of Columbia v. Heller, which interpreted an individual's right to keep and bear arms.

That case reversed the District of Columbia's position that said individuals could not own firearms in their homes to protect their family and their possessions. I believe this is an important victory for the second amendment that must be protected and preserved.

As the Nation's chief law enforcement officer, the Attorney General steers Federal gun law policy. The next Attorney General's views will shape not only law enforcement and prosecution priorities with regard to these issues but also the positions the Department of Justice takes in court. The views of the Justice Department will always be given considerable weight during the early stages of the law's development post-Heller.

It is crucial the next Attorney General fully appreciate that an individual's right to keep and bear arms is a fundamental freedom protected by our Constitution. I was not comforted by Mr. Holder's vague assurance that Heller now is the law of the land because it cannot be reconciled with his long record of hostility to second amendment rights.

Through his service as Deputy Attorney General and continuing to private practice, Mr. Holder has opposed the individual right to keep and bear arms. As Deputy Attorney General, he advocated for a wide variety of Federal gun restrictions. Mr. Holder's fierce hostility to gun rights continued after, as I say, his tenure as Deputy Attorney General.

Mr. Holder feels so strongly about his opposition to gun rights that he, along with his former boss, the former Attorney General Janet Reno, filed a brief with the Supreme Court in the Heller case and argued against the individual rights approach to the second amendment and in favor of the view that the second amendment protects only militia activities.

The Holder-Reno brief argued:

> The Second Amendment does not protect firearms possession or use that is unrelated to participation in a well-regulated militia.

Although the individual rights approach prevailed in the Supreme Court and in the D.C. Circuit, Holder's brief described that approach as ''unwise'' and ''unjustified.'' The Holder-Reno brief goes on to argue that, even if the second amendment protects an individual right, that right should be narrowly construed.

I worry it will be impossible for Mr. Holder to vigorously protect the second amendment rights of all Americans when he is so clearly opposed to the decision in the Heller case. I believe his hostility to the second amendment could lead the Department of Justice to take opposing positions to narrow that Supreme Court decision, particularly in court.

Holder's Heller brief was directly at odds with the Court's opinion, as we have seen. Can we expect him to vigorously enforce and protect the constitutional right to bear arms, a right with which he personally and strenuously disagrees?

Let me say, in conclusion, the Senate's advice and consent function requires us to carefully review a nominee's career, to ask hard questions, and to insist on satisfactory answers. I take this duty seriously, as I know all my colleagues do. With this nominee, I conclude that there are simply too many questions to which I have not yet heard a satisfactory answer.

Why would he recommend clemency for unrepentant terrorists?

Why would he recommend a pardon for a fugitive who made billions trading with America's enemies? Did Mr. Holder know one of the men whose clemency he recommended was linked to the murder of a U.S. sailor and, if so, did he communicate this to the White House? Why did Mr. Holder consult with Mr. Rich's prosecutors before recommending a pardon? Why is President Obama asserting executive privilege to prevent Mr. Holder from testifying about these commutations? Was Mr. Holder's judgment in the Rich and FLAN clemency decisions influenced by the outcome that he believed President Clinton wanted so badly? How can I explain to Joseph Connor, whose father was killed in the 1975 bombing in lower Manhattan, that the man who never spoke to his family before championing clemency for the men responsible for his father's murder will be the next Attorney General of the United States?

Does Mr. Holder appreciate the gravity of the threats and the complexity of the legal issues posed by the war on terror? Can Mr. Holder be counted on to support and defend the constitutional right to keep and bear arms?

I can't answer these questions with any degree of certainty. I regret to say I will vote against the nomination of Eric Holder to be the next Attorney General.

EXHIBIT 1

OBAMA AG PICK DEFENDED GUANTANAMO POLICY)

(By Matt Apuzzo)

WASHINGTON. Nov. 22, 2008—President-elect Barack Obama's choice to become the next attorney general, Eric Holder, once defended the Bush administration's arguments for holding detainees at Guantanamo Bay, a position that runs counter to his more recent comments—and to a signature policy of the incoming administration.

Holder, a confidant to Obama on legal issues, recently has been a leading voice in the chorus calling to close Guantanamo Bay, which he has described as an international embarrassment. Likewise, Obama has called it a ''sad chapter in American history,'' pledged to close the island prison and criticized the Bush administration for arguing that terrorism suspects aren't covered by standards set by the Geneva Conventions.

But in the months after the Sept. 11, 2001, terror attacks, Holder defended the Bush administration's policies at Guantanamo.

Asked whether terrorism suspects could be held forever, Holder responded: ''It seems to me you can think of these people as combatants and we are in the middle of a war,'' Holder said in a CNN interview in January 2002. ''And it seems to me that you could probably say, looking at precedent, that you are going to detain these people until war is over, if that is ultimately what we wanted to do.''

Just weeks later, Holder told CNN he didn't believe al-Qaida suspects qualified as prisoners of war under the Geneva Conventions.

''One of the things we clearly want to do with these prisoners is to have an ability to interrogate them and find out what their future plans might be, where other cells are located,'' said Holder, the former deputy attorney general during the Clinton administration. ''Under the Geneva Convention, you are really limited in the amount of information that you can elicit from people.''

Holder said it was important to treat detainees humanely. But he said they ''are not, in fact, people entitled to the protection of the Geneva Convention. They are not prisoners of war.'' He also downplayed criticism that prisoners were being mistreated.

''Those in Europe and other places who are concerned about the treatment of al-Qaida members should come to Camp X-ray and see how the people are, in fact, being treated,'' he said.

Those were essentially the arguments of the Bush administration. Since then, those arguments have been criticized by human rights groups, leading Democrats, and Holder himself.

''We must close our detention center in Guantanamo Bay,'' Holder told the American Constitution Society this summer. ''A great nation should not detain people, military or civilian, in dark places beyond the

reach of law. Guantanamo Bay is an international embarrassment.''

Holder added that he never thought he'd see the day where the ''Supreme Court would have to order the President of the United States to treat detainees in accordance with the Geneva Convention.''

Those comments are in line with Obama's views. Holder did not return e-mail and telephone messages seeking comment about his earlier interviews. Brooke Anderson, a spokeswoman in Obama's transition office, restated Obama's commitment to opposing torture.

''Eric Holder shares that view,'' she said. ''The president-elect has complete confidence that Eric Holder will be an attorney general who will restore respect for the rule of law and for our international commitments.''

Obama's advisers are crafting plans to close Guantanamo Bay, release some detainees and bring others to the United States to face trial. One unanswered question, however, is what to do with detainees who could not be prosecuted in criminal courts without jeopardizing national security.

The Justice Department under Holder almost certainly would help answer that question.

In introducing Holder and other members of his national security team, Obama said he welcomed differences of opinion.

''I assembled this team because I am a strong believer in strong personalities and strong opinions,'' he said. ''I think that's how the best decisions are made.

''I will be responsible for the vision that this team carries out,'' Obama said, ''and I will expect them to implement that vision once decisions are made.''

Mr. CORNYN. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. ALEXANDER. Mr. President, next week the Senate begins the debate of the so-called stimulus package. I wish to talk about that for a few minutes. It is $1.2 trillion of borrowed taxpayer money to be spent in an effort to help get our economy restarted. Here is my position on it, and I believe the position of most Republicans and of some Democrats. We believe that in order for the stimulus to be effective, it should be reoriented on housing. First, fix the real problem: housing. If housing is restarted, if home values are stabilized, and if people are buying homes, that will do more to help restart the economy than anything else. Second, we should let people keep more of their own money. A true stimulus is permanent tax relief. If people have more of their own money in their pockets, they will have more confidence. They will be able to buy more. After reorienting toward housing, that will also help restart the economy.

Since we are borrowing so much of this money, especially, we believe it ought to be oriented directly toward those items that would specifically create jobs now. It should not go toward good sounding ideas such as Head Start and Pell grants for college students that we may want to take up later, maybe as early as the following week, in a regular appropriations bill. So that is our belief: reorient the stimulus toward housing, let people keep more of their own money, and get the stuff out of the bill that has nothing to do with creating jobs now, in the next few months or in the first year.

We know Americans are hurting. Every single Senator knows that. Our country's economic turmoil is hitting every family where it matters, in the family budgets. More than 860,000 properties were repossessed by lenders in 2008, more than double the 2007 level. Manufacturing is at a 28-year low. Tennessee is a State that relies heavily on manufacturing. The unemployment rate is 7.2 percent, too high. It has been higher. I can remember at a time when I was Governor of Tennessee in 1982, the unemployment rate was 12 percent, but 7.2 percent is too high. There were 1.9 million jobs lost in the last 4 months of 2008. The long-term unemployed, people out of work for 27 weeks or more, rose to 2.6 million in December of 2008. So there are a number of steps we need to take as a government, and we have been taking them.

At a hearing this week, where the Presiding Officer and I are both members of the Budget Committee—and we probably agree those hearings were excellent—Douglas Elmendorf, Director of the Congressional Budget Office, reminded us of the steps the Government is already taking. The Federal Reserve negotiated the sale of Bear Sterns to JPMorgan Chase, $29 billion, to form a new limited liability company. Fannie Mae and Freddie Mac, the agencies that guaranteed half the home loans in the country, were taken over by their regulator and the Treasury put up $100 billion to stabilize that situation. The Federal Reserve extended $60 billion in a line of credit to the American International Group, the insurance company called AIG. We had a debate in October where on both sides of the aisle, two-thirds of Republicans as well as many Democrats voted to give the Secretary of the Treasury $700 billion to invest in troubled assets or to use in a variety of ways to try to keep our economy from going straight down. It has gone down, but it didn't go straight down; we believe this is partly because of the action the Congress and the President took at that time.

What we had was, in effect, a wreck on the highway. There is an old Roy Acuff song by that title. I think that is the best way to explain what was happening. It was like a wreck on the interstate outside Knoxville and suddenly traffic is backed up all the way to Lenoir City or even Kingston. One lane was the money for the bank loan, the next lane was the money for your auto loan, and the next lane was for meeting payroll. As long as that wreck was on the highway, none of the money could get where it needed to go, and nobody could borrow on anything. It is better today than it would have been, but we still have a deeply serious problem.

The law we passed in October temporarily raised the insurance for deposits from $100,000 to $250,000. Steps were taken to guarantee money market funds. The Treasury, Federal Reserve, and Federal Deposit Insurance Corporation announced agreements with Citibank and Bank of America. They created a liquidity program for the banking system.

The Federal Government, in all of its variety of agencies, has been very busy since October using taxpayer dollars, where necessary, or the Federal Reserve balance sheet, or Federal Deposit Insurance Corporation funds collected from banks to try to create a situation in which our economy can restart.

We know, having visited with President Obama and his team of advisers, that they are thinking of even more things we may need to do. But next week in the Senate we will be talking about whether it is a good idea to borrow $1.2 trillion and spend it as the Appropriations and Finance Committees have recommended we spend it as a way of trying to restart the economy. What I am here today to say is: we believe there ought to be a stimulus, but we believe it ought to be reoriented toward housing, that it ought to be reoriented toward permanent tax cuts, and that we ought to take out of this so-called stimulus anything that doesn't stimulate jobs now.

Let me try to give an idea of how much money $1.2 trillion is. It is more money than we spent on the Vietnam war in today's dollars. This comes from an article in Politico this week. It is more money than we spent on the invasion of Iraq. It is more money than we spent on the entire New Deal in today's dollars, and a lot more money than we spent on the Marshall plan. It is nearly as much money as we've spent on NASA ever since it started. It is a lot more money than we spent going to the Moon. This is a lot of money. We throw dollars around up here. Years ago Senator Dirksen said: A billion here, a billion there, sooner or later it adds up to real money. This is a trillion, a number that is hard for us to imagine. It is borrowed money, which I will get to in a moment.

Let me give one example of how I have been trying to describe how much money $1.2 trillion is. The Presiding Officer was Governor of Virginia. I was

Governor of Tennessee. I looked around the Budget Committee the other day and almost every member there had been in State government in one way or another. In other words, we used to deal with real dollars. We couldn't print anything. At the end of the year, we had to balance our budgets. Sometimes we had to veto $25,000 programs for epilepsy. I had to do that in 1981, 1982, and 1983, when we had an economic turndown. That is why this amount of money is hard for me to get my arms around. I think it is hard for most Americans.

Let me give you an idea about how much money it is. The previous Governor of Tennessee, one who came after me, Governor Sundquist, thought we needed a State income tax. He recommended Tennessee should have a State income tax. It was about 4 percent. It would have raised about $400 million a year. There was never a more unpopular act in our State than the Governor Sundquist proposal that we have a State income tax. Many people said he was courageous for recommending it, but it was rejected. People wouldn't even invite him to dinner for a few months. I would, but many other people wouldn't. That was $400 million a year. The State of Tennessee will receive almost $4 billion of this money. I am sure it will make life easier for the current Governor and the current legislature, but think about that. The State only collects close to $12 billion a year in State tax dollars, and it is going to get $4 billion over the next 2 years from this so-called stimulus package. This would be the equivalent of imposing about a 20-percent new income tax on the people of Tennessee for 2 years to raise that same amount of money. There would be a revolution in Tennessee if we did this. That is the amount of money we're talking about.

We are not talking about giving the State of Tennessee $40 million or $4 million or $400 million. Its shortfall this year is $900 million, which is the worst it has ever had. We are talking about shipping $4 billion of borrowed taxpayer money to Tennessee. My point is, that is a lot of money.

There is another aspect to this amount of money. I listed a number of things that the Federal Reserve Board and the Congress have done to try to create a better economic situation, to get housing going, to help stabilize banks, and even to deal with automobile companies. Almost all of those dollars we used either came from the Federal Reserve Board, which is not part of the Federal budget, not part of taxpayer dollars, or it was an investment.

In Tennessee, people don't like the word "bailout." It has come to be right up there with the top number. I voted twice, because I thought our country needed it, first to give President Bush, then to give President Obama the amount of money he needed to actually invest in banks or nonfinance companies so we could get the credit moving again. But in that case, we were investing dollars. We were not spending dollars. We hope and believe that we will get almost all of those dollars back for the taxpayer. When those dollars are put in a bank, for example, they pay 5 percent or 8 percent or even 10 percent interest, in some cases, back to the taxpayer. Maybe we will lose some of that money, but we don't intend to. It is not our goal. That is the purpose of it, investment. In this case, this is money gone.

This is borrowed taxpayer dollars, more than $1.2 trillion. I get to $1.2 trillion because the Senate bill is $900 billion, and the interest over the next 10 years is another $300 billion. That is the real cost of the stimulus package over the next 10 years. It is borrowed money.

Let me go to the borrowed money part.

We print money in Washington. We Governors cannot. That is one of the adjustments you make when you come here. It just takes a little while to do, and I understand the difference. The truth is, there is a reasonable level of debt a strong industrial country such as the United States can tolerate and still continue to grow. As the country grows, the debt reduces as a percentage of our output.

While it might be important for the State of Tennessee, as we always did, to balance our budget and almost never have any debt—and we did not even have an income tax—the Federal Government structure is different. I recognize that. But there is some reasonable limit to the amount of debt we should have, and there are good reasons there is a reasonable limit to that.

I think it is important to understand exactly what the debt we have is. USA Today did a story last year that talked about each family's share of Government debt and Government obligations. By "obligations," I mean what we owe for programs such as Medicare, what we owe for Medicaid, what we owe veterans. It is real money. It is money we are obligated to pay. It comes down to more than $500,000 per family a year.

So I think the way to talk about this stimulus package is: Should we ask every American family to increase their $531,000 debt in order to spend money for a stimulus package to try to restart the economy? I believe we should increase our debt for some purposes, such as restarting housing or permanent tax cuts—that actually allows people to keep their own money. Or possibly increase our debt for programs that would, perhaps, actually do things in the next 6 months or 12 months to stimulate the economy. There are roads, and bridges, and national park maintenance that could happen right now that would create jobs that would be genuinely stimulative. But that is a very severe test we should ask the American people.

Mr. President, I ask unanimous consent that the USA Today article detailing the obligation every American family owes be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALEXANDER. Now, there is another problem of running up too much debt. At the hearing where the Acting President pro tempore, the Senator from Virginia, and I were at earlier this week, I asked a question of the three witnesses: What can we learn from the rest of the world about how much debt is too much debt for the United States of America? The general answer was, today our debt is measured at about 40 percent of our annual gross domestic product. The estimates they gave suggested if the stimulus packages and if the other things that are going on continue to happen, we will be up to 60 or 70 percent of GDP. If the entitlement growth—the automatic spending we have in the Government from Social Security, Medicare, and Medicaid—keeps growing, and we keep adding at the rate we are doing, we will soon be at 100 percent of GDP. In other words, every year, government debt could equal everything we produced in this great country of ours—which produces 25 percent of all the wealth in the world every single year. We forget how fortunate we are. Twenty-five percent of all the wealth in the world, every single year, is produced in the United States of America and distributed among just 5 percent of the people in the world, which is us, those of us who live here. So we would have to take all that production for a whole year and use it to pay off our national debt.

Those economists who were testifying before us said that is too high. Forty percent is OK. They thought 60 percent is getting into a little bit of a problem. Eighty percent is too much, and 100 percent is a real problem. The practical problem is, as that number goes up—for example, as the entitlement spending goes up and other debt goes up—it squeezes out our ability to do anything else. I worked last year across party lines with Senator BINGAMAN and many others, and Senator WARNER worked in the private sector in this way, to try to do something about American competitiveness. We put into the law that we needed to double our investments in scientific research, and if we wanted to keep this high standard of living, we have a lot of work to do in high technology.

If we keep spending all the money on welfare, Medicare, Medicaid, Social Security, and debt, we are not going to have anything left for the great universities in the country on a yearly basis

or for investments in our future. Those are annual investments. We will be squeezing them out. That is another problem with debt. With a lower debt, we have more money for not just the investments in our future but for our national parks, our clean air, and the other things we need to do to have a desirable country.

Let me go back to the stimulus package and ask: What do we need to do? We need to, in the words of Senator GREGG—and I believe it is fair to characterize Senator CONRAD, the chairman of the Budget Committee, in the testimony this week—we need to reorient the stimulus package toward real estate, toward housing, and toward credit having to do with banks. First, fix the problem: housing.

Every big mess has a way into it, and I believe—and many on this side, and I think some on the other side also believe—the way into it is housing. How would one fix that? Well, one suggestion by Glenn Hubbard—former chairman of the Council of Economic Advisors and now at Columbia University is have the Treasury back, for a period of a year or 18 months, a 4-percent, 30-year fixed rate mortgage for creditworthy customers.

In other words, a bank in Nashville would say to you, if you are creditworthy: We will give you a 30-year mortgage at 4 percent. If today's prevailing rate were 5.2 or 5.3 percent—which it is in the marketplace—the Government would make up the difference, and it would probably guarantee the loan. That would create a new demand for housing.

I was talking with someone in the mortgage business yesterday who pointed out that for one of our large lenders in America, when the rates went down naturally after the Federal Reserve action a few weeks ago, the number of mortgages issued by that bank quadrupled.

So if we were to say to the American people: If you are creditworthy, you can buy a house; you can get a 4-percent mortgage for a principal residence, and we are going to keep that option open for a year. That will cost us some money. That could be part of this stimulus. It would create demand in housing. It would create liquidity. It would get banks lending. We believe it would make a real difference. It would be a better way to start the stimulus package.

A second idea, as Senator ISAKSON and others have suggested, is to create a tax credit for home buyers. We would say $15,000. So if you are sitting around thinking today, well, homes in Richmond have actually gotten down to a pretty good level, and I like that house—you could get a $15,000 tax credit when you buy the house, and when you file your income tax return, you get $15,000 back. This is real money, and you do not have to pay it back. If you had a combination of a 4-percent mortgage and a $15,000 tax credit for the next year, maybe we could get housing stabilized, maybe we could get demand stirring, and maybe we could get people confidence that there is liquidity in the market. That might not solve every problem, but it is the place to start. We would say first, fix housing. That is the way to restart the economy.

Senator GREGG has suggested we take some of the Federal Deposit Insurance Corporation's ideas about helping people who are stuck in houses that are about to be foreclosed on and help to relieve those foreclosures. There may be a way for us to encourage servicers for all of these mortgages out across the country to modify the loans as some banks are now doing. By modifying the loan, they simply say to you: What can you afford to pay? As long as you can pay that and pay the interest on a regular basis, we will change the loan to fit you. That way there is no foreclosure. The loan does not go bad. The houses on that same street do not go down in value because your house is foreclosed on. We suggest we should spend the next week talking about reorienting the money that we seek to spend to stimulate the economy on housing first.

Second, we suggest the next component of a stimulus package should be tax relief that would help create jobs now. My own view is that temporary tax relief is nice. I like having the money in my pocket, but it does not stimulate very much. Permanent tax relief, the economists tell us—money you can depend on for the future—builds confidence and stimulates the economy.

For example, the small business expensing provision, which would spur investments by doubling the amount that small business owners can immediately write off on their taxes for capital investments and for purchases of new equipment in 2009. Another example is the bonus depreciation provision, that would be helpful. Middle-class tax relief—this is the permanent tax relief I was talking about—by lowering the 15-percent bracket to 10 percent and the 10-percent bracket to 5 percent. Those are examples of permanent tax relief or business tax relief that could help create jobs now.

Third, we should not spend this kind of money on many of these programs. We should not borrow this money when each family already owes over a half a million dollars. We should not borrow the money to spend on programs we do not have to have. That is not a wise use of our dollars. We ought to take all of that out of this stimulus bill.

For example, there are small examples: buying new cars, money for contraceptives, rehabilitating off-road trails, honey bee insurance. We can find items like that which don't create jobs now. But the fact is, I am more concerned about the $190 billion of entitlement spending, the automatic spending that is in this $1.2 trillion. Every estimate is that $130 billion, $140 billion, $150 billion of that will never get out of the budget. The House put in almost $100 billion of new Medicaid spending for the States.

Well, Governors and legislators are going to like that except we are never going to be able to reform the Medicaid Program. The Federal contribution to it is so rich that States cannot afford to take a fresh look at it. What is Tennessee going to do after it gets $2 billion—$1 billion a year—for the Medicaid Program for the next 2 years and, then, in the third year, gets zero of that money? That sort of money ought not to be in a so-called stimulus package.

We need some truth in packaging. If it stimulates—and all of us can think of things that do—then put it in; if it does not, keep it out. Historic preservation fund grants, I love those, but they are not going to stimulate jobs in the next few months. Head Start, I was the principal sponsor of that. Pell grants, I was a college president. Next week, after the stimulus, we will be talking about how much we can afford in our budget to increase those. Federal spending for Pell grants has doubled in the last 6 years, but those things do not belong in a stimulus budget.

Some things do. There are highways that can be built. There are Corps of Engineers projects that can be completed. There are National Park Service infrastructure projects that can be worked on next month. These are important improvement programs. That would help stimulate as well. We should be able to make an intelligent distinction between those things that can actually stimulate and those things that are just good-sounding things that we might vote for if we had the money and if we did not have to borrow so much of it. That is our third suggestion about what we should do.

One other suggestion—here is an area where we actually have potential, I believe, for bipartisan support. We should do something, when we debate the stimulus package, about automatic spending, entitlement spending, and by that we mean Social Security, Medicare, and Medicaid.

As I mentioned earlier, by the year 2015—not so far away—that will be 70 percent of our budget. In other words, when we come here, we get to vote to appropriate 30 percent of the taxpayer dollars we spend because 70 percent is automatically spent on those entitlement programs. That is forcing our debt up to 100 percent of gross domestic product.

We had a breakfast on Tuesday here, the bipartisan breakfast we have on Tuesday mornings. It is a chance for us to get together across party lines. It was evenly divided, actually. There were 24 Members who came. The whole

subject was the Senator Conrad-Senator Gregg proposal to create a commission that would come up with a way to deal with Social Security, Medicare, and Medicaid, and present it to us. We would vote it up or down, and some way we would be forced to deal with this entitlement growth problem.

Senator MCCONNELL, the Republican leader, said in a speech a week ago today that he was ready to deal with the entitlement programs, but he was disappointed it was not dealt with in the last 2 years. He pledged to President Obama he would give him more support on dealing with it than the Democrats gave to President Bush during the last few years. You will remember President Bush tried in the beginning of his second term to deal with Social Security. He wanted private accounts. The Democrats said no to private accounts. So they just went down their parallel tracks and never got anywhere. Somehow they never got together and said: Well, let's drop private accounts, or let's try to do this; we can't do that.

President Obama has made clear he is serious about this. Senator MCCONNELL has made clear we are serious about it. We have a Conrad-Gregg proposal. We had 24 Senators meeting last Tuesday. We are meeting again next Tuesday. We believe something ought to be in this stimulus package that at least begins the process of dealing with entitlements in the long term so we can say to the American people: Yes, we are going to borrow some amount of money—maybe hundreds of billions of dollars—to stimulate the economy, and we know it contributes to the debt, but we are at least taking a step toward dealing with the long-term excessive debt we are experiencing in our country.

Finally, after listening to the Budget Committee hearings this week, the conclusion I came to was that I wish we were doing it all now. Here is what I mean by that. I spoke a little earlier about all the things we have tried to do since October at the Washington level—some by Congress, some by the Federal Reserve, and some by the Federal Deposit Insurance Corporation—to restart the economy. Whether it was dealing with the banks or the auto companies or troubled assets, there has been a lot of effort here.

After listening to the testimony in the Budget Committee, it seems perfectly obvious that we are going to have to do more. We are going to have to do more in housing. We would like to suggest we at least start addressing housing in this stimulus package, but if we don't do it here, President Obama and his team are going to have to recommend some steps for us to take in housing because that is how you restart the economy.

Everyone who looks at the Nation's banks and financial institutions knows we are going to have to do something there. We passed a bill in October called the Emergency Economic Stabilization Act, providing money to Treasury to address troubled assets. We thought it was going to be used to go get those bad assets off of the bank balance sheets so they could get back in good shape and lend again. That is what happens when banks fail or get in trouble. In normal times, the FDIC swoops in and takes the troubled assets out, sells them to another bank, and it closes on Friday and opens on Monday. Depositors are protected, and sometimes stockholders lose, but we go on and barely notice it. However, that is not what the money we passed was used for. It was used, basically, to give money to banks to capitalize, and the reason, apparently, was they were in such bad shape, they had to have it. So maybe it wasn't a bad thing to do, but it wasn't what we thought was going to be done, and now we still have the problem of bad assets.

We asked the witnesses: How many troubled assets do we have in all of these banks? They said $1 trillion or $2 trillion. I am not talking about a stimulus package; I am talking about troubled assets in financial institutions in the United States. We said: Well, then, what are we supposed to do about that? They suggested that the ideas we are likely to hear—they did not represent the administration, but the administration is listening to many of the same people—was that they may recommend, for example, some entity that will actually take the troubled assets out of the banks at some price, and then the banks are free to go ahead and with confidence start lending again. And we can start borrowing again, the economy goes again, but then we still have this entity over here. If it is going to buy $1 trillion or $2 trillion worth of bad assets, where does it get the money? Some of it is going to come from the taxpayers. How much of it? One witness said as much as we can afford to put in. So maybe $500 billion, $600 billion, $700 billion, $800 billion more dollars, not to spend as the stimulus package does but to invest in assets that we hope to sell for at least as much as we paid for them. That could happen. We might lose some money, we might make some money, but we are not spending it. But it is a lot of money, and it is taxpayers dollars, and there will be a lot of concern in Virginia and in Tennessee and in every State when we have to do that on top of what we have done before—on top of this stimulus. So why aren't we considering that today? Why aren't we considering that bad bank or what we are going to have to do about troubled assets?

So I think a better way to do it would be to say: Let's bring in the amount of money for troubled assets—is it $500 billion?—let's bring in the money to reorient toward housing, $200 billion or $300 billion, and then let's see what projects really do stimulate. Let's do it all together, and then let's see how much money we are talking about so that we are not surprised and the people we represent are not surprised. I would like to see us do it all at once.

So next week in the Senate is a very important week. There is a good deal of talk about bipartisanship. We appreciate President Obama's efforts on that. In my view, he and his team have been genuine in their outreach to Republicans. Just because we don't agree with their ideas doesn't mean there is not a bipartisan spirit here. And as time goes on, maybe we will get into a situation where even though the Democrats have enough votes to pass most bills and we have enough votes to stop cold some bills and to slow down any bill, that is not the way we work. If we come up with a better idea, maybe the majority will adopt it and create a bill that builds confidence in the country.

President Bush technically didn't need Congress's approval, except on appropriations, to wage the war in Iraq. Some of us thought it would be better if he had it, though, so Senator SALAZAR and I, along with 17 Senators and about 60 House Members across party lines, suggested that we adopt a resolution approving the principles of the Iraq Study Group as a way to conclude the war in Iraq honorably. President Bush didn't like that, and Majority Leader REID wouldn't bring it up for a vote. We might have been the only group that unified Senator REID and President Bush on the Iraq war, but we couldn't get it done.

I think it is a shame we couldn't because Secretary Rice and Secretary Gates told me not long ago they thought where we were going to end up in Iraq under Secretary Gates' administration is about where the Iraq Study Group said we should. If we had adopted that as a Congress, perhaps the war would have been easier, and our enemies would have gotten a clearer message, and our troops would have gotten more support, and President Bush would have had a more successful Presidency.

So we won the election, and we passed the bill. That is the recipe for passing many bills, but it is not the recipe for a successful Presidency. I think President Obama knows that, and that is why he has gone out of his way to visit with us and talk with us. I hope—with the stimulus package, with entitlements coming down the road and health care plans coming down the road—that the ideas we have on this side of the aisle, if they are good, are adopted on the other side of the aisle and we genuinely can work together in a legislative way. I think that can happen, and I would like for it to happen starting next week.

Next week is important for the Senate and important for the American people. We on the Republican side of the aisle believe we need a stimulus package, but we believe it needs to be the right stimulus package.

First, it should fix the problem, and the problem is housing. That would help restart the economy. And we have specific ideas about how to do that which I have suggested.

Second, we should let people keep more of their own money. That means permanent tax cuts. That is a way to build confidence.

Third, because we are borrowing this extraordinary amount of money and because we have other requirements for borrowed dollars, we should be very careful about what we borrow and what we spend it for and only spend it for those items that genuinely stimulate the economy and create jobs in the very near term. That is the truth in packaging.

If we adopt those three principles, then I think there will be genuine bipartisan support next week for a stimulus. If we don't, there won't be. That is why we have the Senate. That is why we have the debate. That is why I think we are here.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks an article by R. Glenn Hubbard and Christopher J. Mayer detailing the proposal for a 4.5-percent mortgage loan over 30 years.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ALEXANDER. Mr. President, I ask unanimous consent to have printed in the RECORD as well an article from the Wall Street Journal this week called ''A 40-Year Wish List'' as an example of the kinds of items that are in the stimulus bill that ought not to be if we are careful about the money we are borrowing to spend.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

EXHIBIT 1

[From USA Today, May 19, 2008]

TAXPAYERS' BILL LEAPS BY TRILLIONS

(By Dennis Cauchon)

The federal government's long-term financial obligations grew by $2.5 trillion last year, a reflection of the mushrooming cost of Medicare and Social Security benefits as more baby boomers reach retirement.

That's double the red ink of a year earlier.

Taxpayers are on the hook for a record $57.3 trillion in federal liabilities to cover the lifetime benefits of everyone eligible for Medicare, Social Security and other government programs, a USA TODAY analysis found. That's nearly $500,000 per household.

When obligations of state and local governments are added, the total rises to $61.7 trillion, or $531,472 per household. That is more than four times what Americans owe in personal debt such as mortgages.

The $2.5 trillion in federal liabilities dwarfs the $162 billion the government officially announced as last year's deficit, down from $248 billion a year earlier.

''We're running deficits in the trillions of dollars, not the hundreds of billions of dollars we're being told,'' says Sheila Weinberg, chief executive of the Institute for Truth in Accounting of Chicago.

The reason for the discrepancy: Accounting standards require corporations and state governments to count new financial obligations, even if the payments will be made later. The federal government doesn't follow that rule. Instead of counting lifetime benefits for programs such as Social Security, the government counts the cost of benefits for the current year.

The deteriorating condition of these programs doesn't show up in the government's bottom line, but the information is released elsewhere—in Medicare's annual report, for example. Since 2004, USA TODAY has collected the information to provide taxpayers with a financial report similar to what a corporation would give shareholders. Big new liabilities taken on in 2007:

Medicare: $1.2 trillion.

Social Security: $900 billion.

Civil servant retirement: $106 billion.

Veteran benefits: $34 billion.

The multitrillion-dollar loss is a more meaningful financial number than the official deficit, says Tom Allen, chairman of the Federal Accounting Standards Advisory Board, which helps set federal accounting rules.

Medicare has an unfunded liability of $30.4 trillion.

That means, in addition to paying all future Medicare taxes, the government needs $30.4 trillion set aside in an interest-earning account to pay benefits promised to existing taxpayers and beneficiaries. The amount is sure to rise when the oldest of 79 million baby boomers—62 this year—reach 65 and become eligible.

Economist Dean Baker says the huge liabilities are potentially misleading because future generations will have greater income. ''If we fix health care, then our deficits can be easily dealt with,'' he says.

EXHIBIT 2

[From the Wall Street Journal, Dec. 17, 2008]

LOW-INTEREST MORTGAGES ARE THE ANSWER—STOP THE DECLINE IN HOME PRICES, STOP THE CRISIS

(By R. Glenn Hubbard and Christopher J. Mayer)

Recent news articles suggest that the Treasury Department is considering a plan to offer a 4.5% mortgage for home buyers for a period of time. Let's hope it does. It would help arrest the decline in house prices that is at the base of the ongoing financial crisis and recession.

Raising the demand for housing makes sense now. While fundamental factors clearly played a role in driving down house prices that were at excessive levels two years ago, we have argued in a paper (to be published in the Berkeley Electronic Journal of Economic Analysis and Policy) that in most markets house values are today lower than what is consistent with the average level of affordability in the past 20 years.

Nonetheless, without policy action house prices are likely to continue falling, thanks largely to the meltdown in mortgage markets and the weakening employment outlook. Conversely, we see little risk that increasing the demand for housing will touch off another housing bubble. And indexing the mortgage rate to the Treasury yield could avoid this outcome in the future. While the economy is contracting, low interest rates would spur housing activity. When economic activity improves, the U.S. Treasury yield and mortgage rates would rise.

A 4.5% mortgage rate is not too low. The 10-year U.S. Treasury yield closed at 2.3% on Dec. 12, 2008. Hence a 4.5% mortgage rate is 2.2% above the Treasury yield, above the 1.6% spread that would prevail in a normally functioning mortgage market.

Some have argued that lenders should earn more than the average 1.6% spread, to compensate for the fact that housing is a much riskier investment today. We don't think so. Recall that a mortgage can be thought of as a risk-free bond plus two possibilities that increase risk to lenders: default and/or prepayment. Historically, the risk of default adds about 0.25% to the interest rate. The remaining spread of the mortgage rate over the Treasury yield represents the risk of prepayment and underwriting costs. With falling house prices, the risk of default could indeed add 0.75% or more for a newly underwritten and fully documented loan. But 4.5% would be the lowest mortgage rate in more than 3o years—so the additional risk to lenders of prepayment would be almost nil. And low mortgage rates would substantially reduce the risk of further house price declines.

Moreover, a 4.5% mortgage rate will raise housing demand significantly. A simple forecast can be obtained by applying the 2003–2004 homeownership rates to 2007 households. We use the 2003–2004 home ownership rates because those were the years of the lowest previous mortgage rates (the average mortgage rate was 5.8%).

An increase in the homeownership rate from 67.9 (third quarter, 2008) to 68.6 (the average rate from 2003–2004) would increase homeownership by about 800,000 new homeowners. If we also take into account the changing relative age distribution of the population, there would be a total of 1.6 million new homeowners. A simple statistical analysis examining the impact of lower mortgage rates and higher unemployment rates yields an even higher, and firmer, estimate of 2.4 million additional owner occupied homes in 2009.

The increased demand for housing arising from lower mortgage rates would provide a floor on further house price declines. Estimates in our recent paper suggest that real house prices increase by about 75% of the decline in after-tax mortgage payments. So a decline in mortgage payments of 16% would result in approximately a 12% floor on the decline in house prices.

Current futures markets suggest that house prices will decline by 12%–18% in the next 18 months. So a 4.5% interest rate might well lead to flat or even slightly higher house prices in 2009.

Stabilizing house prices will likely improve consumer confidence substantially. Increases in house prices relative to where they would have gone with higher mortgage rates would also provide a housing wealth effect—that is, higher annual increases in spending as consumers feel richer—on consumption of as much as $76 billion to $113 billion each year.

The 4.5% mortgage rate that the Treasury is considering also should be available for present homeowners who want to refinance, because of the benefits for the economy as a whole. We calculate that up to 34 million

households would be able to do so, at an average monthly savings of $428—or a total reduction in mortgage payments of $174 billion. This is a permanent reduction in payments and is thus likely to spur appreciable increases in consumption.

Moreover, trillions of dollars of refinancings would retire a large number of the existing mortgage-backed securities. This would reduce uncertainty about the value of existing mortgage-backed securities. It would flood the market with additional liquidity that the private sector could deploy to other uses such as auto loans, credit cards, commercial mortgages and general business lending.

A reduction of mortgage interest rates to 4.5% (or, given yesterday's Fed action, to a lower level) is superior to other proposals that focus only on stopping foreclosures, or on reforming the bankruptcy code to keep people in their homes. Stopping foreclosures, however meritorious, may not limit the dangerous decline in house prices as much as proponents claim. It could work the other way. Stripping down mortgage balances in bankruptcy would likely raise future mortgage interest rates and lower the availability of mortgages, reducing house prices.

Finally, a decrease in the mortgage rate, even though it is intended be a temporary intervention in the present exigency, plants a seed for future thought. Given the chaos of the recent past, wouldn't a return to simple, 30-year fixed-rate mortgages with a low rate be the right foundation for the long-term future?

EXHIBIT 3

[From the Wall Street Journal, Jan. 28, 2009]

A 40-YEAR WISH LIST

''Never let a serious crisis go to waste. What I mean by that is it's an opportunity to do things you couldn't do before.''

So said White House Chief of Staff Rahm Emanuel in November, and Democrats in Congress are certainly taking his advice to heart. The 647-page, $825 billion House legislation is being sold as an economic ''stimulus,'' but now that Democrats have finally released the details we understand Rahm's point much better. This is a political wonder that manages to spend money on just about every pent-up Democratic proposal of the last 40 years.

We've looked it over, and even we can't quite believe it. There's $1 billion for Amtrak, the federal railroad that hasn't turned a profit in 40 years; $2 billion for child-care subsidies; $50 million for that great engine of job creation, the National Endowment for the Arts; $400 million for global-warming research and another $2.4 billion for carbon-capture demonstration projects. There's even $650 million on top of the billions already doled out to pay for digital TV conversion coupons.

In selling the plan, President Obama has said this bill will make ''dramatic investments to revive our flagging economy.'' Well, you be the judge. Some $30 billion, or less than 5% of the spending in the bill, is for fixing bridges or other highway projects. There's another $40 billion for broadband and electric grid development, airports and clean water projects that are arguably worthwhile priorities.

Add the roughly $20 billion for business tax cuts, and by our estimate only $90 billion out of $825 billion, or about 12 cents of every $1, is for something that can plausibly be considered a growth stimulus. And even many of these projects aren't likely to help the economy immediately. As Peter Orszag, the President's new budget director, told Congress a year ago, ''even those [public works] that are 'on the shelf' generally cannot be undertaken quickly enough to provide timely stimulus to the economy.''

Most of the rest of this project spending will go to such things as renewable energy funding ($8 billion) or mass transit ($6 billion) that have a low or negative return on investment. Most urban transit systems are so badly managed that their fares cover less than half of their costs. However, the people who operate these systems belong to public-employee unions that are campaign contributors to . . . guess which party?

Here's another lu-lu: Congress wants to spend $600 million more for the federal government to buy new cars. Uncle Sam already spends $3 billion a year on its fleet of 600,000 vehicles. Congress also wants to spend $7 billion for modernizing federal buildings and facilities. The Smithsonian is targeted to receive $150 million; we love the Smithsonian, too, but this is a job creator?

Another ''stimulus'' secret is that some $252 billion is for income-transfer payments—that is, not investments that arguably help everyone, but cash or benefits to individuals for doing nothing at all. There's $81 billion for Medicaid, $36 billion for expanded unemployment benefits, $20 billion for food stamps, and $83 billion for the earned income credit for people who don't pay income tax. While some of that may be justified to help poorer Americans ride out the recession, they aren't job creators.

As for the promise of accountability, some $54 billion will go to federal programs that the Office of Management and Budget or the Government Accountability Office have already criticized as ''ineffective'' or unable to pass basic financial audits. These include the Economic Development Administration, the Small Business Administration, the 10 federal job training programs, and many more.

Oh, and don't forget education, which would get $66 billion more. That's more than the entire Education Department spent a mere 10 years ago and is on top of the doubling under President Bush. Some $6 billion of this will subsidize university building projects. If you think the intention here is to help kids learn, the House declares on page 257 that ''No recipient . . . shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.'' Horrors: Some money might go to nonunion teachers.

The larger fiscal issue here is whether this spending bonanza will become part of the annual ''budget baseline'' that Congress uses as the new floor when calculating how much to increase spending the following year, and into the future. Democrats insist that it will not. But it's hard—no, impossible—to believe that Congress will cut spending next year on any of these programs from their new, higher levels. The likelihood is that this allegedly emergency spending will become a permanent addition to federal outlays—increasing pressure for tax increases in the bargain. Any Blue Dog Democrat who votes for this ought to turn in his ''deficit hawk'' credentials.

This is supposed to be a new era of bipartisanship, but this bill was written based on the wish list of every living—or dead—Democratic interest group. As Speaker Nancy Pelosi put it, ''We won the election. We wrote the bill.'' So they did. Republicans should let them take all of the credit.

Mr. ALEXANDER. Mr. President, I yield the floor, and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, there is a growing recognition in the Congress that the so-called spending stimulus bill is colossal in nature, and it is going to be moved through the Congress with little or no significant changes. Those of us who have been around a while can see what is happening. The bill moved through committee. A lot of good amendments and suggestions for change were made in the Appropriations Committee, but none passed. A lot of ideas and suggestions were made in the Finance Committee, and none were agreed to, at least none of any significance. There are provisions in the bill I would strongly support and believe should be part of a stimulus package because I think a targeted, smart bill can help improve our economy, but it is not going to change the difficulties we are in, I am convinced of that.

Christina Romer, President Obama's top economist, has predicted that if we pass a stimulus bill, the unemployment rate will not reach quite so high. Her numbers were referred to in the Budget Committee, of which the Presiding Officer, Senator WARNER, is a member. Those numbers were brought out, but even without any stimulus, she projected the unemployment rate would not reach 10 percent.

During the tough recession when President Reagan broke the inflationary spiral we were in, we hit almost 11 percent unemployment. The Congressional Budget Office also projected that with no stimulus, the unemployment rate would not reach 10 percent. When asked if the stimulus package would make it any better, Mr. Sunshine, the Acting Director of the Budget Office at that time, said it might.

I think a stimulus package can help but I do not think a stimulus package is going to change the fundamentals of this tremendous economy, which is going through a period of rebalancing and adjustment that is painful. It is not going to be bought away by throwing a few billion dollars or maybe even a trillion dollars at it.

I wish to make that point in general. We are in a tough time. We are going to go through a tough time. It is not going to be easy, but this country has gone through tough times before. We can hope and pray it will not be as tough as the tough recession we had in the early to mid-1980s. We survived that. We developed some economic principles that ended inflation, and we

had 25 years of steady progress based on a sound dollar and sound economy. I guess I would say let's be a bit humble in what we think we can accomplish.

I will add one more point. Politically, Presidents and Congress like to do something. When there is difficulty out there and the TV every night is coming with some bad news stories and our constituents are worried, elected officials feel like they must do something; if we don't do something, our constituents will get mad at us and vote us out of office. But what if the right thing to do is to not overreact? What if the right thing for America is to ask ourselves what it is that can actually be of benefit, and let's do that. But let's not go hog-wild, let's not do some things that are going to do long-term damage to the country. That is where we are. Good people can disagree on where that line is drawn. A lot of people are talking about politics—Republicans did not get this amendment or that amendment. I am beyond discussing those issues at this point. My view is: Is the stimulus bill that is going to be moved in this Senate, which is even bigger than the one in the House—it was $818 billion, I believe, in the House legislation, and this one is already now at $888 billion. They added $70 billion for the AMT tax fix. So it is now almost $900 billion.

I am not sure how much thought we have given to it. We certainly have not had extensive hearings on this legislation. That is where we are strategically.

Let me say to my colleagues on both sides of the aisle, the more people look at this so-called stimulus bill, really a spending bill, the more disastrous and the more flawed they are finding it to be. Most Members of Congress, most Members of the Senate, I think, want to support a stimulus bill. They probably have made public statements that they want to support a stimulus bill. But all of a sudden, people are saying: Whoa, really? Is that much in it? This is in it? Only 3 percent of the money goes to roads? Really? I thought it was a roads bill. We are hearing that kind of talk. People are beginning to ask questions about what is in the legislation that can spend $900 billion.

It doesn't just cost $900 billion. The Congressional Budget Office has looked at it, as they are supposed to do. They are a nonpartisan office. They give us good information on how much legislation costs, among other things.

Remember, every dime of spending, all of this $900 billion increases the debt. We are already in debt. Any other dollar that is spent increases the debt. So the $900 billion spending bill will increase the debt in 10 years by $900 billion, and you have to ask yourself: Where do we get that money? We have to borrow the money. And to borrow the money, we have to pay interest on it. The Congressional Budget Office has calculated it. They didn't at first, but now they have. They calculate $347 billion over the next 10 years, the budget period we are looking at, will be expended by the American taxpayers to pay interest on this debt. By the way, the deficit this year is the largest one in the history of the Republic.

I will talk about the debt a little bit more because it is important. There is no free lunch. Julie Andrews in ''The Sound of Music'' said nothing comes from nothing, nothing ever could. Debts will be repaid. You think: Well, we may not repay these debts. We will have to, and we will pay interest on it. We may succumb to the very pernicious temptation to inflate the currency and pay back our debt with dollars less valuable than the ones we borrow today. That is what we call debasing the currency. That is inflation. That is a corrosive situation the country must not get into and has not been in for the last 25 years. Those are the temptations we can fall into when the debt gets too great.

The argument is we want to have shovel-ready projects, and those shovel-ready projects will increase employment and will help us work our way through this recession. It is going to be longer than most recessions. It is going to end, but it will be longer than most recessions.

The message that has gone out is infrastructure is behind. Roads and bridges are not up-to-date. We need to spend money on them. Now would be a good time to go into debt and borrow money and fix roads and bridges and that we would, therefore, be able to create jobs and have something concrete after it is all over.

I like building bridges because it is a concrete thing, and when it is over, people can benefit from it for generations to come. Unlike a lot of the Government programs that are in this bill, we spend billions and billions of dollars, and when it is over, we ask ourselves: Did it do any good at all?

As I indicated, we now know the request for roads and bridges in the $900 billion stimulus bill amounts to around $30 billion—$15 billion the first year, $15 billion the second. There is other infrastructure spending—on hospitals, school money, those kinds of things.

The idea that this is a roads and bridge bill is false. It is false. It is not so.

In addition to that point, I note the Congressional Budget Office examined the legislation to ask whether this spending we would be participating in would actually come forward quickly, as everybody says it must, to create jobs now and, therefore, help us ease the rising unemployment we are seeing.

CBO has found that only around 50 percent of the spending that is in the legislation will occur in the first 2 years.

What about this year, the first year? But even over 2 years, only 50 percent of it is spent. The other 50 percent is going to be spent after 2 years, in years 3, 4, 5. According to Ms. Romer, the President's top adviser on the economy, we will be coming out of the recession by then anyway without a stimulus package.

The programs, in addition to the construction projects and spending plans that are put together, have been poorly cobbled together in haste. They have not been well thought out. There is no way they could have been well thought out.

Three hundred economists, including three Nobel laureates, have signed a petition condemning the stimulus plan as it is now written. Many of them would favor a stimulus plan, but when they look at this one, they are aghast, and they are warning us that infrastructure spending has never successfully lifted a country out of an economic slowdown. There are many examples of that around the world. These economists are saying that.

Marty Feldstein, an economist President Reagan admired and conservatives have admired and most Americans have admired, said at one point he favored a stimulus bill. I think about $350 billion. He has now written an op-ed in the Wall Street Journal saying this is bad; do not pass this stimulus bill. He opposes it.

The Chamber of Commerce—I like the Chamber of Commerce. They are great folks. But if anybody thinks they are not self-interested does not know what they do. They have a lot of Members who are going to benefit from this program. They are going to get bucks out of it. They favored a stimulus package sometime ago, and they said we need a stimulus package. Now they are saying they are not for this bill. They are opposing it, even though their members, a lot of them, are going to get bucks out of it. Because we are throwing a lot of bucks out there, and they are going to get some. Even they, in the interest of their country and the long-term vision for the economy, have concluded it is not good for this country to pass the bill we are dealing with now.

The bottom line is that I am convinced now that the extreme long-term cost of this legislation outweighs any short-term benefits. And remember, the $1.2 trillion, the $900 billion plus the interest on it that CBO has calculated—and it is only right that they do so—comes on top of a $700 billion bank/Wall Street bailout that proved ineffectual, has not been successful. We are being told now—and President Obama met with the Republicans in a very nice discussion, and the President acknowledged that they are going to have to be coming back and asking for more Wall Street money not that many weeks from now. So we are not through

yet with throwing taxpayers' money into this vortex.

The surge in debt and reckless spending that we have seen in the last year, from both parties, is unlike anything this Nation has ever seen in its history, yet there has been such little serious discussion about where the money is going, how we are going to account for it, and whether we will receive a legitimate benefit from it. It is amazing to me. So I think we have to reconsider the size and the nature of this legislation. We cannot do this. It is bad for America. It is not a question of Republicans and Democrats and that kind of thing. I know the conventional wisdom is we have to do something; if we don't do something, people will be mad at us; if we don't do something and the economy gets worse, they will say: You didn't do anything, you stupid goof. You sat on the sideline and didn't do anything. But I have to say, at some point you can do too much and you can do things that are unwise, and that is what we are paid to decide here.

So I am committed, and I will do what I can, to defeat the bill as written. I will support a more targeted, cost-effective, temporary plan that can help our economy, but it must be done at a price we can afford.

I am going to talk in a minute about the size of the deficit we are facing. As a member of the Budget Committee, I know it is a grim discussion. I have concluded that this is a fight for the very financial soul of our country. I mean, what is it we are doing here? Are we fulfilling our responsibilities to watch over the taxpayers' money? Presidents can't spend money if we don't appropriate it. Every dime President Bush spent on the Wall Street bailout, we gave to him. Every dime President Bush spent on sending out those checks last spring that were supposed to stop the recession went to the debt. It increased our debt, causing us last year to have the biggest deficit in the history of the Republic. It didn't work, but we gave the money. It is not President Bush who did it; we funded it. And no stimulus spending bill is going to get passed and no money is going to be available to be spent unless Congress spends it. It is our responsibility. We can't pass it off on President Obama.

Let me show this chart. As a member of the Budget Committee who has dealt with these issues for a number of years, this chart is where my mind is, if you want to know the truth. In 2004, after that recession, when President Bush cut taxes and did some other things—I think he even sent out some stimulus checks in that period of time—the deficit that year amounted to $413 billion. That is how much we spent that year more than we took in, in 2004. It was the largest number we had ever seen. And he was pummeled by the loyal opposition, my Democratic colleagues, for wasteful spending and for putting us in deficit and that kind of thing, and some of that was justified, in my view.

In 2005, the deficit dropped about $100 billion. It dropped to $318 billion. In 2006, it dropped to $248 billion. In 2007, a year and a half ago, it was $161 billion. We were heading in the right direction. I began to feel better about the country. Last spring, we sent out $160 billion in checks to try to stop this economic slowdown, and that virtually doubled the deficit. We came in, September 30 of last year, when the fiscal year ended, the deficit was $455 billion—the largest, I think, ever, but certainly the largest since World War II—and we didn't hear much talk about that. The Congressional Budget Office is our expert office on this, and we now see that they have estimated that without the stimulus package, without the stimulus bill, the deficit this year will be $1.2 trillion, more than twice the highest deficit in the history of the Republic. To give you some idea of how much money we are talking about, imagine all the income tax payments that come to our country from individuals. That amounts to $1.1 trillion. Right here, without the stimulus, we are at $1.2 trillion, equal to the entire revenue from the income tax in America. With the stimulus package, CBO estimates it will be just over $2 trillion, and that does not include the interest that will be accumulated on it.

That $1.2 trillion deficit that they are projecting now includes $200-plus billion for the Wall Street bailout, and they are also including about $240 billion for the Freddie and Fannie financial bailout, those huge institutions that bought up these bad mortgages and then we bailed them out. That is what helps drive the number. Next year, they are projecting $703 billion and then $498 billion—all of those bigger than any in previous history, and we will be seeing some additional expenditures there.

For example, this $703 billion does not include the alternative minimum tax fix, which costs $70 billion a year. I think most of my colleagues probably know this, but I see some new Members of the Senate here, so to tell you all how we gimmick the system, the alternative minimum tax is $70 billion a year to fix it. Everybody knows we are not going to allow it to kick in and hit the American economy at the full amount. So why don't we go on and fix it permanently and set a rate? Because CBO will score it. And if we score it for $70 billion a year, for a 10-year budget, that is $700 billion. So we pass a law that fixes it for 1 year, and the next year, when they calculate the debt, they assume we are going to have $70 billion more in revenue from the alternative revenue tax. But we are not going to have that money because we are going to fix it again. There are a lot of gimmicks in here, so those numbers are going to be a lot higher. I know this. I have been here, and I know how the system works.

Finally, I will add one more thing to the discussion, and that is the interest on the debt. We are now a little under $200 billion a year in paying interest on the debt. The debt has been growing. I think it is about $10 trillion. In the next 10 years, the estimates are it could be $21 trillion in debt—the total debt of America. This bill, by the way, raises the debt limit. It has to, because we are adding another trillion dollars in debt. The Congressional Budget Office scores that in 2014—5 years from now—the interest on the debt will not be $200 billion, but counting the stimulus package it will be around $430 billion.

Now, how much money is that—$430 billion? Today, it is $200 billion, and 5 years from now it will be $430 billion. Big deal. But that is every year, No. 1. It is every year. And to give some perspective on how large that is, it is more than a third of the income tax revenue of the entire U.S. Government from individuals, and it is a number that is almost equal to the 5-year cost of the Iraq war. We have spent about $500 billion on the Iraq war in the 5 years that has occurred. That has been a major expense of the U.S. Government, and it has been very painful to us. People have been not happy about it. But by surging this debt, we will in the future be incurring an interest payment almost equal every year to the 5-year cost of the Iraq war.

So I say to my colleagues, I know the momentum has been going forward. I know the House moved forward with the bill and people have expected that we are going to pass it, but I am not sure. I think the American people are getting concerned about this, and they are saying, let's pare this down. Why can't we do a $200 billion or a $300 billion dollar stimulus package that will actually create jobs and won't add so much money to our deficit and will create things that are of permanent value to the public, not providing relief to soldiers who fought with us in world wars and other programs that are in the legislation.

This is the beginning of a discussion, or it ought to be the beginning of a national discussion about what this country is about. We need to ask ourselves: Isn't it important that we have a sound currency? Shouldn't a sound dollar be one of the highest possible goals of the Congress? And to have that, aren't we, as a Congress, going to have to be responsible enough to, in times of uncertainty and fear, be able to rationally think through this and do this right?

My 90-year-old aunt, who I was with last week in Alabama, said to me: You all don't know what you are doing up there, do you? And I don't think we do. I think that was as good a synopsis of what the American people are thinking

about us as anything I have heard. We don't know, and we have to get serious here. It is our responsibility. When we are talking about trillions, we are talking about real money.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

OUR COUNTRY'S CHALLENGES

Mr. UDALL of Colorado. Mr. President, I rise today with full and humble appreciation for the critical scrutiny a Senator's maiden speech usually attracts. I am also aware of the somewhat forgotten tradition here in which freshmen Senators took some considerable time before throwing caution to the wind, opening their mouths, and hoping to enlighten their wiser and more experienced colleagues. That tradition like many others has eroded over time, such that in recent years freshmen Senators have taken to the floor early and often. I hope my words today will not encourage a revival of the older tradition.

I am also aware that many new Senators use the occasion of their first speech to introduce a specific bill or to speak at length about pending legislation. I hope to do something different today. I will not speak about specific legislation, but I will speak about this moment in our country's history, the perils we face, and my sincere hope that we will address the critical issues of our time in a new way, with less rancor and with a shared commitment to bridge the partisan divide that has characterized so much of our recent political experience.

We have inaugurated a new President and a new administration, and a new Congress is taking shape. These developments represent a fresh start, a new start, one in which every American, regardless of party or political affiliation, can rejoice because if there were ever a time when our country hungered for a fresh start, it is here and it is now.

The American people are impatient with politics, and with good reason. Our country is facing significant peril. More of our fellow citizens are losing their jobs and their homes. Credit is drying up. Businesses, large and small, are cutting back. Americans have seen the value of their college and retirement savings plans reduced dramatically. We may be facing the most significant and difficult economic crisis since the Great Depression of the 1930s.

This has put me in mind of a great and courageous predecessor, Senator Edward Costigan, who served here, from Colorado, from 1931 to 1937, the very depths of the Great Depression. I have reverence for Senator Costigan because he was born of the progressive tradition of the West—a tradition the Udall family has participated in over many generations. Senator Costigan is largely remembered for his effort to pass an antilynching law at a time when people of color were under a constant threat of mob violence. He was also a champion of economic reform.

I found it interesting that Senator Costigan, in this Chamber in 1932, spoke on behalf of a stimulus bill—which was then called a relief bill—using words that are eerily relevant 76 years later. Arguing for the bill, Senator Costigan said:

> One almost despairs of the ability of America's industrial and political generals to save America in its present crisis. . . .

Thankfully, we have not reached a point of economic collapse anything like that which occurred when Senator Costigan spoke. But Americans who have lost their jobs or their savings know this crisis is every bit as real and every bit as devastating.

This current crisis is made worse by our continued addiction to oil and our dangerous dependence on foreign oil in particular. While the global market price of oil and gasoline dropped remarkably from record highs of last year, no one should be under any illusion that this price slide will continue. Continued instability in the Middle East, combined with ever-increasing demand in China, in India, and other global markets, will inevitably mean that the price of oil will rise. We have not seen the end of the energy crisis that crippled our economy last summer. We did survive the first wave of this energy tsunami, but we must prepare for the waves to come.

This economic crisis is also made more perilous by the fact that our country is still engaged in two unfinished wars. Mr. President, 150,000 of our best and bravest are serving in Iraq and Afghanistan. Our Army has been stretched to the breaking point, and our national security depends on implementing a new strategy that includes rebuilding our defense capability.

Elsewhere in the world, in North Korea, in Gaza, in the winding alleys of Pakistan, in the shadowy corridors of power in Iran, we face threats from new enemies, the risks of widening conflict, and the gravest danger of all in the new century—the potential for a nuclear weapon to fall into the hands of terrorists.

David Sanger points out in his compelling book, ''The Inheritance,'' that America's response to 9/11 has not been without strategic error. America's position in the world, military and economic, has been weakened at the very moment we need to lead the world.

This list of challenges is daunting, and it does not include other pressing problems bearing down on us, such as the escalating cost of health care, a Federal budget deficit that threatens to wash away the foundation for our children's economic future, illusive solvency for key programs such as Medicare and Social Security, a broken immigration system, and mounting evidence that global climate change is threatening our natural environment.

In addition to losing influence on the world stage and struggling to restore a wrecked economy, in addition to Iraq and Afghanistan, we may also have a third war on our hands—this one with Mother Nature. If Mother Nature fails, our list of challenges will seem small by comparison.

The question, then, before us is, Will this be a moment of anxiety or optimism? In truth, I believe it is both. The challenges we face are among the most significant ever faced by a new President and Congress.

Although I join the Senate as a proud western Democrat, buoyed by the success my party enjoyed in the last election, I think it would be a terrible mistake to see the challenge of this moment in purely partisan terms. The problems we face are not Democratic or Republican problems, they are American problems, and they will only be met by American solutions. Much lipservice is given to the idea of bipartisanship and the notion of working across the aisle. Frankly, I have to tell you, I think it is cynicism to breathe life and action into these words that hamstring us.

Like many of you, I was serving in the Congress on 9/11. That tragedy awakened a deep spirit, a deep spirit of shared purpose. I call it the spirit of 9/11, in the best sense of that term. I want to invoke it here, not to use it as a patriotic bludgeon but to remind us how it felt to know our country had been attacked and that we were united in our response and in our resolve. If there were ever a time when we needed to recapture that spirit of 9/11, it is now. Surely we do not need another tragedy to unite us in that common response and resolve. We need only look ahead at the deep challenges we face.

I am comforted by our history. A reading of our history shows that we have been through worse. We have endured a terrible Civil War, two world wars, and an economic catastrophe of far greater dimension. With each successive American generation, we have worked to cleanse the Nation from the stain of slavery, bigotry, and racial prejudice. With each successive generation, we have grown wiser, more enlightened, and more prosperous. We have seen the great middle class lifted and engaged in building the strongest and most creative economy the world has ever seen. So if history is our guide, I know we will meet the challenge of this moment.

As a son of the West, I am also proud of our special history. Of course, every region of America has a story to tell and a contribution to make to the whole. Among many qualities in the

West, we particularly treasure independence and we have little time for brooding pessimism. The great western writer Wallace Stegner put it best when he wrote about the people he called ''stickers,'' those who settled the West against all odds and obstacles. He called them stickers because they were not quitters and they did not leave the scene of a challenge. They stuck to the land because of their spirit, their courage, and their hopes for a better community in which to raise their children—and, to be honest, because they were too doggone ornery to give up.

We are a country of stickers, and now it is up to the 111th Congress to be stickers too. The American people have vested their hopes and aspirations in us, to serve them well in the institutions of democracy we call the Congress.

As I close, I want to return to my predecessor in this seat, Senator Edward Costigan, and his long fight against the evil of lynching. In a speech on this subject in 1935, he expressed the hope that partisan and sectional division would give way to a true common purpose. He said:

> Ours is truly at last a new South, a new North, a new East, and a new West, unitedly building a new America of common humanity, guarded by just and ever more equal laws.

Senator Costigan was calling for a new way of looking at the political challenge in his day, one that looked toward a uniting purpose. We have a similar calling today. We may often divide as Republicans and Democrats on what we think is best for our country. Debate is good. We should encourage a vigorous exchange of ideas and not fear disagreement. But we ought always, always to strive for a common purpose.

I wish to express my deep thanks to my fellow Coloradans who have given me the opportunity and honor to represent them here at this challenging and important time in our history.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) Without objection, it is so ordered.

CONGRATULATING THE UNIVERSITY OF UTAH

Mr. HATCH. Mr. President, I rise today to speak about the recent college football season and the success enjoyed by our own University of Utah football team.

First, I want to mention that a while back, during last week's festivities, I had the opportunity to meet with members of the University of Utah Marching Band as they were in town to march and perform in the inauguration parade.

I want to publicly recognize the members of the Church of Jesus Christ of Latter Day Saints in Ashburn, VA, who offered their homes to these musicians and the band, allowing them the once-in-a-lifetime opportunity to perform for the President of the United States of America. The band would not have been able to make it to Washington had it not been for the generosity of these private citizens who housed them and took care of them and fed them. I appreciate their willingness to help some of my follow Utahns.

My meeting with the band out in Ashburn reminded me of what a wonderful year it has been for sports fans in my State. I wish to once again publicly extend my congratulations to the Utah Utes on an outstanding season.

On January 2, the Utes capped an undefeated season with a 31-to-17 victory in the Sugar Bowl over a highly favored Alabama team. Under the scrutiny of the national spotlight, Utah played with poise and precision, silencing the naysayers who claimed they could not compete with a national powerhouse such as Alabama.

Alabama had been rated No. 1 much of the season. This was Utah's second undefeated season in 5 years, demonstrating that school's football team deserves to be considered among the country's elite college football programs.

In particular, I want to congratulate Coach Kyle Whittingham, who, on January 13, was named National Coach of the Year by the American Football Coaches Association. What an honor. Coach Whittingham took over the head coaching job at Utah 4 years ago, following what was, at that time, the most successful season in school history. The Whittingham family is sort of a football institution in the State of Utah. So fans and alumni had high expectations about the future of the program, and Coach Whittingham has not disappointed them. In each of his four seasons, the Utes have finished with a winning record and have won a bowl game. In fact, the University of Utah has won a bowl game in six consecutive seasons and, overall, they have been victorious in their last eight bowl appearances—the longest current streak in college football. Coach Whittingham has been on the staff that entire time, first as defensive coordinator and now as the head coach.

The Utes have been lead on the field by quarterback Brian Johnson. He capped an outstanding college career this past season by winning the Mountain West Conference's Offensive Player of the Year Award. He was also a finalist for numerous national quarterback awards. Brian's story is actually a very inspirational one. Late in the 2005 season, he suffered what is, in many cases, a career-ending injury when he tore his ACL. This injury forced him to sit out the entire 2006 season. Then, in the first game of the 2007 season, he was injured again and missed two more games. But he was able to finish the season, leading the Utes to a winning record and an impressive victory over Navy in the Poinsettia Bowl. He returned for his senior season, fully healed and ready to take the team on his shoulders for what proved to be a historic season.

One of the most popular members of the Ute squad has been kicker and punter Louie Sakoda who, in each of the last three seasons, was the Mountain West Special Teams Player of the Year and named to several All-America teams. Nicknamed ''King Louie,'' this 5-foot-9, 178-pound team captain is something of a celebrity in Salt Lake City. Last year, he offered himself as a date for a campus charity auction and drew the highest bid of any item on sale—though NCAA restrictions kept him from actually going on the date. His parents, according to news stories, can join any pregame party in the parking lot outside Rice Eccles Stadium if they just mention their son's name. He has also lent his celebrity to an ad campaign started by Utah First Lady Mary Kaye Huntsman aimed at combating teenage drinking and driving. Louie can be seen in TV commercials in Utah urging teens and anyone who's been drinking to ''punt the keys.''

Indeed, the entire University of Utah football team has become the toast of every town in my State—even among those who typically root for the Utah's other fine football programs. They have also become one of the most talked about teams in college football nationwide.

Unfortunately, the success enjoyed by the Utah football team has been marred somewhat by the controversy surrounding the Bowl Championship Series. The Utes were the only football team in NCAA Division I to finish the season 2008 undefeated. Their season included victories against a powerhouse team at Brigham Young University, Oregon State, Texas Christian University, and Alabama, all of which finished the season ranked in the Associated Press Top 25—the latter two in the Top 10. In fact, Alabama spent much of the regular season ranked number one in the country before losing to Florida near the end of the season.

Yet despite these accomplishments, even with its perfect record and impressive schedule, the University of Utah finished the season ranked second in the country. Florida, the team that won the so-called BCS Championship Game, had a very good year. But unlike Utah, they were not undefeated; they had one loss, as did at least three

other teams in the country. Yet under the BCS system, this unbeaten Utah team was denied an opportunity to even play for the national championship. One has to wonder what more Utah could have done with its season in order to get into the national championship game. It is interesting that the former Utah coach under whom Coach Whittingham served, Urban Meyer, had a championship team. We all admired him. He was a great coach at Utah and one of the greatest coaches in America today. Unfortunately, the answer to this question is even more disheartening than the question itself: nothing. The fact of the matter is that the Utah team was left out of the national championship picture, not due to any competitive shortcoming, but because the BCS system categorically excluded them from consideration.

Under the BCS, the champions of six athletic conferences receive automatic bids to play in the five most lucrative and prestigious bowl games. Collectively, those six conferences include 66 of the 119 teams in NCAA Division I football. So, in short, nearly half of all college football teams begin the season virtually left out of the BCS picture, yet the BCS still wants to call the winner of its championship game the "national champion." I don't know about you, Mr. President, but that strikes me as odd.

Of course, it needs to be acknowledged that teams from non-BCS conferences can play their way into a BCS game. The University of Utah did so both this year and in 2004. In other years, teams from Boise State and Hawaii have earned bids to play BCS bowl games. But in doing so, these teams had to overcome serious competitive disadvantages. For example, it is virtually impossible for a school from a non-BCS conference to get a BCS bid without going undefeated in the regular season, and even that is not a guarantee. Yet this past season, each of the six BCS conference champions had at least one regular season loss—three of them had two or more. Two non-BCS teams—Utah and Boise State—were undefeated after the 2008 regular season. In addition, Texas Christian University, another non-BCS team, had only one loss and was higher in the BCS rankings than two of the conference champions with automatic berths. Yet of these three teams, only Utah was invited to play in a BCS game.

These are the disadvantages non-BCS teams must face just to get into one of five prestigious BCS bowl games. While mere participation is an uphill battle, the system makes it virtually impossible for a non-BCS team to win the national championship. The BCS relies on a combination of polls and computer formulas to determine its rankings. For decades, these polls have almost invariably tended to favor teams from the bigger BCS conferences, evidenced by the fact that no team from an outside conference has finished a season atop a major college football poll since 1984. So unless a team from a non-BCS conference begins the season with a very high national ranking in the polls, they stand virtually no chance of getting ranked high enough to play in the championship game, even if they go undefeated. This system excludes teams like this year's Utah team, which began the season unranked and spent the season shocking opponents and exceeding expectations, from national championship contention.

The flaws of the BCS system might not be so bad if it helped to clear what traditionally had been a muddled national championship picture. But unfortunately, that is not the case. In at least 6 out of the last 10 years, there has been substantial controversy over the selection of the teams to play for the championship. So the system is not only biased, but ineffective as well.

Mr. President, the BCS system is anti-competitive, unfair, and, in my opinion, un-American. I am not just saying that because my team was treated unfairly. I am making the case that many teams are not treated fairly. In no other sport in this country are champions selected by arbitrary and biased polls and computer ranking systems. Much worse, the BCS ensures that the millions of dollars paid to the participants of these prestigious games remain concentrated among a few elitist conferences. Such exclusionary practices put teams from non-BCS conferences at a monetary, recruiting and competitive disadvantage. This may not only be unfair in the normative sense, it may very well violate our nation's antitrust laws.

In 1984, in NCAA v. Board of Regents of the University of Oklahoma, the Supreme Court determined that NCAA is not exempt from the requirements of the Sherman Antitrust Act. That being the case, college football, like most other industries in this country, must conduct business in a manner that does not intentionally stifle competition or systemically favor specified competitors. Specifically, in the words the Sherman Antitrust Act, no "contract, combination, or conspiracy" may be undertaken to exclude competitors.

In my opinion, it is quite probable that the BCS violates the Sherman requirements. In 2003, I chaired a series of Judiciary Committee hearings to investigate the antitrust implications of the BCS. I stated at that time that I believed the BCS was anticompetitive and in dire need of reform. Shortly thereafter, the BCS added another bowl game and, to some extent, expanded the field of eligibility. However, as this past season demonstrates, these changes leave much to be desired in terms of fairness and competition. Utah Attorney General Mark Shurtleff shares this view and is consulting with lawyers and investigators to determine whether the BCS system constitutes an antitrust violation. Indeed, it appears that litigation over this matter may be on the horizon. Also, on at least two separate occasions, President Obama has publicly stated his concern about the fairness of the BCS and his hope to see the creation of a playoff system. Therefore, it is not unreasonable to predict that a Justice Department investigation into the potential antitrust violations of BCS will be forthcoming.

Mr. President, I would prefer that reforms take place without putting the matter before the courts. In addition, given the many problems facing our nation, I hope that the Justice Department will not have to get involved in this issue. And while some have proposed a legislative fix, this also would not be my preferred solution, though ultimately, this may end up being the only effective means of addressing these problems. Instead, I would hope that those with the power to change or eliminate the BCS, including NCAA President Myles Brand as well as the university presidents and the conference commissioners in the BCS conferences, will hear the public outcry against the BCS and voluntarily work to reform the system to ensure that, as in every other American sport, championships are decided on the field and not in arbitrary polls and computer calculations. While a playoff seems like the most natural solution, other means may be available.

That said, I want to say that I believe the University of Utah football team are champions in the truest sense of the word. They won on the field against worthy competition in a year when literally everyone else proved unable to do so. Once again, I want to congratulate University President Michael Young, Coach Whittingham and every member of the team for what proved to be an exhilarating and tremendous season. I also congratulate other teams that qualified for bowl games who were winners and deserve certainly the plaudits of all of us.

I hope this helps to bring this matter to a head. I hope we can change this system that is an unjust system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, let me say, first, what a pleasure it is to hear the distinguished Senator from Utah speak about his beautiful State and his beloved Utes.

EXECUTIVE COMPENSATION AND THE BAILOUTS

Mr. WHITEHOUSE. Thank you, Mr. President. I have a different topic today. This speech is about a stove, a jet, and $40 billion.

The stove belonged to Margarita Fuentes, and a local deputy sheriff in

Florida repossessed it for the finance company. The case went all the way to the Supreme Court, and became the famous case of Fuentes v. Shevin, which every first year law student has to read.

The court held that you couldn't take away Ms. Fuentes' stove, not without giving her a hearing; that she had a constitutional right to a hearing. The court stated:

[T]he constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

Important rule: The finance company may well have been right about the stove, but the sheriff still cannot take property without due process.

That is the stove. Now the jet.

Citigroup has received billions and billions in Federal funds—$45 billion in preferred stock purchases alone—to prevent Citigroup from failing. What did they do? Bought a $50 million French-made luxury private jet.

It took the new Secretary of the Treasury to personally talk them out of it, with a helpful push from our colleague, Senator LEVIN. And that's not all. Here's how Maureen Dowd reports they spent the money on executive office furnishings at Merrill Lynch, just bought by Citigroup:

. . . big-ticket items included curtains for $28,000, a pair of chairs for $87,000, fabric for a "Roman Shade" for $11,000, Regency chairs for $24,000, six wall sconces for $2,700, a $13,000 chandelier in the private dining room and six dining chairs for $37,000, a "custom coffee table" for $16,000, an antique commode "on legs" for $35,000, and a $1,400 "parchment waste can."

A lot of executive compensation goes to the same executives who led their companies into this mess, while reaping vast sums.

For example, Wells Fargo, which received $25 billion in bailout money, is planning layoffs but is keeping its CEO and chairman who were paid $12.5 million and nearly $23 million in 2007, respectively.

JP Morgan received $25 billion in bailout money, but is keeping its CEO who was paid $28 million in 2007.

Capital One bought and closed GreenPoint mortgage—1,900 layoffs, 1,900 families where someone lost a job—received about $3.5 billion in bailout money, and is keeping its CEO who was paid more than $73 million in 2007.

And this week's New York Times reports that despite "crippling losses, multimillion dollar bailouts and the passing of some of the most important names in the business," an estimated $18.4 billion in bonuses were paid out to Wall Street employees in 2008—the sixth highest total in history—in what was most certainly not the sixth best year in Wall Street's history.

In other words, firms on the brink of extinction that were saved only by the U.S. taxpayer still saw fit to reward people who created the mess with over $18 billion for their performance this past year. President Obama rightly called this shameful.

So that jet is symbolic of a Wall Street culture of unrestrained self-indulgence that now, because of the bailouts, begins to happen at public expense and shows no signs of abating.

And now we come to the $40 billion.

According to an analysis by the Wall Street Journal, the executive-deferred compensation obligations of bailed out Wall Street firms amount to more than $40 billion. As shown on this chart: Banks Owe Billions To Executives. Financial giants getting injections of Federal cash owed their executives more than $40 billion for past years' pay and pensions as of the end of 2007, a Wall Street Journal analysis shows.

By the way, this whole executive-deferred compensation scheme is nothing but a big tax dodge to begin with.

Banks participating in the bailout program carried these obligations on their books, and the cash from our bailout is being used to pay them, or will be used to pay them. Mr. President, $40 billion in taxpayer dollars will end up in the pockets of the very executives who tanked those firms.

How much is $40 billion? Here is how it breaks down State by State based on population.

If you are the Governor of California, you can look forward to $4.780 billion as your State's share of that $40 billion bailout.

If you are, as the wonderful new Presiding Officer is, from Colorado, you can look forward to $636 million as your State's share of deferred executive compensation for Wall Street.

If you are from Missouri, as is the distinguished Senator in the Chamber, you are looking at $768 million as Missouri taxpayers' share of the $40 billion bailout.

Generally, when a company goes into bankruptcy, the executives who are owed the $40 billion in deferred compensation would have become general unsecured creditors and have to wait in line with other such general unsecured creditors.

Experts report that in most cases this means losing all deferred compensation or recovering pennies on the dollar. Executives at Lehman Brothers, which was allowed to go into bankruptcy, will probably lose out on their deferred compensation.

By contrast, nothing has been done to address the deferred compensation obligations of Citigroup, Goldman Sachs, Bank of America, JP Morgan, and other banks that have been given a lifeline.

As shown on this chart, you will see the estimated debt to executives at Goldman Sachs is actually bigger than the capital injection. It is an astonishing sum of money.

I should throw in my own home State of Rhode Island. We are a small State. Here is our share of it: $140 million. That is our entire budget for our two 4-year State colleges for a year—the entire State budget for them; $140 million out of Rhode Island to pay for $40 billion in tax-dodged, deferred executive compensation.

As people who are on the floor will recall, that is more than the entire program we spent so many hours fighting about for the U.S. auto industry. Remember that. That was sort of $18 billion to $35 billion. This is $40 billion, and nobody is even talking about it. And we fought for days about whether to support our own domestic auto industry.

Well, I think the jet shows that the Wall Street culture of lavish self-indulgence is not likely to change. But something very important has changed, and that is the taxpayers are now starting to pay for it, and they are not going to stand for it for long.

If something is going to change, we in Congress have to change it; we need to do it now, and we need to do it in a way that sticks. That's where Ms. Fuentes' stove comes in.

The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

That is the case of Ms. Fuentes' stove.

If it takes due process before poor Ms. Fuentes can have her stove taken away, then it takes due process before certain adjustments can be made to the obscene and grotesque executive compensation paid for by bailouts.

It takes some due process before anything can be done about this $40 billion in executive-deferred compensation.

Without a due process forum, we have unilaterally disarmed the powers of Government that can make those adjustments. That is a choice we make to unilaterally disarm the powers of Government that could do something about the $40 billion.

I submit if we don't make some reasonable adjustments, that failure will so damage public credibility and faith in the entire exercise; in addition to being profoundly unfair, in fact, that it will eliminate or diminish our ability to manage the crisis. People will not want to hear any longer from us.

The ordinary due process forum for troubled companies, bankruptcy court, is not the best forum for this, for the very reasons that corporations need rescue: they serve a public utility for us in the economy. But the fact that they provide that vital public utility function is no reason to say these other things cannot also be adjusted. That does not mean they should not have to change their ways.

As I said, the only way to change their ways, it appears, is to make them change. So, I will shortly be filing legislation to create a Temporary Economic Recovery Oversight Court, a

forum that could provide due process, short of a full bankruptcy filing, and empower Government to take reasonable steps to restrain the lavish self-indulgences to which these masters of the universe have become accustomed. I am also exploring other ways of addressing this critical issue.

But I encourage colleagues of mine who are interested in this issue to talk to me about how we can make this right. There are technical issues. If anybody is interested, please contact me. I think this is a bipartisan issue. I do not think a Republican is any happier about $40 billion in deferred executive compensation coming out of the public fisc than a Democrat, and if we do not take action, the swelling river of the righteous and proper anger of the American people will rise up, and overswell its banks. I have lived through difficult economic situations in Rhode Island, where public anger overswelled its banks. It is not a good place to be.

The people's confidence in their Government's ability to treat them fairly will be justifiably compromised, and we will have lost their confidence, the old-fashioned way: We will have earned it.

The poet William Blake spoke of times when we should not let our sword sleep in our hand. American Government gives us a vital sword, one that can trim away the lavish excesses of the lotus years, and treat all Americans fairly, not create a favored taxpayer-supported Wall Street class that is treated differently than workers in Michigan and elsewhere. I submit we must not let that sword sleep in our hands.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

(The remarks of Mrs. MCCASKILL pertaining to the introduction of S. 360 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. MCCASKILL. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DR. JOHN LOGAN

Mr. MCCONNELL. Mr. President, I rise today to honor a well-respected Kentuckian, Dr. John Logan. Mr. Logan's outstanding dedication to Kentucky history is truly immeasurable as is his devotion to the Commonwealth itself.

Recently the Gleaner in Henderson, KY, published a story highlighting Dr. Logan's new book about the extraordinary history of Methodist Hospital in Henderson, KY. The story highlights not only Dr. Logan's allegiance to the medical industry but his unknown talents as an archivist. Dr. Logan was able to compile such a vast amount of research for his new book because, as he says, he "lived" it. Having been involved with the hospital since 1962, Dr. Logan has certainly seen his share of history firsthand. Without Dr. Logan's remarkable efforts to preserve history, the triumphant story of this great Kentucky institution would be lost forever.

Mr. President, I ask my colleagues to join me in honoring Dr. Logan as a true patriot and Kentuckian whose legacy will forever be remembered, and I further ask unanimous consent to have the full article printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gleaner, Jan. 17, 2009]

TIME TO TELL THE STORY: LOCAL PHYSICIAN ADMINISTERS DOSE OF HISTORY WITH NEW BOOK ON METHODIST HOSPITAL

(By Judy Jenkins)

It wasn't so much a want as it was a need. And it wasn't so much a need as it was a deep conviction that time wouldn't wait forever and something important could be lost.

That's why, five years ago, Dr. John Logan began a long-contemplated project that required the patience of a saint, more than a few detective skills, and the excavation of nearly half a century of his own memories.

The result, just off the press, is the 192-page "History of Methodist Hospital, Henderson, Ky., 1948–2008."

The hardcover volume, published by McClanahan Publishing House, Inc. of Lyon County, Ky., is chock full of photographs and doesn't merely chronicle the development of the hospital from a simple, one-story brick building with 12 doctors and 35 employees to the towering complex it is today.

It also pays tribute to the legions of people of all ages, races and socio-economic backgrounds who have done everything from polishing the floors and baking the bread to utilizing space age diagnostic technology and performing life-saving procedures.

"I decided it was time to tell the story," says John, who has served as the hospital's medical director for 22 years, been president of the medical staff, and completed 19 terms as chief of the medical staff.

His thought, he said, was, "If I don't tell it, it's gone."

He couldn't let that happen because "It's a great story. That this hospital all these years has survived across the river from hospitals twice our size. That says we're doing something right."

Because he has been associated with the hospital since 1962 and has witnessed its growth and advancements, he didn't have to spend all of his time in a basement room with dusty boxes of scrapbooks and loose clippings.

"I've LIVED the research," he said, grinning.

He came to this area as a brand new physician, hanging out his shingle in Sebree in his wife Jackie's home county.

Probably no one in his native Edmonson County had expected him or his brother Tom to become doctors. Their family was thick with attorneys, but the siblings opted to follow the medical path.

John's mentor was a country doctor named Sidney Farmer, who hired him at age 14 to clean his offices. When John got a driver's license, he drove Farmer to make house calls.

A year after the youthful family practitioner came to these parts, he was introduced to a dynamic 31-year-old named Charles "Chuck" Jarrett, who had accepted the post of Methodist Hospital executive director.

Chuck, who was a former Marine and "a dreamer" who had the unique ability to persuade others to dream with him, soon was plotting a tall, gleaming modern hospital on that hill off Twelfth and Elm Streets.

When he died, far too young, in 1973, the institution had four sprawling wings and was just as he had envisioned it.

Since that time, his successors Ron Chapman and Bruce Begley have kept the dreams alive and the hospital is flanked by a North Tower and South Tower.

In his book, John fleshes out what otherwise could be the bare bones of history. For instance, he relates that in addition to being a popular veteran pediatrician and hunter, Dr. John Jenkins is a pig farmer.

The author says Jenkins once told him, "If I work very hard practicing medicine, I can almost cover my losses in pig farming."

John also writes about the late Dr. M.G. Veal, a fellow with a well developed sense of humor and hobby sideline as a trumpet player in several area bands. He smoked, though he knew better, and "His trademark was a cigarette with an inch of ashes hanging."

(I can vouch for that mischievous sense of humor. Once he passed me in the hospital lobby and loudly congratulated me. When I, confused, asked why he was congratulating me, he said, "I just heard that you're expecting your tenth child, Mrs. Jenkins!" Heads turned, believe me. For the record, I only had three kids at the time and the fourth and last was born a year later).

As I read the book, I was reminded of the tragic losses the hospital medical staff has suffered over the years.

Among them, the death of the young and much-revered Dr. W.B. Blue, who practiced in Henderson's East End. He died in a vehicular accident here.

And there was Dr. Elton House, who was reaching the height of his career when he drowned during an outing on Barkley Lake.

And Dr. Joe McGruder, who had brought so many babies into the world, lost his life while scuba diving on vacation.

John is proud of the fact that he unearthed photos of every Methodist Hospital physician—but one—who was on the original staff, or who had served at least 20 years.

His only failure was Dr. Ira Cosby, an original staff member who regularly made house calls and was never known to drive faster than 35 mph.

John and his faithful helpers searched high and low, contacting relatives and doing everything possible to come up with a likeness of the doctor, but had to admit defeat.

There are numerous photos of hospital employees who have made their own marks on the institution. They include the late Bill Beck, director of materials management. He was a soft-spoken man who never minded going above and beyond the call of duty to honor a request.

James "Rip" Van Winkle was like that too, and I don't recall an instance when the

late director of building and grounds left a room without relating an anecdote or witticism that had everyone laughing.

John himself could fill a book, but because space is limited we'll just say he played a major role in many things we take for granted here, including the spacious YMCA, the Henderson Fine Arts Center, the Depot/Tourism Center—and the hospital's Level II Neonatal Intensive Care Unit that makes it possible to care for most of the tiniest and sickest babies right here.

He's not happy about everything related to the hospital. It just irks him that while the facility regularly performs cardiac catheterizations and has a staff of 24 cardiologists as well as a dedicated telemetry unit, it hasn't yet been able to obtain a state Certificate of Need to permit angioplasty procedures or stent placements here.

He'll keep pursuing that, no doubt, as he has, at 71, no immediate plans to retire.

Nor does he plan a sequel to the history.

"I've done the first 60 years. Somebody else will have to do the next 60."

SPENCER COUNTY FFA DAIRY JUDGING TEAM

Mr. McCONNELL. Mr. President, I rise today to honor the Spencer County FFA Dairy Judging Team for winning the 2008 National FFA Dairy Cattle Judging Contest. This team is comprised of four outstanding young ladies: Whitney Owen, Cassandra Peterson, Kelli Smitha, and Michella White.

After countless hours spent preparing for the Kentucky FFA Dairy Judging Contest, they were awarded top honors at the State competition last August. The team then had the privilege of representing the Commonwealth at the 2008 National FFA Dairy Cattle Judging Contest in Indianapolis, IN, where they were again victorious.

Founded in 1928 as the Future Farmers of America, the group that is today known as the National FFA Organization brings together students, teachers, and members of the agribusiness community to promote agricultural education. In Kentucky, the National FFA Organization has over 15,000 members spread across 145 chapters. And over 24,000 Kentucky middle- and high-school students are enrolled in agricultural education programs.

Agriculture is obviously an important sector of the economy for my State, and I am proud of the many young people and adults who work with the National FFA Organization in Kentucky to ensure that the Bluegrass State remains at the forefront of agricultural education and innovation for years to come. Members are always recognizable during their visits to our Nation's Capitol by their distinctive blue jackets.

By securing a first-place finish at the national competition, the Spencer County FFA Dairy Judging Team now has the opportunity to represent America this summer at the International Dairy Judging Contest in Scotland. FFA is known for producing many of our Nation's future leaders, and I won't be surprised to see that trend continue based on the success Whitney, Cassandra, Kelli, and Michella have already achieved. I know my fellow Senators join me in wishing them the best of luck in their future endeavors.

SELECT COMMITTEE ON ETHICS 2008 ANNUAL REPORT

Mrs. BOXER. Mr. President, I ask unanimous consent to have printed in the RECORD the 2008 Annual Report of the Select Committee on Ethics.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANNUAL REPORT FOR 2008—SELECT COMMITTEE ON ETHICS

The Honest Leadership and Open Government Act of 2007 (the "Act") calls for the Select Committee on Ethics of the United States Senate to issue an annual report no later than January 31 of each year providing information in certain categories describing its activities for the preceding year. Reported below is the information describing the Committee's activities in 2008 in the categories set forth in the Act:

(1) The number of alleged violations of Senate rules received, from any source [in 2008], including the number raised by a Senator or staff of the Committee: 85. (This figure does not include 13 alleged violations from the previous year carried into 2008.)

(2) The number of alleged violations that were dismissed—

(A) For lack of subject matter jurisdiction or in which, even if the allegations in the complaint are true, no violation of Senate rules would exist: 52. (This figure includes 5 matters originating in the previous year.)

(B) Because they failed to provide sufficient facts as to any material violation of the Senate rules beyond mere allegation or assertion: 21. (This figure includes 4 matters originating in the previous year.)

(3) The number of alleged violations in which the Committee staff conducted a preliminary inquiry: 10. (Th(s figure includes 4 matters from the previous year carried into 2008.)

(4) The number of alleged violations that resulted in an adjudicatory review: 0.

(5) The number of alleged violations that the Committee dismissed for lack of substantial merit. 4. (This figure includes 1 matter from the previous year carried into 2008).

(6) The number of private letters of admonition or public letters of admonition issued: 2.

(7) The number of matters resulting in a disciplinary sanction: 0.

(8) Any other information deemed by the Committee to be appropriate to describe its activities in the previous year.

Between January 4 and February 25, 2008 the Committee staff conducted mandatory ethics training for all Senate employees: 8 training sessions for Members, 19 training sessions for staff, and 1 training session for Member spouses. In addition, the Committee conducted 11 new employee training sessions during the year; 17 ethics seminars for Member DC offices, state offices, Senate committees, and outside delegations; 2 mandatory campaign related ethics briefings; and 1 Senator-elect orientation session and 1 training session for transition staff.

In 2008, Committee staff handled 15,555 telephone inquiries for ethics advice and guidance.

In 2008, the Committee wrote 1,264 ethics advisory letters and responses, including 869 advisories concerning gifts or travel.

The Committee issued 3,395 letters concerning financial disclosure filings by Senators, Senate staff and Senate candidates and reviewed 1,510 reports.

HOLDER NOMINATION

Mr. INHOFE. Mr. President, I believe I am speaking on behalf of Americans who value their second amendment personal right to own their own firearms. I also believe I am speaking on behalf of Americans who favor justice over political patronage. Finally, I believe I am speaking on behalf of Americans who realize we are in a war on terror and want to continue the strong efforts to bring terrorists to justice. I am opposed to the appointment of Eric Holder to be the next Attorney General of the United States.

I take particular interest in this nomination because I, as well as the voters of the State of Oklahoma, feel strongly that the rights conferred upon us by the second amendment of the Constitution guarantee an individual freedom that no government regulation can take away. Eric Holder's record and his true beliefs about the second amendment are clear. In a brief filed in the Heller case, Holder joined other past Department of Justice officials by saying: "[t]he Second Amendment Does Not Protect Firearms Possession or Use That Is Unrelated To Participation In a Well-Regulated Militia." The brief also stated that the "recognition of an expansive individual right to keep and bear arms for private purposes will make it more difficult for the government to defend present and future firearms laws." During his confirmation hearing, Eric Holder noted the importance of the Heller decision and recognized it as precedent. But I certainly do not believe that the decision in Heller has changed the underlying beliefs held by Eric Holder, and his leadership as the chief lawyer of the United States will be a detriment to the gun ownership rights of American citizens.

I am also very uncomfortable with Mr. Holder's judgment and record on pardons and clemency during the Clinton administration. He apparently chose to circumvent the standard process by which all pardons are considered and granted, and clouded this process with the appearance of impropriety. If the pardon of Mark Rich was not impropriety, and I believe it was, then it was at the very least extreme negligence, and such negligence has no place in any level of government. Mark Rich, whom many label a tax evader, is in fact even more than that. Rich was indicted in 1983 on 65 counts of not only tax evasion, but also fraud, racketeering, and trading with the enemy. Rich fled to Switzerland before he could stand trial, which is perhaps the most egregious element of this case—

he was a fugitive and a regular fixture on the FBI's Ten Most Wanted List. How can one justify recommending a pardon, bypass the Department of Justice and the hundreds of individuals who worked to bring Mark Rich to justice, when the man who is being pardoned is not even willing to face the same justice system to which every other American must answer? In fact, Holder admitted during his confirmation hearing that he did not adequately acquaint himself with the facts of the case. The United States Senate should not allow such injustice to go unanswered.

Equally egregious, Holder was Deputy Attorney General in an administration which granted clemency to 16 members of the Armed Forces of National Liberation, or FALN. This is a group which not only carried out violent protests, FALN set off bombs several times in New York City and Chicago and were convicted for conspiracies to commit robbery, bomb-making, and sedition. The Clinton administration granted clemency despite opposition from the U.S. Attorney's Office, FBI, and most importantly, the victims of FALN terrorist activities.

Finally, we continue to be in a war on terror, however, Holder is an individual who is opposed to the military commissions which have tried terrorists and is opposed to the Guantanamo Bay detention facility for detaining terrorists. This Senate and the American people should know that since October 2001, the U.S. has detained almost 800 al-Qaida and Taliban combatants at GTMO. Currently, 60 more are ready for transfer or release to another country, 70 have either been tried or in process, and 130 are a high threat to the U.S. Since 2002, more than 525 detainees have departed GTMO for other countries. Today, there are approximately 240 detainees at GTMO. If GTMO is no longer a prison, some U.S. domestic or overseas prison will have to house these men while they await a habeas hearing and trial. All the while, the military detention facilities at GTMO meet the highest international standards. The Pentagon spends $2.5 million each year on Korans, prayer rugs, and special meals for prisoners. There are on average two lawyers for every detainee at GTMO. He believes our military commissions currently in place would have to be substantially revamped and even holds the position that U.S. interrogation techniques should be published for the world to see.

For at least these reasons, I cannot vote to support the nomination of an individual who holds opinions on a wide range of issues which I find so objectionable and objectionable to my constituents. I will be voting a definitive no on the Holder nomination.

CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. NELSON of Florida. Mr. President, I wish to express my optimism that with a new administration and a new Congress, we will finally be able to achieve what was left unfinished last year: the expansion of the Children's Health Insurance Program. Though we are in difficult economic times, we can never afford to squander our Nation's most precious resource—our children.

From 1994 to 2000 I served as the State of Florida's elected treasurer and insurance commissioner. During my tenure, I oversaw the implementation of the SCHIP program, or the Healthy Kids Program, as it is known in Florida. There is no doubt in my mind that this program works. Nationwide, in 1997 23.3 percent of low-income children were uninsured. By 2006, this number had dropped to 15.4 percent.

However, much remains to be done. The rate of uninsured children in Florida is nearly 19 percent—the second worst in the country. Around 8.6 million children in America are uninsured; nearly 900,000 of these children are in Florida. One of the reasons I support this bill so strongly is that it expands coverage and offers incentives for States like Florida to find and enroll uncovered children. During difficult economic times such as these, there are more children in need of the CHIP program, not fewer.

While I am very satisfied with the progress this legislation would make in covering children, I do have concerns about its financing. I want to emphasize that increasing the tobacco tax is an appropriate funding mechanism for this legislation. It will have significant positive impacts on health, save untold millions in health care costs, and reduce the prevalence of smoking among the children whom this bill is designed to protect. However, I am concerned that the tax is applied unequally across different tobacco products.

Under the current legislation, there is a much higher tax increase for large cigars than for other tobacco products. This is no small problem for Florida—90 percent of large cigars in the U.S. are either manufactured or imported through Florida, accounting for approximately 3,000 jobs. While I remain opposed to placing an unfair tax burden on any one product, I still feel we have a strong bill on the whole, one that will improve health care dramatically for America's children.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

You are asking Idahoans to write about gas prices? You mean you do not know? I think Washington D.C. may as well be registered as another planet because I think your colleagues are so far from reality of the rest of the people it is absolutely outrageous.

[Some of] your colleagues [suggest that] Americans use alternative [modes] of transportation and that it is a good thing that gas prices force people to take the bus, ride bikes, or walk to their destination because it helps reduce global warming.

I have something [for you to share with your colleagues]:

I am a driver for a living. I deliver products right here in Boise. I have to drive I have no choice. I am also a salesman, and a night supervisor. I live in Idaho. I do not have the option of riding the bus. I cannot walk my deliveries or ride my bike with my products.

I find it absolutely insulting [to think this suggestion can be taken seriously. Too many liberals] love these high gas prices because they want to use it as an excuse to make us live how they want us to live to fight so-called global warming, while [they make no sacrifices in their own personal travel behaviors.] That is eco-socialism in my opinion.

Senator Crapo, I have three jobs!! Three jobs, and I am still having problems fueling up. I have had to open credit card accounts for the first time in my life, and my debt is still going up!

You would think with three jobs and three paychecks for one person! I am not married, no kids. I would be starving with fuel prices if I had a family. I am just barely paying my bills on time as they are, to about $1,500 a month, not including gas prices!

Starting in 2005 till 2007, I did very well financially. I was saving up and putting money away in my savings account. I loved myself for putting money away. This month [June 2008], I had to take one-quarter of my life savings out of my bank to pay for bills, including gas because the price skyrocketed from $3 to $4 a gallon in one month. This is outrageous!

I think it is 80 percent the government's fault for this and 20 percent the oil companies. The only thing the oil companies are doing wrong is speculating the price of oil for really dumb reasons.

Congress has done this because [legislation to drill for oil in ANWR has been blocked because of environmental concerns that do not exist.] Congress is more worried about a stupid deer than they are about [the lives of

Americans]? More worried about the mating season of the caribou than they are about the economy? My jobs? My gas prices? My bills? My lifestyle?

You will not allow drilling off shore? Well, did you know that China is drilling for oil off the coast of Florida? But we cannot. Why? This is outrageous!

Do not listen to those radical environmentalists. They were wrong about the second Ice Age in the 70s. When I was kid in school in the 1980s, my teachers told me by the year 1999, New York would be underwater and Los Angeles would be a bunch of Islands. It has not happened. Of course, the earth's temperature changes and jumps over time. The earth's climate changes all the time, has been since the earth cooled and formed. The earth's temperature does not stay the same all the time. There are so many scientists and people who disagree with Al Gore, but if we disagree, we are labeled ''flat-earthers'' and ''Holocaust Deniers.''

My question for [conservatives] is this. Why did you not approve drilling for oil when you [controlled Congress and the White House]?

You want to help me? A person with three jobs and struggling with gas prices? I have not had a vacation since March of 2007. I cannot even take a one-day vacation to Jackpot anymore. I work all seven days a week, get no weekends and I still struggle to pay gas prices of about $15 a day, not a week, a day!

Drill here, drill in ANWR, drill in America!

AARON, *Boise.*

Thank you, Senator, for your sincere concern for Idaho residents. I am 58 next month and on disability from a very severe fire I was trapped in several years ago. Though I do get an income, this is where it goes:

I receive $625 a month.

1. $200 a month mobile home space rent.

2. $156 a month mortgage payments for my mobile home . . . which without the owner of the mobile home, I would not be on my way to being a first time home owner!

3. $48 a month mobile home insurance.

4. $40 a month vehicle insurance . . . it is a 1988 Plymouth Voyager van that I have had since 1988.

5. $39 phone bill. which was supposed to reduced several months ago through my social worker, and still remains at the normal price and I do not have long distance.

6. $30-40 electricity monthly; I do not have an air conditioner for summer but do open my windows and use my ceiling fans that helps.

7. $125 and up in winter for gas to run my heater monthly. That is after I receive fuel assistance which for some reason only lasts 1–2 months and only use the heater to warm up the area so can start my wood stove which is usually one-half hour.

So, if I am lucky, all I can afford to do is put up to $20 a month in gas, which gives me almost 1/4 tank and that has to last the month. I have medical problems that mean many trips to the doctor and pharmacy, and with such a low amount of gas I have to depend on others for rides when I run out of gas. Thank you for your sincere concern and we are all hoping and praying that gas will once again come down to where people like me can afford to purchase more.

LORETTA, *Nampa.*

From your letter on gas prices that you sent me, you are starting to understand that the Congress holds most of the blame for high oil (and thus gas) prices. Congress has failed to act in the thirty years since the last gas crisis, continually failing to take responsible action to make sure domestic supplies are developed and used to reduce dependence on foreign oil.

It should be clear that the single most deleterious action of Congress over the last forty years was the Environmental Protection Act. It has desperately needed revision since the early seventies and because it was not, the economic impact on America has been extreme. The inability to build domestic gas refineries, increase domestic oil production and take advantage of resources in ANWR are only a few of the unintended and disastrous impacts of that act. An environmentalist has only to write a single letter to cause the price of any such proposal to escalade exponentially. The latest case of the proposed nuclear reactor in Idaho is an example. One man writing one letter can cause the waste of hundreds of thousands of dollars to ''prove'' the lack of environmental impacts of such a proposal. The price of a house in Idaho has risen by 10–15 percent, for instance, because of the ludicrous and technically flawed environmental studies and reactions on the spotted owl.

Still, no action in Congress to alleviate the situation. We simply need someone to stand up and take the actions necessary to replace political correctness with what used to be common sense.

So the bottom line, Senator, is that Congress bears the responsibility to stop passing stupid laws and start reigning in those that are hurting the nation's ability to do the right things rather than the politically correct things. Do you have the courage to start?

ROBERT, *Meridian.*

You asked what the high gas prices are doing to me. It has become very difficult to even do normal things. I cannot afford to go up town and buy necessary things. Since I am on Social Security Disability, my sister and I have been living off my money. Since my sister does not have a car and I cannot afford to buy one for her, nor could I afford the gas. She would love to go to work. How would she get there? Idaho, and particularly this area has a really horrible public transportation system. It truly is a disgrace to our state. My sister walks as much as possible. Our nation needs to stop depending on foreign oil. I love all the animals and have tried to protect them as much as possible, but we need to start taking care of our families first.

The oil companies are making over the profit margin; that is disgusting by itself. I do not trust one thing they say or do. Therefore, we need to have alternative fuel. The wind can run electricity. The air can fuel a car, water can do both, after seeing the pictures of a car that runs on air. America, the greatest country in the world needs to step up to the plate. Oil companies need to step up to the plate before they become the dinosaurs. Therefore, we need to drill. Do it. Many families like mine are being devastated by the high gasoline prices which makes high food prices we cannot afford. Thank you for your time

MARIAN, *Nampa.*

This is in response to a solicitation from Senator Crapo regarding personal stories on how high energy prices are affecting lives. Greed is the source of most of the world's evil. I know I sound like an ideologue, but please read on.

It is hard to disaggregate the effects of the high cost of energy from other economic hits our family is experiencing. When construction activity slowed in Valley and Adams County, wage earning families left our valleys looking for jobs elsewhere.

The resulting reduced school enrollment (now compounded by the end of Craig-Wyden) in our districts led me to being one of the teachers RIF'd from the Council School District. Fortunately, I found work part-time in the McCall School District. Unfortunately, this 70-mile, round-trip commute (in my 2000 140,000+ mile Dodge AWD Caravan—needed for unpredictable roads) costs me $9.00–$12.00 a trip! I would like to buy a more fuel efficient Subaru—but I cannot afford to.)

My school-age children suffer because programs are being severely reduced—shop and art are gone. Some high school courses will only be offered every other year. Summer school for poor learners is truncated. Field trips? Sports? Both are severely reduced. How can our small-town children go out and experience the world when there is not even money for gas?

As consumers, our family lives so far from ''the source'' that not only gas, but also milk and other basic commodities seem to cost at least 25 percent more than they did a year ago. Last year I was able to find milk for $2.29 gallon; now milk costs close to $4.00/gallon. Healthy bread costs close to $4.00/loaf. As a family, we certainly have not received a COLA to offset these price increases.

As middle-class professionals (my husband is a forester) and as parents, the drain on our budget means belt-tightening for any of ''fun things'' like vacation trips. Additionally, we have experienced a health crisis (and have met our catastrophic limits). I now must commute to Fruitland (140 miles round trip) every 2 weeks for chemo; in the fall I will need to commute 5 days a week for radiation for 6 weeks! (My doctor cavalierly denied me two prescriptions for drugs since they are also available OTC. ''They only cost a few dollars. '' He casually shrugged off my request for RXs. Well, the two drugs cost more than $30 altogether. I do not think that the upper-middle-class and upper-class have a clue that there is an exponential difference between a few bucks (a latte) and $30 (a chance to visit a museum or movie, or halfway fill up a gas tank to make it to a chemo session!)

I believe that our tax system rewards the rich on the backs of the poor and middle class. I believe that oil companies and owners of stocks are making fortunes as the little guy suffers.

I believe we should take global warning seriously and allow tax credits for the development of alternative energy. We need to take recycling very seriously. We also need to be a world economic partner on a fair playing field (Kyoto convention), quit out-sourcing to countries that do not provide the labor protections we do to our workers, and build respectful relationships among all peoples and all cultures—as a first step to world peace and understanding and a step away from the ugliness of war.

I also believe that limiting population growth and sharing the world's resource's equably is the only way we will ever establish peace on earth.

Locally, for our family, what have been the effects of high energy costs? Higher food and medical costs, loss of job, reduced school programs for my children, dwindled savings, ''making do'' with older cars and housing needs, fewer amenities, no vacation.

Glad you asked.

LYNN, *Fruitvale.*

I read your letter sent out today. Glad to hear that at least one of our Senators in Washington gets it. I hope there are more of you in DC that can support the policies you want to support in your letter.

We do need to start drilling again in the US and offshore. We need to make sure that we take precautions to avoid damage to the environment. We cannot sacrifice one for the other. But we must start drilling again, and do so in a respective manner of Mother Nature.

And we are going to need some new refining capability. Again, do it new technology and with respect to our environment. Build it in Eastern Idaho—we have the space and we could use the jobs and economic boost. Tough to get oil here, but if they need a place for it, bring it here.

We must start the nuclear programs again. We need to build some new reactors soon. I do not know for sure, but I am betting some of our older reactors are getting long in the tooth, and if they go off the grid, then what happens? Besides we need more power and money spent to renew our grid system.

We need to take a serious look at Ethanol. I am not sure it is all it is being promoted to be. I am not sure the benefits outweigh all of the costs. With the flooding in the Midwest, I wonder what the cost of corn will be now? But it is not just food issues, but the processing issues as well.

Wind Power should be promoted as well. But a Nuclear Power Plant is much easier on the eyes than 1000 wind towers, and not as susceptible to the changes in the wind.

Coal alternatives should be looked at as well. We need to check if the benefits we can gain from technology like coal gasification are valid and have low impact. Some of the claims you hear and read about look promising. But as I am learning with Ethanol, there may be some significant costs to chase this type of technology.

But the short of it—we need to develop our energy and become more independent. The amount of jobs created would be incredible in the process. You want a better health care system and less unemployment and less government care programs—just set the energy companies loose and see this economy rebound in a heartbeat. These energy companies can afford health care plans and benefits for their workers. Our current policies are killing us—and I really hope there are enough in Congress to turn this around. We have been shooting ourselves in the foot for more than 20 years.

Good Luck.

STEPHEN, *Rigby*.

Thank you for inviting me to share how the increased gas prices has affected my daily life. I have begun carpooling and eliminating unnecessary trips, and have really saved a lot of money, not to mention reducing the pollution my daily commute had been producing. Though it has not always been convenient, I look at it as one small step that I can do to help our world for future generations. You opposed the proposed climate change legislation that would further hike gas prices up, though I called and wrote your office to ask you to support it. I feel that the higher the gas prices are, the more people will look to limit extraneous trips which will help reduce emissions (greenhouse gases). I also think that the more you reduce the prices on gas, people will use more gas and will choose not to conserve.

Measures I want you to support would be to develop a larger, stronger infrastructure of public transportation so that people do not have to worry about getting to work the traditional way of driving singly in their own vehicle. We should encourage production and development of non-fossil fuels, such as cellulosic ethanol, which does not take from the food supply, but does give work to both the scientific developers as well as the laborers necessary to move this idea to fruition. Also, you should support solar, geothermal, and wind production. If measures could be discovered that would allow for the long-term safe storage of nuclear waste, as well as safe practices of running plants on a daily basis, no matter the weather conditions (i.e., drought), keeping in mind the larger picture of our environment, including fish and other natural resources, I would be supportive of that method as well. I know these newer methods are not as easy or convenient as just simply reducing gas prices, but your legacy for truly caring about the environment would be something that would be worth the extra work.

Thank you for reading this, even though it probably goes against what you are looking for.

SUSAN, *Boise*.

ADDITONAL STATEMENTS

REMEMBERING HARRY MAGNUSON

• Mr. CRAPO. Mr. President, on January 24, a man whose life was intricately woven into Idaho's history passed on. Harry Frank Magnuson, son of an Italian immigrant mother and Polish immigrant father, was born in Idaho in the early part of the 20th century in the small Idaho mining town of Wallace. As a young man, Harry sought and obtained his education, first at the University of Idaho. After completing his military service with the U.S. Navy during World War II, he obtained a master's degree in business administration at Harvard University. Harry returned to his hometown of Wallace, ID, and opened an accounting firm that was active for 60 years. At the time of his death, Harry Magnuson was known well beyond Idaho's borders for his leadership, philanthropy and business acumen.

Harry was a devoted father and husband and committed man of the community. He was first and foremost an Idahoan. His work brought him accolades from the University of Idaho, Gonzaga University, and Idaho State University. In 1990, our State's largest newspaper, the Idaho Statesman, named him Idaho Citizen of the Year. He chaired the Idaho Centennial Commission from 1987 to 1991. In 1999, Harry received the "Esto Perpetua" award from the Idaho State Historical Society, an award that honors an individual's lifetime contributions to the history of Idaho. One of the projects closest to his heart was the Cataldo Mission in north Idaho, the preservation of which he contributed mightily over the years.

My thoughts and prayers are with Colleen Magnuson and their children at this difficult time.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 27. Concurrent resolution authorizing the use of the rotunda of the Capitol for a ceremony in honor of the bicentennial of the birth of President Abraham Lincoln.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–554. A communication from the Senior Counsel for Regulatory Affairs, Office of Financial Stability, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "TARP Conflicts of Interest" (RIN1505–AC05) received in the Office of the President of the Senate on January 26, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–555. A communication from the Deputy Secretary of the Interior and the General Counsel, Department of Commerce, transmitting draft legislation entitled "The Albatross and Petrel Conservation Act of 2009"; to the Committee on Environment and Public Works.

EC–556. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Credit Rates on Tax Credit Bonds" (Notice 2009–15) received in the Office of the President of the Senate on January 28, 2009; to the Committee on Finance.

EC–557. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the extension of the waiver of restrictions contained in Section 907 of the FREEDOM Support Act of 1992; to the Committee on Foreign Relations.

EC–558. A communication from the Assistant Secretary for Civil Rights, Department of Education, transmitting, pursuant to law, the annual report of the Office for Civil Rights for fiscal years 2007–2008; to the Committee on Health, Education, Labor, and Pensions.

EC–559. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, a report relative to the vacancy, designation of acting officer and nomination for the position of Director of National Intelligence, received in the Office of the President of the Senate on January 28, 2009; to the Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD):

S. 357. A bill to allow for certiorari review of certain cases denied relief or review by the United States Court of Appeals for the Armed Forces; to the Committee on the Judiciary.

By Mr. CORNYN (for himself, Mr. LIEBERMAN, Mr. PRYOR, and Mrs. MCCASKILL):

S. 358. A bill to ensure the safety of members of the United States Armed Forces while using expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas; to the Committee on Armed Services.

By Mr. INOUYE:

S. 359. A bill to establish the Hawaii Capital National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. McCASKILL:

S. 360. A bill to limit compensation to officers and directors of entities receiving emergency economic assistance from the Government; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN:

S. 361. A bill for the relief of Guy Vang, Genevieve Chong Foung, Caroline Vang, and Meline ''Melanie'' Vang; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. WEBB, Mr. BROWN, Ms. MIKULSKI, and Mr. SANDERS):

S. 362. A bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL COSPONSORS

S. 150

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 150, a bill to provide Federal assistance to States for rural law enforcement and for other purposes.

S. 244

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 252

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 252, a bill to amend title 38, United States Code, to enhance the capacity of the Department of Veterans Affairs to recruit and retain nurses and other critical health-care professionals, to improve the provision of health care veterans, and for other purposes.

S. 262

At the request of Mr. CASEY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 262, a bill to improve and enhance the operations of the reserve components of the Armed Forces, to improve mobilization and demobilization processes for members of the reserve components of the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD):

S. 357. A bill to allow for certiorari review of certain cases denied relief or review by the United States Court of Appeals for the Armed Forces; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join with Senators SPECTER and FEINGOLD in introducing the Equal Justice for U.S. Service Members Act. The Act would eliminate an inequity in current law by allowing all court-martialed U.S. servicemembers who face dismissal, discharge or confinement for a year or more to petition the United States Supreme Court for discretionary review through a writ of certiorari.

The bill is a simple one, and would do the following: allow a writ of certiorari to be filed in any case in which the U.S. Court of Appeals for the Armed Forces has denied review; and allow a writ of certiorari to be filed in any case in which the U.S. Court of Appeals for the Armed Forces denied a petition for extraordinary relief.

In our civilian courts today, all person convicted of a crime, if they lose on appeal, have a right to petition the U.S. Supreme Court for discretionary review. Even enemy combatants have the right to direct appellate review in the Supreme Court.

In contrast, however, our men and women in uniform do not share this same right. Our military personnel can apply to the U.S. Supreme Court only if the U.S. Court of Appeals for the Armed Forces actually conducts a review of their case or grants a petition for extraordinary relief. That only happens about 10 percent of the time.

In other words, in 90 percent of their case, our U.S. servicemembers are prevented from ever seeking or obtaining direct review from the Supreme Court.

This disparity is not limited to our civilian and military court systems. A similar disparity exists within our military court system relief. The Government routinely has the chance to petition the Supreme Court for review of adverse court-martial rulings in any case where the charges are severe enough to make a punitive discharge possible. But our military personnel do not share the same rights to petition the Supreme Court as the military prosecutors on the other side of the aisle.

This is wrong, and this inequity was recently noted by the American Bar Association, which passed a resolution calling on Congress on fix this longstanding ''disparity in our laws governing procedural due process.''

Every day, our U.S. service personnel place their lives on the line in defense of American rights. It is unacceptable for us to continue to routinely deprive our men and women in uniform one of those rights—the ability to petition their Nation's highest court for direct relief. It is a right given to common criminals in our civilian courts, to the Government, and even to some of the terrorists who we hope to prosecute as war criminals.

The bill is supported by the American Bar Association, the Military Officers Association of America, and the National Institute of Military Justice. Robinson Everett, the former Chief Judge of the U.S. Court of Military Appeals, the predecessor to the Court of Appeals for the Armed Forces, also supports the bill.

It's long past time we give them the same rights as the American citizens they fight, and sometimes die, to protect.

I urge my colleagues to support this important legislation to give equal justice to our U.S. servicemembers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Equal Justice for United States Military Personnel Act of 2009''.

SEC. 2. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting ''or denied'' after ''granted''; and

(2) in paragraph (4), by inserting ''or denied'' after ''granted''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking ''The Supreme Court may not review by a writ of

certiorari under this section any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review.''.

By Mr. INOUYE:

S. 359. A bill to establish the Hawai'i Capital National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. INOUYE. Mr. President, I rise to introduce a bill that will establish the Hawaii Capital National Heritage Area.

National Heritage Areas allow residents, government agencies, nonprofit groups and private partners to collaboratively plan and implement programs that recognize and preserve America's defining landscapes. Of the 40 National Heritage Areas established, only a few are west of the Mississippi River. This will be Hawaii's first official Heritage Area.

I believe that Hawaii's unique cultural make up coupled with its historical significance will surely attract both residents and visitors to this special place. The proposed area is rich with cultural sites, museums, historic buildings, art galleries, performing arts venues, ethnic markets, and restaurants that will surely provide the average person with an experience of a lifetime.

This makes Hawaii Capital Cultural district an ideal candidate for a Heritage Area designation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hawai'i Capital National Heritage Area Establishment Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Hawai'i Capital National Heritage Area established by section 3(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 3(d).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under section 5.

(4) MAP.—The term ''map'' means the map entitled ''Hawai'i Capital National Heritage Area Proposed Boundary'', numbered T17/90,000B, and dated January 2009.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Hawai'i.

SEC. 3. HAWAI'I CAPITAL NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Hawai'i Capital National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of portions of Honolulu and the Honolulu Ahupua'a, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Hawai'i Capital Cultural Coalition.

(d) LOCAL COORDINATING ENTITY.—The Hawai'i Capital Cultural Coalition shall be the local coordinating entity for the Heritage Area.

SEC. 4. DUTIES AND AUTHORITIES OF THE LOCAL COORDINATING ENTITY.

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 5;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of, and appreciation for, natural, historic, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(5) for any fiscal year for which the local coordinating entity receives Federal funds under this Act—

(A) submit to the Secretary an annual report that describes, for the fiscal year—

(i) the accomplishments, expenses, income, amounts, and sources of matching funds;

(ii) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(iii) grants made to any other entities;

(B) make available to the Secretary for audit all information relating to the expenditure of Federal funds and any matching funds for the fiscal year; and

(C) require, in all agreements authorizing the expenditure of Federal funds by other organizations, that the organizations receiving the Federal funds make available to the Secretary for audit all records and other information relating to the expenditure of the funds; and

(6) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available under this Act to—

(1) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(2) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff;

(4) obtain money or services from any source, including under any other Federal law or program;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that—

(A) further the purposes of the Heritage Area; and

(B) are consistent with the approved management plan.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the local coordinating entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for—

(A) conveying the heritage of the region; and

(B) encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development and implementation of the management plan;

(3) include a description of actions and commitments that governments, private organizations, and individuals have agreed to take to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the Heritage Area;

(4) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the Heritage Area;

(5) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area related to the stories and themes of the region that should be protected, enhanced, managed, or developed;

(6) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(7) describe a program of implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, and interpretation; and

(C) specific commitments for implementation of the management plan that have been made by the local coordinating entity or any government, organization, business, or individual;

(8) include an analysis of, and recommendations for, ways in which Federal, tribal, State, and local programs may best be coordinated to carry out the purposes of this Act, including recommendations for the role of the National Park Service and other Federal agencies associated with the Heritage Area;

(9) include an interpretive plan for the Heritage Area; and

(10) include a business plan that—

(A) describes the role, operation, financing, and functions of—

(i) the local coordinating entity; and

(ii) each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(c) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this Act, the local coordinating entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary approves the management plan.

(d) APPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under subsection (a), the Secretary, in consultation with the Governor of the State and any applicable tribal government, shall approve or disapprove the management plan.

(2) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historical resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(B) the local coordinating entity has afforded adequate opportunity for public and governmental involvement, including workshops and public meetings, in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal or tribal land under applicable laws or land use plans;

(E) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials, the support of which is necessary to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(F) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary—

(A) shall advise the local coordinating entity in writing of the reasons for the disapproval;

(B) may make recommendations to the local coordinating entity for revisions to the management plan; and

(C) not later than 180 days after the receipt of any proposed revision of the management plan from the local coordinating entity, shall approve or disapprove the proposed revised management plan.

(4) AMENDMENTS.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines would make a substantial change to the management plan in accordance with this subsection.

(5) USE OF FUNDS.—The local coordinating entity shall not use Federal funds authorized by this Act to carry out any amendments to the management plan until the Secretary has approved the amendments.

SEC. 6. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide to the local coordinating entity technical and financial assistance on a reimbursable or nonreimbursable basis, as determined by the Secretary, to develop and implement the management plan.

(2) PRIORITY ACTIONS.—In providing assistance under this subsection, the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities for the purposes of carrying out this subsection.

(b) EVALUATION.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under section 10, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) EVALUATION COMPONENTS.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of this Act for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY OWNERS AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by any Federal, tribal, State, or local agency) to the property;

(3) modifies any provisions of Federal, tribal, State, or local law with regard to public access to, or use of, private land;

(4) alters any land use regulation, approved land use plan, or other regulatory authority of any Federal, tribal, State, or local agency;

(5) conveys any land use or other regulatory authority to the local coordinating entity;

(6) authorizes or implies the reservation or appropriation of water or water rights;

(7) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(8) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The Federal share of the cost of any activity provided assistance or a grant under this Act shall not exceed 50 percent of the total cost of the activity.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share—

(A) shall be from non-Federal sources; and

(B) may be in the form of in-kind contributions of goods and services fairly valued.

SEC. 10. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mrs. McCASKILL:

S. 360. A bill to limit compensation to officers and directors of entities receiving emergency economic assistance from the Government; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. McCASKILL. Mr. President, I could not agree more with my colleague from Rhode Island. There are a

lot of things we need in this country right now. We need jobs. We need something to stimulate our economy. We need certainty in the credit market. But probably more than anything what we need in this country right now is confidence, confidence that we can face down these problems and move forward like America has always done.

What do we have instead of confidence? Raw anger. I am mad. Everyone I work for is mad. Anger can be constructive. It can be channeling. I am here today to say it is time we channel this anger and change the law. We do not need anger. We have a bunch of idiots on Wall Street who are kicking sand in the face of the American taxpayer. My colleague talked about some of them. Let me review. These financial institutions, on the brink of extinction, come to the American taxpayer for hundreds of billions of dollars at the very same time they think they are going to buy a $50 million corporate jet. They are going to pay out $18 billion in bonuses. They paid an average of $2.6 million to every executive at the first 116 banks that got taxpayer money under TARP. Let me say that again: An average of $2.6 million in executive pay to the folks at the first 116 banks that got money from the taxpayers.

They don't get it. These people are idiots. You can't use taxpayer money to pay out $18 billion in bonuses. Merrill Lynch is unbelievable. They saved $3 billion to $4 billion from the pot of money that was going to Bank of America, the sale that was going to close the first week in January. They always gave bonuses in January. Do you know what these sneaky guys did? They decided to give their bonuses in December before the Bank of America took over. They paid out $3 billion to $4 billion in bonuses in December, and that quarter, Merrill Lynch lost $21 billion. What planet are these people on? What could they be thinking about?

So here is what this bill is going to do. This is called the Cap Executive Officer Pay Act of 2009, and it is very simple. Going forward, you want taxpayers to help you survive? You want the people at your financial institution to have a job tomorrow? Then you are going to have to limit everyone's pay at your company to the same salary the President of the United States makes. Is that so unreasonable? It is eight times the median household income in the United States of America—$400,000 a year. I don't think that sounds like a bad deal. Should these people be making more than the President of the United States? Now, really, should they? They should not be making more than the President of the United States. So every executive going forward could not make more than $400,000 a year, and they have to limit that executive compensation for everyone in their company until they pay back every dime to the taxpayers.

Now, once they are off the public dole, once the taxpayers aren't footing the bill, then it is not as much our business what they get paid. But right now, they are on the hook to us, and they owe us something other than a fancy wastebasket and a $50 million jet. They owe us some common sense. If any of them think it is a hardship to take the salary of the President of the United States, I dare them to say so out loud right now because that is not going to instill confidence.

What is going to instill confidence is for the men and women in these companies to realize it is time for everyone in this country to tighten their belt. It is time for everyone to realize we must have our financial institutions survive but not with a culture that thinks it is OK to kick the taxpayer in the shins while they drink champagne and fly in fancy jets. It doesn't work; not in the United States of America.

I ask my colleagues to sign on to this bill. I think it makes sense. We should have done it in the first place, but I don't think any of us thought these guys were this stupid. I don't think any of us believed they would take billions of dollars of bonuses while their institutions were literally days from being wiped out, but they did, and we have learned our lesson.

So I hope all my colleagues will sign on this bill. I hope we can get it passed quickly so that from this day forward, the President of the United States will make the same amount of money as the executives of these companies who owe the taxpayers hundreds and hundreds of billions of dollars.

By Mr. ROCKEFELLER (for himself, Mr. WEBB, Mr. BROWN, Ms. MIKULSKI, and Mr. SANDERS

S. 362. A bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I rise today to reintroduce legislation designed to fix the personnel laws that cover the Department of Veterans Affairs health care professionals, including registered nurses, physicians, physician assistants, dentists, podiatrists, optometrists, and dental assistants. I am proud to have the support of my colleagues, Senators WEBB, BROWN, MIKULSKI, and SANDERS.

Whenever I visit VA Medical Centers and meet with veterans, I hear wonderful stories about nurses and other VA health care professionals who work long and hard to provide care to our veterans. Too often, our health care professionals are working under real stress due to lack of funds or staff shortages. Almost 22,000 of the registered nurses caring for our veterans will be eligible to retire by 2010. Even more stunning is that 77 percent of all resignations of nurses occur within the first 5 years. This is a clear signal that more must be done to retain VA nurses and quality health care staff. Anyone involved in health care understands the important role that nurses play in the quality of care and patient satisfaction.

The goal of this bill is to support the VA health care professionals who work hard to provide quality care to our veterans. The bill seeks to return to the partnership agreement of the 1990s between VA management and workforce. Flexible scheduling and basic fairness from management are key issues that must be addressed to recruit and retain a strong workforce. Morale is important in every workplace, and particularly in a VA Medical Center.

West Virginia has four VA Medical Centers, each with a dedicated team of health care professionals. I have met with the nurses and other professionals to hear their requests for flexible scheduling. I believe that we should restore the management partnership and work hard to retain our dedicated team of health professionals for our aging veterans, and those newly returning from Iraq and Afghanistan, with both physical and mental wounds of war, that deserve experienced VA care.

AMENDMENTS SUBMITTED AND PROPOSED

SA 98. Mr. INOUYE (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 98. Mr. INOUYE (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purpose; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Recovery and Reinvestment Act of 2009".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to ''this Act'' contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—APPROPRIATIONS PROVISIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for the ''Office of the Secretary'', $300,000,000, to remain available until September 30, 2010: *Provided*, That the Secretary may transfer these funds to agencies of the Department, other than the Forest Service, for necessary replacement, modernization, or upgrades of laboratories or other facilities to improve workplace safety and mission-area efficiencies as deemed appropriate by the Secretary: *Provided further*, that the Secretary shall provide to the Committees on Appropriations of the House and Senate a plan on the allocation of these funds no later than 60 days after the date of enactment of this Act.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $5,000,000, to remain available until September 30, 2010, for oversight and audit of programs, grants, and activities funded under this title.

COOPERATIVE STATE RESEARCH, EDUCATION AND ECONOMIC SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for competitive grants authorized at 7 U.S.C. 450(i)(b), $100,000,000, to remain available until September 30, 2010.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for ''Farm Service Agency, Salaries and Expenses'', $171,000,000, to remain available until September 30, 2010.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund Program Account, as follows: farm ownership loans, $400,000,000 of which $100,000,000 shall be for unsubsidized guaranteed loans and $300,000,000 shall be for direct loans; and operating loans, $250,000,000 of which $50,000,000 shall be for unsubsidized guaranteed loans and $200,000,000 shall be for direct loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2010, as follows: farm ownership loans, $17,530,000 of which $330,000 shall be for unsubsidized guaranteed loans and $17,200,000 shall be for direct loans; and operating loans, $24,900,000 of which $1,300,000 shall be for unsubsidized guaranteed loans and $23,600,000 shall be for direct loans.

Funds appropriated by this Act to the Agricultural Credit Insurance Fund Program Account for farm ownership, operating, and emergency direct loans and unsubsidized guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', $275,000,000, to remain available until September 30, 2010.

WATERSHED REHABILITATION PROGRAM

For an additional amount for the ''Watershed Rehabilitation Program'', $120,000,000, to remain available until September 30, 2010.

RURAL DEVELOPMENT SALARIES AND EXPENSES

For an additional amount for ''Rural Development, Salaries and Expenses'', $110,000,000, to remain available until September 30, 2010.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the Rural Housing Insurance Fund Program Account, as follows: $1,000,000,000 for section 502 direct loans; and $10,472,000,000 for section 502 unsubsidized guaranteed loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2010, as follows: $67,000,000 for section 502 direct loans; and $133,000,000 for section 502 unsubsidized guaranteed loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for rural community facilities programs as authorized by section 306 and described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, $127,000,000, to remain available until September 30, 2010.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed loans and grants as authorized by sections 310B(a)(2)(A) and 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $150,000,000, to remain available until September 30, 2010.

BIOREFINERY ASSISTANCE

For the cost of loan guarantees and grants, as authorized by section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103), $200,000,000, to remain available until September 30, 2010.

RURAL ENERGY FOR AMERICA PROGRAM

For an additional amount for the cost of loan guarantees and grants, as authorized by section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107), $50,000,000, to remain available until September 30, 2010: *Provided*, That these funds may be used by tribes, local units of government, and schools in rural areas, as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $1,375,000,000, to remain available until September 30, 2010.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM ACCOUNT

For an additional amount for direct loans and grants for distance learning and telemedicine services in rural areas, as authorized by 7 U.S.C. 950aaa, et seq., $200,000,000, to remain available until September 30, 2010.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For additional amount for the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et. seq.), except sections 17 and 21, $198,000,000, to remain available until September 30, 2010, to carry out a grant program for National School Lunch Program equipment assistance: *Provided*, That such funds shall be provided to States administering a school lunch program through a formula based on the ratio that the total number of lunches served in the Program during the second preceding fiscal year bears to the total number of such lunches served in all States in such second preceding fiscal year: *Provided further*, That of such funds, the Secretary may approve the reserve by States of up to $20,000,000 for necessary enhancements to the State Distributing Agency's commodity ordering and

management system to achieve compatibility with the Department's web-based supply chain management system: *Provided further*, That of the funds remaining, the State shall provide competitive grants to school food authorities based upon the need for equipment assistance in participating schools with priority given to schools in which not less than 50 percent of the students are eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act and priority given to schools purchasing equipment for the purpose of offering more healthful foods and meals, in accordance with standards established by the Secretary.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), to remain available until September 30, 2010, $500,000,000, of which $380,000,000 shall be placed in reserve to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates, and of which $120,000,000 shall be for the purposes specified in section 17(h)(10)(B)(ii): *Provided*, That up to one percent of the funding provided for the purposes specified in section 17(h)(10)(B)(ii) may be reserved by the Secretary for Federal administrative activities in support of those purposes.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the ''Commodity Assistance Program'', to remain available until September 30, 2010, $150,000,000, which the Secretary shall use to purchase a variety of commodities as authorized by the Commodity Credit Corporation or under section 32 of the Act entitled ''An Act to amend the Agricultural Adjustment Act, and for other purposes'', approved August 24, 1935 (7 U.S.C. 612c): *Provided*, That the Secretary shall distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note): *Provided further*, That of the funds made available, the Secretary may use up to $50,000,000 for costs associated with the distribution of commodities.

GENERAL PROVISIONS—THIS TITLE

SEC. 101. Funds appropriated by this Act and made available to the United States Department of Agriculture for broadband direct loans and loan guarantees, as authorized under title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) and for grants, shall be available for broadband infrastructure in any area of the United States notwithstanding title VI of the Rural Electrification Act of 1936: *Provided*, That at least 75 percent of the area served by the projects receiving funds from such grants, loans, or loan guarantees is in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary: *Provided further*, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have sufficient access to broadband service: *Provided further*, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: *Provided further*, That priority for awarding such funds shall be given to activities that can commence promptly following approval: *Provided further*, That the Department shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 102. NUTRITION FOR ECONOMIC RECOVERY. (a) MAXIMUM BENEFIT INCREASES.—

(1) ECONOMIC RECOVERY 1-MONTH BEGINNING STIMULUS PAYMENT.—For the first month that begins not less than 25 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 85 percent.

(2) REMAINDER OF FISCAL YEAR 2009.—Beginning with the second month that begins not less than 25 days after the date of enactment of this Act, and for each subsequent month through the month ending September 30, 2009, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 12 percent.

(3) SUBSEQUENT INCREASE FOR FISCAL YEAR 2010.—Beginning on October 1, 2009, and for each subsequent month through the month ending September 30, 2010, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by an amount equal to 12 percent, less the percentage by which the Secretary determines the thrifty food plan would otherwise be adjusted on October 1, 2009, as required under section 3(u) of that Act (7 U.S.C. 2012(u)), if the percentage is less than 12 percent.

(4) SUBSEQUENT INCREASE FOR FISCAL YEAR 2011.—Beginning on October 1, 2010, and for each subsequent month through the month ending September 30, 2011, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by an amount equal to 12 percent, less the sum of the percentages by which the Secretary determines the thrifty food plan would otherwise be adjusted on October 1, 2009 and October 1, 2010, as required under section 3(u) of that Act (7 U.S.C. 2012(u)), if the sum of such percentages is less than 12 percent.

(5) TERMINATION OF EFFECTIVENESS.—Effective beginning October 1, 2011, the authority provided by this subsection terminates and has no effect.

(b) ADMINISTRATION.—In carrying out this section, the Secretary shall—

(1) consider the benefit increases described in subsection (a) to be a mass change;

(2) require a simple process for States to notify households of the changes in benefits;

(3) consider section 16(c)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A)) to apply to any errors in the implementation of this section, without regard to the 120-day limit described in section 16(c)(3)(A) of that Act;

(4) disregard the additional amount of benefits that a household receives as a result of this section in determining the amount of overissuances under section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022) and the hours of participation in a program under section 6(d), 20, or 26 of that Act (7 U.S.C. 2015(d), 2029, 2035); and

(5) set the tolerance level for excluding small errors for the purposes of section 16(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at $50 for the period that the benefit increase under subsection (a) is in effect.

(c) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section and administering the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as the ''supplemental nutrition assistance program'') during a period of rising program caseloads, and for the expenses of the Secretary under paragraph (6), the Secretary shall make available $150,000,000 for each of fiscal years 2009 and 2010, to remain available through September 30, 2010.

(2) TIMING FOR FISCAL YEAR 2009.—Not later than 60 days after the date of enactment of this Act, the Secretary shall make available to States amounts for fiscal year 2009 under paragraph (1).

(3) ALLOCATION OF FUNDS.—Except as provided in paragraph (6), funds described in paragraph (1) shall be made available to States that meet the requirements of paragraph (5) as grants to State agencies for each fiscal year as follows:

(A) 75 percent of the amounts available for each fiscal year shall be allocated to States based on the share of each State of households that participate in the supplemental nutrition assistance program as reported to the Department of Agriculture for the most recent 12-month period for which data are available, adjusted by the Secretary (in the discretion of the Secretary) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)); and

(B) 25 percent of the amounts available for each fiscal year shall be allocated to States based on the increase in the number of households that participate in the supplemental nutrition assistance program as reported to the Department of Agriculture over the most recent 12-month period for which data are available, adjusted by the Secretary (in the discretion of the Secretary) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)).

(4) REDISTRIBUTION.—The Secretary shall determine an appropriate procedure for redistribution of amounts allocated to States that would otherwise be provided allocations under paragraph (3) for a fiscal year but that do not meet the requirements of paragraph (5).

(5) MAINTENANCE OF EFFORT.—

(A) DEFINITION OF SPECIFIED STATE ADMINISTRATIVE COSTS.—In this paragraph:

(i) IN GENERAL.—The term ''specified State administrative costs'' includes all State administrative costs under the supplemental nutrition assistance program.

(ii) EXCLUSIONS.—The term ''specified State administrative costs'' does not include—

(I) the costs of employment and training programs under section 6(d), 20, or 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d), 2029, 2035);

(II) the costs of nutrition education under section 11(f) of that Act (7 U.S.C. 2020(f)); and

(III) any other costs the Secretary determines should be excluded.

(B) REQUIREMENT.—The Secretary shall make funds under this subsection available only to States that, as determined by the Secretary, maintain State expenditures on specified State administrative costs.

(6) MONITORING AND EVALUATION.—Of the amounts made available under paragraph (1),

the Secretary may retain up to $5,000,000 for the costs incurred by the Secretary in monitoring the integrity and evaluating the effects of the payments made under this section.

(d) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—For the costs of administrative expenses associated with the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall make available $5,000,000, to remain available until September 30, 2010.

(e) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—

(1) FISCAL YEAR 2009.—

(A) IN GENERAL.—For fiscal year 2009, the Secretary shall increase by 12 percent the amount available for nutrition assistance for eligible households under the consolidated block grants for the Commonwealth of Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).

(B) AVAILABILITY OF FUNDS.—Funds made available under subparagraph (A) shall remain available through September 30, 2010.

(2) FISCAL YEAR 2010.—For fiscal year 2010, the Secretary shall increase the amount available for nutrition assistance for eligible households under the consolidated block grants for the Commonwealth of Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028) by 12 percent, less the percentage by which the Secretary determines the consolidated block grants would otherwise be adjusted on October 1, 2009, as required by section 19(a)(2)(A)(ii) of that Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the percentage is less than 12 percent.

(3) FISCAL YEAR 2011.—For fiscal year 2011, the Secretary shall increase the amount available for nutrition assistance for eligible households under the consolidated block grants for the Commonwealth of Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028) by 12 percent, less the sum of the percentages by which the Secretary determines the consolidated block grants would otherwise be adjusted on October 1, 2009, and October 1, 2010, as required by section 19(a)(2)(A)(ii) of that Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the sum of the percentages is less than 12 percent.

(f) TREATMENT OF JOBLESS WORKERS.—

(1) REMAINDER OF FISCAL YEAR 2009 THROUGH FISCAL YEAR 2011.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act and for each subsequent month through September 30, 2011, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(o)(2) of the Food and Nutrition Act of 2008 unless an individual does not comply with the requirements of a program offered by the State agency that meets the standards of subparagraphs (B) or (C) of that paragraph.

(2) FISCAL YEAR 2012 AND THEREAFTER.—Beginning on October 1, 2011, for the purposes of section 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)), a State agency shall disregard any period during which an individual received benefits under the supplemental nutrition assistance program prior to October 1, 2011.

(g) FUNDING.—There are appropriated to the Secretary out of funds of the Treasury not otherwise appropriated such sums as are necessary to carry out this section.

SEC. 103. AGRICULTURAL DISASTER ASSISTANCE TRANSITION. (a) FEDERAL CROP INSURANCE ACT.—Section 531(g) of the Federal Crop Insurance Act (7 U.S.C. 1531(g)) is amended by adding at the end the following:

''(7) 2008 TRANSITION ASSISTANCE.—

''(A) IN GENERAL.—Eligible producers on a farm described in subparagraph (A) of paragraph (4) that failed to timely pay the appropriate fee described in that subparagraph shall be eligible for assistance under this section in accordance with subparagraph (B) if the eligible producers on the farm—

''(i) pay the appropriate fee described in paragraph (4)(A) not later than 90 days after the date of enactment of this paragraph; and

''(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

''(II) in the case of each noninsurable commodity of the eligible producers on the farm, agree to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2009 crop year.

''(B) AMOUNT OF ASSISTANCE.—Eligible producers on a farm that meet the requirements of subparagraph (A) shall be eligible to receive assistance under this section as if the eligible producers on the farm—

''(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

''(ii) in the case of each noninsurable commodity of the eligible producers on the farm, had filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2008 crop year, except that in determining yield under that program, the Secretary shall use a percentage that is 70 percent.

''(C) EQUITABLE RELIEF.—Except as provided in subparagraph (D), eligible producers on a farm that met the requirements of paragraph (1) before the deadline described in paragraph (4)(A) and received, or are eligible to receive, a disaster assistance payment under this section for a production loss during the 2008 crop year shall be eligible to receive an additional amount equal to the greater of—

''(i) the amount that would have been calculated under subparagraph (B) if the eligible producers on the farm had paid the appropriate fee under that subparagraph; or

''(ii) the amount that would have been calculated under subparagraph (A) of subsection (b)(3) if—

''(I) in clause (i) of that subparagraph, '120 percent' is substituted for '115 percent'; and

''(II) in clause (ii) of that subparagraph, '125' is substituted for '120 percent'.

''(D) LIMITATION.—For amounts made available under this paragraph, the Secretary may make such adjustments as are necessary to ensure that no producer receives a payment under this paragraph for an amount in excess of the assistance received by a similarly situated producer that had purchased the same or higher level of crop insurance prior to the date of enactment of this paragraph.

''(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

''(F) LACK OF ACCESS.—Notwithstanding any other provision of this section, the Secretary may provide assistance under this section to eligible producers on a farm that—

''(i) suffered a production loss due to a natural cause during the 2008 crop year; and

''(ii) as determined by the Secretary—

''(I)(aa) except as provided in item (bb), lack access to a policy or plan of insurance under subtitle A; or

''(bb) do not qualify for a written agreement because 1 or more farming practices, which the Secretary has determined are good farming practices, of the eligible producers on the farm differ significantly from the farming practices used by producers of the same crop in other regions of the United States; and

''(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).''.

(b) TRADE ACT OF 1974.—Section 901(g) of the Trade Act of 1974 (19 U.S.C. 2497(g)) is amended by adding at the end the following:

''(7) 2008 TRANSITION ASSISTANCE.—

''(A) IN GENERAL.—Eligible producers on a farm described in subparagraph (A) of paragraph (4) that failed to timely pay the appropriate fee described in that subparagraph shall be eligible for assistance under this section in accordance with subparagraph (B) if the eligible producers on the farm—

''(i) pay the appropriate fee described in paragraph (4)(A) not later than 90 days after the date of enactment of this paragraph; and

''(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

''(II) in the case of each noninsurable commodity of the eligible producers on the farm, agree to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2009 crop year.

''(B) AMOUNT OF ASSISTANCE.—Eligible producers on a farm that meet the requirements of subparagraph (A) shall be eligible to receive assistance under this section as if the eligible producers on the farm—

''(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

''(ii) in the case of each noninsurable commodity of the eligible producers on the farm, had filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2008 crop year, except that in determining yield under that

program, the Secretary shall use a percentage that is 70 percent.

''(C) EQUITABLE RELIEF.—Except as provided in subparagraph (D), eligible producers on a farm that met the requirements of paragraph (1) before the deadline described in paragraph (4)(A) and received, or are eligible to receive, a disaster assistance payment under this section for a production loss during the 2008 crop year shall be eligible to receive an additional amount equal to the greater of—

''(i) the amount that would have been calculated under subparagraph (B) if the eligible producers on the farm had paid the appropriate fee under that subparagraph; or

''(ii) the amount that would have been calculated under subparagraph (A) of subsection (b)(3) if—

''(I) in clause (i) of that subparagraph, '120 percent' is substituted for '115 percent'; and

''(II) in clause (ii) of that subparagraph, '125' is substituted for '120 percent'.

''(D) LIMITATION.—For amounts made available under this paragraph, the Secretary may make such adjustments as are necessary to ensure that no producer receives a payment under this paragraph for an amount in excess of the assistance received by a similarly situated producer that had purchased the same or higher level of crop insurance prior to the date of enactment of this paragraph.

''(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

''(F) LACK OF ACCESS.—Notwithstanding any other provision of this section, the Secretary may provide assistance under this section to eligible producers on a farm that—

''(i) suffered a production loss due to a natural cause during the 2008 crop year; and

''(ii) as determined by the Secretary—

''(I)(aa) except as provided in item (bb), lack access to a policy or plan of insurance under subtitle A; or

''(bb) do not qualify for a written agreement because 1 or more farming practices, which the Secretary has determined are good farming practices, of the eligible producers on the farm differ significantly from the farming practices used by producers of the same crop in other regions of the United States; and

''(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).''.

(c) EMERGENCY LOANS.—

(1) IN GENERAL.—For the principal amount of direct emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $200,000,000.

(2) DIRECT EMERGENCY LOANS.—For the cost of direct emergency loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), $28,440,000, to remain available until September 30, 2010.

(d) 2008 AQUACULTURE ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2008 calendar year, as determined by the Secretary—

(i) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(ii) experienced a substantial price increase of feed costs above the previous 5-year average.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(2) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $100,000,000, to remain available until September 30, 2010, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2008 calendar year.

(B) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(C) PROVISION OF GRANTS.—

(i) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2007 calendar year, as determined by the Secretary.

(ii) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(i) use grant funds to assist eligible aquaculture producers;

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(iii) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(I) the manner in which the State provided assistance;

(II) the amounts of assistance provided per species of aquaculture; and

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(3) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2008 relating to the same species of aquaculture.

(4) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (2)(D)(iii).

SEC. 104. (a) Hereafter, in this section, the term ''nonambulatory disabled cattle'' means cattle, other than cattle that are less than 5 months old or weigh less than 500 pounds, subject to inspection under section 3(b) of the Federal Meat Inspection Act (21 U.S.C. 603(b)) that cannot rise from a recumbent position or walk, including cattle with a broken appendage, severed tendon or ligament, nerve paralysis, fractured vertebral column, or a metabolic condition.

(b) Hereafter, none of the funds made available under this or any other Act may be used to pay the salaries or expenses of any personnel of the Food Safety and Inspection Service to pass through inspection any nonambulatory disabled cattle for use as human food, regardless of the reason for the nonambulatory status of the cattle or the time at which the cattle became nonambulatory.

SEC. 105. STATE AND LOCAL GOVERNMENTS. Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting ''(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)'' before the period at the end.

SEC. 106. Except for title I of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), Commodity Credit Corporation funds provided in that Act shall be available for administrative expenses, including technical assistance, without regard to the limitation in 15 U.S.C. 714i.

TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For an additional amount for ''Operations and Administration'', $20,000,000, to remain available until September 30, 2010.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $150,000,000, to remain available until September 30, 2010: *Provided*, That $50,000,000 shall be for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149): *Provided further*, That in allocating the funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $1,000,000,000, to remain available until September 30, 2010.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

For an amount for ''Broadband Technology Opportunities Program'', $9,000,000,000, to remain available until September 30, 2010: *Provided*, That of the funds provided under this heading, $8,650,000,000 shall be expended pursuant to section 201 of this Act, of which: not less than $200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than $250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and $10,000,000 shall be transferred to ''Department of Commerce, Office of Inspector General'' for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: *Provided further*, That 50 percent of the funds provided in the previous proviso shall be used to support projects in

rural communities, which in part may be transferred to the Department of Agriculture for administration through the Rural Utilities Service if deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Secretary of Agriculture, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: *Provided further*, That of the funds provided under this heading, up to $350,000,000 may be expended pursuant to Public Law 110–385 (47 U.S.C. 1301 note) and for the purposes of developing and maintaining a broadband inventory map pursuant to section 201 of this Act: *Provided further*, That of the funds provided under this heading, amounts deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Federal Communications Commission (FCC), may be transferred to the FCC for the purposes of developing a national broadband plan or for carrying out any other FCC responsibilities pursuant to section 201 of this Act, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: *Provided further*, That not more than 3 percent of funds provided under this heading may be used for administrative costs, and this limitation shall apply to funds which may be transferred to the Department of Agriculture and the FCC.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

For an amount for ''Digital-to-Analog Converter Box Program'', $650,000,000, for additional coupons and related activities under the program implemented under section 3005 of the Digital Television Transition and Public Safety Act of 2005, to remain available until September 30, 2010: *Provided*, That of the amounts provided under this heading, $90,000,000 may be for education and outreach, including grants to organizations for programs to educate vulnerable populations, including senior citizens, minority communities, people with disabilities, low-income individuals, and people living in rural areas, about the transition and to provide one-on-one assistance to vulnerable populations, including help with converter box installation: *Provided further*, That the amounts provided in the previous proviso may be transferred to the Federal Communications Commission (Commission) if deemed necessary and appropriate by the Secretary of Commerce in consultation with the Commission, and only if the Committees on Appropriations of the House and the Senate are notified not less than 5 days in advance of transfer of such funds: *Provided further*, That $2,000,000 of funds provided under this heading shall be transferred to ''Department of Commerce, Office of Inspector General'' for audits and oversight of funds provided under this heading.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for ''Scientific and Technical Research and Services'', $218,000,000, to remain available until September 30, 2010.

CONSTRUCTION OF RESEARCH FACILITIES

For an additional amount for ''Construction of Research Facilities'', $357,000,000, to remain available until September 30, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $427,000,000, to remain available until September 30, 2010.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'', $795,000,000, to remain available until September 30, 2010.

DEPARTMENTAL MANAGEMENT

For an additional amount for ''Departmental Management'', $34,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $6,000,000, to remain available until September 30, 2010.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For an additional amount for ''Tactical Law Enforcement Wireless Communications'', $200,000,000 for the costs of developing and implementing a nationwide Integrated Wireless network supporting Federal law enforcement, to remain available until September 30, 2010.

DETENTION TRUSTEE

For an additional amount for ''Detention Trustee'', $150,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $2,000,000, to remain available until September 30, 2010.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for ''Construction'', $125,000,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $75,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for ''Construction'', $400,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for ''Federal Prison System, Buildings and Facilities'', $1,000,000,000, to remain available until September 30, 2010.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For an additional amount for ''Violence Against Women Prevention and Prosecution Programs'', $300,000,000 for grants to combat violence against women, as authorized by part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.): *Provided*, That, $50,000,000 shall be transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', $1,500,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), to remain available until September 30, 2010.

For an additional amount for ''State and Local Law Enforcement Assistance'', $440,000,000 for competitive grants to improve the functioning of the criminal justice system, to assist victims of crime (other than compensation), and youth mentoring grants, to remain available until September 30, 2010.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000, to remain available until September 30, 2010, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotics activity stemming from the Southern border, of which $10,000,000 shall be transferred to ''Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses'' for the ATF Project Gunrunner.

For an additional amount for ''State and Local Law Enforcement Assistance'', $300,000,000, to remain available until September 30, 2010, for assistance to Indian tribes, notwithstanding Public Law 108–199, division B, title I, section 112(a)(1) (118 Stat. 62), of which—

(1) $250,000,000 shall be available for grants under section 20109 of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322);

(2) $25,000,000 shall be available for the Tribal Courts Initiative; and

(3) $25,000,000 shall be available for tribal alcohol and substance abuse drug reduction assistance grants.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000, to remain available until September 30, 2010, to be distributed by the Office for Victims of Crime in accordance with section 1402(d)(4) of the Victims of Crime Act of 1984 (Public Law 98–473).

For an additional amount for ''State and Local Law Enforcement Assistance'', $150,000,000, to remain available until September 30, 2010, for assistance to law enforcement in rural areas, to prevent and combat crime, especially drug-related crime.

For an additional amount for ''State and Local Law Enforcement Assistance'', $50,000,000, to remain available until September 30, 2010, for Internet Crimes Against Children (ICAC) initiatives.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for ''Community Oriented Policing Services'', for grants under section 1701 of title I of the 1968 Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796dd) for hiring and rehiring of additional career law enforcement officers under part Q of such title, and civilian public safety personnel, notwithstanding subsection (i) of such section and notwithstanding 42 U.S.C. 3796dd–3(c), $1,000,000,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES

For an additional amount, not elsewhere specified in this title, for management and administration and oversight of programs within the Office on Violence Against Women, the Office of Justice Programs, and the Community Oriented Policing Services Office, $10,000,000, to remain available until September 30, 2010.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For an additional amount for ''Science'', $500,000,000, to remain available until September 30, 2010.

AERONAUTICS

For an additional amount for ''Aeronautics'', $250,000,000, to remain available until September 30, 2010.

EXPLORATION

For an additional amount for ''Exploration'', $500,000,000, to remain available until September 30, 2010.

CROSS AGENCY SUPPORT

For an additional amount for ''Cross Agency Support'', $250,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $2,000,000, to remain available until September 30, 2010.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for ''Research and Related Activities'', $1,200,000,000, to remain available until September 30, 2010.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For an additional amount for ''Major Research Equipment and Facilities Construction'', $150,000,000, to remain available until September 30, 2010.

EDUCATION AND HUMAN RESOURCES

For an additional amount for ''Education and Human Resources'', $50,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $2,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 201. The Assistant Secretary of Commerce for Communications and Information (Assistant Secretary), in consultation with the Federal Communications Commission (Commission) (and, with respect to rural areas, the Secretary of Agriculture), shall establish a national broadband service development and expansion program in conjunction with the technology opportunities program, which shall be referred to the Broadband Technology Opportunities Program. The Assistant Secretary shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.

(1) The purposes of the program are to—

(A) provide access to broadband service to citizens residing in unserved areas of the United States;

(B) provide improved access to broadband service to citizens residing in underserved areas of the United States;

(C) provide broadband education, awareness, training, access, equipment, and support to—

(i) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(ii) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(iii) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture.

(D) improve access to, and use of, broadband service by public safety agencies; and

(E) stimulate the demand for broadband, economic growth, and job creation.

(2) The Assistant Secretary may consult with the chief executive officer of any State with respect to—

(A) the identification of areas described in subsection (1)(A) or (B) located in that State; and

(B) the allocation of grant funds within that State for projects in or affecting the State.

(3) The Assistant Secretary shall—

(A) establish and implement the grant program as expeditiously as practicable;

(B) ensure that all awards are made before the end of fiscal year 2010;

(C) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and

(D) report on the status of the program to the Committees on Appropriations of the House and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.

(4) To be eligible for a grant under the program an applicant shall—

(A) be a State or political subdivision thereof, a nonprofit foundation, corporation, institution or association, Indian tribe, Native Hawaiian organization, or other non-governmental entity in partnership with a State or political subdivision thereof, Indian tribe, or Native Hawaiian organization if the Assistant Secretary determines the partnership consistent with the purposes this section;

(B) submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require;

(C) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a demonstration that the project would not have been implemented during the grant period without Federal grant assistance;

(D) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws;

(E) demonstrate, to the satisfaction of the Assistant Secretary, that it will appropriate (if the applicant is a State or local government agency) or otherwise unconditionally obligate, from non-Federal sources, funds required to meet the requirements of paragraph (5);

(F) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and

(G) provide such assurances and procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(5) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if—

(A) the applicant petitions the Assistant Secretary for a waiver; and

(B) the Assistant Secretary determines that the petition demonstrates financial need.

(6) The Assistant Secretary may make competitive grants under the program to—

(A) acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;

(B) construct and deploy broadband service related infrastructure;

(C) ensure access to broadband service by community anchor institutions;

(D) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;

(E) construct and deploy broadband facilities that improve public safety broadband communications services; and

(F) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

(7) The Assistant Secretary—

(A) shall require any entity receiving a grant pursuant to this section to report quarterly, in a format specified by the Assistant Secretary, on such entity's use of the assistance and progress fulfilling the objectives for which such funds were granted, and the Assistant Secretary shall make these reports available to the public;

(B) may establish additional reporting and information requirements for any recipient of any assistance made available pursuant to this section;

(C) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available pursuant to this section;

(D) may, in addition to other authority under applicable law, deobligate awards to grantees that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary, and award these funds competitively to new or existing applicants consistent with this section; and

(E) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.

(8) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Federal Communications Commission, publish

the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section.

(9) Within 1 year after the date of enactment of this Act, the Commission shall complete a rulemaking to develop a national broadband plan. In developing the plan, the Commission shall—

(A) consider the most effective and efficient national strategy for ensuring that all Americans have access to, and take advantage of, advanced broadband services;

(B) have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note);

(C) evaluate the status of deployments of broadband service, including the progress of projects supported by the grants made pursuant to this section; and

(D) develop recommendations for achieving the goal of nationally available broadband service for the United States and for promoting broadband adoption nationwide.

(10) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that entities and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State: *Provided*, That not later than 2 years after the date of the enactment of the Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible to the public.

SEC. 202. The Assistant Secretary of Commerce for Communications and Information may reissue any coupon issued under section 3005(a) of the Digital Television Transition and Public Safety Act of 2005 that has expired before use, and shall cancel any unredeemed coupon reported as lost and may issue a replacement coupon for the lost coupon.

TITLE III—DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $1,169,291,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $571,843,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $112,167,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $927,113,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $79,543,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $44,586,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $32,304,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $10,674,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $215,557,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $20,922,000, to remain available for obligation until September 30, 2010.

PROCUREMENT

DEFENSE PRODUCTION ACT PURCHASES

For an additional amount for ''Defense Production Act Purchases'', $100,000,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $200,000,000, to remain available for obligation until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $250,000,000 for operation and maintenance, to remain available for obligation until September 30, 2010.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $12,000,000 for operation and maintenance, to remain available for obligation until September 30, 2010.

TITLE IV—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for ''Investigations'' for expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $25,000,000: *Provided*, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further*, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

CONSTRUCTION

For an additional amount for ''Construction'' for expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law, $2,000,000,000, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303: *Provided*, That not less than $200,000,000 of the funds provided shall be for water-related environmental infrastructure assistance: *Provided further*, That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this title: *Provided further*, That notwithstanding any other provision of law, no funds shall be drawn from the Inland Waterways Trust Fund, as authorized in Public Law 99–662: *Provided further*, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further*, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further*, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further*, That funds appropriated under this heading may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330); or section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), notwithstanding the program cost limitations set forth in those sections: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' for expenses necessary for flood damage reduction projects and related efforts as authorized by law, $500,000,000, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662: *Provided*, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further*, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further*, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' for expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law, and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, $1,900,000,000, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104–303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further*, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further*, That $90,000,000 of the funds provided under this heading shall be used for activities described in section 9004 of Public Law 110–114: *Provided further*, That section 9006 of Public Law 110–114 shall not apply to funds provided in this title: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

REGULATORY PROGRAM

For an additional amount for ''Regulatory Program'' for expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $25,000,000 is provided.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For an additional amount for ''Formerly Utilized Sites Remedial Action Program'' for expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, $100,000,000: *Provided further*, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'' for expenses necessary for pre-placement of materials and equipment, advance measures and other activities authorized by law, $50,000,000 is provided.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $1,400,000,000; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further*, That funds provided in this Act shall be used for elements of projects, programs or activities that can be completed within these funding amounts and not create budgetary obligations in future fiscal years: *Provided further*, That $50,000,000 of the funds provided under this heading may be transferred to the Department of the Interior for programs, projects and activities authorized by the Central Utah Project Completion Act (titles II–V of Public Law 102–575): *Provided further*, That $50,000,000 of the funds provided under this heading may be used for programs, projects, and activities authorized by the California Bay-Delta Restoration Act (Public Law 108–361): *Provided further*, That not less than $60,000,000 of the funds provided under this heading shall be used for rural water projects and shall be expended primarily on water intake and treatment facilities of such projects: *Provided further*, That not less than $10,000,000 of the funds provided under this heading shall be used for a bureau-wide inspection of canals program in urbanized areas: *Provided further*, That not less than $110,000,000 of the funds provided under this heading shall be used for water reclamation and reuse projects (title 16 of Public Law 102–575): *Provided further*, That the costs of reimbursable activities, other than for maintenance and rehabilitation, carried out with funds provided in this Act shall be repaid pursuant to existing authorities and agreements: *Provided further*, That the costs of maintenance and rehabilitation activities carried out with funds provided in this Act shall be repaid pursuant to existing authority, except the length of repayment period shall be determined on needs-based criteria to be established and adopted by the Commissioner, but in no case shall the repayment period exceed 25 years: *Provided further*, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further*, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $14,398,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*, That $4,200,000,000 shall be available for Energy Efficiency and Conservation Block Grants for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.), of which $2,100,000,000 is available through the formula in subtitle E: *Provided further*, That the remaining $2,100,000,000 shall be awarded on a competitive basis only to competitive grant applicants from States in which the Governor certifies to the Secretary of Energy that the applicable State regulatory authority will implement the integrated resource planning and rate design modifications standards required to be considered under paragraphs (16) and (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor will take all actions within his or her authority to ensure that the State, or

the applicable units of local government that have authority to adopt building codes, will implement—

(A) building energy codes for residential buildings that the Secretary determines are likely to meet or exceed the 2009 International Energy Conservation Code;

(B) building energy codes for commercial buildings that the Secretary determines are likely to meet or exceed the ANSI/ASHRAE/IESNA Standard 90.1–2007; and

(C) a plan for implementing and enforcing the building energy codes described in subparagraphs (A) and (B) that is likely to ensure that at least 90 percent of the new and renovated residential and commercial building space will meet the standards within 8 years after the date of enactment of this Act:

Provided further, That $2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers: *Provided further*, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further*, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability'', $4,500,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*, That $100,000,000 shall be available for worker training activities: *Provided further*, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further*, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: *Provided*, That for the purpose of facilitating the development of regional transmission plans, the Office of Electricity Delivery and Energy Reliability within the Department of Energy is provided $80,000,000 within the available funds to conduct a resource assessment and an analysis of future demand and transmission requirements: *Provided further*, That the Office of Electricity Delivery and Energy Reliability will provide technical assistance to the North American Electric Reliability Corporation, the regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT: *Provided further*, That such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies, programs, laws, and regulations: *Provided further*, That $10,000,000 is provided to implement section 1305 of Public Law 110–140.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for ''Fossil Energy Research and Development'', $4,600,000,000, to remain available until September 30, 2010: *Provided*, That $2,000,000,000 is available for one or more near zero emissions powerplant(s): *Provided further*, $1,000,000,000 is available for selections under the Department's Clean Coal Power Initiative Round III Funding Opportunity Announcement; notwithstanding the mandatory eligibility requirements of the Funding Opportunity Announcement, the Department shall consider applications that utilize petroleum coke for some or all of the project's fuel input: *Provided further*, $1,520,000,000 is available for a competitive solicitation pursuant to section 703 of Public Law 110–140 for projects that demonstrate carbon capture from industrial sources: *Provided further*, That awards for such projects may include plant efficiency improvements for integration with carbon capture technology.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $483,000,000, to remain available until September 30, 2010.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $390,000,000, to remain available until September 30, 2010, of which $70,000,000 shall be available in accordance with title X, subtitle A of the Energy Policy Act of 1992.

SCIENCE

For an additional amount for ''Science'', $430,000,000, to remain available until September 30, 2010.

TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under section 1702(b)(2) of the Energy Policy Act of 2005, shall not exceed a total principal amount of $50,000,000,000 for eligible projects, to remain available until committed: *Provided*, That these amounts are in addition to any authority provided elsewhere in this Act and this and previous fiscal years: *Provided further*, That such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in this and prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: *Provided further*, That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: *Provided further*, That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available for commitments to guarantee loans under section 1702(b)(2) of the Energy Policy Act of 2005 for any projects where funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available under section 1702(b)(2) of the Energy Policy Act of 2005 for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this title: *Provided further*, That for an additional amount for the cost of guaranteed loans authorized by section 1702(b)(1) and section 1705 of the Energy Policy Act of 2005, $9,500,000,000, available until expended, to pay the costs of guarantees made under this section: *Provided further*, That of the amount provided for Title XVII, $15,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for weapons activities, $1,000,000,000, to remain available until September 30, 2010.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $5,527,000,000, to remain available until September 30, 2010.

CONSTRUCTION, REHABILITATION, OPERATION, AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, $10,000,000, to remain available until expended: *Provided*, That the Administrator shall establish such personnel staffing levels as he deems necessary to economically and efficiently complete the activities pursued under the authority granted by section 402 of this Act: *Provided further*, That this appropriation is non-reimbursable.

GENERAL PROVISIONS—THIS TITLE

SEC. 401. BONNEVILLE POWER ADMINISTRATION BORROWING AUTHORITY. For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to implement the authority of the Administrator of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional $3,250,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any time.

SEC. 402. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY. The Hoover

Power Plant Act of 1984 (Public Law 98–381) is amended by adding at the end the following:

"TITLE III—BORROWING AUTHORITY

"SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(b) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

"(A) the Western Area Power Administration may borrow funds from the Treasury; and

"(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), $3,250,000,000 in outstanding repayable balances at any one time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

"(i) constructing, financing, facilitating, planning, operating, maintaining, or studying construction of new or upgraded electric power transmission lines and related facilities with at least one terminus within the area served by the Western Area Power Administration; and

"(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after the date of enactment of this section.

"(2) INTEREST.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

"(3) REFINANCING.—The Western Area Power Administration may refinance loans taken pursuant to this section within the Treasury.

"(4) PARTICIPATION.—The Administrator may permit other entities to participate in the financing, construction and ownership projects financed under this section.

"(5) CONGRESSIONAL REVIEW OF DISBURSEMENT.—Effective upon the date of enactment of this section, the Administrator shall have the authority to have utilized $1,750,000,000 at any one time. If the Administrator seeks to borrow funds above $1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

"(c) TRANSMISSION LINE AND RELATED FACILITY PROJECTS.—

"(1) IN GENERAL.—For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

"(A) each other such project; and

"(B) all other Western Area Power Administration power and transmission facilities.

"(2) PROCEEDS.—The Western Area Power Administration shall apply the proceeds from the use of the transmission capacity from an individual project under this section to the repayment of the principal and interest of the loan from the Treasury attributable to that project, after reserving such funds as the Western Area Power Administration determines are necessary—

"(A) to pay for any ancillary services that are provided; and

"(B) to meet the costs of operating and maintaining the new project from which the revenues are derived.

"(3) SOURCE OF REVENUE.—Revenue from the use of projects under this section shall be the only source of revenue for—

"(A) repayment of the associated loan for the project; and

"(B) payment of expenses for ancillary services and operation and maintenance.

"(4) LIMITATION ON AUTHORITY.—Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

"(5) TREATMENT OF CERTAIN REVENUES.—Revenue from ancillary services provided by existing Federal power systems to users of transmission projects funded pursuant to this section shall be treated as revenue to the existing power system that provided the ancillary services.

"(d) CERTIFICATION.—

"(1) IN GENERAL.—For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

"(A) the project is in the public interest;

"(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

"(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

"(2) FORGIVENESS OF BALANCES.—

"(A) IN GENERAL.—If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

"(B) UNCONSTRUCTED PROJECTS.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

"(C) NOTIFICATION.—The Administrator shall notify the Secretary of such amounts as are to be forgiven under this paragraph.

"(e) PUBLIC PROCESSES.—

"(1) POLICIES AND PRACTICES.—Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

"(2) REQUESTS FOR INTEREST.—In the course of selecting potential projects to be funded under this section, the Administrator shall seek Requests For Interest from entities interested in identifying potential projects through one or more notices published in the Federal Register."

SEC. 403. TECHNICAL CORRECTIONS TO THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title XIII of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381 and following) is amended as follows:

(1) By amending subparagraph (A) of section 1304(b)(3) to read as follows:

"(A) IN GENERAL.—In carrying out the initiative, the Secretary shall provide financial support to smart grid demonstration projects including those in rural areas and/or areas where the majority of generation and transmission assets are controlled by a tax-exempt entity.".

(2) By amending subparagraph (C) of section 1304(b)(3) to read as follows:

"(C) FEDERAL SHARE OF COST OF TECHNOLOGY INVESTMENTS.—The Secretary shall provide to an electric utility described in subparagraph (B) or to other parties financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments made by the electric utility or other party to carry out a demonstration project. ".

(3) By inserting a new subparagraph (E) after 1304(b)(3)(D) as follows:

"(E) AVAILABILITY OF DATA.—The Secretary shall establish and maintain a smart grid information clearinghouse in a timely manner which will make data from smart grid demonstration projects and other sources available to the public. As a condition of receiving financial assistance under this subsection, a utility or other participant in a smart grid demonstration project shall provide such information as the Secretary may require to become available through the smart grid information clearinghouse in the form and within the timeframes as directed by the Secretary. The Secretary shall assure that business proprietary information and individual customer information is not included in the information made available through the clearinghouse.".

(4) By amending paragraph (2) of section 1304(c) to read as follows:

"(2) to carry out subsection (b), such sums as may be necessary.".

(5) By amending subsection (a) of section 1306 by striking "reimbursement of one-fifth (20 percent)" and inserting "grants of up to one-half (50 percent)".

(6) By striking the last sentence of subsection (b)(9) of section 1306.

(7) By striking "are eligible for" in subsection (c)(1) of section 1306 and inserting "utilize".

(8) By amending subsection (e) of section 1306 to read as follows:

"(e) The Secretary shall—

"(1) establish within 60 days after the enactment of the American Recovery and Reinvestment Act of 2009 procedures by which applicants can obtain grants of not more than one-half of their documented costs;

"(2) establish procedures to ensure that there is no duplication or multiple payment for the same investment or costs, that the grant goes to the party making the actual expenditures for Qualifying Smart Grid Investments, and that the grants made have significant effect in encouraging and facilitating the development of a smart grid;

"(3) maintain public records of grants made, recipients, and qualifying Smart Grid investments which have received grants;

"(4) establish procedures to provide advance payment of moneys up to the full amount of the grant award; and

"(5) have and exercise the discretion to deny grants for investments that do not qualify in the reasonable judgment of the Secretary.".

SEC. 404. TEMPORARY STIMULUS LOAN GUARANTEE PROGRAM. (a) AMENDMENT.—Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by adding at the end the following at the end:

"SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS.

"(a) IN GENERAL.—Notwithstanding section 1703, the Secretary may make guarantees under this section only for commercial technology projects under subsection (b) that will reach financial close not later than September 30, 2012.

"(b) CATEGORIES.—Projects from only the following categories shall be eligible for support under this section:

"(1) Renewable energy systems.

"(2) Electric power transmission systems.

"(c) AUTHORIZATION LIMIT.—There are authorized to be appropriated $10,000,000,000 to the Secretary for fiscal years 2009 through 2012 to provide the cost of guarantees made under section.

"(d) SUNSET.—The authority to enter into guarantees under this section shall expire on September 30, 2012.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents for the Energy Policy Act of 2005 is amended by inserting after the item relating to section 1704 the following new item:

"Sec. 1705. Temporary program for rapid deployment of renewable energy and electric power transmission projects.".

SEC. 405. WEATHERIZATION PROGRAM AMENDMENTS. (a) INCOME LEVEL.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking "150 percent" both places it appears and inserting "200 percent".

(b) ASSISTANCE LEVEL PER DWELLING UNIT.—Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended by striking "$2,500" and inserting "$5,000".

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 416 of the Energy Conservation and Production Act (42 U.S.C. 6866) is amended by striking "10 percent" and inserting "up to 20 percent".

SEC. 406. TECHNICAL CORRECTIONS TO PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978. (a) Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by redesignating paragraph (16) relating to consideration of smart grid investments (added by section 1307(a) of Public Law 110–140) as paragraph (18) and by redesignating paragraph (17) relating to smart grid information (added by section 1308(a) of Public Law 110–140) as paragraph (19).

(b) Subsections (b) and (d) of section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) are each amended by striking "(17) through (18)" in each place it appears and inserting "(16) through (19)".

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For an additional amount for "Community Development Financial Institutions Fund Program Account", $250,000,000, to remain available until September 30, 2010, for qualified applicants under the fiscal year 2008 and 2009 funding rounds of the Community Development Financial Institutions Program, of which up to $20,000,000 may be for financial assistance, technical assistance, training and outreach programs, including up to $5,000 for subsistence expenses, designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers and up to $5,000,000 may be used for administrative expenses: *Provided*, That for purposes of the fiscal year 2008 and 2009 funding rounds, the following statutory provisions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d): *Provided further*, That no awardee, together with its subsidiaries and affiliates, may be awarded more than 15 percent of the aggregate funds available during each of fiscal years 2008 and 2009 from the Community Development Financial Institutions Program: *Provided further*, That no later than 60 days after the date of enactment of this Act, the Department of the Treasury shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under this heading.

DISTRICT OF COLUMBIA

FEDERAL PAYMENTS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $125,000,000, to remain available until September 30, 2010, to continue implementation of the Combined Sewer Overflow Long-Term Control Plan: *Provided*, That the District of Columbia Water and Sewer Authority provide a 100 percent match for this payment: *Provided further*, That no later than 60 days after the date of enactment of this Act, the District of Columbia Water and Sewer Authority shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under this heading: *Provided further*, That such expenditure plan shall include a description of each specific project, how specific projects will further the objectives of the Long-Term Control Plan, and all funding sources for each project.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $9,048,000,000, to carry out the purposes of the Fund, of which not less than $1,400,000,000 shall be available for Federal buildings and United States courthouses, not less than $1,200,000,000 shall be available for border stations, and not less than $6,000,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140: *Provided*, That not to exceed $108,000,000 of the amounts provided under this heading may be expended for rental of space, related to leasing of temporary space in connection with projects funded under this heading: *Provided further*, That not to exceed $206,000,000 of the amounts provided under this heading may be expended for building operations, for the administrative costs of completing projects funded under this heading: *Provided further*, That (1) not less than $7,000,000,000 of the funds provided under this heading shall be obligated by September 30, 2010, and (2) $1,600,000,000 shall be available until September 30, 2011: *Provided further*, That the Administrator of General Services is authorized to initiate design, construction, repair, alteration, and other projects through existing authorities of the Administrator: *Provided further*, That the General Services Administration shall submit a detailed plan, by project, regarding the use of funds made available in this Act to the Committees on Appropriations of the House of Representatives and the Senate within 60 days of enactment of this Act: *Provided further*, That of the amounts provided for converting GSA facilities to High-Performance Green Buildings, $4,000,000 shall be transferred to and merged with "Government-Wide Policy", for carrying out the provisions of section 436 of the Energy Independence and Security Act of 2007 (Public Law 110–140), establishing an Office of Federal High-Performance Green Buildings, to remain available until September 30, 2010: *Provided further*, That within the overall amount to be deposited into the Fund, $448,000,000 shall remain available until September 30, 2011, for the development and construction of the headquarters for the Department of Homeland Security, except that none of the preceding provisos shall apply to amounts made available under this proviso.

ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of acquiring motor vehicles with higher fuel economy, including: hybrid vehicles; neighborhood electric vehicles; electric vehicles; and commercially-available, plug-in hybrid vehicles, $600,000,000, to remain available until September 30, 2011.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, to remain available until September 30, 2011, $2,000,000.

RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

For necessary expenses of the Recovery Act Accountability and Transparency Board to carry out the provisions of title XV of this Act, $7,000,000, to remain available until September 30, 2010.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount, to remain available until September 30, 2010, $84,000,000, of which $24,000,000 is for marketing, management, and technical assistance under section 7(m) of the Small Business Act (15 U.S.C. 636(m)(4)) by intermediaries that make microloans under the microloan program, of which $15,000,000 is for lender oversight activities as authorized in section 501(c) of this title, and of which $20,000,000 is for improving, streamlining, and automating information technology systems related to lender processes and lender oversight: *Provided*, That no later than 60 days after the date of enactment of this Act, the Small Business Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under the heading "Small Business Administration" in this Act.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $10,000,000, to remain available until September 30, 2011.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the Surety Bond Guarantees Revolving Fund, authorized by the Small Business Investment Act of 1958, $15,000,000, to remain available until expended.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $6,000,000, to remain available until September 30, 2010, and for an additional amount for the cost of guaranteed loans, $615,000,000, to remain available until September 30, 2010: *Provided*, That of the amount for the cost of guaranteed loans, $515,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized in section 501(a) of

this title; and $100,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized in section 501(b) of this title: *Provided further*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 501. ECONOMIC STIMULUS FOR SMALL BUSINESS CONCERNS. (a) TEMPORARY FEE ELIMINATION FOR THE 7(a) LOAN PROGRAM.—Until September 30, 2010, and to the extent that the cost of such elimination of fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

(1) in lieu of the fee otherwise applicable under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect no fee; and

(2) in lieu of the fee otherwise applicable under section 7(a)(18)(A) of the Small Business Act (15 U.S.C. 636(a)(18)(A)), collect no fee.

(b) TEMPORARY FEE ELIMINATION FOR THE 504 LOAN PROGRAM.—

(1) IN GENERAL.—Until September 30, 2010, and to the extent that the cost of such elimination in fees is offset by appropriations, with respect to each project or loan guaranteed by the Administrator under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) for which an application is approved or pending approval on or after the date of enactment of this Act—

(A) the Administrator shall, in lieu of the fee otherwise applicable under section 503(d)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)(2)), collect no fee;

(B) a development company shall, in lieu of the processing fee under section 120.971(a)(1) of title 13, Code of Federal Regulations (relating to fees paid by borrowers), or any successor thereto, collect no fee.

(2) REIMBURSEMENT FOR WAIVED FEES.—

(A) IN GENERAL.—To the extent that the cost of such payments is offset by appropriations, the Administrator shall reimburse each development company that does not collect a processing fee pursuant to paragraph (1)(B).

(B) AMOUNT.—The payment to a development company under subparagraph (A) shall be in an amount equal to 1.5 percent of the net debenture proceeds for which the development company does not collect a processing fee pursuant to paragraph (1)(B).

(c) TEMPORARY FEE ELIMINATION OF LENDER OVERSIGHT FEES.—Until September 30, 2010, and to the extent the cost of such elimination in fees is offset by appropriations, the Administrator shall, in lieu of the fee otherwise applicable under section 5(b)(14) of the Small Business Act (15 U.S.C. 634(b)(14)), collect no fee.

(d) APPLICATION OF FEE ELIMINATIONS.—The Administrator shall eliminate fees under subsections (a), (b), and (c) until the amount provided for such purposes, as applicable, under the headings ''Salaries and Expenses'' and ''Business Loans Program Account'' under the heading ''Small Business Administration'' under this Act are expended.

SEC. 502. FINANCIAL ASSISTANCE PROGRAM IMPROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000)'' and inserting ''$2,250,000 (or if the gross loan amount would exceed $3,000,000)''.

(b) SMALL BUSINESS INVESTMENT COMPANIES.—

(1) MAXIMUM LEVERAGE.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended—

(A) in paragraph (2), by striking subparagraphs (A), (B), and (C) and inserting the following:

''(A) IN GENERAL.—The maximum amount of outstanding leverage made available to any 1 company licensed under section 301(c) may not exceed the lesser of—

''(i) 300 percent of the private capital of the company; or

''(ii) $150,000,000.

''(B) MULTIPLE LICENSES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to 2 or more companies licensed under section 301(c) that are commonly controlled (as determined by the Administrator) may not exceed $225,000,000.

''(C) INVESTMENTS IN LOW–INCOME GEOGRAPHIC AREAS.—

''(i) IN GENERAL.—The maximum amount of outstanding leverage made available to—

''(I) any 1 company described in clause (ii) may not exceed the lesser of—

''(aa) 300 percent of private capital of the company; or

''(bb) $175,000,000; and

''(II) 2 or more companies described in clause (ii) that are commonly controlled (as determined by the Administrator) may not exceed $250,000,000.

''(ii) APPLICABILITY.—A company described in this clause is a company licensed under section 301(c) that certifies in writing that not less than 50 percent of the dollar amount of investments of that company shall be made in companies that are located in a low-income geographic area (as that term is defined in section 351).''; and

(B) by striking paragraph (4).

(2) INVESTMENTS IN SMALLER ENTERPRISES.—Section 303(d) of the Small Business Investment Act of 1958 (15 U.S.C. 683(d)) is amended to read as follows:

''(d) INVESTMENTS IN SMALLER ENTERPRISES.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing that not less than 25 percent of the aggregate dollar amount of financings of that licensee shall be provided to smaller enterprises.''.

(3) MAXIMUM INVESTMENT IN A COMPANY.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(c) MAXIMUM 504 LOAN SIZE.—Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$3,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$3,500,000''; and

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 503. LOW-INTEREST REFINANCING. Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

''(7) PERMISSIBLE DEBT FINANCING.—A financing under this title may include refinancing of existing indebtedness, in an amount not to exceed 50 percent of the projected cost of the project financed under this title, if—

''(A) the project financed under this title involves the expansion of a small business concern;

''(B) the existing indebtedness is collateralized by fixed assets;

''(C) the existing indebtedness was incurred for the benefit of the small business concern;

''(D) the proceeds of the existing indebtedness were used to acquire land (including a building situated thereon), to construct or expand a building thereon, or to purchase equipment;

''(E) the borrower has been current on all payments due on the existing indebtedness for not less than 1 year preceding the proposed date of refinancing;

''(F) the financing under this title will provide better terms or a better rate of interest than exists on the existing indebtedness on the proposed date of refinancing;

''(G) the financing under this title is not being used to refinance any debt guaranteed by the Government; and

''(H) the financing under this title will be used only for—

''(i) refinancing existing indebtedness; or

''(ii) costs relating to the project financed under this title.''.

SEC. 504. DEFINITIONS. Under the heading ''Small Business Administration'' in this title—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''development company'' has the meaning given the term ''development companies'' in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); and

(3) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the ''Office of the Under Secretary for Management'', $248,000,000, to remain available until September 30, 2011, solely for planning, design, and construction costs, including site security, information technology infrastructure, furniture, fixtures, and related costs to consolidate the Department of Homeland Security headquarters: *Provided*, That no later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of General Services, shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the ''Office of Inspector General'', $5,000,000, to remain available until September 30, 2010, for oversight and audit of programs, grants, and projects funded under this title.

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $198,000,000, to remain available until September 30, 2010, of which $100,800,000 shall be for the procurement and deployment of non-intrusive inspection systems to improve port security; and of which $97,200,000 shall be for procurement and deployment of tactical communications equipment and radios: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of

Representatives a plan for expenditure of these funds.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for ''Border Security Fencing, Infrastructure, and Technology'', $200,000,000, to remain available until September 30, 2010, for expedited development and deployment of border security technology on the Southwest border: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

CONSTRUCTION

For an additional amount for ''Construction'', $800,000,000, to remain available until expended, solely for planning, management, design, alteration, and construction of U.S. Customs and Border Protection owned land border ports of entry: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

AUTOMATION MODERNIZATION

For an additional amount for ''Automation Modernization'', $27,800,000, to remain available until September 30, 2010, for the procurement and deployment of tactical communications equipment and radios: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for ''Aviation Security'', $1,200,000,000, to remain available until September 30, 2010, for procurement and installation of checked baggage explosives detection systems and checkpoint explosives detection equipment: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'', $572,500,000, to remain available until September 30, 2010, of which $255,000,000 shall be for shortfalls in priority procurements due to materials and labor cost increases; of which $195,000,000 shall be for shore facilities and aids to navigation facilities; of which $87,500,000 shall be for the design of a new polar icebreaker or the renovation of an existing polar icebreaker, and major repair and maintenance of existing polar icebreakers; and of which $35,000,000 shall be for emergency maintenance of the Coast Guard's high endurance cutters: *Provided*, That amounts made available for the activities under this heading shall be available for all necessary expenses related to the oversight and management of such activities: *Provided further*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

ALTERATION OF BRIDGES

For an additional amount for ''Alteration of Bridges'', $240,400,000, to remain available until September 30, 2010, for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516): *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For an additional amount for ''Management and Administration'', $6,000,000 for the acquisition of communications response vehicles to be deployed in response to a disaster or a national security event.

STATE AND LOCAL PROGRAMS

For an additional amount for grants, $950,000,000, to be allocated as follows:

(1) $100,000,000, to remain available until September 30, 2010, for Public Transportation Security Assistance, Railroad Security Assistance, and Systemwide Amtrak Security Upgrades under sections 1406, 1513, and 1514 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163, and 1164).

(2) $100,000,000, to remain available until September 30, 2010, for Port Security Grants in accordance with 46 U.S.C. 70107, notwithstanding 46 U.S.C. 70107(c).

(3) $250,000,000, to remain available until September 30, 2010, for upgrading, modifying, or constructing emergency operations centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, notwithstanding section 614(c) of that Act or for upgrading, modifying, or constructing State and local fusion centers as defined by section 210A(j)(1) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j)(1)).

(4) $500,000,000 for construction to upgrade or modify critical infrastructure, as defined in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195c(e)), to mitigate consequences related to potential damage from all-hazards: *Provided*, That funds in this paragraph shall remain available until September 30, 2011: *Provided further*, That 5 percent shall be for program administration: *Provided further*, That no later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

FIREFIGHTER ASSISTANCE GRANTS

For an additional amount for competitive grants, $500,000,000, to remain available until September 30, 2010, for modifying, upgrading, or constructing State and local fire stations: *Provided*, That up to 5 percent shall be for program administration: *Provided further*, That no grant shall exceed $15,000,000.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Notwithstanding section 417(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the amount of any such loan issued pursuant to this section for major disasters occurring in calendar year 2008 may exceed $5,000,000, and may be equal to not more than 50 percent of the annual operating budget of the local government in any case in which that local government has suffered a loss of 25 percent or more in tax revenues: *Provided*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

EMERGENCY FOOD AND SHELTER

For an additional amount to carry out the emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $100,000,000: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total amount made available under this heading.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for ''Acquisition, Construction, Improvements, and Related Expenses'', $15,000,000, to remain available until September 30, 2010, for security systems and law enforcement upgrades for all Federal Law Enforcement Training Center facilities: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

SCIENCE AND TECHNOLOGY

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For an additional amount for ''Research, Development, Acquisition, and Operations'', $14,000,000, to remain available until September 30, 2010, for cyber security research: *Provided*, That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

GENERAL PROVISIONS—THIS TITLE

SEC. 601. Notwithstanding any other provision of law, the President shall establish an arbitration panel under the Federal Emergency Management Agency public assistance program to expedite the recovery efforts from Hurricanes Katrina, Rita, Gustav, and Ike within the Gulf Coast Region. The arbitration panel shall have sufficient authority regarding the award or denial of disputed public assistance applications for covered hurricane damage under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, or 5173) for a project the total amount of which is more than $500,000.

SEC. 602. The Administrator of the Federal Emergency Management Agency may not prohibit or restrict the use of funds designated under the hazard mitigation grant program for damage caused by Hurricanes Katrina and Rita if the homeowner who is an applicant for assistance under such program commenced work otherwise eligible for hazard mitigation grant program assistance under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) without approval in writing from the Administrator.

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for ''Management of Lands and Resources'', $135,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for ''Construction'', $180,000,000, to remain available until September 30, 2010.

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'', $15,000,000, to remain available until September 30, 2010.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for ''Resource Management'', $190,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for ''Construction'', $110,000,000, to remain available until September 30, 2010.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for ''Operation of the National Park System'', $158,000,000, to remain available until September 30, 2010.

HISTORIC PRESERVATION FUND

For an additional amount for ''Historic Preservation Fund'', $55,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for ''Construction'', $589,000,000, to remain available until September 30, 2010.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for ''Surveys, Investigations, and Research'', $135,000,000, to remain available until September 30, 2010.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for ''Operation of Indian Programs'', $40,000,000, to remain available until September 30, 2010, of which $20,000,000 shall be for the housing improvement program.

CONSTRUCTION

For an additional amount for ''Construction'', $522,000,000, to remain available until September 30, 2010.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For an additional amount for ''Indian Guaranteed Loan Program Account'', $10,000,000, to remain available until September 30, 2010.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for ''Assistance to Territories'', $62,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for ''Office of Inspector General'', $7,600,000, to remain available until September 30, 2010.

DEPARTMENT-WIDE PROGRAMS

CENTRAL HAZARDOUS MATERIALS FUND

For an additional amount for ''Central Hazardous Materials Fund'', $20,000,000, to remain available until September 30, 2010.

WORKING CAPITAL FUND

For an additional amount for ''Working Capital Fund'', $20,000,000, to remain available until September 30, 2010.

ENVIROMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Hazardous Substance Superfund'', $800,000,000, to remain available until September 30, 2010, as a payment from general revenues to the Hazardous Substance Superfund, to carry out remedial actions: *Provided*, That the Administrator may retain up to 2 percent of the funds appropriated herein for Superfund remedial actions for program oversight and support purposes, and may transfer those funds to other accounts as needed.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for ''Leaking Underground Storage Tank Trust Fund Program'', $200,000,0000, to remain available until September 30, 2010, for cleanup activities: *Provided*, That none of these funds shall be subject to cost share requirements.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''State and Tribal Assistance Grants'', $6,400,000,000, to remain available until September 30, 2010, of which $4,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $2,000,000,000 shall be for making capitalization grants for the Drinking Water State Revolving Fund under section 1452 of the Safe Drinking Water Act, as amended; of which $100,000,000 shall be available for Brownfields remediation grants pursuant to section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; and of which $300,000,000 shall be for Diesel Emission Reduction Act grants pursuant to title VII, subtitle G of the Energy Policy Act of 2005, as amended: *Provided*, That notwithstanding the priority ranking they would otherwise receive under each program, priority for funds appropriated herein for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds (Revolving Funds) shall be allocated to projects that are ready to proceed to construction within 180 days of enactment of this Act: *Provided further*, That the Administrator of the Environmental Protection Agency (Administrator) may reallocate funds appropriated herein for the Revolving Funds that are not under binding commitments to proceed to construction within 180 days of enactment of this Act: *Provided further*, That notwithstanding any other provision of law, financial assistance provided from funds appropriated herein for the Revolving Funds may include additional subsidization, including forgiveness of principal and negative interest loans: *Provided further*, That not less than 15 percent of the funds appropriated herein for the Revolving Funds shall be designated for green infrastructure, water efficiency improvements or other environmentally innovative projects: *Provided further*, That notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to a total of 1.5 percent of the funds appropriated herein for the Clean Water State Revolving Funds may be reserved by the Administrator for tribal grants under section 518(c) of such Act: *Provided further*, That section 1452(k) of the Safe Drinking Water Act shall not apply to amounts appropriated herein for the Drinking Water State Revolving Funds: *Provided further*, That the Administrator may exceed the 30 percent limitation on State grants for funds appropriated herein for Diesel Emission Reduction Act grants if the Administrator determines such action will expedite allocation of funds: *Provided further*, That none of the funds appropriated herein shall be subject to cost share requirements: *Provided further*, That the Administrator may retain up to 0.25 percent of the funds appropriated herein for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds and up to 1.5 percent of the funds appropriated herein for the Diesel Emission Reduction Act grants program for program oversight and support purposes and may transfer those funds to other accounts as needed.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for ''Capital Improvement and Maintenance'', $650,000,000, to remain available until September 30, 2010, which shall include remediation of abandoned mine sites and support costs necessary to carry out this work.

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'', $650,000,000, to remain available until September 30, 2010, for hazardous fuels reduction and hazard mitigation activities in areas at high risk of catastrophic wildfire, of which $350,000,000 is available for work on State and private lands using all the authorities available to the Forest Service: *Provided*, That of the funds provided for State and private land fuels reduction activities, up to $50,000,000 may be used to make grants for the purpose of creating incentives for increased use of biomass from national forest lands.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For an additional amount for ''Indian Health Services'', $135,000,000, to remain available until September 30, 2010, of which $50,000,000 is for contract health services; and of which $85,000,000 is for health information technology: *Provided*, That the amount made available for health information technology activities may be used for both telehealth services development and related infrastructure requirements that are typically funded through the ''Indian Health Facilities'' account: *Provided further*, That notwithstanding any other provision of law, health information technology funds provided within this title shall be allocated at the discretion of the Director of the Indian Health Service.

INDIAN HEALTH FACILITIES

For an additional amount for ''Indian Health Facilities'', $410,000,000, to remain available until September 30, 2010: *Provided*, That for the purposes of this Act, spending caps included within the annual appropriation for ''Indian Health Facilities'' for the purchase of medical equipment shall not apply.

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

For an additional amount for ''Facilities Capital'', $150,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 701. (a) Within 30 days of enactment of this Act, each agency receiving funds under this title shall submit a general plan for the expenditure of such funds to the House and Senate Committees on Appropriations.

(b) Within 90 days of enactment of this Act, each agency receiving funds under this title shall submit to the Committees a report containing detailed project level information associated with the general plan submitted pursuant to subsection (a).

SEC. 702. In carrying out the work for which funds in this title are being made available, the Secretary of the Interior and the Secretary of Agriculture may utilize the Public Lands Corps, Youth Conservation Corps, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.

TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' for activities authorized by the Workforce Investment Act of 1998 (''WIA''), $3,250,000,000, which shall be available on the date of enactment of this Act, as follows:

(1) $500,000,000 for adult employment and training activities, including supportive services and needs-related payments described in section 134(e)(2) and (3) of the WIA: *Provided*, That a priority use of these funds shall be services to individuals described in 134(d)(4)(E) of the WIA;

(2) $1,200,000,000 for grants to the States for youth activities, including summer employment for youth: *Provided*, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further*, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: *Provided further*, That, with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': *Provided further*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of youth activities provided with such funds;

(3) $1,000,000,000 for grants to the States for dislocated worker employment and training activities;

(4) $200,000,000 for national emergency grants;

(5) $250,000,000 under the dislocated worker national reserve for a program of competitive grants for worker training in high growth and emerging industry sectors and assistance under 132(b)(2)(A) of the WIA: *Provided*, That the Secretary of Labor shall give priority when awarding such grants to projects that prepare workers for careers in energy efficiency and renewable energy as described in section 171(e)(1)(B) of the WIA and for careers in the health care sector; and

(6) $100,000,000 for YouthBuild activities as described in section 173A of the WIA: *Provided*, That for program years 2008 and 2009, the YouthBuild program may serve an individual who has dropped out of high school and re-enrolled in an alternative school, if that re-enrollment is part of a sequential service strategy:

Provided, That funds made available in this paragraph shall remain available through June 30, 2010: *Provided further*, That a local board may award a contract to an institution of higher education if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for ''Community Service Employment for Older Americans'' for carrying out title V of the Older Americans Act of 1965, $120,000,000, which shall be available on the date of enactment of this Act and shall remain available through June 30, 2010: *Provided*, That funds shall be allotted within 30 days of such enactment to current grantees in proportion to their allotment in program year 2008: *Provided further*, That funds made available under this heading in this Act may, in accordance with section 517(c) of the Older Americans Act of 1965, be recaptured and reobligated.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to States in accordance with section 6 of the Wagner-Peyser Act, $400,000,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That such funds shall be available on the date of enactment of this Act and remain available to the States through September 30, 2010: *Provided further*, That $250,000,000 of such funds shall be used by States for reemployment services for unemployment insurance claimants (including the integrated Employment Service and Unemployment Insurance information technology required to identify and serve the needs of such claimants): *Provided further*, That the Secretary of Labor shall establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services.

DEPARTMENTAL MANAGEMENT

OFFICE OF JOB CORPS

For an additional amount for ''Office of Job Corps'' for construction, alteration and repairs of buildings and other facilities, $160,000,000, which shall remain available through June 30, 2010: *Provided*, That the Secretary of Labor may transfer up to 15 percent of such funds to meet the operational needs of Job Corps Centers, which may include training for careers in the energy efficiency, renewable energy, and environmental protection industries: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary shall provide to the Committee on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of funds available in this paragraph.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the ''Office of Inspector General'', $3,000,000, which shall remain available through September 30, 2010, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act and administered by the Department of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for ''Health Resources and Services'', $1,088,000,000, which shall remain available through September 30, 2010, of which $88,000,000 shall be for necessary expenses related to leasing and renovating a headquarters building for Public Health Service agencies and other components of the Department of Health and Human Services, including renovation and fit-out costs, and of which $1,000,000,000 shall be for grants for construction, renovation and equipment for health centers receiving operating grants under section 330 of the Public Health Service Act, notwithstanding the limitation in section 330(e)(3).

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'' for acquisition of real property, equipment, construction, and renovation of facilities, including necessary repairs and improvements to leased laboratories, $412,000,000, which shall remain available through September 30, 2010: *Provided*, That notwithstanding any other provision of law, the Centers for Disease Control and Prevention may award a single contract or related contracts for development and construction of facilities that collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for ''National Center for Research Resources'', $300,000,000, which shall be available through September 30, 2010, for shared instrumentation and other capital research equipment.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $2,700,000,000, which shall be available through September 30, 2010: *Provided*, That $1,350,000,000 shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: *Provided further*, That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $500,000,000, which shall be available through September 30, 2010, to fund high-priority repair, construction and improvement projects for National Institutes of Health facilities on the Bethesda, Maryland campus and other agency locations.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Healthcare Research and Quality'' to carry out titles III and IX of the Public Health Service Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $700,000,000 for comparative clinical effectiveness research, which shall remain available through September 30, 2010: *Provided*, That of the amount appropriated in this paragraph, $400,000,000 shall be transferred to the Office of the Director of the National Institutes of Health (''Office of the Director'') to conduct or support comparative

clinical effectiveness research under section 301 and title IV of the Public Health Service Act: *Provided further*, That funds transferred to the Office of the Director may be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That within the amount available in this paragraph for the Agency for Healthcare Research and Quality, not more than 1 percent shall be made available for additional full-time equivalents.

In addition, $400,000,000 shall be available for comparative clinical effectiveness research to be allocated at the discretion of the Secretary of Health and Human Services (''Secretary'') and shall remain available through September 30, 2010: *Provided*, That the funding appropriated in this paragraph shall be used to accelerate the development and dissemination of research assessing the comparative clinical effectiveness of health care treatments and strategies, including through efforts that: (1) conduct, support, or synthesize research that compares the clinical outcomes, effectiveness, and appropriateness of items, services, and procedures that are used to prevent, diagnose, or treat diseases, disorders, and other health conditions and (2) encourage the development and use of clinical registries, clinical data networks, and other forms of electronic health data that can be used to generate or obtain outcomes data: *Provided further*, That the Secretary shall enter into a contract with the Institute of Medicine, for which no more than $1,500,000 shall be made available from funds provided in this paragraph, to produce and submit a report to the Congress and the Secretary by not later than June 30, 2009 that includes recommendations on the national priorities for comparative clinical effectiveness research to be conducted or supported with the funds provided in this paragraph and that considers input from stakeholders: *Provided further*, That the Secretary shall consider any recommendations of the Federal Coordinating Council for Comparative Clinical Effectiveness Research established by section 802 of this Act and any recommendations included in the Institute of Medicine report pursuant to the preceding proviso in designating activities to receive funds provided in this paragraph and may make grants and contracts with appropriate entities, which may include agencies within the Department of Health and Human Services and other governmental agencies, as well as private sector entities, that have demonstrated experience and capacity to achieve the goals of comparative clinical effectiveness research: *Provided further*, That the Secretary shall publish information on grants and contracts awarded with the funds provided under this heading within a reasonable time of the obligation of funds for such grants and contracts and shall disseminate research findings from such grants and contracts to clinicians, patients, and the general public, as appropriate: *Provided further*, That, to the extent feasible, the Secretary shall ensure that the recipients of the funds provided by this paragraph offer an opportunity for public comment on the research: *Provided further*, That the Secretary shall provide the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate with an annual report on the research conducted or supported through the funds provided under this heading.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For an additional amount for ''Payments to States for the Child Care and Development Block Grant'' for carrying out the Child Care and Development Block Grant Act of 1990, $2,000,000,000, which shall remain available through September 30, 2010: *Provided*, That funds provided under this heading shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G of such Act, $255,186,000 shall be reserved by the States for activities authorized under section 658G, of which $93,587,000 shall be for activities that improve the quality of infant and toddler care.

SOCIAL SERVICES BLOCK GRANT

For an additional amount for ''Social Services Block Grant,'' $400,000,000: *Provided*, That notwithstanding section 2003 of the Social Security Act, funds shall be allocated to States on the basis of unemployment: *Provided further*, That these funds shall be obligated to States within 60 calendar days from the date they become available for obligation.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for ''Children and Families Services Programs'' for carrying out activities under the Head Start Act, $1,000,000,000, which shall remain available through September 30, 2010. In addition, $1,100,000,000, which shall remain available through September 30, 2010, is hereby appropriated for expansion of Early Head Start programs, as described in section 645A of such Act: *Provided*, That of the funds provided in this sentence, up to 10 percent shall be available for the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act.

For an additional amount for ''Children and Families Services Programs'' for carrying out activities under sections 674 through 679 of the Community Services Block Grant Act, $200,000,000, which shall remain available through September 30, 2010: *Provided*, That of the funds provided under this paragraph, no part shall be subject to paragraph (3) of section 674(b) of such Act: *Provided further*, That not less than 5 percent of the funds allotted to a State from the appropriation under this paragraph shall be used under section 675C(b)(1) for benefits enrollment coordination activities relating to the identification and enrollment of eligible individuals and families in Federal, State and local benefit programs.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for ''Aging Services Programs,'' $100,000,000, of which $67,000,000 shall be for Congregate Nutrition Services and $33,000,000 shall be for Home-Delivered Nutrition Services: *Provided*, That these funds shall remain available through September 30, 2010.

OFFICE OF THE SECRETARY

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the National Coordinator for Health Information Technology'', $5,000,000,000, to carry out title XIII of this Act which shall be available until expended: *Provided*, That of this amount, the Secretary of Health and Human Services shall transfer $20,000,000 to the Director of the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care information enterprise integration through activities such as technical standards analysis and establishment of conformance testing infrastructure so long as such activities are coordinated with the Office of the National Coordinator for Health Information Technology: *Provided further*, That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each major set of activities not later than November 1, 2009 and every 6 months thereafter as long as funding under this heading is available for obligation or expenditure.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000 which shall remain available until September 30, 2011.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to carry out a program of grants, contracts, and cooperative agreements to fund projects and activities to reduce the incidence or severity of preventable disabilities, diseases and conditions and to invest in health workforce training, $5,800,000,000, to remain available through September 30, 2011: *Provided*, That the amount made available in this paragraph may be transferred to another appropriation account of the Department of Health and Human Services (''HHS''), as determined by the Secretary of Health and Human Services to be appropriate and upon notification of the Committees on Appropriations of the House of Representatives and the Senate, to be used for the purposes specified in this paragraph, and the provisos of this paragraph shall apply to any funds so transferred: *Provided further*, That of the amount provided in this paragraph, not less than $1,000,000,000 shall be transferred to the Centers for Disease Control and Prevention (''CDC'') as an additional amount for screening activities related to preventable disabilities and chronic diseases and conditions, including counseling to prevent and mitigate the precursors of those disorders: *Provided further*, That of the amount provided in this paragraph, not less than $750,000,000 shall be transferred to the CDC as an additional amount to carry out the immunization program authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act (''PHS Act''): *Provided further*, That of the amount provided in this paragraph, not less than $600,000,000 shall be transferred to the Health Resources and

Services Administration as an additional amount to address health professions workforce shortages through scholarships, loan repayment, grants to training programs for equipment and activities to foster cross-state licensure agreements, authorized under sections 330 through 338, 737, 738, and 846 of the PHS Act, of which $200,000,000 shall be available until expended for extending service contracts and the recapture and reallocation of funds in the event that a participant fails to fulfill their term of service: *Provided further*, That of the amount provided in this paragraph, $400,000,000 shall be transferred to the CDC as an additional amount for the Healthy Communities program, which shall be used for multi-year awards: *Provided further*, That of the amount provided in this paragraph, not less than $60,000,000 shall be made available for additional research, data collection and surveys relating to prevention science and the current state of health, including equipment: *Provided further*, That of the amount provided in this paragraph, $40,000,000 shall be transferred to the CDC for information technology improvements to vital statistics record systems, including grants to State health departments for equipment: *Provided further*, That of the amount provided in this paragraph, $15,000,000 shall be made available for grants to States for equipment and maintenance related to newborn screening: *Provided further*, That not less than 1 percent of the amount provided in this paragraph shall be available for evaluation of the activities supported by the amounts provided in this paragraph: *Provided further*, That up to 1 percent of amounts made available in this paragraph may be used for administrative expenses in the office or division of HHS administering the funds: *Provided further*, That the transfers required by this paragraph shall be completed within 30 days of enactment of this Act: *Provided further*, That the Secretary shall submit reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the following information on the amounts appropriated in this paragraph: (1) an operating plan detailing activities to be supported and timelines for expenditure, to be submitted no later than 120 days after the enactment of this Act; (2) 15 day prior notification of any funds to be obligated prior to the submission of the operating plan; (3) an obligation and expenditure report to be submitted quarterly until all funds are fully expended; (4) a briefing 15 days prior to any new grant solicitation; (5) an evaluation plan that details the manner in which the Secretary intends to evaluate the outcomes of activities supported, to be submitted 120 days after enactment of this Act; (6) an outcomes report on all activities supported, to be submitted 1 year after enactment and every 6 months thereafter until all funds have been expended; and (7) a report on best practices to be submitted 18 months after enactment and every 6 months thereafter until all funds have been expended.

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, $870,000,000, for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools which shall be available until expended: *Provided*, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: *Provided further*, That funds appropriated herein may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence.

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For an additional amount for carrying out title I of the Elementary and Secondary Education Act of 1965, $13,000,000,000, which shall be available through September 30, 2010: *Provided*, That $5,500,000,000 shall be for targeted grants under section 1125, $5,500,000,000 shall be for education finance incentive grants under section 1125A, and $2,000,000,000 shall be for school improvement grants under section 1003(g): *Provided further*, That each local educational agency receiving funds available under this paragraph for sections 1125 and 1125A shall use not less than 15 percent of such funds for activities serving children who are eligible pursuant to section 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K): *Provided further*, That each local educational agency receiving funds available under this paragraph shall be required to file with the State educational agency, no later than December 1, 2009, a school-by-school listing of per-pupil educational expenditures from State and local sources during the 2008–2009 academic year.

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for ''School Improvement Programs,'' $17,070,000,000, which shall be available through September 30, 2010, for carrying out activities authorized by part D of title II of the Elementary and Secondary Education Act of 1965, subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (''McKinney-Vento''), and section 804 of this Act: *Provided*, That the Secretary shall allot $70,000,000 for grants under McKinney-Vento to each State in proportion to the number of homeless students identified by the State during the 2007–2008 school year relative to the number of such children identified nationally during that school year: *Provided further*, That State educational agencies shall subgrant the McKinney-Vento funds to local educational agencies on a competitive basis or according to a formula based on the number of homeless students identified by the local educational agencies in the State: *Provided further*, That the Secretary shall distribute the McKinney-Vento funds to the States not later than 60 days after the date of the enactment of this Act: *Provided further*, That each State shall subgrant the McKinney-Vento funds to local educational agencies not later than 120 days after receiving its grant from the Secretary.

SPECIAL EDUCATION

For an additional amount for ''Special Education'' for carrying out parts B and C of the Individuals with Disabilities Education Act (''IDEA''), $13,500,000,000, which shall remain available through September 30, 2010: *Provided*, That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: *Provided further*, That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further*, That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2008, increased by the amount of inflation as specified in section 619(d)(2)(B), or the percentage increase in the funds appropriated under section 611(i): *Provided further*, That each local educational agency receiving funds available under this paragraph for part B shall use not less than 15 percent for special education and related services to children described in section 619(a) of the IDEA.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For an additional amount for ''Rehabilitation Services and Disability Research'' for providing grants to States to carry out the Vocational Rehabilitation Services program under part B of title I and parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act of 1973, $610,000,000, which shall remain available through September 30, 2010: *Provided*, That $500,000,000 shall be available for part B of title I of the Rehabilitation Act: *Provided further*, That funds provided herein shall not be considered in determining the amount required to be appropriated under section 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal year: *Provided further*, That, notwithstanding section 7(14)(A), the Federal share of the costs of vocational rehabilitation services provided with the funds provided herein shall be 100 percent.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for ''Student Financial Assistance'' to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965, $13,869,000,000: *Provided*, That such funds shall be used to increase the maximum Pell Grant by $281 for award year 2009–2010, to increase the maximum Pell Grant by $400 for the award year 2010–2011, and to reduce or eliminate the Pell Grant shortfall: *Provided further*, That these funds shall remain available through September 30, 2011.

For an additional amount for ''Student Financial Assistance'' to carry out part E of title IV of the Higher Education Act of 1965, $61,000,000: *Provided*, That these funds shall remain available through September 30, 2010.

HIGHER EDUCATION

For an additional amount for ''Higher Education'' for carrying out activities under part A of title II of the Higher Education Act of 1965, $100,000,000: *Provided*, That these funds shall remain available through September 30, 2010.

HIGHER EDUCATION FACILITIES

For carrying out activities authorized under section 803 of this Act, $3,500,000,000: *Provided*, That these funds shall remain available through September 30, 2010.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the ''Office of the Inspector General'', $4,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act and administered by the Department of Education.

RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operating Expenses'' to carry out the Domestic Volunteer Service Act of 1973 (''1973 Act'') and the National and Community Service Act of 1990 (''1990 Act''), $160,000,000, to remain available through September 30, 2010: *Provided*, That funds made available in this paragraph may be used to provide adjustments to awards under subtitle C of title I of the 1990 Act made prior to September 30, 2010 for which the Chief Executive Officer of the Corporation for National and Community Service (''CEO'') determines that a waiver of the Federal share limitation is warranted under section 2521.70 of title 45 of the Code of Federal Regulations: *Provided further*, That of the amount made available in this paragraph, not less than $6,000,000 shall be transferred to ''Salaries and Expenses'' for necessary expenses relating to information technology upgrades: *Provided further*, That of the amount provided in this paragraph, $10,000,000 shall be available for additional members in the Civilian Community Corps authorized under subtitle E of title I of the 1990 Act: *Provided further*, That of the amount provided in this paragraph, $1,000,000 shall be made available for a one-time supplement grant to State commissions on national and community service under section 126(a) of the 1990 Act without regard to the limitation on Federal share under section 126(a)(2) of the 1990 Act: *Provided further*, That of the amount made available in this paragraph, not less than $13,000,000 shall be for research activities authorized under subtitle H of title I of the 1990 Act: *Provided further*, That of the amount made available in this paragraph, not less than $65,000,000 shall be for programs under title I, part A of the 1973 Act: *Provided further*, That funds provided in the previous proviso shall not be made available in connection with cost-share agreements authorized under section 192A(g)(10) of the 1990 Act: *Provided further*, That of the funds available under this heading, up to 20 percent of funds allocated to grants authorized under section 124(b) of title I, subtitle C of the 1990 Act may be used to administer, reimburse, or support any national service program under section 129(d)(2) of the 1990 Act: *Provided further*, That, except as provided herein and in addition to requirements identified herein, funds provided in this paragraph shall be subject to the terms and conditions under which funds were appropriated in fiscal year 2008: *Provided further*, That the CEO shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated in this paragraph prior to making any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the allocation of resources and the increased number of members supported by the AmeriCorps programs: *Provided further*, That the CEO shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''National Service Trust'' established under subtitle D of title I of the National and Community Service Act of 1990 (''1990 Act''), $40,000,000, which shall remain available until expended: *Provided*, That the Corporation for National and Community Service may transfer additional funds from the amount provided within ''Operating Expenses'' for grants made under subtitle C of title I of the 1990 Act to this appropriation upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the amount appropriated for or transferred to the National Service Trust may be invested under section 145(b) of the 1990 Act without regard to the requirement to apportion funds under 31 U.S.C. 1513(b).

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Limitation on Administrative Expenses'', $890,000,000 shall be available as follows:

(1) $750,000,000 shall remain available until expended for necessary expenses of the replacement of the National Computer Center and the information technology costs associated with such Center: *Provided*, That the Commissioner of Social Security shall notify the Committees on Appropriations of the House of Representatives and the Senate not later than 10 days prior to each public notice soliciting bids related to site selection and construction: *Provided further*, That unobligated balances of funds not needed for this purpose may be used as described in subparagraph (2); and

(2) $140,000,000 shall be available through September 30, 2010 for information technology acquisitions and research, which may include research and activities to facilitate the adoption of electronic medical records in disability claims and the transfer of funds to ''Supplemental Security Income'' to carry out activities under section 1110 of the Social Security Act: *Provided further*, That not later than 10 days prior to the obligation of such funds, the Commissioner shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of such funds.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the ''Office of Inspector General'', $3,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, projects, and activities funded in this Act and administered by the Social Security Administration.

GENERAL PROVISIONS—THIS TITLE

SEC. 801. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

''SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 802. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a) ESTABLISHMENT.—There is hereby established a Federal Coordinating Council for Comparative Clinical Effectiveness Research (in this section referred to as the ''Council'').

(b) PURPOSE; DUTIES.—The Council shall—

(1) assist the offices and agencies of the Federal Government, including the Departments of Health and Human Services, Veterans Affairs, and Defense, and other Federal departments or agencies, to coordinate the conduct or support of comparative clinical effectiveness and related health services research; and

(2) advise the President and Congress on—

(A) strategies with respect to the infrastructure needs of comparative clinical effectiveness research within the Federal Government;

(B) appropriate organizational expenditures for comparative clinical effectiveness research by relevant Federal departments and agencies; and

(C) opportunities to assure optimum coordination of comparative clinical effectiveness and related health services research conducted or supported by relevant Federal departments and agencies, with the goal of reducing duplicative efforts and encouraging coordinated and complementary use of resources.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall be composed of not more than 15 members, all of whom are senior Federal officers or employees with responsibility for health-related programs, appointed by the President, acting through the Secretary of Health and Human Services (in this section referred to as the ''Secretary''). Members shall first be appointed to the Council not later than 30 days after the date of the enactment of this Act.

(2) MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include one senior officer or employee from each of the following agencies:

(i) The Agency for Healthcare Research and Quality.

(ii) The Centers for Medicare and Medicaid Services.

(iii) The National Institutes of Health.

(iv) The Office of the National Coordinator for Health Information Technology.

(v) The Food and Drug Administration.

(vi) The Veterans Health Administration within the Department of Veterans Affairs.

(vii) The office within the Department of Defense responsible for management of the Department of Defense Military Health Care System.

(B) QUALIFICATIONS.—At least half of the members of the Council shall be physicians or other experts with clinical expertise.

(3) CHAIRMAN; VICE CHAIRMAN.—The Secretary shall serve as Chairman of the Council and shall designate a member to serve as Vice Chairman.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than June 30, 2009, the Council shall submit to the President and the Congress a report containing information describing Federal activities on comparative clinical effectiveness research and recommendations for additional investments in such research conducted or supported from funds made available for allotment by the Secretary for comparative clinical effectiveness research in this Act.

(2) ANNUAL REPORT.—The Council shall submit to the President and Congress an annual report regarding its activities and recommendations concerning the infrastructure needs, appropriate organizational expenditures and opportunities for better coordination of comparative clinical effectiveness research by relevant Federal departments and agencies.

(e) STAFFING; SUPPORT.—From funds made available for allotment by the Secretary for comparative clinical effectiveness research in this Act, the Secretary shall make available not more than 1 percent to the Council for staff and administrative support.

SEC. 803. HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR. (a) PURPOSE.—Grants awarded under this section shall be for the purpose of modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction and research.

Funds may also be used for leasing, purchasing or upgrading equipment, designed to strengthen and support academic and technical skill achievement.

(b) GRANTS TO STATE HIGHER EDUCATION AGENCIES.—

(1) FORMULA.—From the amounts appropriated to carry out this section, the Secretary of Education shall allocate funds to State higher education agencies based on the number of students attending institutions of higher education, with the State higher education agency in each State receiving an amount that is in proportion to the number of full-time equivalent undergraduate students attending institutions of higher education in such State for the most recent fiscal year for which there are data available, relative to the total number of full-time equivalent undergraduate students attending institutions of higher education in all States for such fiscal year.

(2) APPLICATION.—To be eligible to receive an allocation from the Secretary under paragraph (1), a State higher education agency shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(3) REALLOCATION.—Amounts allocated to a State higher education agency under this section that are not obligated by such agency within 12 months of the date the agency receives such amounts shall be returned to the Secretary, and the Secretary shall reallocate such amounts to State higher education agencies in other States on the same basis as the original allocations under paragraph (1).

(4) ADMINISTRATION AND OVERSIGHT EXPENSES.—From the amounts appropriated to carry out this section, not more than $3,000,000 shall be available to the Secretary for administrative and oversight expenses related to carrying out this section.

(c) USE OF GRANTS BY STATE HIGHER EDUCATION AGENCIES.—

(1) SUBGRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), each State higher education agency receiving an allocation under subsection (b)(1) shall use the amount allocated to award subgrants to institutions of higher education within the State to carry out projects in accordance with subsection (d)(1).

(B) SUBGRANT AWARD ALLOCATION.—A State higher education agency shall award subgrants to institutions of higher education under this section based on the demonstrated need of each institution for facility modernization, renovation, repair, and equipment.

(C) COMMUNITY COLLEGES.—Notwithstanding, subparagraph (B), the percentage of funds allocated to community colleges in each State shall be no less than the percentage of full-time equivalent students attending community colleges relative to the total number of full-time equivalent undergraduate students attending public institutions of higher education in the State.

(D) PRIORITY CONSIDERATIONS.—In awarding subgrants under this section, each State higher education agency shall give priority consideration to institutions of higher education with any of the following characteristics:

(i) The institution is eligible for Federal assistance under title III or title V of the Higher Education Act of 1965.

(ii) The institution was impacted by a major disaster or emergency declared by the President (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), including an institution affected by a Gulf hurricane disaster, as such term is defined in section 824(g)(1) of the Higher Education Act of 1965 (20 U.S.C. 11611–3(g)(1)).

(iii) The institution demonstrates that the proposed project or projects to be carried out with a subgrant under this section will increase the energy efficiency of the institution's facilities and comply with the LEED Green Building Rating System.

(2) ADMINISTRATIVE AND OVERSIGHT EXPENSES.—Of the allocation amount received under subsection (b)(1), a State higher education agency may reserve not more than 5 percent of such amount, or $500,000, whichever is less, for administrative and oversight expenses related to carrying out this section.

(d) USE OF SUBGRANTS BY INSTITUTIONS OF HIGHER EDUCATION.—

(1) PERMISSIBLE USES OF FUNDS.—An institution of higher education receiving a subgrant under this section shall use such subgrant to modernize, renovate, or repair facilities of the institution that are primarily used for instruction, research, or student housing, which may include any of the following:

(A) Repair, replacement, or installation of roofs, electrical wiring, plumbing systems, sewage systems, or lighting systems.

(B) Repair, replacement, or installation of heating, ventilation, or air conditioning systems (including insulation).

(C) Compliance with fire and safety codes, including—

(i) professional installation of fire or life safety alarms; and

(ii) modernizations, renovations, and repairs that ensure that the institution's facilities are prepared for emergencies, such as improving building infrastructure to accommodate security measures.

(D) Retrofitting necessary to increase the energy efficiency of the institution's facilities.

(E) Renovations to the institution's facilities necessary to comply with accessibility requirements in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(F) Abatement or removal of asbestos from the institution's facilities.

(G) Modernization, renovation, and repair relating to improving science and engineering laboratories, libraries, and instructional facilities.

(H) Upgrading or installation of educational technology infrastructure.

(I) Installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet), or geothermal systems, or components of such systems.

(J) Other modernization, renovation, or repair projects or purchase of equipment that are primarily for instruction or research.

(2) PROHIBITED USES OF FUNDS.—No funds awarded under this section may be used for—

(A) the maintenance of systems, equipment, or facilities, including maintenance associated with any permissible uses of funds described in paragraph (1);

(B) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(C) modernization, renovation, or repair of facilities—

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or

(ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission; or

(D) construction of new facilities.

(e) APPLICATION OF GEPA.—The grant program authorized in this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b). The Secretary shall, notwithstanding section 437 of such Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, establish such program rules as may be necessary to implement such grant program by notice in the Federal Register.

(f) REPORTING.—

(1) REPORTS BY INSTITUTIONS.—Not later than September 30, 2011, each institution of higher education receiving a subgrant under this section shall submit to the State higher education agency awarding such subgrant a report describing the projects for which such subgrant was received, including—

(A) a description of each project carried out, or planned to be carried out, with such subgrant, including the types of modernization, renovation, and repair to be completed by each such project;

(B) the total amount of funds received by the institution under this section and the amount of such funds expended, as of the date of the report, on the such projects;

(C) the actual or planned cost of each such project and any demonstrable or expected academic, energy, or environmental benefits resulting from such project; and

(D) the total number of contracts, and amount of funding for such contracts, awarded by the institution to carry out such projects, as of the date of such report, including the number of contracts, and amount of funding for such contracts, awarded to local, small, minority-owned, women-owned, and veteran-owned businesses, as such terms are defined by the Small Business Act.

(2) REPORTS BY STATES.—Not later than December 31, 2011, each State higher education agency receiving a grant under this section shall submit to the Secretary a report containing a compilation of all of the reports under paragraph (1) submitted to the agency by institutions of higher education.

(3) REPORTS BY THE SECRETARY.—Not later than March 31, 2012, the Secretary shall submit to the Committee on Education and Labor in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate and Committees on Appropriations of the House of Representatives and the Senate a report on grants and subgrants made under this section, including the information described in paragraph (1).

(g) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965.

(2) LEED GREEN BUILDING RATING SYSTEM.—The term ''LEED Green Building Rating System'' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(4) STATE.—The term ''State'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(5) STATE HIGHER EDUCATION AGENCY.—The term ''State higher education agency'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(6) COMMUNITY COLLEGE.—The term ''Community College'' means a public non-profit institution of higher education as defined in section 101(a) of the Higher Education Act, whose highest degree offered is predominantly the associate degree.

SEC. 804. GRANTS FOR SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION. (a) ALLOCATION OF FUNDS.—

(1) RESERVATIONS.—

(A) OUTLYING AREAS AND BUREAU OF INDIAN EDUCATION.—From the funds appropriated to carry out this section, the Secretary shall reserve 1 percent to provide assistance under this section to the outlying areas and for payments to the Secretary of the Interior to provide assistance consistent with this section to schools funded by the Bureau of Indian Education. Funds reserved under this subparagraph shall be distributed by the Secretary among the outlying areas and the Secretary of the Interior on the basis of relative need, as determined by the Secretary, in accordance with the purposes of this section.

(B) IMPACT AID SCHOOLS.—

(i) IN GENERAL.—From the funds appropriated to carry out this section, the Secretary shall reserve 2 percent to make payments and award grants to local educational agencies under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(ii) CONSTRUCTION PAYMENTS AUTHORIZED.—

(I) IN GENERAL.—From 40 percent of the amount reserved under clause (i), the Secretary shall make payments in accordance with section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)), except that the amount of such payments shall be determined in accordance with subclause (II).

(II) AMOUNT OF PAYMENTS.—The Secretary shall make a payment to each local educational agency eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)) in an amount that bears the same relationship to the funds made available under subclause (I) as the number of children determined under subparagraphs (B), (C), and (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)(B), (C), and (D)(i)) who were in average daily attendance in the local educational agency for the most recent year for which such information is available bears to the number of such children in all the local educational agencies eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)).

(iii) SCHOOL FACILITY EMERGENCY AND MODERNIZATION GRANTS AUTHORIZED.—

(I) IN GENERAL.—From 60 percent of the amount reserved under clause (i), the Secretary—

(aa) shall award emergency grants in accordance with section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

(bb) may award modernization grants in accordance with section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

(II) PROVISIONS NOT TO APPLY.—Paragraphs (2), (3), (4), (5)(A)(i), and (5)(A)(vi) of section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2), (3), (4), (5)(A)(i), and (5)(A)(vi)) shall not apply to grants made under this clause.

(III) ELIGIBILITY.—A local educational agency is eligible to receive a grant under this clause if the local educational agency—

(aa) is eligible to receive a payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702 and 7703) for fiscal year 2008; and

(bb) has—

(AA) a total taxable assessed value of real property that may be taxed for school purposes of less than $100,000,000; or

(BB) an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(IV) CRITERIA FOR GRANTS.—In awarding grants under this clause, the Secretary shall consider the following criteria:

(aa) Whether the facility poses a health or safety threat to students and school personnel, including noncompliance with building codes and inaccessibility for persons with disabilities, or whether the existing building capacity meets the needs of the current enrollment and supports the provision of comprehensive educational services to meet current standards in the State in which the local educational agency is located.

(bb) The extent to which the new design and proposed construction utilize energy efficient and recyclable materials.

(cc) The extent to which the new design and proposed construction utilizes non-traditional or alternative building methods to expedite construction and project completion and maximize cost efficiency.

(dd) The feasibility of project completion within 24 months from award.

(ee) The availability of other resources for the proposed project.

(C) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $5,000,000 of the amount appropriated to carry out this section for administration and oversight of this section.

(2) ALLOCATION TO STATE EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), after making the reservations described in paragraph (1), from the remainder of the appropriated funds described in paragraph (1), the Secretary shall allocate to each State educational agency serving a State an amount that bears the same relation to the remainder as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2008 bears to the amount all States received under such part for fiscal year 2008.

(B) MINIMUM AMOUNT.—No State educational agency shall receive less than 0.5 percent of the amount allocated under this paragraph.

(3) SPECIAL RULE.—The Secretary shall make and distribute the reservations and allocations described in paragraphs (1) and (2) not later than 60 days after the date of enactment of this Act.

(b) WITHIN-STATE ALLOTMENTS.—

(1) ADMINISTRATIVE COSTS.—

(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (C), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(2) or $2,000,000, whichever is less, for the purpose of administering the distribution of grants under this subsection.

(B) REQUIRED USES.—Each State educational agency shall use a portion of the reserved funds under subparagraph (A) to establish or support a State-level database of public school facility inventory, condition, design, and utilization.

(C) STATE ENTITY ADMINISTRATION.—If a State educational agency transfers funds to a State entity described in paragraph (3)(A)(ii), the State educational agency shall transfer to such entity 0.75 percent of the amount reserved under subparagraph (A) for the purpose of administering the distribution of grants under this subsection.

(2) ALLOTMENTS TO THE LOCAL EDUCATIONAL AGENCIES WITH THE MOST POOR CHILDREN.—

(A) IN GENERAL.—

(i) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this subparagraph, the term ''eligible local educational agency'' means a local educational agency that is 1 of the 100 local educational agencies in the United States that serve the most students who are poor children.

(ii) ALLOTMENT.—Not later than 60 days after the date a State educational agency receives an allocation from the Secretary under this section, the State educational agency shall allot to each eligible local educational agency in the State an amount determined under clause (iii) to be used consistent with subsection (c) for school repair, renovation, and construction.

(iii) DETERMINATION OF AMOUNT.—An allotment under this subparagraph to an eligible local educational agency shall be in an amount that bears the same relation to the amount allocated to the State under this section and not reserved under paragraph (1), as the amount of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) that the eligible local educational agency received from the State for the most recent fiscal year for which data is available bears to the total amount of such funds received by all local educational agencies in the State under such part for the most recent fiscal year for which data is available.

(B) NO ELIGIBILITY FOR COMPETITIVE GRANTS.—No local educational agency receiving funding under subparagraph (A) shall be eligible for funding under paragraph (3).

(C) PRIORITY IN FUNDING GREEN PROJECTS.—A local educational agency that receives funding under subparagraph (A) shall give priority to funding school repair, renovation, or construction projects that are certified, verified, or consistent with any applicable provisions of—

(i) the LEED Green Building Rating System;

(ii) Energy Star;

(iii) the CHPS Criteria;

(iv) Green Globes; or

(v) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(3) RESERVATION FOR COMPETITIVE SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—After making the reservation described in paragraph (1), from the remainder of the funds allocated to a State educational agency under this section, the State educational agency shall—

(i) award grants to local educational agencies to be used, consistent with subsection (c), for school renovation, repair, and construction; or

(ii) if such State educational agency is not responsible for the financing of education facilities, transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the ''State entity'') to award grants to local educational agencies to be used as described in clause (i).

(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The State educational agency or State entity shall carry out a program awarding grants, on a competitive basis, to local educational agencies for the purpose described in subparagraph (A). Of the total amount allocated to the State under this section and not reserved under paragraph (1), the State educational agency or State entity, shall carry out the following:

(i) Award to high-need local educational agencies, in the aggregate, not less than an amount which bears the same relationship to such total amount as the aggregate amount such high-need local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State, reduced by the total amount the State educational agency has allotted under paragraph (2).

(ii) Award to rural local educational agencies, in the aggregate, not less than an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under such part for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State.

(iii) Award the remaining funds to local educational agencies not receiving an award under clause (i) or (ii), including high-need local educational agencies and rural local educational agencies that did not receive such an award.

(C) CRITERIA FOR AWARDING COMPETITIVE GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

(i) PERCENTAGE OF POOR CHILDREN.—The percentage of poor children in a local educational agency.

(ii) NEED FOR SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION.—The need of a local educational agency for school renovation, repair, and construction, as demonstrated by the condition of the public school facilities of the local educational agency.

(iii) GREEN SCHOOLS.—The extent to which the local educational agency will make use of green practices that are certified, verified, or consistent with any applicable provisions of—

(I) the LEED Green Building Rating System;

(II) Energy Star;

(III) the CHPS Criteria;

(IV) Green Globes; or

(V) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(iv) CAPABILITY TO IMPLEMENT PROJECTS EXPEDITIOUSLY.—The capability of the local educational agency to implement school renovation, repair, or construction projects expeditiously.

(v) FISCAL CAPACITY.—The fiscal capacity of a local educational agency to meet the needs of the local educational agency for renovation, repair, and construction of public school facilities without assistance under this section, including the ability of the local educational agency to raise funds through the use of local bonding capacity and otherwise.

(vi) LIKELIHOOD OF MAINTAINING THE FACILITY.—The likelihood that the local educational agency will maintain, in good condition, any facility whose renovation, repair, or construction is assisted under this section.

(vii) CHARTER SCHOOL ACCESS TO FUNDING.—In the case of a local educational agency that proposes to fund a renovation, repair, or construction project for a charter school, the extent to which the school has access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

(D) POSSIBLE MATCHING REQUIREMENT.—

(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match competitive grant funds awarded under this section.

(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

(c) RULES APPLICABLE TO SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION.—With respect to funds made available under this section that are used for school renovation, repair, and construction, the following rules shall apply:

(1) PERMISSIBLE USES OF FUNDS.—School renovation, repair, and construction shall be limited to 1 or more of the following:

(A) Upgrade, repair, construct, or replace existing or planned public school building systems and components to improve the quality of education and ensure the health and safety of students and staff, including—

(i) repairing, replacing, or constructing early learning facilities (including renovation of existing facilities to serve children under 5 years of age);

(ii) repairing, replacing, or installing roofs, windows, doors, electrical wiring, plumbing systems, or sewage systems;

(iii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

(iv) bringing public schools into compliance with fire and safety codes.

(B) Modifications necessary to reduce the consumption of electricity, natural gas, oil, water, coal, or land.

(C) Modifications necessary to make public school facilities accessible to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(D) Improve environmental conditions of school sites, including asbestos abatement or removal, and the reduction or elimination of human exposure to lead-based paint, mold, or mildew.

(E) Upgrade or install educational technology infrastructure to ensure that students have access to up-to-date educational technology.

(F) Broaden or improve the use of school buildings and grounds to the community to improve educational outcomes.

(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

(B) purchase or upgrade of vehicles;

(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(D) improvement or construction of standalone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; or

(E) purchase of information technology hardware, including computers, monitors, or printers.

(3) SUPPLEMENT, NOT SUPPLANT.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and excluding the uses described in paragraph (1)(C), a local educational agency shall use Federal funds received under this section only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school renovation, repair, and construction.

(B) EXCEPTION.—A local educational agency that is located in a State that is under a court order to finance school facilities shall not be subject to the requirement under subparagraph (A).

(d) QUALIFIED BIDDERS; COMPETITION.—Each local educational agency that receives funds under this section shall ensure that, if the local educational agency carries out renovation, repair, or construction through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

(e) REPORTING.—

(1) LOCAL REPORTING.—Each local educational agency receiving funds made available under this section shall submit a report to the State educational agency, at such time as the State educational agency may require describing the use of such funds for school renovation, repair, and construction, including the following:

(A) Type and description of work completed.

(B) The source of any non-federal funds used to complete the project.

(C) Person hours needed at various wage levels to complete the project.

(D) Anticipated energy or natural resource savings.

(2) STATE REPORTING.—Each State educational agency receiving funds made available under this section shall submit to the Secretary, not later than December 31, 2010, a report on the use of funds received under subsection (a)(2) and made available to local educational agencies for school renovation, repair, and construction.

(f) ADMINISTRATIVE COSTS.—Each local educational agency that receives funds under this section may reserve not more than 1 percent of the funds or $750,000, whichever amount is less, for the purpose of—

(1) administering school renovation, repair, and construction projects; and

(2) reporting under subsection (e).

(g) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(2), or does not use its entire allocation, then the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(2).

(h) APPLICATION OF GEPA.—The grant program under this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b).

(i) DEFINITIONS.—In this section:

(1) IN GENERAL.—The terms ''local educational agency'', ''Secretary'', and ''State educational agency'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(3) CHPS CRITERIA.—The term ''CHPS Criteria'' means the green building rating program developed by the Collaborative for High Performance Schools.

(4) ENERGY STAR.—The term ''Energy Star'' means the Energy Star program of the Department of Energy and the Environmental Protection Agency.

(5) GREEN GLOBES.—The term ''Green Globes'' means the Green Building Initiative environmental design and rating system.

(6) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ''high-need local educational agency'' has the meaning given the term in section 2102(3)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6602(3)(A)).

(7) LEED GREEN BUILDING RATING SYSTEM.—The term ''LEED Green Building Rating System'' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard.

(8) OUTLYING AREA.—The term ''outlying area'' has the meaning given the term in section 1121(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(c)).

(9) POOR CHILDREN.—The term ''poor children'' refers to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

(10) RURAL LOCAL EDUCATIONAL AGENCY.—The term ''rural local educational agency'' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ''rural''.

(11) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(TRANSFER OF FUNDS)

SEC. 805. (a) Not more than 1 percent of the funds made available to the Department of Labor in this title may be transferred by the Secretary of Labor to ''Employment and Training Administration—Program Administration'', ''Employment Standards Administration—Salaries and Expenses'', ''Occupational Safety and Health Administration—Salaries and Expenses'' and ''Departmental Management—Salaries and Expenses'' for expenses necessary to administer and coordinate funds made available to the Department of Labor in this title; oversee and evaluate the use of such funds; and enforce applicable laws and regulations governing worker rights and protections associated with the funds made available in this Act.

(b) Not later than 10 days prior to obligating any funds proposed to be transferred under subsection (a), the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of each amount proposed to be transferred.

(c) Funds transferred under this section may be available for obligation through September 30, 2010.

SEC. 806. ELIGIBLE EMPLOYEES IN THE RECREATIONAL MARINE INDUSTRY. Section 2(3)(F) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(F)) is amended—

(1) by striking '', repair or dismantle''; and

(2) by striking the semicolon and inserting '', or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;''.

TITLE IX—LEGISLATIVE BRANCH

GOVERNMENT ACCOUNTABLIITY OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' of the Government Accountability Office, $20,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Comptroller General shall conduct bimonthly reviews and prepare reports on such reviews on the use by selected State and localities of funds made available in this Act. Such reports, along with any audits conducted by the Comptroller General of such funds, shall be posted on the Internet and linked to the website established under this Act by the Recovery Accountability and Transparency Board.

(2) REDACTIONS.—Any portion of a report or audit under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(b) EXAMINATION OF RECORDS.—The Comptroller General may examine any records related to obligations of funds made available in this Act.

SEC. 902. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE. Each contract awarded using funds made available in this Act shall provide that the Comptroller General and his representatives are authorized—

(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and

(2) to interview any current employee regarding such transactions.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $637,875,000, to remain

available until September 30, 2013, of which $84,100,000 shall be for child development centers; $481,000,000 shall be for warrior transition complexes; and $42,400,000 shall be for health and dental clinics (including acquisition, construction, installation, and equipment): *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $30,375,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Army shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $990,092,000, to remain available until September 30, 2013, of which $172,820,000 shall be for child development centers; $174,304,000 shall be for barracks; $125,000,000 shall be for health clinic replacement, and $494,362,000 shall be for energy conservation and alternative energy projects (including acquisition, construction, installation, and equipment): *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $23,606,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Navy shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $871,332,000, to remain available until September 30, 2013, of which $80,100,000 shall be for child development centers; $612,246,000 shall be for dormitories; and $138,100,000 shall be for health clinics (including acquisition, construction, installation, and equipment): *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed $40,886,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Air Force shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $118,560,000 for the Energy Conservation Investment Program, to remain available until September 30, 2010: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for ''Military Construction, Army National Guard'', $150,000,000 for readiness centers (including construction, acquisition, expansion, rehabilitation, and conversion), to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Director of the Army National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for ''Military Construction, Air National Guard'', $110,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Director of the Air National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

FAMILY HOUSING CONSTRUCTION, ARMY

For an additional amount for ''Family Housing Construction, Army'', $34,570,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Army shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Family Housing Operation and Maintenance, Army'', $3,932,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended for operation and maintenance and minor construction projects in the United States not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For an additional amount for ''Family Housing Construction, Air Force'', $80,100,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Air Force shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Family Housing Operation and Maintenance, Air Force'', $16,461,000: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended for operation and maintenance and minor construction projects in the United States not otherwise authorized by law.

HOMEOWNERS ASSISTANCE FUND

For an additional amount for ''Homeowners Assistance Fund'', established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $410,973,000, to remain available until expended.

ADMINISTRATIVE PROVISION

SEC. 1001. (a) TEMPORARY EXPANSION OF HOMEOWNERS ASSISTANCE PLAN TO RESPOND TO MORTGAGE FORECLOSURE AND CREDIT CRISIS.—Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as clauses (i), (ii), and (iii), respectively, and indenting such subparagraphs, as so redesignated, 6 ems from the left margin;

(B) by striking ''Notwithstanding any other provision of law'' and inserting the following:

''(1) ACQUISITION OF PROPERTY AT OR NEAR MILITARY INSTALLATIONS THAT HAVE BEEN ORDERED TO BE CLOSED.—Notwithstanding any other provision of law'';

(C) by striking ''if he determines'' and inserting ''if—

''(A) the Secretary determines—'';

(D) in clause (iii), as redesignated by subparagraph (A), by striking the period at the end and inserting ''; or''; and

(E) by adding at the end the following:

''(B) the Secretary determines—

''(i) that the conditions in clauses (i) and (ii) of subparagraph (A) have been met;

''(ii) that the closing or realignment of the base or installation resulted from a realignment or closure carried out under the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

''(iii) that the property was purchased by the owner before July 1, 2006;

''(iv) that the property was sold by the owner between July 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

''(v) that the property is the primary residence of the owner; and

''(vi) that the owner has not previously received benefit payments authorized under this subsection.

''(2) HOMEOWNER ASSISTANCE FOR WOUNDED MEMBERS OF THE ARMED FORCES, DEPARTMENT OF DEFENSE AND UNITED STATES COAST GUARD CIVILIAN EMPLOYEES, AND THEIR SPOUSES.—Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which was at the time of the relevant wound, injury, or illness, the primary residence of—

''(A) any member of the Armed Forces in medical transition who—

''(i) incurred a wound, injury, or illness in the line of duty during a deployment in support of the Armed Forces;

''(ii) is disabled to a degree of 30 percent or more as a result of such wound, injury, or illness, as determined by the Secretary of Defense or the Secretary of Veterans Affairs; and

''(iii) is reassigned in furtherance of medical treatment or rehabilitation, or due to medical retirement in connection with such disability;

''(B) any civilian employee of the Department of Defense or the United States Coast Guard who—

''(i) was wounded, injured, or became ill in the line of duty during a forward deployment in support of the Armed Forces; and

''(ii) is reassigned in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the sustained disability; or

''(C) the spouse of a member of the Armed Forces or a civilian employee of the Department of Defense or the United States Coast Guard if—

''(i) the member or employee was killed in the line of duty during a deployment in support of the Armed Forces or died from a wound, injury, or illness incurred in the line of duty during such a deployment; and

''(ii) the spouse relocates from such residence within 2 years after the death of such member or employee.

''(3) TEMPORARY HOMEOWNER ASSISTANCE FOR MEMBERS OF THE ARMED FORCES PERMANENTLY REASSIGNED DURING SPECIFIED MORTGAGE CRISIS.—Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling situated at or near a military base or installation, if the Secretary determines—

''(A) that the owner is a member of the Armed Forces serving on permanent assignment;

''(B) that the owner is permanently reassigned by order of the United States Government to a duty station or home port outside a 50-mile radius of the base or installation;

''(C) that the reassignment was ordered between February 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

''(D) that the property was purchased by the owner before July 1, 2006;

''(E) that the property was sold by the owner between July 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

''(F) that the property is the primary residence of the owner; and

''(G) that the owner has not previously received benefit payments authorized under this subsection.'';

(2) in subsection (b), by striking ''this section'' each place it appears and inserting ''subsection (a)(1)'';

(3) in subsection (c)—

(A) by striking ''Such persons'' and inserting the following:

''(1) HOMEOWNER ASSISTANCE RELATED TO CLOSED MILITARY INSTALLATIONS.—

''(A) IN GENERAL.—Such persons'';

(B) by striking ''set forth above shall elect either (1) to receive'' and inserting the following: ''set forth in subsection (a)(1) shall elect either—

''(i) to receive'';

(C) by striking ''difference between (A) 95 per centum'' and all that follows through ''(B) the fair market value'' and inserting the following: ''difference between—

''(I) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation; and

''(II) the fair market value'';

(D) by striking ''time of the sale, or (2) to receive'' and inserting the following: ''time of the sale; or

''(ii) to receive'';

(E) by striking ''outstanding mortgages. The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount'' and inserting ''outstanding mortgages.

''(B) REIMBURSEMENT OF EXPENSES.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount''; and

(F) by striking ''best interest of the Federal Government. Cash payment'' and inserting the following: ''best interest of the United States.

''(2) HOMEOWNER ASSISTANCE FOR WOUNDED INDIVIDUALS AND THEIR SPOUSES.—

''(A) IN GENERAL.—Persons eligible under the criteria set forth in subsection (a)(2) may elect either—

''(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

''(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

''(II) the fair market value of such property (as such value is so determined) at the time of the wound, injury, or illness qualifying the individual for benefits under subsection (a)(2); or

''(ii) to receive, as purchase price for their property an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

''(B) DETERMINATION OF BENEFITS.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

''(3) HOMEOWNER ASSISTANCE FOR PERMANENTLY REASSIGNED INDIVIDUALS.—

''(A) IN GENERAL.—Persons eligible under the criteria set forth in subsection (a)(3) may elect either—

''(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

''(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

''(II) the fair market value of such property (as such value is so determined) at the time the person received change of permanent station orders; or

''(ii) to receive, as purchase price for their property an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages.

''(B) DETERMINATION OF BENEFITS.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

''(4) COMPENSATION AND LIMITATIONS RELATED TO FORECLOSURES AND ENCUMBRANCES.—Cash payment'';

(4) by striking subsection (g);

(5) in subsection (l), by striking ''(a)(2)'' and inserting ''(a)(1)(A)(ii)'';

(6) in subsection (m), by striking ''this section'' and inserting ''subsection (a)(1)'';

(7) in subsection (n)—

(A) in paragraph (1), by striking ''this section'' and inserting ''subsection (a)(1)''; and

(B) in paragraph (2), by striking ''this section'' and inserting ''subsection (a)(1)'';

(8) in subsection (o)—

(A) in paragraph (1), by striking ''this section'' and inserting ''subsection (a)(1)'';

(B) in paragraph (2), by striking ''this section'' and inserting ''subsection (a)(1)''; and

(C) by striking paragraph (4); and

(9) by adding at the end the following new subsection:

''(p) DEFINITIONS.—In this section:

''(1) the term 'Armed Forces' has the meaning given the term 'armed forces' in section 101(a) of title 10, United States Code;

''(2) the term 'civilian employee' has the meaning given the term 'employee' in section 2105(a) of title 5, United States Code;

''(3) the term 'medical transition', in the case of a member of the Armed Forces, means a member who—

''(A) is in Medical Holdover status;

''(B) is in Active Duty Medical Extension status;

''(C) is in Medical Hold status;

''(D) is in a status pending an evaluation by a medical evaluation board;

''(E) has a complex medical need requiring six or more months of medical treatment; or

''(F) is assigned or attached to an Army Warrior Transition Unit, an Air Force Patient Squadron, a Navy Patient Multidisciplinary Care Team, or a Marine Patient Affairs Team/Wounded Warrior Regiment; and

''(4) the term 'nonappropriated fund instrumentality employee' means a civilian employee who—

''(A) is a citizen of the United States; and

''(B) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.''.

(b) CLERICAL AMENDMENT.—Such section is further amended in the section heading by inserting ''and certain property owned by members of the armed forces, department of defense and united states coast guard civilian employees, and surviving spouses'' after ''ordered to be closed''.

(c) AUTHORITY TO USE APPROPRIATED FUNDS.—Notwithstanding subsection (i) of such section, amounts appropriated or otherwise made available by this title under the heading ''Homeowners Assistance Fund'' may be used for the Homeowners Assistance Fund established under such section.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SUPPORT AND COMPLIANCE

For an additional amount for ''Medical Support and Compliance'', $5,000,000, to remain available until September 30, 2010, to support contract administration and energy initiative execution at the Veterans Health Administration.

MEDICAL FACILITIES

For an additional amount for ''Medical Facilities'', $1,370,459,000, to remain available until September 30, 2010, of which $1,047,313,000 shall be for facility condition assessment deficiencies and non-recurring maintenance at existing medical facilities; and $323,146,000 shall be for energy efficiency initiatives.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for ''National Cemetery Administration'', $64,961,000, to remain available until September 30, 2010, of which $59,476,000 shall be for capital infrastructure and memorial and monument repairs; and $5,485,000 shall be for energy efficiency initiatives.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for ''General Operating Expenses'', $1,125,000, to remain available until September 30, 2010, for additional Full Time Equivalent salary and expenses for major construction project administration and execution and energy initiative execution.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for ''Information Technology Systems'', $195,000,000, to remain available until September 30, 2010, of which $145,000,000 shall be for the Veterans Benefits Administration's development of paperless claims processing; and $50,000,000 shall be for the development of systems required to implement chapter 33 of title 38, United States Code.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $4,400,000, to remain available until September 30, 2010, for oversight and audit of programs, grants and projects funded under this title.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for ''Construction, Major Projects'', $1,105,333,000, to remain available until September 30, 2013, which shall be for acceleration and construction of ongoing and planned construction, including physical security construction, of major medical facilities and National Cemeteries consistent with the Department of Veterans Affairs' Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for ''Construction, Minor Projects'', $939,836,000, to remain available until September 30, 2010, of which $860,742,000 shall be for Veterans Health Administration minor construction; $20,300,000 shall be for Veterans Benefits Administration minor construction, including $300,000 for energy efficiency initiatives; and $29,012,000 shall be for National Cemetery Administration minor construction.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For an additional amount for ''Grants for Construction of State Extended Care Facilities'', $257,986,000, to remain available until September 30, 2010, for grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code.

ADMINISTRATIVE PROVISION

SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO SERVED IN THE UNITED STATES ARMED FORCES IN THE FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Congress makes the following findings:

(1) The Philippine islands became a United States possession in 1898 when they were ceded from Spain following the Spanish-American War.

(2) During World War II, Filipinos served in a variety of units, some of which came under the direct control of the United States Armed Forces.

(3) The regular Philippine Scouts, the new Philippine Scouts, the Guerilla Services, and more than 100,000 members of the Philippine Commonwealth Army were called into the service of the United States Armed Forces of the Far East on July 26, 1941, by an executive order of President Franklin D. Roosevelt.

(4) Even after hostilities had ceased, wartime service of the new Philippine Scouts continued as a matter of law until the end of 1946, and the force gradually disbanded and was disestablished in 1950.

(5) Filipino veterans who were granted benefits prior to the enactment of the so-called Rescissions Acts of 1946 (Public Laws 79–301 and 79–391) currently receive full benefits under laws administered by the Secretary of Veterans Affairs, but under section 107 of title 38, United States Code, the service of certain other Filipino veterans is deemed not to be active service for purposes of such laws.

(6) These other Filipino veterans only receive certain benefits under title 38, United States Code, and, depending on where they legally reside, are paid such benefit amounts at reduced rates.

(7) The benefits such veterans receive include service-connected compensation benefits paid under chapter 11 of title 38, United States Code, dependency indemnity compensation survivor benefits paid under chapter 13 of title 38, United States Code, and burial benefits under chapters 23 and 24 of title 38, United States Code, and such benefits are paid to beneficiaries at the rate of $0.50 per dollar authorized, unless they lawfully reside in the United States.

(8) Dependents' educational assistance under chapter 35 of title 38, United States Code, is also payable for the dependents of such veterans at the rate of $0.50 per dollar authorized, regardless of the veterans' residency.

(b) COMPENSATION FUND.—

(1) IN GENERAL.—There is in the general fund of the Treasury a fund to be known as the ''Filipino Veterans Equity Compensation Fund'' (in this section referred to as the ''compensation fund'').

(2) AVAILABILITY OF FUNDS.—Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary of Veterans Affairs without fiscal year limitation to make payments to eligible persons in accordance with this section.

(c) PAYMENTS.—

(1) IN GENERAL.—The Secretary may make a payment from the compensation fund to an eligible person who, during the one-year period beginning on the date of the enactment of this Act, submits to the Secretary a claim for benefits under this section. The application for the claim shall contain such information and evidence as the Secretary may require.

(2) PAYMENT TO SURVIVING SPOUSE.—If an eligible person who has filed a claim for benefits under this section dies before payment is made under this section, the payment under this section shall be made instead to the surviving spouse, if any, of the eligible person.

(d) ELIGIBLE PERSONS.—An eligible person is any person who—

(1) served—

(A) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

(B) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538); and

(2) was discharged or released from service described in paragraph (1) under conditions other than dishonorable.

(e) PAYMENT AMOUNTS.—Each payment under this section shall be—

(1) in the case of an eligible person who is not a citizen of the United States, in the amount of $9,000; and

(2) in the case of an eligible person who is a citizen of the United States, in the amount of $15,000.

(f) LIMITATION.—The Secretary may not make more than one payment under this section for each eligible person described in subsection (d).

(g) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER CERTAIN LAWS.—Amounts paid to a person under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included in income or resources for purposes of determining—

(A) eligibility of an individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits;

(B) eligibility of an individual to receive benefits under title VIII of the Social Security Act, or the amount of such benefits; or

(C) eligibility of an individual for, or the amount of benefits under, any other Federal or federally assisted program.

(h) RELEASE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acceptance by an eligible person or surviving spouse, as applicable, of a payment under this section shall be final, and shall constitute a complete release of any claim against the United States by reason of any service described in subsection (d).

(2) PAYMENT OF PRIOR ELIGIBILITY STATUS.—Nothing in this section shall prohibit a person from receiving any benefit (including health care, survivor, or burial benefits) which the person would have been eligible to receive based on laws in effect as of the day before the date of the enactment of this Act.

(i) RECOGNITION OF SERVICE.—The service of a person as described in subsection (d) is hereby recognized as active military service in the Armed Forces for purposes of, and to the extent provided in, this section.

(j) ADMINISTRATION.—

(1) The Secretary shall promptly issue application forms and instructions to ensure the prompt and efficient administration of the provisions of this section.

(2) The Secretary shall administer the provisions of this section in a manner consistent with applicable provisions of title 38, United States Code, and other provisions of law, and shall apply the definitions in section 101 of such title in the administration of such provisions, except to the extent otherwise provided in this section.

(k) REPORTS.—The Secretary shall include, in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year, detailed information on the operation of the compensation fund, including the number of applicants, the number of eligible persons receiving benefits, the amounts paid out of the compensation fund, and the administration of the compensation fund for the most recent fiscal year for which such data is available.

(l) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the compensation fund $198,000,000, to remain available until expended, to make payments under this section.

RELATED AGENCY

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARY AND EXPENSES

For an additional amount for ''Cemeterial Expenses, Army'', $60,300,000, to remain available until September 30, 2010, for land development, columbarium construction, and relocation of utilities at Arlington National Cemetery.

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'' for urgent domestic facilities requirements, $180,500,000, to remain available until September 30, 2010, of which up to $45,000,000 shall be available for passport and visa facilities and systems, and up to $75,000,000 shall be available for a consolidated security training facility in the United States: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading: *Provided further*, That with respect to the funds made available for passport facilities and systems, such plan shall be developed in consultation with the Department of Homeland Security and the General Services Administration and shall coordinate and co-locate, to the extent feasible, the construction of passport agencies with other Federal facilities.

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $524,000,000, to remain available until September 30, 2010, of which up to $120,000,000 shall be available for the design and construction of a backup information management facility in the United States to support continuity of critical mission operations and programs, and up to $98,527,000 shall be available to carry out the Department of State's responsibilities under the Comprehensive National Cybersecurity Initiative: *Provided*, That the Secretary of State and the Administrator of the United States Agency for International Development shall coordinate information technology systems, where appropriate, to increase efficiencies and eliminate redundancies, to include co-location of backup information management facilities: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for oversight requirements, $2,000,000, to remain available until September 30, 2010.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'' for the water quantity program to meet immediate repair and rehabilitation requirements, $224,000,000, to remain available until September 30, 2010: *Provided*, That up to $2,000,000 may be transferred to, and merged with, funds available under the heading ''International Boundary and Water Commission, United States and Mexico—Salaries and Expenses'': *Provided*, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $100,000,000, to remain available until September 30, 2010, of which $34,000,000 shall be available for information technology modernization programs and of which up to $35,000,000 shall be available for implementation of the Global Acquisition System: *Provided*, That the Administrator of the United States Agency for International Development shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'' for oversight requirements, $500,000, to remain available until September 30, 2010.

TITLE XII—TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, $5,500,000,000, to remain available until September 30, 2011: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: *Provided further*, That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement: *Provided further*, That of the amount made available under this paragraph, the Secretary may use an amount not to exceed $200,000,000 for the purpose of paying the subsidy costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: *Provided further*, That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities: *Provided further*, That a grant funded under this heading shall be not less than $20,000,000 and not greater than $500,000,000: *Provided further*, That the Federal share of the costs for which an expenditure is made under this heading may be up to 100 percent: *Provided further*, That the Secretary shall give priority to projects that require an additional share of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act: *Provided further*, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after enactment of this Act: *Provided further*, That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after enactment of this Act, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: *Provided further*, That the Secretary shall require all additional applications to be submitted not later than 1 year after enactment of this Act, and announce not later than 180 days following such 1-year period all additional projects selected to be funded with funds withdrawn from States and grantees and transferred from ''Supplemental Grants for Highway Investments'' and ''Supplemental Grants for Public Transit Investment'': *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That the Secretary may retain up to $5,000,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this heading.

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL FUNDING FOR FACILITIES AND EQUIPMENT

For an additional amount for necessary investments in Federal Aviation Administration infrastructure, $200,000,000: *Provided*, That funding provided under this heading

shall be used to make improvements to power systems, air route traffic control centers, air traffic control towers, terminal radar approach control facilities, and navigation and landing equipment: *Provided further*, That priority be given to such projects or activities that will be completed within 2 years of enactment of this Act: *Provided further*, That amounts made available under this heading may be provided through grants in addition to the other instruments authorized under section 106(l)(6) of title 49, United States Code: *Provided further*, That the Federal share of the costs for which an expenditure is made under this heading shall be 100 percent: *Provided further*, That amounts provided under this heading may be used for expenses the agency incurs in administering this program: *Provided further*, That not more than 60 days after enactment of this Act, the Administrator shall establish a process for applying, reviewing and awarding grants and cooperative and other transaction agreements, including the form and content of an application, and requirements for the maintenance of records that are necessary to facilitate an effective audit of the use of the funding provided: *Provided further*, That section 50101 of title 49, United States Code, shall apply to funds provided under this heading.

SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT INVESTMENT

For an additional amount for capital expenditures authorized under sections 47102(3) and 47504(c) of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports of such title, $1,100,000,000: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to airports, with priority given to those projects that demonstrate to his or her satisfaction their ability to be completed within 2 years of enactment of this Act, and serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: *Provided further*, That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: *Provided further*, That the amount made available under this heading shall not be subject to any limitation on obligations for the Grants-in-Aid for Airports program set forth in any Act: *Provided further*, That section 50101 of title 49, United States Code, shall apply to funds provided under this heading: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That the Administrator of the Federal Aviation Administration may retain and transfer to ''Federal Aviation Administration, Operations'' up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

FEDERAL HIGHWAY ADMINISTRATION

SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, $27,060,000,000: *Provided*, That funds provided under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of such title: *Provided further*, That 180 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further*, That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds and transfer such funds to ''Supplemental Discretionary Grants for a National Surface Transportation System'': *Provided further*, That at the request of a State, the Secretary of Transportation may provide an extension of such 1-year period only to the extent that he or she feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: *Provided further*, That before granting a such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further*, That the provisions of subsections 133(d)(3) and 133(d)(4) of title 23, United States Code, shall apply to funds apportioned under this heading, except that the percentage of funds to be allocated to local jurisdictions shall be 40 percent and such allocation, notwithstanding any other provision of law, shall be conducted in all states within the United States: *Provided further*, That funds allocated to such urbanized areas and other areas shall not be subject to the redistribution of amounts required 180 days following the date of apportionment of funds provided under this heading: *Provided further*, That funds apportioned under this heading may be used for, but not be limited to, projects that address stormwater runoff, investments in passenger and freight rail transportation, and investments in port infrastructure: *Provided further*, that each State shall use not less than 5 percent of funds apportioned to it for activities eligible under subsections 149(b) and (c) of title 23, United States Code: *Provided further*, That of the funds provided under this heading, $60,000,000 shall be for capital expenditures eligible under section 147 of title 23, United States Code: *Provided further*, That the Secretary of Transportation shall distribute such $60,000,000 as competitive discretionary grants to States, with priority given to those projects that demonstrate to his or her satisfaction their ability to be completed within 2 years of enactment of this Act: *Provided further*, That of the funds provided under this heading, $500,000,000 shall be for investments in transportation at Indian reservations and Federal lands, and administered in accordance with chapter 2 of title 23, United States Code: *Provided further*, That of the funds identified in the preceding proviso, $320,000,000 shall be for the Indian Reservation Roads program, $100,000,000 shall be for the Park Roads and Parkways program, $70,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program: *Provided further*, That for investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act: *Provided further*, That 1 year following the enactment of this Act, to ensure the prompt use of the $500,000,000 provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated: *Provided further*, That up to 4 percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses: *Provided further*, That section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds provided under this heading: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall be at the option of the recipient, and may be up to 100 percent of the total cost thereof: *Provided further*, That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2008 and 2009 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act: *Provided further*, That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That section 313 of title 23, United States Code, shall apply to funds provided under this heading: *Provided further*, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further*, That for the purposes of the definition of States for this paragraph, sections 101(a)(32) of title 23, United States Code, shall apply: *Provided further*, That the Administrator of the Federal Highway Administration may retain up to $12,000,000 of the funds provided under this heading to carry out the function of the ''Federal Highway Administration, Limitation on Administrative Expenses'' and to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act.

FEDERAL RAILROAD ADMINISTRATION

SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY PASSENGER RAIL SERVICE

For an additional amount for discretionary grants to States to pay for the cost of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, United States Code, and subsection (b) of section 24105 of such title, $250,000,000: *Provided*, That to be eligible for assistance under this paragraph, the specific project must be on a Statewide Transportation Improvement Plan at the time of the application to qualify: *Provided further*, That the Secretary of Transportation shall give priority to projects that demonstrate an ability to be completed within 2 years of enactment of this Act, and to projects that improve the safety and reliability of intercity passenger trains: *Provided further*, That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That section 24405(a) of title 49, United States Code, shall apply to funds provided under this heading: *Provided further*, That the Administrator of the Federal Railroad Administration may retain and transfer to ''Federal Railroad Administration, Safety

and Operations'' up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the immediate investment in capital projects necessary to maintain and improve national intercity passenger rail service, including the rehabilitation of rolling stock, $850,000,000: *Provided*, That funds made available under this heading shall be allocated directly to the National Railroad Passenger Corporation: *Provided further*, That the Board of Directors of the corporation shall take measures to ensure that priority is given to capital projects that expand passenger rail capacity: *Provided further*, That the Board of Directors shall take measures to ensure that projects funded under this heading shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further*, That said Board of Directors shall certify to the House and Senate Committees on Appropriations in writing their compliance with the preceding proviso: *Provided further*, That section 24305(f) of title 49, United States Code, shall apply to funds provided under this heading: *Provided further*, That not more than 50 percent of the funds provided under this heading may be used for capital projects along the Northeast Corridor.

HIGH-SPEED RAIL CORRIDOR PROGRAM

To make grants for high-speed rail projects under the provisions of section 26106 of title 49, United States Code, $2,000,000,000, to remain available until September 30, 2011: *Provided*, That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: *Provided further*, That the Administrator of the Federal Railroad Administration may retain and transfer to ''Federal Railroad Administration, Safety and Operations'' up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this paragraph.

FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT INVESTMENT

For an additional amount for capital expenditures authorized under section 5302(a)(1) of title 49, United States Code, $8,400,000,000: *Provided*, That the Secretary of Transportation shall apportion 71 percent of the funds apportioned under this heading using the formula set forth in subsections (a) through (c) of section 5336 of title 49, United States Code, 19 percent of the funds apportioned under this heading using the formula set forth in section 5340 of such title, and 10 percent of the funding apportioned under this heading using the formula set forth in subsection 5311(c) of such title: *Provided further*, That 180 days following the date of such apportionment, the Secretary shall withdraw from each grantee an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other grantees that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds provided under this paragraph shall be utilized promptly: *Provided further*, That 1 year following the date of such apportionment, the Secretary shall withdraw from each grantee any unobligated funds and transfer such funds to ''Supplemental Discretionary Grants for a National Surface Transportation System'': *Provided further*, That at the request of a grantee, the Secretary of Transportation may provide an extension of such 1-year periods if he or she feels satisfied that the grantee has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further*, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further*, That of the funds apportioned using the formula set forth in subsection 5311(c) of title 49, United States Code, 2 percent shall be made available for section 5311(c)(1): *Provided further*, That of the funding provided under this heading, $200,000,000 shall be distributed as discretionary grants to public transit agencies for capital investments that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems: *Provided further*, That for such grants on energy-related investments, priority shall be given to projects based on the total energy savings that are projected to result from the investment, and projected energy savings as a percentage of the total energy usage of the public transit agency: *Provided further*, That the Federal share of the costs for which any grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the amount made available under this heading shall not be subject to any limitation on obligations for transit programs set forth in any Act: *Provided further*, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further*, That the funds appropriated under this heading shall be subject to subsection 5323(j) and section 5333 of title 49, United States Code as well as sections 5304 and 5305 of said title, as appropriate, but shall not be comingled with funds available under the Formula and Bus Grants account: *Provided further*, That the Administrator of the Federal Transit Administration may retain up to $3,000,000 of the funds provided under this heading to carry out the function of ''Federal Transit Administration, Administrative Expenses'' and to fund the oversight of grants made under this heading by the Administrator.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

To make grants to qualified shipyards as authorized under section 3506 of Public Law 109–163 or section 54101 of title 46, United States Code, $100,000,000: *Provided*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their distribution: *Provided further*, That the Maritime Administrator may retain and transfer to ''Maritime Administration, Operations and Training'' up to 2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $7,750,000, to remain available until September 30, 2011: *Provided*, That the funding made available under this heading shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Transportation and to the National Railroad Passenger Corporation: *Provided further*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the Government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department.

GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

SEC. 1201. Section 5309(g)(4)(A) of title 49, United States Code, is amended by striking ''or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii)'' and inserting ''or the sum of the funds available for the next 3 fiscal years beyond the current fiscal year, assuming an annual growth of the program of 10 percent''.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for ''Native American Housing Block Grants'', as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (''NAHASDA'') (25 U.S.C. 4111 et seq.), $510,000,000, to remain available until September 30, 2011: *Provided*, That $255,000,000 of the amount provided under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 180 days from the date that funds are available to recipients: *Provided further*, That the Secretary shall obligate $255,000,000 of the amount provided under this heading for competitive grants to eligible entities that apply for funds authorized under NAHASDA: *Provided further*, That in awarding competitive funds, the Secretary shall give priority to projects that will spur construction and rehabilitation and will create employment opportunities for low-income and unemployed persons: *Provided further*, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date of enactment of this Act, expend at least 50 percent of such funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years of such date: *Provided further*, That if a recipient fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are in compliance with those requirements: *Provided further*, That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the recipient: *Provided further*, That, notwithstanding any other provision of this paragraph, the Secretary may institute measures to ensure participation in the formula and competitive allocation of funds provided under this paragraph by any housing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.): *Provided further*, That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation

by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

PUBLIC HOUSING CAPITAL FUND

For an additional amount for the ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the ''Act''), $5,000,000,000, to remain available until September 30, 2011: *Provided*, That the Secretary of Housing and Urban Development shall allocate $3,000,000,000 of this amount by the formula authorized under section 9(d)(2) of the Act, except that the Secretary may determine not to allocate funding to public housing agencies currently designated as troubled or to public housing agencies that elect not to accept such funding: *Provided further*, That the Secretary shall make available $2,000,000,000 by competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments: *Provided further*, That public housing agencies shall prioritize capital projects that are already underway or included in the 5-year capital fund plans required by the Act (42 U.S.C. 1437c–1(a)): *Provided further*, That in allocating competitive grants under this heading, the Secretary shall give priority consideration to the rehabilitation of vacant rental units: *Provided further*, That notwithstanding any other provision of law, (1) funding provided herein may not be used for operating or rental assistance activities, and (2) any restriction of funding to replacement housing uses shall be inapplicable: *Provided further*, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this heading shall serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee: *Provided further*, That notwithstanding section 9(j), public housing agencies shall obligate 100 percent of the funds within 1 year of the date of enactment of this Act, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the agency for obligation, and shall expend 100 percent of the funds within 3 years of such date: *Provided further*, That if a public housing agency fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: *Provided further*, That if a public housing agency fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the public housing agency: *Provided further*, That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to conditions on use of funds for development and modernization, fair housing, non-discrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

NEIGHBORHOOD STABILIZATION PROGRAM

For the provision of emergency assistance for the redevelopment of abandoned and foreclosed homes, as authorized by title III of division B of the Housing and Economic Recovery Act of 2008 (the ''Act'') (42 U.S.C. 5301 note), $2,250,000,000, to remain available until September 30, 2011: *Provided*, That funding shall be allocated by a competition for which eligible entities shall be States, units of general local government, and nonprofit entities or consortia of nonprofit entities, which may submit proposals in partnership with for-profit entities: *Provided further*, That in selecting grantees the Secretary shall ensure that the grantee can expend funding within the period allowed under this heading: *Provided further*, That additional award criteria for such competition shall include demonstrated grantee capacity to execute projects, leveraging potential, targeted impact of foreclosure prevention, neighborhood stabilization, and any additional factors determined by the Secretary of Housing and Urban Development: *Provided further*, That the Secretary may establish a minimum grant size: *Provided further*, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after the enactment of this Act and applications shall be due not later than 180 days after the enactment of this Act: *Provided further*, That the Secretary shall award all funding within 1 year of enactment of this Act: *Provided further*, That grantees shall expend at least 75 percent of allocated funds within 2 years of the date funds become available to the grantees for obligation and 100 percent of such funds within 3 years of such date: *Provided further*, That funding used for section 2301(c)(3)(E) of the Act shall be available only for the redevelopment of demolished or vacant properties as housing: *Provided further*, That in addition to the eligible uses in section 2301, the Secretary may also use up to 10 percent of the funds provided under this heading for grantees for the provision of capacity building of and support for local communities receiving funding under section 2301 of the Act or under this heading: *Provided further*, That the construction or rehabilitation of early childhood and development centers serving households that qualify as low income shall also be an eligible use of funding: *Provided further*, That in addition to the allowable uses of revenues provided in section 2301 of the Act, any revenues generated in the first 5 years using the funds provided under this heading may be used by the State or applicable unit of general local government for maintenance associated with property acquisition and holding and with land banking activities: *Provided further*, That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expense shall be transferred to and merged with funding provided to ''Community Planning and Development Personnel Compensation and Benefits'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'' for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund.''

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the ''HOME Investment Partnerships Program'' as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (the ''Act''), $2,250,000,000, to remain available until September 30, 2011: *Provided*, That except as specifically provided herein, funds provided under this heading shall be distributed pursuant to the formula authorized by section 217 of the Act: *Provided further*, That the Secretary may establish a minimum grant size: *Provided further*, That participating jurisdictions shall obligate 100 percent of the funds within 1 year of the date of enactment of this Act, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the participating jurisdiction for obligation and shall expend 100 percent of the funds within 3 years of such date: *Provided further*, That if a participating jurisdiction fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the participating jurisdiction and reallocate such funds to participating jurisdictions that are in compliance with those requirements: *Provided further*, That if a participating jurisdiction fails to

comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the participating jurisdiction: *Provided further*, That in administering funds under this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, non-discrimination, labor standards and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the Secretary may use funds provided under this heading to provide incentives to grantees to use funding for investments in energy efficiency and green building technology: *Provided further*, That such incentives may include allocation of up to 20 percent of funds made available under this heading other than pursuant to the formula authorized by section 217 of the Act: *Provided further*, That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Community Planning and Development'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

HOMELESSNESS PREVENTION FUND

For homelessness prevention activities, $1,500,000,000, to remain available until September 30, 2011: *Provided*, That funds provided under this heading shall be used for the provision of short-term or medium-term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, and moving cost assistance; or other appropriate homelessness prevention activities: *Provided further*, That grantees receiving such assistance shall collect data on the use of the funds awarded and persons served with this assistance in the Homeless Management Information System (HMIS) or other comparable database: *Provided further*, That grantees may use up to 5 percent of any grant for administrative costs: *Provided further*, That funding made available under this heading shall be allocated to eligible grantees (as defined and designated in sections 411 and 412 of subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, (the ''Act'')) pursuant to the formula authorized by section 413 of the Act: *Provided further*, That the Secretary may establish a minimum grant size: *Provided further*, That grantees shall expend at least 75 percent of funds within 2 years of the date that funds became available to them for obligation, and 100 percent of funds within 3 years of such date, and the Secretary may recapture unexpended funds in violation of the 2-year expenditure requirement and reallocate such funds to grantees in compliance with that requirement: *Provided further*, That the Secretary may waive statutory or regulatory provisions (except provisions for fair housing, nondiscrimination, labor standards, and the environment) necessary to facilitate the timely expenditure of funds: *Provided further*, That the Secretary shall publish a notice to establish such requirements as may be necessary to carry out the provisions of this section within 30 days of enactment of the Act and that this notice shall take effect upon issuance: *Provided further*, That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expense shall be transferred to and merged with funding provided to ''Community Planning and Development Personnel Compensation and Benefits'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'' for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund.''

ASSISTED HOUSING STABILITY AND ENERGY AND GREEN RETROFIT INVESTMENTS

For assistance to owners of properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 17012), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), or section 8 of the United States Housing Act of 1937 as amended (42 U.S.C. 1437f), $3,500,000,000, of which $2,132,000,000 shall be for an additional amount for paragraph (1) under the heading ''Project-Based Rental Assistance'' in Public Law 110–161 for payments to owners for 12-month periods, and of which $1,368,000,000 shall be for grants or loans for energy retrofit and green investments in such assisted housing: *Provided*, That projects funded with grants or loans provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That such grants or loans shall be provided through the existing policies, procedures, contracts, and transactional infrastructure of the authorized programs administered by the Office of Affordable Housing Preservation of the Department of Housing and Urban Development, on such terms and conditions as the Secretary of Housing and Urban Development deems appropriate to ensure the maintenance and preservation of the property, the continued operation and maintenance of energy efficiency technologies, and the timely expenditure of funds: *Provided further*, That the Secretary may provide incentives to owners to undertake energy or green retrofits as a part of such grant or loan terms, including, but not limited to, investment fees to cover oversight and implementation costs incurred by said owner, or to encourage job creation for low-income or very low-income individuals: *Provided further*, That the grants or loans shall include a financial assessment and physical inspection of such property: *Provided further*, That eligible owners must have at least a satisfactory management review rating, be in substantial compliance with applicable performance standards and legal requirements, and commit to an additional period of affordability determined by the Secretary, but of not fewer than 15 years: *Provided further*, That the Secretary shall undertake appropriate underwriting and oversight with respect to grant and loan transactions and may set aside up to 5 percent of the funds made available under this heading for grants or loans for such purpose: *Provided further*, That the Secretary shall take steps necessary to ensure that owners receiving funding for energy and green retrofit investments under this heading shall expend such funding within 2 years of the date they received the funding: *Provided further*, That the Secretary may waive or modify statutory or regulatory requirements with respect to any existing grant, loan, or insurance mechanism authorized to be used by the Secretary to enable or facilitate the accomplishment of investments supported with funds made available under this heading for grants or loans: *Provided further*, That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That funding made available under this heading and used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Housing Compensation and Benefits'': *Provided further*, That any funding made available under this heading used by the Secretary for training and other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations and Management'' for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with funding provided to ''Working Capital Fund.''

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

For an additional amount for the ''Lead Hazard Reduction'', as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $100,000,000, to remain available until September 30, 2011: *Provided*, That funds shall be awarded first to applicant jurisdictions which had applied under the Lead-Based Paint Hazard Control Grant Program Notice of Funding Availability for fiscal year 2008, and were found in the application review to be qualified for award, but were not awarded because of funding limitations, and that any funds which remain after reservation of funds for such grants shall be added to the amount of funds to be awarded under the Lead-Based Paint Hazard Control Grant Program Notice of Funding Availability for fiscal year 2009: *Provided further*, That each applicant jurisdiction for the Lead-Based Paint Hazard control Grant Program Notice of Funding Availability for fiscal year 2009 shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds: *Provided further*, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date of enactment of this Act, expend at least 75 percent of such funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years

of such date: *Provided further*, That if a recipient fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are in compliance with those requirements: *Provided further*, That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the recipient: *Provided further*, That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Healthy Homes and Lead Hazard Control'': *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $2,750,000, to remain available until September 30, 2011: *Provided*, That the Inspector General shall have independent authority over all personnel issues within this office.

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Health Information Technology for Economic and Clinical Health Act'' or the ''HITECH Act''.

Subtitle A—Promotion of Health Information Technology

PART I—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3000. DEFINITIONS.

''In this title:

''(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record and that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(2) ENTERPRISE INTEGRATION.—The term 'enterprise integration' means the electronic linkage of health care providers, health plans, the government, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infrastructure in accordance with applicable law, and such term includes related application protocols and other related standards.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, nursing facility, home health entity, or other long-term care facility, health care clinic, emergency medical services provider, Federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, and any other category of facility or clinician determined appropriate by the Secretary.

''(4) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(5) HEALTH INFORMATION TECHNOLOGY.—The term 'health information technology' means hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services for use by health care entities for the electronic creation, maintenance, or exchange of health information.

''(6) HEALTH PLAN.—The term 'health plan' has the meaning given such term in section 1171(5) of the Social Security Act.

''(7) HIT POLICY COMMITTEE.—The term 'HIT Policy Committee' means such Committee established under section 3002(a).

''(8) HIT STANDARDS COMMITTEE.—The term 'HIT Standards Committee' means such Committee established under section 3003(a).

''(9) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171(6) of the Social Security Act.

''(10) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353(a).

''(11) NATIONAL COORDINATOR.—The term 'National Coordinator' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

''(12) PHARMACIST.—The term 'pharmacist' has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

''(13) QUALIFIED ELECTRONIC HEALTH RECORD.—The term 'qualified electronic health record' means an electronic record of health-related information on an individual that—

''(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

''(B) has the capacity—

''(i) to provide clinical decision support;

''(ii) to support physician order entry;

''(iii) to capture and query information relevant to health care quality; and

''(iv) to exchange electronic health information with, and integrate such information from other sources.

''(14) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''Subtitle A—Promotion of Health Information Technology

''SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of the National Coordinator for Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary and shall report directly to the Secretary.

''(b) PURPOSE.—The National Coordinator shall perform the duties under subsection (c) in a manner consistent with the development of a nationwide health information technology infrastructure that allows for the electronic use and exchange of information and that—

''(1) ensures that each patient's health information is secure and protected, in accordance with applicable law;

''(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

''(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, duplicative care, and incomplete information;

''(4) provides appropriate information to help guide medical decisions at the time and place of care;

''(5) ensures the inclusion of meaningful public input in such development of such infrastructure;

''(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information;

''(7) improves public health activities and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;

''(8) facilitates health and clinical research and health care quality;

''(9) promotes early detection, prevention, and management of chronic diseases;

''(10) promotes a more effective marketplace, greater competition, greater systems analysis, increased consumer choice, and improved outcomes in health care services; and

''(11) improves efforts to reduce health disparities.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—

''(1) STANDARDS.—The National Coordinator shall review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004. The Coordinator shall make such determination, and report to the Secretary such determination, not later than 45 days after the date the recommendation is received by the Coordinator.

''(2) HIT POLICY COORDINATION.—

''(A) IN GENERAL.—The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

''(B) HIT POLICY AND STANDARDS COMMITTEES.—The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

''(3) STRATEGIC PLAN.—

''(A) IN GENERAL.—The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific objectives, milestones, and metrics with respect to the following:

''(i) The electronic exchange and use of health information and the enterprise integration of such information.

''(ii) The utilization of an electronic health record for each person in the United States by 2014.

''(iii) The incorporation of privacy and security protections for the electronic exchange of an individual's individually identifiable health information.

''(iv) Ensuring security methods to ensure appropriate authorization and electronic authentication of health information and specifying technologies or methodologies for rendering health information unusable, unreadable, or indecipherable.

''(v) Specifying a framework for coordination and flow of recommendations and policies under this subtitle among the Secretary, the National Coordinator, the HIT Policy Committee, the HIT Standards Committee, and other health information exchanges and other relevant entities.

''(vi) Methods to foster the public understanding of health information technology.

''(vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, increasing prevention and coordination with community resources, and improving the continuity of care among health care settings.

''(viii) Specific plans for ensuring that populations with unique needs, such as children, are appropriately addressed in the technology design, as appropriate, which may include technology that automates enrollment and retention for eligible individuals.

''(B) COLLABORATION.—The strategic plan shall be updated through collaboration of public and private entities.

''(C) MEASURABLE OUTCOME GOALS.—The strategic plan update shall include measurable outcome goals.

''(D) PUBLICATION.—The National Coordinator shall republish the strategic plan, including all updates.

''(4) WEBSITE.—The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall develop a program (either directly or by contract) for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.

''(B) CERTIFICATION CRITERIA DESCRIBED.—In this title, the term 'certification criteria' means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.

''(6) REPORTS AND PUBLICATIONS.—

''(A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED.—Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(B) IMPLEMENTATION REPORT.—The National Coordinator shall prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology, including information on whether the technologies and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers.

''(C) ASSESSMENT OF IMPACT OF HIT ON COMMUNITIES WITH HEALTH DISPARITIES AND UNINSURED, UNDERINSURED, AND MEDICALLY UNDERSERVED AREAS.—The National Coordinator shall assess and publish the impact of health information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved individuals (including urban and rural areas) and identify practices to increase the adoption of such technology by health care providers in such communities, and the use of health information technology to reduce and better manage chronic diseases.

''(D) EVALUATION OF BENEFITS AND COSTS OF THE ELECTRONIC USE AND EXCHANGE OF HEALTH INFORMATION.—The National Coordinator shall evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue.

''(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including the required level of Federal funding, expectations for regional, State, and private investment, and the expected contributions by volunteers to activities for the utilization of such records.

''(7) ASSISTANCE.—The National Coordinator may provide financial assistance to consumer advocacy groups and not-for-profit entities that work in the public interest for purposes of defraying the cost to such groups and entities to participate under, whether in whole or in part, the National Technology Transfer Act of 1995 (15 U.S.C. 272 note).

''(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall establish a governance mechanism for the nationwide health information network.

''(d) DETAIL OF FEDERAL EMPLOYEES.—

''(1) IN GENERAL.—Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

''(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

''(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

''(B) be in addition to any other staff of the Department employed by the National Coordinator.

''(3) ACCEPTANCE OF DETAILEES.—Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

''(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF THE NATIONAL COORDINATOR.—Not later than 12 months after the date of the enactment of this title, the Secretary shall appoint a Chief Privacy Officer of the Office of the National Coordinator, whose duty it shall be to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other Federal agencies (and similar privacy officers in such agencies), with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

''SEC. 3002. HIT POLICY COMMITTEE.

''(a) ESTABLISHMENT.—There is established a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementation of the strategic plan described in section 3001(c)(3).

''(b) DUTIES.—

''(1) RECOMMENDATIONS ON HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.—The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Committee shall update such recommendations and make new recommendations as appropriate.

''(2) SPECIFIC AREAS OF STANDARD DEVELOPMENT.—

''(A) IN GENERAL.—The HIT Policy Committee shall recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information for purposes of adoption under section 3004 and shall recommend an order of priority for the development, harmonization, and recognition of such standards, specifications, and certification criteria among the areas so recommended. Such standards and implementation specifications shall include

named standards, architectures, and software schemes for the authentication and security of individually identifiable health information and other information as needed to ensure the reproducible development of common solutions across disparate entities.

''(B) AREAS REQUIRED FOR CONSIDERATION.—For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas:

''(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law, and for the use and disclosure of limited data sets of such information.

''(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.

''(iii) The utilization of a certified electronic health record for each person in the United States by 2014.

''(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

''(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, reducing chronic disease, and by advancing research and education.

''(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

''(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

''(I) the collection of quality data and public reporting;

''(II) biosurveillance and public health;

''(III) medical and clinical research; and

''(IV) drug safety.

''(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

''(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

''(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

''(v) Technologies that help reduce medical errors.

''(vi) Technologies that facilitate the continuity of care among health settings.

''(vii) Technologies that meet the needs of diverse populations.

''(viii) Technologies and design features that address the needs of children and other vulnerable populations.

''(ix) Any other technology that the HIT Policy Committee finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

''(3) FORUM.—The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

''(2) MEMBERSHIP.—The membership of the HIT Policy Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

''(3) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

''SEC. 3003. HIT STANDARDS COMMITTEE.

''(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

''(b) DUTIES.—

''(1) STANDARD DEVELOPMENT.—

''(A) IN GENERAL.—The HIT Standards Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection (a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 3004(b)(2). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

''(B) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 14201 of the Health Information Technology for Economic and Clinical Health Act.

''(C) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

''(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(3) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under section 3002. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

''(4) PUBLIC INPUT.—The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Standards Committee.

''(2) MEMBERSHIP.—The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

''(3) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

''(4) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

''SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS; ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.

''(a) PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS.—

''(1) REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification

criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

''(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—If the Secretary determines—

''(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

''(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

''(3) PUBLICATION.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

''(b) ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall, through the rulemaking process described in section 3003, adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

''(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

''SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

''For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 13111 of the Health Information Technology for Economic and Clinical Health Act.

''SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

''(a) IN GENERAL.—Except as provided under section 13112 of the Health Information Technology for Economic and Clinical Health Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

''(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

''SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator shall support the development, routine updating and provision of qualified EHR technology (as defined in section 3000) consistent with subsections (b) and (c) unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace.

''(b) CERTIFICATION.—In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

''(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

''SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order 13335 or the Office of such National Coordinator on the date before the date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

''(b) AHIC.—

''(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

''(2) In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

''(c) RULES OF CONSTRUCTION.—

''(1) ONCHIT.—Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(2) AHIC.—Nothing in sections 3002 or 3003 or subsection (b) shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 in a manner that would permit the Secretary to choose to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

''SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

''(a) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

''(1) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

''(2) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.

''(b) DEFINITION.—For purposes of this section, the term 'HIPAA privacy and security law' means—

''(1) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of the Health Information Technology for Economic and Clinical Health Act; and

''(2) regulations under such provisions.''.

SEC. 13102. TECHNICAL AMENDMENT.

Section 1171(5) of the Social Security Act (42 U.S.C. 1320d) is amended by striking ''or C'' and inserting ''C, or D''.

PART II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined in the Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004(b) of the Public Health Service Act, as added by section 13101.

(b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation specification adopted under section 3004(b) of the Public Health Service Act, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) APPLICATION OF DEFINITIONS.—The definitions contained in section 3000 of the Public Health Service Act, as added by section 13101, shall apply for purposes of this part.

SEC. 13112. APPLICATION TO PRIVATE ENTITIES.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004(b) of the Public Health Service Act, as added by section 13101.

SEC. 13113. STUDY AND REPORTS.

(a) REPORT ON ADOPTION OF NATIONWIDE SYSTEM.—Not later than 2 years after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that—

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

(2) describes barriers to the adoption of such a nationwide system; and

(3) contains recommendations to achieve full implementation of such a nationwide system.

(b) REIMBURSEMENT INCENTIVE STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) AGING SERVICES TECHNOLOGY STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) MATTERS TO BE STUDIED.—The study under paragraph (1) shall include—

(A) an evaluation of—

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection:

(A) AGING SERVICES TECHNOLOGY.—The term ''aging services technology'' means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) SENIOR.—The term ''senior'' has such meaning as specified by the Secretary.

Subtitle B—Testing of Health Information Technology

SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) VOLUNTARY TESTING PROGRAM.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.

(a) HEALTH CARE INFORMATION ENTERPRISE INTEGRATION RESEARCH CENTERS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) PURPOSE.—The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS.—Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) NATIONAL INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) shall coordinate Federal research and development programs related to the development and deployment of health information technology, including activities related to—

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;

(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following new subtitle:

''Subtitle B—Incentives for the Use of Health Information Technology

''SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

''(a) IN GENERAL.—The Secretary of Health and Human Services shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and, as available) under section 3001. To the greatest extent practicable, the Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

''(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include

updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

''(2) Development and adoption of appropriate certified electronic health records for categories of providers not eligible for support under title XVIII or XIX of the Social Security Act for the adoption of such records.

''(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012, including community health centers receiving assistance under section 330 of the Public Health Service Act, covered entities under section 340B of such Act, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

''(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

''(5) Promotion of the interoperability of clinical data repositories or registries.

''(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

''(7) Improve and expand the use of health information technology by public health departments.

''(8) Provide $300,000,000 to support regional or sub-national efforts towards health information exchange.

''(b) COORDINATION.—The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

''(c) ADDITIONAL USE OF FUNDS.—In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out activities that are provided for under laws in effect on the date of enactment of this title.

''SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

''(a) HEALTH INFORMATION TECHNOLOGY EXTENSION PROGRAM.—To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services. The National Coordinator shall consult with other Federal agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program.

''(b) HEALTH INFORMATION TECHNOLOGY RESEARCH CENTER.—

''(1) IN GENERAL.—The Secretary shall create a Health Information Technology Research Center (in this section referred to as the 'Center') to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004(b).

''(2) INPUT.—The Center shall incorporate input from—

''(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

''(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

''(C) others as appropriate.

''(3) PURPOSES.—The purposes of the Center are to—

''(A) provide a forum for the exchange of knowledge and experience;

''(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

''(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of health information technology that allows for the electronic exchange and use of information including through the regional centers described in subsection (c);

''(D) provide technical assistance for the establishment and evaluation of regional and local health information networks to facilitate the electronic exchange of information across health care settings and improve the quality of health care;

''(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

''(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

''(c) HEALTH INFORMATION TECHNOLOGY REGIONAL EXTENSION CENTERS.—

''(1) IN GENERAL.—The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as 'regional centers') to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator (and, as available) under section 3001.

''(2) AFFILIATION.—Regional centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

''(3) OBJECTIVE.—The objective of the regional centers is to enhance and promote the adoption of health information technology through—

''(A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to healthcare providers nationwide;

''(B) broad participation of individuals from industry, universities, and State governments;

''(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

''(D) participation, to the extent practicable, in health information exchanges;

''(E) utilization, when appropriate, of the expertise and capability that exists in federal agencies other than the Department; and

''(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

''(4) REGIONAL ASSISTANCE.—Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

''(A) Public or not-for-profit hospitals or critical access hospitals.

''(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

''(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

''(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

''(5) FINANCIAL SUPPORT.—The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this Act, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

''(A) A detailed explanation of the program and the programs goals.

''(B) Procedures to be followed by the applicants.

''(C) Criteria for determining qualified applicants.

''(D) Maximum support levels expected to be available to centers under the program.

''(7) APPLICATION REVIEW.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

''(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

''(B) the types of service to be provided to health care providers;

''(C) geographical diversity and extent of service area; and

''(D) the percentage of funding and amount of in-kind commitment from other sources.

''(8) BIENNIAL EVALUATION.—Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

''(9) CONTINUING SUPPORT.—After the second year of assistance under this subsection a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

''SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

''(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (d)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (b).

''(c) IMPLEMENTATION GRANTS.—The Secretary may award a grant to a State or qualified State designated entity that—

''(1) has submitted, and the Secretary has approved, a plan described in subsection (c) (regardless of whether such plan was prepared using amounts awarded under paragraph (1)); and

''(2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

''(d) USE OF FUNDS.—Amounts received under a grant under subsection (a)(3) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—

''(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

''(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

''(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

''(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

''(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

''(6) assisting patients in utilizing health information technology;

''(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and valuable;

''(8) supporting public health agencies' authorized use of and access to electronic health information;

''(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

''(10) such other activities as the Secretary may specify.

''(e) PLAN.—

''(1) IN GENERAL.—A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

''(2) REQUIRED ELEMENTS.—A plan described in paragraph (1) shall—

''(A) be pursued in the public interest;

''(B) be consistent with the strategic plan developed by the National Coordinator (and, as available) under section 3001;

''(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

''(D) contain such elements as the Secretary may require.

''(f) QUALIFIED STATE-DESIGNATED ENTITY.—For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall—

''(1) be designated by the State as eligible to receive awards under this section;

''(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

''(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

''(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

''(5) conform to such other requirements as the Secretary may establish.

''(g) REQUIRED CONSULTATION.—In carrying out activities described in subsections (a)(2) and (a)(3), a State or qualified State-designated entity shall consult with and consider the recommendations of—

''(1) health care providers (including providers that provide services to low income and underserved populations);

''(2) health plans;

''(3) patient or consumer organizations that represent the population to be served;

''(4) health information technology vendors;

''(5) health care purchasers and employers;

''(6) public health agencies;

''(7) health professions schools, universities and colleges;

''(8) clinical researchers;

''(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

''(10) such other entities, as may be determined appropriate by the Secretary.

''(h) CONTINUOUS IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

''(i) REQUIRED MATCH.—

''(1) IN GENERAL.—For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under subsection (a) to a State unless the State agrees to make available non-Federal contributions (which may include in-kind contributions) toward the costs of a grant awarded under subsection (a)(3) in an amount equal to—

''(A) for fiscal year 2011, not less than $1 for each $10 of Federal funds provided under the grant;

''(B) for fiscal year 2012, not less than $1 for each $7 of Federal funds provided under the grant; and

''(C) for fiscal year 2013 and each subsequent fiscal year, not less than $1 for each $3 of Federal funds provided under the grant.

''(2) AUTHORITY TO REQUIRE STATE MATCH FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.

''SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

''(b) ELIGIBLE ENTITY DEFINED.—For purposes of this subsection, the term 'eligible entity' means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that—

''(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

''(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

''(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);

''(4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to—

''(A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to—

''(i) the Director of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act; or

''(ii) the Secretary in the case of other entities;

''(B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR technology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with

law and standards (as adopted under section 3005) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination;

''(C) comply with such other requirements as the entity or the Secretary may require;

''(D) include a plan on how healthcare providers involved intend to maintain and support the certified EHR technology over time; and

''(E) include a plan on how the healthcare providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian tribe, respectively, may require; and

''(5) agrees to provide matching funds in accordance with subsection (i).

''(c) ESTABLISHMENT OF FUND.—For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a 'Loan Fund') and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

''(d) STRATEGIC PLAN.—

''(1) IN GENERAL.—For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

''(2) CONTENTS.—A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

''(A) A list of the projects to be assisted through the Loan Fund during such year.

''(B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.

''(C) A description of the financial status of the Loan Fund as of the date of submission of the plan.

''(D) The short-term and long-term goals of the Loan Fund.

''(e) USE OF FUNDS.—Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (a). Loans under this section may be used by a health care provider to—

''(1) facilitate the purchase of certified EHR technology;

''(2) enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);

''(3) train personnel in the use of such technology; or

''(4) improve the secure electronic exchange of health information.

''(f) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this subsection may only be used for the following:

''(1) To award loans that comply with the following:

''(A) The interest rate for each loan shall not exceed the market interest rate.

''(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

''(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

''(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

''(4) To earn interest on the amounts deposited into the Loan Fund.

''(5) To make reimbursements described in subsection (g)(4)(A).

''(g) ADMINISTRATION OF LOAN FUNDS.—

''(1) COMBINED FINANCIAL ADMINISTRATION.—An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

''(2) COST OF ADMINISTERING FUND.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

''(3) GUIDANCE AND REGULATIONS.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

''(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

''(B) guidance to prevent waste, fraud, and abuse.

''(4) PRIVATE SECTOR CONTRIBUTIONS.—

''(A) IN GENERAL.—A Loan Fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

''(B) AVAILABILITY OF INFORMATION.—An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(h) MATCHING REQUIREMENTS.—

''(1) IN GENERAL.—The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the grant is awarded in an amount equal to not less than $1 for each $5 of Federal funds provided under the grant.

''(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

''(i) EFFECTIVE DATE.—The Secretary may not make an award under this section prior to January 1, 2010.

''SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

''(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors, increase access to prevention, reduce chronic diseases, and enhance health care quality;

''(3) be—

''(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

''(B) a graduate school of nursing or physician assistant studies;

''(C) a consortium of two or more schools described in subparagraph (A) or (B); or

''(D) an institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies.

''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

''(5) provide matching funds in accordance with subsection (d).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

''(A) use grant funds in collaboration with 2 or more disciplines; and

''(B) use grant funds to integrate certified EHR technology into community-based clinical education.

''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

''(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS ON HEALTH CARE.

''(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

''(b) ACTIVITIES.—Activities for which assistance may be provided under subsection (a) may include the following:

''(1) Developing and revising curricula in medical health informatics and related disciplines.

''(2) Recruiting and retaining students to the program involved.

''(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

''(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.

''(c) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give preference to the following:

''(1) Existing education and training programs.

''(2) Programs designed to be completed in less than six months.

''(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

''(a) REPORTS.—The Secretary may require that an entity receiving assistance under this title shall submit to the Secretary, not later than the date that is 1 year after the date of receipt of such assistance, a report that includes—

''(1) an analysis of the effectiveness of such activities for which the entity receives such assistance, as compared to the goals for such activities; and

''(2) an analysis of the impact of the project on healthcare quality and safety.

''(b) REQUIREMENT TO IMPROVE QUALITY OF CARE AND DECREASE IN COSTS.—The National Coordinator shall annually evaluate the activities conducted under this title and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

''SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

''For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.''.

Subtitle D—Privacy

SEC. 13400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—The term ''breach'' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, use, or disclosure of such information by an employee or agent of the covered entity or business associate involved if such acquisition, access, use, or disclosure, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered entity or business associate and if such information is not further acquired, accessed, used, or disclosed by such employee or agent.

(2) BUSINESS ASSOCIATE.—The term ''business associate'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(3) COVERED ENTITY.—The term ''covered entity'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(4) DISCLOSE.—The terms ''disclose'' and ''disclosure'' have the meaning given the term ''disclosure'' in section 160.103 of title 45, Code of Federal Regulations.

(5) ELECTRONIC HEALTH RECORD.—The term ''electronic health record'' means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(6) HEALTH CARE OPERATIONS.—The term ''health care operation'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) HEALTH CARE PROVIDER.—The term ''health care provider'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 1171(5) of the Social Security Act.

(9) NATIONAL COORDINATOR.—The term ''National Coordinator'' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a) of the Public Health Service Act, as added by section 13101.

(10) PAYMENT.—The term ''payment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) PERSONAL HEALTH RECORD.—The term ''personal health record'' means an electronic record of individually identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or for the individual.

(12) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(14) SECURITY.—The term ''security'' has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) TREATMENT.—The term ''treatment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) USE.—The term ''use'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) VENDOR OF PERSONAL HEALTH RECORDS.—The term ''vendor of personal health records'' means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

PART I—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) APPLICATION OF SECURITY PROVISIONS.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision.

(c) ANNUAL GUIDANCE.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall, in consultation with industry stakeholders, annually issue guidance on the most effective and appropriate technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date before the enactment of this Act.

SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.

(a) IN GENERAL.—A covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in subsection (h)(1)) shall, in the case of a breach of such information that is discovered by the covered entity, notify each individual whose unsecured protected health information has been, or is reasonably believed by the covered entity to

have been, accessed, acquired, or disclosed as a result of such breach.

(b) NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE.—A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c) BREACHES TREATED AS DISCOVERED.—For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)).

(2) BURDEN OF PROOF.—The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) METHODS OF NOTICE.—

(1) INDIVIDUAL NOTICE.—Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) MEDIA NOTICE.—Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(3) NOTICE TO SECRETARY.—Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than such notice must be provided immediately. If the breach was with respect to less than 500 individuals, the covered entity may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE.—The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) DEFINITION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the term ''unsecured protected health information'' means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term ''unsecured protected health information'' shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 13407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 13403. EDUCATION ON HEALTH INFORMATION PRIVACY.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

(b) EDUCATION INITIATIVE ON USES OF HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this Act, the Office for Civil Rights within the Department of Health and Human Services shall develop and maintain a multi-faceted national education initiative to enhance public transparency regarding the uses of protected health information, including programs to educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. Such programs shall be conducted in a variety of languages and present information in a clear and understandable manner.

SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES.

(a) APPLICATION OF CONTRACT REQUIREMENTS.—In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF KNOWLEDGE ELEMENTS ASSOCIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND SALES OF HEALTH INFORMATION; ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES; ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.

(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLOSURES OF HEALTH INFORMATION.—In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE LIMITED DATA SET OR THE MINIMUM NECESSARY.—

(1) IN GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), a covered entity shall be treated as being in compliance with section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) GUIDANCE.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue guidance on what constitutes "minimum necessary" for purposes of subpart E of part 164 of title 45, Code of Federal Regulation. In issuing such guidance the Secretary shall take into consideration the guidance under section 13424(c).

(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—

(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

(2) REGULATIONS.—The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1)(A) not later than 18 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 13101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of individuals in learning the circumstances under which their protected health information is being disclosed and takes into account the administrative burden of accounting for such disclosures.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as—

(A) requiring a covered entity to account for disclosures of protected health information that are not made by such covered entity; or

(B) requiring a business associate of a covered entity to account for disclosures of protected health information that are not made by such business associate.

(4) REASONABLE FEE.—A covered entity may impose a reasonable fee on an individual for an accounting performed under paragraph (1)(B). Any such fee shall not be greater than the entity's labor costs in responding to the request.

(5) EFFECTIVE DATE.—

(A) CURRENT USERS OF ELECTRONIC RECORDS.—In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2010, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

(i) January 1, 2011; or

(ii) the date that it acquires an electronic health record.

(d) REVIEW OF HEALTH CARE OPERATIONS.—Not later than 18 months after the date of the enactment of this title, the Secretary shall promulgate regulations to eliminate from the definition of health care operations under section 164.501 of title 45, Code of Federal Regulations, those activities that can reasonably and efficiently be conducted through the use of information that is de-identified (in accordance with the requirements of section 164.514(b) of such title) or that should require a valid authorization for use or disclosure. In promulgating such regulations, the Secretary may choose to narrow or clarify activities that the Secretary chooses to retain in the definition of health care operations and the Secretary shall take into account the report under section 13424(d). In such regulations the Secretary shall specify the date on which such regulations shall apply to disclosures made by a covered entity, but in no case would such date be sooner than the date that is 24 months after the date of the enactment of this section.

(e) PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION OBTAINED FROM ELECTRONIC HEALTH RECORDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in the following cases:

(A) The purpose of the exchange is for research or public health activities (as described in sections 164.501, 164.512(i), and 164.512(b) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(B) The purpose of the exchange is for the treatment of the individual and the price charges reflects not more than the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.

(D) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(E) The purpose of the exchange is to provide an individual with a copy of the individual's protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(F) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (E).

(3) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection, including exceptions described in paragraph (2), not later than 18 months after the date of the enactment of this title.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(f) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART OF HEALTH CARE OPERATIONS.

(a) MARKETING.—

(1) IN GENERAL.—A communication by a covered entity or business associate that is about a product or service and that encourages recipients of the communication to purchase or use the product or service shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations, unless the communication is made as described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of such title.

(2) PAYMENT FOR CERTAIN COMMUNICATIONS.—A covered entity or business associate may not receive direct or indirect payment in exchange for making any communication described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, except—

(A) a business associate of a covered entity may receive payment from the covered entity for making any such communication on behalf of the covered entity that is consistent with the written contract (or other written arrangement) described in section 164.502(e)(2) of such title between such business associate and covered entity;

(B) a covered entity may receive payment in exchange for making any such communication if the entity obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; and

(C) where such communication describes only a health care item or service that has previously been prescribed for or administered to the recipient of the communication, or a family member of such recipient.

(b) FUNDRAISING.—Fundraising for the benefit of a covered entity shall not be considered a health care operation for purposes of section 164.501 of title 45, Code of Federal Regulations.

(c) EFFECTIVE DATE.—This section shall apply to contracting occurring on or after the effective date specified under section 13423.

SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii) or (iii) of section 13424(b)(1)(A), following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such a breach of security; and

(2) notify the Federal Trade Commission.

(b) NOTIFICATION BY THIRD PARTY SERVICE PROVIDERS.—A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii) or (iii) of section 13424(b)(1)(A) in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) APPLICATION OF REQUIREMENTS FOR TIMELINESS, METHOD, AND CONTENT OF NOTIFICATIONS.—Subsections (c), (d), (e), and (f) of section 13402 shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described in subsection (a) and a third party service provider described in subsection (b), with respect to a breach of security under subsection (a) of unsecured PHR identifiable health information in such records maintained or offered by such vendor, in a manner specified by the Federal Trade Commission.

(d) NOTIFICATION OF THE SECRETARY.—Upon receipt of a notification of a breach of security under subsection (a)(2), the Federal Trade Commission shall notify the Secretary of such breach.

(e) ENFORCEMENT.—A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57*a*(a)(1)(B)) regarding unfair or deceptive acts or practices.

(f) DEFINITIONS.—For purposes of this section:

(1) BREACH OF SECURITY.—The term ''breach of security'' means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR IDENTIFIABLE HEALTH INFORMATION.—The term ''PHR identifiable health information'' means individually identifiable health information, as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) UNSECURED PHR IDENTIFIABLE HEALTH INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''unsecured PHR identifiable health information'' means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 13402(h)(2) by the date specified in such section, for purposes of this section, the term ''unsecured PHR identifiable health information'' shall mean PHR identifiable health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—The provisions of this section shall not apply to breaches of security occurring on or after the earlier of the following the dates:

(A) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Secretary.

(B) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Federal Trade Commission and has taken effect.

SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

Each organization, with respect to a covered entity, that provides data transmission

of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this title.

SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: ''For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.''.

SEC. 13410. IMPROVED ENFORCEMENT.

(a) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d-5) is amended—

(1) in subsection (b)(1), by striking ''the act constitutes an offense punishable under section 1177'' and inserting ''a penalty has been imposed under section 1177 with respect to such act''; and

(2) by adding at the end the following new subsection:

''(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

''(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

''(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.''.

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subtitle or section 1176 of the Social Security Act (42 U.S.C. 1320d-5) insofar as such section relates to privacy or security shall be transferred to the Office of Civil Rights of the Department of Health and Human Services to be used for purposes of enforcing the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act.

(2) GAO REPORT.—Not later than 18 months after the date of the enactment of this title, the Comptroller General shall submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) ESTABLISHMENT OF METHODOLOGY TO DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO HARMED INDIVIDUALS.—Not later than 3 years after the date of the enactment of this title, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) APPLICATION OF METHODOLOGY.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) TIERED INCREASE IN AMOUNT OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d-5(a)(1)) is amended by striking ''who violates a provision of this part a penalty of not more than'' and all that follows and inserting the following: ''who violates a provision of this part—

''(A) in the case of a violation of such provision in which it is established that the person did not know (and by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not to exceed the amount described in paragraph (3)(D);

''(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

''(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

''(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

''(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

''In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and extent of the violation and the nature and extent of the harm resulting from such violation.''.

(2) TIERS OF PENALTIES DESCRIBED.—Section 1176(a) of such Act (42 U.S.C. 1320d-5(a)) is further amended by adding at the end the following new paragraph:

''(3) TIERS OF PENALTIES DESCRIBED.—For purposes of paragraph (1), with respect to a violation by a person of a provision of this part—

''(A) the amount described in this subparagraph is $100 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $25,000;

''(B) the amount described in this subparagraph is $1,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $100,000;

''(C) the amount described in this subparagraph is $10,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $250,000; and

''(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.''.

(3) CONFORMING AMENDMENTS.—Section 1176(b) of such Act (42 U.S.C. 1320d-5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking ''in subparagraph (B), a penalty may not be imposed under subsection (a) if'' and all that follows through ''the failure to comply is corrected'' and inserting ''in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected''; and

(ii) in subparagraph (B), by striking ''(A)(ii)'' and inserting ''(A)'' each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

''(d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

''(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

''(A) to enjoin further such violation by the defendant; or

''(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

''(2) STATUTORY DAMAGES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

''(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

''(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

''(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

''(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

''(A) to intervene in the action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

''(6) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) maintains a physical place of business.

''(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

''(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).''.

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking ''A penalty may not be imposed under subsection (a)'' and inserting ''No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)'';

(B) in paragraph (2)(A)—

(i) after ''subsection (a)(1)(C),'', by striking ''a penalty may not be imposed under subsection (a)'' and inserting ''no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)''; and

(ii) in clause (ii), by inserting ''or damages'' after ''the penalty'';

(C) in paragraph (2)(B)(i), by striking ''The period'' and inserting ''With respect to the imposition of a penalty by the Secretary under subsection (a), the period''; and

(D) in paragraph (3), by inserting ''and any damages under subsection (d)'' after ''any penalty under subsection (a)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Such section is further amended by adding at the end the following new subsection:

''(e) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office of Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.''.

SEC. 13411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.

PART II—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

SEC. 13421. RELATIONSHIP TO OTHER LAWS.

(a) APPLICATION OF HIPAA STATE PREEMPTION.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle. In carrying out the preceding sentence, the Secretary shall revise the definition of ''psychotherapy notes'' in section 164.501 of title 45, Code of Federal Regulations, to include test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation.

SEC. 13422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

SEC. 13423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

SEC. 13424. STUDIES, REPORTS, GUIDANCE.

(a) REPORT ON COMPLIANCE.—

(1) IN GENERAL.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subtitle as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as such provisions are in effect as of the date of enactment of this Act) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

(d) GAO REPORT ON TREATMENT DISCLOSURES.—Not later than one year after the date of the enactment of this title, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.–

TITLE XIV—STATE FISCAL STABILIZATION

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $79,000,000,000, which shall be administered by the Department of Education, and shall be available through September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 1401. ALLOCATIONS.

(a) OUTLYING AREAS.—The Secretary of Education shall first allocate one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may reserve up to $25,000,000 for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $15,000,000,000 for grants under sections 1406 and 1407.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not obligate within 1 year of receiving a grant, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 1402. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—The Governor shall use at least 61 percent of the State's allocation under section 1401 for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) RESTORING 2008 STATE SUPPORT FOR EDUCATION.—

(A) IN GENERAL.—The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the fiscal year 2008 level; and where applicable, to allow existing State formula increases for fiscal years 2009, 2010, and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments that were enacted prior to July 1, 2008; and

(ii) to provide the amount of funds to public institutions of higher education in the State that is needed to restore State support for postsecondary education to the fiscal year 2008 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to restore State support for education to the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(3) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.—After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) OTHER GOVERNMENT SERVICES.—The Governor may use up to 39 percent of the State's allocation under section 1401 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (''ESEA''), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (''IDEA''), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (''the Perkins Act'').

(b) PROHIBITION.—A local educational agency may not use funds received under this title for capital projects unless authorized by ESEA, IDEA, or the Perkins Act.

SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—An institution of higher education may not use funds received under this title for construction, renovation, or facility repair.

SEC. 1405. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 1401 shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) APPLICATION.—The Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation.

(c) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 1406 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d);

(3) describe the achievement and graduation rates of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in 1111(b)(2) of ESEA in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need schools and local educational agencies; and

(5) include a plan for evaluating its progress in closing achievement gaps.

(d) ASSURANCES.—An application under subsection (b) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for public institutions of higher education (not including support for capital projects or for research and development) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take action, including activities outlined in section 2113(c) of ESEA, to increase the number, and improve the distribution, of effective teachers and principals in high-poverty schools and local educational agencies throughout the State.

(3) IMPROVING COLLECTION AND USE OF DATA.—The State will establish a longitudinal data system that includes the elements

described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) STANDARDS AND ASSESSMENTS.—The State—

(A) will enhance the quality of academic assessments described in section 1111(b)(3) of ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with 6401(e)(1)(A)(ii) of the America COMPETES Act.

(5) will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) with respect to schools identified under such sections.

SEC. 1406. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—From the total amount reserved under section 1401(c) that is not used for section 1407, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 1405(d).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 1405 and such other criteria as the Secretary determines appropriate.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 1407. INNOVATION FUND.

(a) IN GENERAL.—

(1) ELIGIBLE ENTITY.—For the purposes of this section, the term ''eligible entity'' means—

(A) A local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies;

(ii) or a consortium of schools.

(2) PROGRAM ESTABLISHED.—From the total amount reserved under section 1401(c), the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) BASIS FOR AWARDS.—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such eligible entities to expand their work and serve as models for best practices;

(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

SEC. 1408. STATE REPORTS.

A State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this title within the State;

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this title;

(5) the State's progress in reducing inequities in the distribution of teachers, in implementing a State student longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases; and

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance.

SEC. 1409. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 1406 and 1407 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 1410. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of the State reports, that evaluates the information provided in the State reports under section 1408.

SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 1412. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(4) any other term that is defined in section 9101 of ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

SEC. 1413. REGULATORY RELIEF.

(a) WAIVER AUTHORITY.—Subject to subsections (b) and (c), the Secretary of Education may, as applicable, waive or modify, in order to ease fiscal burdens, any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(b) DURATION.—A waiver under this section shall be for fiscal years 2009 and 2010.

(c) LIMITATIONS.—

(1) RELATION TO IDEA.—Nothing in this section shall be construed to permit the Secretary to waive or modify any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), except as described in a(1) and a(2).

(2) MAINTENANCE OF EFFORT.—If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal years 2009 and 2010, the level of effort required for fiscal year 2011 shall not be reduced because of the waiver or modification.

TITLE XV—RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD AND RECOVERY INDEPENDENT ADVISORY PANEL

SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) BOARD.—The term ''Board'' means the Recovery Accountability and Transparency Board established in section 1511.

(3) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Board.

(4) COVERED FUNDS.—The term ''covered funds'' means any funds that are expended or obligated—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(5) PANEL.—The term ''Panel'' means the Recovery Independent Advisory Panel established in section 1531.

Subtitle A—Recovery Accountability and Transparency Board

SEC. 1511. ESTABLISHMENT OF THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

SEC. 1512. COMPOSITION OF BOARD.

(a) CHAIRPERSON.—

(1) DESIGNATION OR APPOINTMENT.—The President shall—

(A) designate the Deputy Director for Management of the Office of Management and Budget to serve as Chairperson of the Board;

(B) designate another Federal officer who was appointed by the President to a position that required the advice and consent of the Senate, to serve as Chairperson of the Board; or

(C) appoint an individual as the Chairperson of the Board, by and with the advice and consent of the Senate.

(2) COMPENSATION.—

(A) DESIGNATION OF FEDERAL OFFICER.—If the President designates a Federal officer under paragraph (1)(A) or (B) to serve as Chairperson, that Federal officer may not receive additional compensation for services performed as Chairperson.

(B) APPOINTMENT OF NON-FEDERAL OFFICER.—If the President appoints an individual as Chairperson under paragraph (1)(C), that individual shall be compensated at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) MEMBERS.—The members of the Board shall include—

(1) the Inspectors General of the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and

(2) any other Inspector General as designated by the President from any agency that expends or obligates covered funds.

SEC. 1513. FUNCTIONS OF THE BOARD.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Board shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse.

(2) SPECIFIC FUNCTIONS.—The functions of the Board shall include—

(A) reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(B) reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(C) auditing and investigating covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring;

(D) reviewing whether there are sufficient qualified acquisition and grant personnel overseeing covered funds;

(E) reviewing whether personnel whose duties involve acquisitions or grants made with covered funds receive adequate training; and

(F) reviewing whether there are appropriate mechanisms for interagency collaboration relating to covered funds.

(b) REPORTS.—

(1) QUARTERLY REPORTS.—The Board shall submit quarterly reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, summarizing the findings of the Board and the findings of inspectors general of agencies. The Board may submit additional reports as appropriate.

(2) ANNUAL REPORTS.—The Board shall submit annual reports to the President and the Committees on Appropriations of the Senate and House of Representatives, consolidating applicable quarterly reports on the use of covered funds.

(3) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—All reports submitted under this subsection shall be made publicly available and posted on a website established by the Board.

(B) REDACTIONS.—Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The Board shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) RESPONSIVE REPORTS.—Not later than 30 days after receipt of a recommendation under paragraph (1), an agency shall submit a report to the President, the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, and the Board on—

(A) whether the agency agrees or disagrees with the recommendations; and

(B) any actions the agency will take to implement the recommendations.

SEC. 1514. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board shall conduct, supervise, and coordinate audits and investigations by inspectors general of agencies relating to covered funds.

(b) AUDITS AND INVESTIGATIONS.—The Board may—

(1) conduct its own independent audits and investigations relating to covered funds; and

(2) collaborate on audits and investigations relating to covered funds with any inspector general of an agency.

(c) AUTHORITIES.—

(1) AUDITS AND INVESTIGATIONS.—In conducting audits and investigations, the Board shall have the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) STANDARDS AND GUIDELINES.—The Board shall carry out the powers under subsections (a) and (b) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) PUBLIC HEARINGS.—The Board may hold public hearings and Board personnel may conduct investigative depositions. The head of each agency shall make all officers and employees of that agency available to provide testimony to the Board and Board personnel. The Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees. Any such subpoenas may be enforced as provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under this subtitle, including contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Board.

(f) TRANSFER OF FUNDS.—The Board may transfer funds appropriated to the Board for expenses to support administrative support services and audits or investigations of covered funds to any office of inspector general, the Office of Management and Budget, the General Services Administration, and the Panel.

SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AUTHORITIES.

(a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES.—Subject to paragraph (2), the Board may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(B) APPLICATION.—For purposes of exercising the authorities described under subparagraph (A), the term ''Chairperson of the Board'' shall be substituted for the term ''head of a temporary organization''.

(C) CONSULTATION.—In exercising the authorities described under subparagraph (A), the Chairperson shall consult with members of the Board.

(2) EMPLOYMENT AUTHORITIES.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under paragraph (1) of this subsection—

(A) paragraph (2) of subsection (b) of section 3161 of that title (relating to periods of appointments) shall not apply; and

(B) no period of appointment may exceed the date on which the Board terminates under section 1521.

(b) INFORMATION AND ASSISTANCE.—

(1) IN GENERAL.—Upon request of the Board for information or assistance from any agency or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Board, or an authorized designee.

(2) REPORT OF REFUSALS.—Whenever information or assistance requested by the Board is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, without delay.

(c) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.

(a) INDEPENDENT AUTHORITY.—Nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds.

(b) REQUESTS BY BOARD.—If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, not later than 30 days after rejecting the request, submit a report to the Board, the head of the applicable agency, and the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives. The report shall state the reasons that the inspector general has rejected the request in whole or in part.

SEC. 1517. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditor generals.

SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the Board, an inspector general, the Comptroller General, a member of Congress, or a the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety; or

(4) a violation of law related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the appropriate inspector general. Unless the inspector general determines that the complaint is frivolous, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) EXTENSION.—If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(2) CIVIL ACTION.—If the head of an agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(3) EVIDENCE.—An inspector general determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought in accordance with this subsection.

(4) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

SEC. 1519. BOARD WEBSITE.

(a) ESTABLISHMENT.—The Board shall establish and maintain a user-friendly, public-facing website to foster greater accountability and transparency in the use of covered funds.

(b) PURPOSE.—The website established and maintained under subsection (a) shall be a portal or gateway to key information relating to this Act and provide connections to other Government websites with related information.

(c) CONTENT AND FUNCTION.—In establishing the website established and maintained under subsection (a), the Board shall ensure the following:

(1) The website shall provide materials explaining what this Act means for citizens. The materials shall be easy to understand and regularly updated.

(2) The website shall provide accountability information, including a database of findings from audits, inspectors general, and the Government Accountability Office.

(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds.

(4) The website shall provide detailed data on contracts awarded by the Government that expend covered funds, including information about the competitiveness of the contracting process, notification of solicitations for contracts to be awarded, and information about the process that was used for the award of contracts.

(5) The website shall include printable reports on covered funds obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts that expend covered funds.

(7) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security.

SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

SEC. 1521. TERMINATION OF THE BOARD.

The Board shall terminate on September 30, 2012.

Subtitle B—Recovery Independent Advisory Panel

SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established the Recovery Independent Advisory Panel.

(b) MEMBERSHIP.—The Panel shall be composed of 5 members who shall be appointed by the President.

(c) QUALIFICATIONS.—Members shall be appointed on the basis of expertise in economics, public finance, contracting, accounting, or any other relevant field.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

(e) MEETINGS.—The Panel shall meet at the call of the Chairperson of the Panel.

(f) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1532. DUTIES OF THE PANEL.

The Panel shall make recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds.

SEC. 1533. POWERS OF THE PANEL.

(a) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any agency such information as the Panel considers necessary to carry out this subtitle. Upon request of the Chairperson of the Panel, the head of such agency shall furnish such information to the Panel.

(c) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as agencies of the Federal Government.

(d) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

SEC. 1534. PANEL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel. All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1535. TERMINATION OF THE PANEL.

The Panel shall terminate on September 30, 2012.

SEC. 1536. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

Subtitle C—Reports of the Council of Economic Advisers

SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of Economic Advisers shall submit quarterly reports to the Committees on Appropriations of the Senate and House of Representatives that detail the estimated impact of programs funded through covered funds on employment, economic growth, and other key economic indicators.

(b) SUBMISSION.—The first report under subsection (a) shall be submitted not later than 15 days after the end of the first full quarter following the date of enactment of this Act. The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1521.

TITLE XVI—GENERAL PROVISIONS—THIS ACT

EMERGENCY DESIGNATION

SEC. 1601. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AVAILABILITY

SEC. 1602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

RELATIONSHIP TO OTHER APPROPRIATIONS

SEC. 1603. Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

BUY AMERICAN

SEC. 1604. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States if sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written jurisdiction as to why the provision is being waived.

(d) In this section, the terms ''public building'' and ''public work'' have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

CERTIFICATION

SEC. 1605. With respect to funds in titles I though XVI of this Act made available to State, or local government agencies, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made.

ECONOMIC STABILIZATION CONTRACTING

SEC. 1606. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting ''and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term 'individual with disability' has the same meaning as the term 'handicapped individual' as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)),'' after ''(12 U.S.C. 1441a(r)(4)),''.

DIVISION B—TAX, UNEMPLOYMENT, HEALTH, STATE FISCAL RELIEF, AND OTHER PROVISIONS

TITLE I—TAX PROVISIONS

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the ''American Recovery and Reinvestment Tax Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Tax Relief for Individuals and Families

PART I—GENERAL TAX RELIEF

SEC. 1001. MAKING WORK PAY CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

"SEC. 36A. MAKING WORK PAY CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

''(1) 6.2 percent of earned income of the taxpayer, or

''(2) $500 ($1,000 in the case of a joint return).

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph and subsection (c)) for the taxable year shall be reduced (but not below zero) by 4 percent of so much of the taxpayer's modified adjusted gross income as exceeds $75,000 ($150,000 in the case of a joint return).

''(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(c) REDUCTION FOR CERTAIN OTHER PAYMENTS.—The credit allowed under subsection (a) for any taxable year shall be reduced by the amount of any payments received by the taxpayer during such taxable year under section 1601 of the American Recovery and Reinvestment Tax Act of 2009.

''(d) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

''(A) any nonresident alien individual,

''(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

''(C) an estate or trust.

Such term shall not include any individual unless the requirements of section 32(c)(1)(E) are met with respect to such individual.

''(2) EARNED INCOME.—The term 'earned income' has the meaning given such term by section 32(c)(2), except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.<Q P='02'>

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2010.''.

(b) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under section 36A of the Internal Revenue Code of 1986 (as added by this section) to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this section).

(c) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) AUTHORITY RELATING TO CLERICAL ERRORS.—Section 6213(g)(2) is amended by striking ''and'' at the end of subparagraph (L)(ii), by striking the period at the end of subparagraph (M) and inserting '', and'', and by adding at the end the following new subparagraph:

''(N) an omission of the reduction required under section 36A(c) with respect to the credit allowed under section 36A or an omission of the correct TIN required under section 36A(d)(1).''.

(e) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting ''36A,'' after ''36,''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''36A,'' after ''36,''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36 the following new item:

''Sec. 36A. Making work pay credit.''.

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.

SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN.—In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

''(B) REDUCTION OF MARRIAGE PENALTY.—

''(i) IN GENERAL.—The dollar amount in effect under paragraph (2)(B) shall be $5,000.

''(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in 2010, the $5,000 amount in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(iii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 24(d) is amended to read as follows:

''(4) SPECIAL RULE FOR 2009 AND 2010.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $6,000.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) INCREASE IN CREDIT.—The Hope Scholarship Credit shall be an amount equal to the sum of—

''(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $2,000, plus

''(B) 25 percent of such expenses so paid as exceeds $2,000 but does not exceed $4,000.

''(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION.—Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'.

''(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS.—Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

''(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT.—In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

''(ii) $80,000 ($160,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

''(6) PORTION OF CREDIT MADE REFUNDABLE.—30 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

''(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS.—In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by inserting ''25A(i),'' after ''23,''.

(2) Section 25(e)(1)(C)(ii) is amended by inserting ''25A(i),'' after ''24,''.

(3) Section 26(a)(1) is amended by inserting ''25A(i),'' after ''24,''.

(4) Section 25B(g)(2) is amended by inserting ''25A(i),'' after ''23,''.

(5) Section 904(i) is amended by inserting ''25A(i),'' after ''24,''.

(6) Section 1400C(d)(2) is amended by inserting ''25A(i),'' after ''24,''.

(7) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''25A,'' before ''35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

(e) TREASURY STUDIES REGARDING EDUCATION INCENTIVES.—

(1) STUDY REGARDING COORDINATION WITH NON-TAX EDUCATIONAL INCENTIVES.—The Secretary of the Treasury, or the Secretary's delegate, shall study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965.

(2) STUDY REGARDING IMPOSITION OF COMMUNITY SERVICE REQUIREMENTS.—The Secretary of the Treasury, or the Secretary's delegate, shall study the feasibility of requiring students to perform community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT ALLOWED AS A QUALIFIED HIGHER EDUCATION EXPENSE FOR SECTION 529 ACCOUNTS IN 2009 AND 2010.

(a) IN GENERAL.—Section 529(e)(3)(A) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii), and by adding at the end the following:

''(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2008.

SEC. 1006. EXTENSION OF FIRST-TIME HOMEBUYER CREDIT; WAIVER OF REQUIREMENT TO REPAY.

(a) EXTENSION.—

(1) IN GENERAL.—Section 36(h) is amended by striking ''July 1, 2009'' and inserting ''September 1, 2009''.

(2) CONFORMING AMENDMENT.—Section 36(g) is amended by striking ''July 1, 2009'' and inserting ''September 1, 2009''.

(b) WAIVER OF RECAPTURE.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before September 1, 2009—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after December 31, 2008.

SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

''(c) SPECIAL RULE FOR 2009.—In the case of any taxable year beginning in 2009, gross income shall not include so much of the unemployment compensation received by an individual as does not exceed $2,400.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART II—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended—

(1) by striking ''or 2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($69,950 in the case of taxable years beginning in 2008)'' in subparagraph (A) and inserting ''($70,950 in the case of taxable years beginning in 2009)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($46,700 in the case of taxable years beginning in 2009)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking ''2010'' in paragraph (1) and inserting ''2013'',

(2) by striking ''2011'' each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting ''2014'', and

(3) by striking ''2012'' in paragraph (11)(B) and inserting ''2014''.

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 45(d) is amended by striking ''and before'' and all that follows and inserting '' and before October 3, 2008.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Subsection (a) of section 48 is amended by adding at the end the following new paragraph:

''(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—

''(A) IN GENERAL.—In the case of any qualified investment credit facility—

''(i) such facility shall be treated as energy property for purposes of this section, and

''(ii) the energy percentage with respect to such property shall be 30 percent.

''(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

''(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term 'qualified investment credit facility' means any of the following facilities if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility:

''(i) WIND FACILITIES.—Any facility described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, or 2012.

''(ii) OTHER FACILITIES.—Any facility described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

(a) REPEAL OF LIMITATION ON CREDIT FOR QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).

(b) REPEAL OF LIMITATION ON PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

(1) IN GENERAL.—Section 48(a)(4) is amended by adding at the end the following new subparagraph:

''(D) TERMINATION.—This paragraph shall not apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(1) is amended by striking ''(8), and (9)'' and inserting ''and (8)''.

(B) Section 25D(e) is amended by striking paragraph (9).

(C) Section 48A(b)(2) is amended by inserting ''(without regard to subparagraph (D) thereof)'' after ''section 48(a)(4)''.

(D) Section 48B(b)(2) is amended by inserting ''(without regard to subparagraph (D) thereof)'' after ''section 48(a)(4)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL LIMITATION.—The national new clean renewable energy bond limitation shall be increased by $1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).''.

SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF QUALIFIED ENERGY CONSERVATION BONDS.

Section 54D(d) is amended by striking ''800,000,000'' and inserting ''$3,200,000,000''.

PART III—ENERGY CONSERVATION INCENTIVES

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

''(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

''(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.''.

(b) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) REMOVAL OF CREDIT LIMITATION FOR PROPERTY PLACED IN SERVICE.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended to read as follows:

''(1) MAXIMUM CREDIT FOR FUEL CELLS.—In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 25D(e) is amended—

(A) by striking all that precedes subparagraph (B) and inserting the following:

''(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

''(A) MAXIMUM EXPENDITURES FOR FUEL CELLS.—The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.'', and

(B) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(e) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010.—In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011—

''(A) in the case of any such property which does not relate to hydrogen—

''(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

''(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

''(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000', and

''(B) in the case of any such property which relates to hydrogen, subsection (b)(1) shall be applied by substituting '$200,000' for '$30,000'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART IV—ENERGY RESEARCH INCENTIVES

SEC. 1131. INCREASED RESEARCH CREDIT FOR ENERGY RESEARCH.

(a) IN GENERAL.—Section 41 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ENERGY RESEARCH CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) IN GENERAL.—The credit determined under subsection (a)(1) shall be increased by 20 percent of the qualified energy research expenses for the taxable year.

''(2) QUALIFIED ENERGY RESEARCH EXPENSES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified energy research expenses' means so much of the taxpayer's qualified research expenses as are related to the fields of fuel cells and battery technology, renewable energy and renewable fuels, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

''(B) COORDINATION WITH QUALIFYING ADVANCED ENERGY PROJECT CREDIT.—Such term shall not include expenditures taken into account in determining the amount of the credit under section 48 or 48C.

''(3) COORDINATION WITH OTHER RESEARCH CREDITS.—

''(A) IN GENERAL.—The amount of qualified energy research expenses taken into account under subsection (a)(1)(A) shall not exceed the base amount.

''(B) ALTERNATIVE SIMPLIFIED CREDIT.—For purposes of subsection (c)(5), the amount of qualified energy research expenses taken into account for the taxable year for which the credit is being determined shall not exceed—

''(i) in the case of subsection (c)(5)(A), 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined, and

''(ii) in the case of subsection (c)(5)(B)(ii), zero.

''(C) BASIC RESEARCH AND ENERGY RESEARCH CONSORTIUM PAYMENTS.—Any amount taken into account under paragraph (1) shall not be taken into account under paragraph (2) or (3) of subsection (a).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 41(i)(1)(B), as redesignated by subsection (a), is amended by inserting ''(in the case of the increase in the credit determined under subsection (h), December 31, 2010)'' after ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART V—GENERAL BUSINESS CREDIT

SEC. 1141. 5-YEAR CARRYBACK OF GENERAL BUSINESS CREDITS.

(a) IN GENERAL.—Subsection (a) of section 39 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR 2008 AND 2009 BUSINESS CREDITS.—In the case of any current year business credit for a taxable year ending in 2008 or 2009—

''(A) paragraph (1)(A) shall be applied by substituting 'each of the 5 taxable years' for 'the taxable year' in subparagraph (A) thereof, and

''(B) paragraph (2) shall be applied—

''(i) by substituting '25 taxable years' for '21 taxable years', and

''(ii) by substituting '24 taxable years' for '20 taxable years'.''.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after December 31, 2007, and to carrybacks of business credits from such taxable years.

SEC. 1142. TEMPORARY PROVISION ALLOWING GENERAL BUSINESS CREDITS TO OFFSET 100 PERCENT OF FEDERAL INCOME TAX LIABILITY.

(a) IN GENERAL.—Subsection (c) of section 38 is amended by adding at the end the following new paragraph:

''(6) TEMPORARY PROVISION ALLOWING GENERAL BUSINESS CREDITS TO OFFSET 100 PERCENT OF FEDERAL INCOME TAX LIABILITY.—

''(A) IN GENERAL.—In the case of a taxable year ending in 2008 or 2009—

''(i) the limitation under paragraph (1) shall be the net income tax (as defined in paragraph (1)) for purposes of determining the amount of the credit allowed under subsection (a) for such taxable year, and

''(ii) the excess credit for such taxable year shall, solely for purposes of determining the amount of such excess credit which may be carried back to a preceding taxable year, be increased by the amount of business credit carryforwards which are carried to such taxable year and which are not allowed for such taxable year by reason of the limitation under paragraph (1) (as modified by clause (i)).

''(B) INCREASE IN LIMITATION FOR TAXABLE YEARS TO WHICH EXCESS CREDITS FOR 2008 AND 2009 ARE CARRIED BACK.—

''(i) IN GENERAL.—Solely for purposes of determining the portion of any excess credit described in subparagraph (A)(ii) for which credit will be allowed under subsection (a)(3) for any preceding taxable year, the limitation under paragraph (1) for such preceding taxable year shall be the net income tax (as defined in paragraph (1)).

''(ii) ORDERING RULE.—If the excess credit described in subparagraph (A)(ii) includes business credit carryforwards from preceding taxable years, such excess credit shall be treated as allowed for any preceding taxable year on a first-in first-out basis.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2007, and to carrybacks of credits from such taxable years.

PART VI—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

SEC. 1151. APPLICATION OF MONITORING REQUIREMENTS TO CARBON DIOXIDE USED AS A TERTIARY INJECTANT.

(a) IN GENERAL.—Section 45Q(a)(2) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '',and'', and by adding at the end the following new subparagraph:

''(C) disposed of by the taxpayer in secure geological storage.''.

(b) CONFORMING AMENDMENT.—Section 45Q(d)(2) is amended by striking ''subsection (a)(1)(B)'' and inserting ''paragraph (1)(B) or (2)(C) of subsection (a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act.

PART VII—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

SEC. 1161. MODIFICATION OF CREDIT FOR QUALIFIED PLUG-IN ELECTRIC MOTOR VEHICLES.

(a) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT.—Section 30D(b)(2)(B) is amended by striking ''250,000'' and inserting ''500,000''.

(b) EXCLUSION OF NEIGHBORHOOD ELECTRIC VEHICLES FROM EXISTING CREDIT.—Section 30D(e)(1) is amended to read as follows:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means a motor vehicle (as defined in section 30(c)(2)), which is treated as a motor

vehicle for purposes of title II of the Clean Air Act.''.

(c) CREDIT FOR CERTAIN OTHER VEHICLES.—Section 30D is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and

(2) by inserting after subsection (e) the following new subsection:

''(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For purposes of this section—

''(1) IN GENERAL.—In the case of a specified vehicle, this section shall be applied with the following modifications:

''(A) For purposes of subsection (a)(1), in lieu of the applicable amount determined under subsection (a)(2), the applicable amount shall be 10 percent of so much of the cost of the specified vehicle as does not exceed $40,000.

''(B) Subsection (b) shall not apply and no specified vehicle shall be taken into account under subsection (b)(2).

''(C) Subsection (c)(3) shall not apply.

''(2) SPECIFIED VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'specified vehicle' means—

''(i) any 2- or 3- wheeled motor vehicle, or

''(ii) any low-speed motor vehicle,

which is placed in service after December 31, 2009, and before January 1, 2012.

''(B) 2- OR 3-WHEELED MOTOR VEHICLE.—The term '2- or 3-wheeled motor vehicle' means any vehicle—

''(i) which would be described in section 30(c)(2) except that it has 2 or 3 wheels,

''(ii) with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground,

''(iii) which has an electric motor that produces in excess of 5-brake horsepower,

''(iv) which draws propulsion from 1 or more traction batteries, and

''(v) which has been certified to the Department of Transportation pursuant to section 567 of title 49, Code of Federal Regulations, as conforming to all applicable Federal motor vehicle safety standards in effect on the date of the manufacture of the vehicle.

''(C) LOW-SPEED MOTOR VEHICLE.—The term 'low-speed motor vehicle' means a motor vehicle (as defined in section 30(c)(2)) which meets the requirements of section 571.500 of title 49, Code of Federal Regulations.''.

(d) EFFECTIVE DATES.—

(1) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) OTHER MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) EXTENSION OF SPECIAL ALLOWANCE.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(A) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(B) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(B) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(C) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(D) Subparagraph (C) of section 168(n)(2) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(E) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(3) TECHNICAL AMENDMENT.—Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and''.

(b) EXTENSION OF ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—Section 168(k)(4) (relating to election to accelerate the AMT and research credits in lieu of bonus depreciation) is amended—

(1) by striking ''2009'' and inserting ''2010''in subparagraph (D)(iii) (as redesignated by subsection (a)(3)), and

(2) by adding at the end the following new subparagraph:

''(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

''(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

''(I) the taxpayer may elect not to have this paragraph apply to extension property, but

''(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

''(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

''(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

''(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

''(iii) EXTENSION PROPERTY.—For purposes of this subparagraph, the term 'extension property' means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).''.

(c) INCLUSION OF FILMS OR VIDEOTAPE AS QUALIFIED PROPERTY.—

(1) IN GENERAL.—Section 168(k)(2) is amended by adding at the end the following new subparagraph:

''(H) CERTAIN FILMS.—The term 'qualified property' includes property—

''(i) which is a motion picture film or video tape (within the meaning of subsection (f)(3)) for which a deduction is allowable under section 167(a) without regard to this section,

''(ii) the original use of which commences with the taxpayer after December 31, 2008,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2008, and before January 1, 2010, but only if no written binding contract for the acquisition was in effect before January 1, 2009, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2008, and before January 1, 2010,

''(iv) which is placed in service by the taxpayer before January 1, 2010, or, in the case of property described in subparagraph (B), before January 1, 2011, and

''(v) the production of which is a qualified film or television production (as defined in section 181(d) (determined without regard to paragraph (2)(B)(ii) thereof)) with respect to which an election is not in effect under section 181.''.

(2) CONFORMING AMENDMENTS.—

(A) Subclause (I) of section 168(k)(2)(B)(i) is amended by inserting ''subparagraph (H) or'' after ''requirements of''.

(B) Subclause (II) of section 168(k)(2)(B)(i) is amended by striking ''or is transportation property'' and inserting '', is transportation property, or is property described in subparagraph (H)''.

(C) Clause (iii) of section 168(k)(2)(D) is amended by adding at the end the following new sentence: ''For purposes of the preceding sentence, all property described in subparagraph (H) shall be treated as one class of property.''.

(D) Subparagraph (E) of section 168(k)(2) is amended by adding at the end the following new clause:

''(v) APPLICATION TO FILM AND VIDEOTAPE PROPERTY.—In the case of property described in subparagraph (H), clauses (i), (ii), (iii), and (iv) of this subparagraph shall be applied—

''(I) by substituting 'December 31, 2008' for 'December 31, 2007' each place it appears, and

''(II) by treating any reference to a clause of subparagraph (A) as a reference to the corresponding clause of subparagraph (H).''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (a)(3) shall apply to taxable years ending after March 31, 2008.

SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART II—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(k) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 1212. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART III—INCENTIVES FOR NEW JOBS

SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

''(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) UNEMPLOYED VETERAN.—The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

''(I) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

''(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

''(ii) DISCONNECTED YOUTH.—The term 'disconnected youth' means any individual who is certified by the designated local agency—

''(I) as having attained age 16 but not age 25 on the hiring date,

''(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

''(III) as not regularly employed during such 6-month period, and

''(IV) as not readily employable by reason of lacking a sufficient number of basic skills.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART IV—CANCELLATION OF INDEBTEDNESS

SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

''(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.—

''(1) IN GENERAL.—Notwithstanding section 61, income from the discharge of indebtedness in connection with the repurchase of a debt instrument after December 31, 2008, and before January 1, 2011, shall be includible in gross income ratably over the 8-taxable-year period beginning with—

''(A) in the case of a repurchase occurring in 2009, the second taxable year following the taxable year in which the repurchase occurs, and

''(B) in the case of a repurchase occurring in 2010, the taxable year following the taxable year in which the repurchase occurs.

''(2) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

''(3) REPURCHASE.—For purposes of this subsection, the term 'repurchase' means, with respect to any debt instrument, a cash purchase of the debt instrument by—

''(A) the debtor which issued the debt instrument, or

''(B) any person related to such debtor.

For purposes of subparagraph (B), the determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

''(4) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate for purposes of applying this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008.

PART V—QUALIFIED SMALL BUSINESS STOCK

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1202(a) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011—

''(A) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

''(B) paragraph (2) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

SEC. 1251. INCREASED EXCLUSION AMOUNT FOR COMMUTER TRANSIT BENEFITS AND TRANSIT PASSES.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by adding at the end the following flush sentence:

''In the case of any month beginning on or after the date of the enactment of this sentence and before January 1, 2011, subparagraph (A) shall be applied as if the dollar amount therein were the same as the dollar amount under subparagraph (B) (as in effect for such month).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months beginning on or after the date of the enactment of this section.

PART VII—S CORPORATIONS

SEC. 1261. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—

''(A) IN GENERAL.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

''(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

''(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

''(i) subparagraph (A) shall be applied without regard to the phrase '10-year', and

''(ii) subparagraph (B) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART VIII—BROADBAND INCENTIVES

SEC. 1271. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48C the following new section:

''SEC. 48D. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent (20 percent in the case of qualified subscribers which are unserved subscribers) of the qualified broadband expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified broadband expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified broadband expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after December 31, 2008, and before January 1, 2011.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2008, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES FOR CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(1) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas and the unserved areas which the equipment is capable of serving with current generation broadband services, and

''(2) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 5,000,000 bits per second to the subscriber and at least 1,000,000 bits per second from the subscriber (at least 3,000,000 bits per second to the subscriber and at least 768,000 bits per second from the subscriber in the case of service through radio transmission of energy).

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 100,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 20,000,000 bits per second from the subscriber (or its equivalent as so measured).

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment any—

''(A) cable operator,

''(B) commercial mobile service carrier,

''(C) open video system operator,

''(D) satellite carrier,

''(E) telecommunications carrier, or

''(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier or broadband-over-powerline operator,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED BROADBAND EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified broadband expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2008, and before January 1, 2011.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area, an underserved area, or an unserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area , or

''(ii) any residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include any commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(26) UNSERVED AREA.—The term 'unserved area' means any census tract in which no current generation broadband services are provided, as certified by the State in which such tract is located not later than September 30, 2009.

''(27) UNSERVED SUBSCRIBER.—The term 'unserved subscriber' means any residential subscriber residing in a dwelling located in an unserved area or nonresidential subscriber maintaining a permanent place of business located in an unserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following:

''(6) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48D(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified broadband expenditures which would be determined under section 48D for such year if the mutual or cooperative telephone company was not exempt

from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding after clause (v) the following new clause:

''(vi) the portion of the basis of any qualified equipment attributable to qualified broadband expenditures under section 48D.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48C the following:

''Sec. 48D. Broadband internet access credit''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17), (23), (24), and (26) of section 48D(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48D—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any credit or portion thereof allowed under section 48D of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48D of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48D of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 48D of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48D of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2008.

PART IX—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

SEC. 1281. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

(2) Internal Revenue Service Notice 2008–83 is inconsistent with the congressional intent in enacting such section 382(m).

(3) The legal authority to prescribe Internal Revenue Service Notice 2008–83 is doubtful.

(4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008–83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation on built-in losses following an ownership change of a bank.

(b) DETERMINATION OF FORCE AND EFFECT OF INTERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING BANKS FROM LIMITATION ON CERTAIN BUILT–IN LOSSES FOLLOWING OWNERSHIP CHANGE.—

(1) IN GENERAL.—Internal Revenue Service Notice 2008–83—

(A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and

(B) shall have no force or effect with respect to any ownership change after such date.

(2) BINDING CONTRACTS.—Notwithstanding paragraph (1), Internal Revenue Service Notice 2008–83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009, if such change—

(A) is pursuant to a written binding contract entered into on or before such date, or

(B) is pursuant to a written agreement entered into on or before such date and such agreement was described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required by reason of such ownership change.

Subtitle D—Manufacturing Recovery Provisions

SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS TO FACILITIES MANUFACTURING INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) is amended—

(1) by striking ''For purposes of this paragraph, the term'' and inserting ''For purposes of this paragraph—

''(i) IN GENERAL.—The term'', and

(2) by striking the last sentence and inserting the following new clauses:

''(ii) CERTAIN FACILITIES INCLUDED.—Such term includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

''(I) such facilities are located on the same site as the manufacturing facility, and

''(II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

''(iii) SPECIAL RULES FOR BONDS ISSUED IN 2009 AND 2010.—In the case of any issue made after the date of enactment of this clause and before January 1, 2011, clause (ii) shall not apply and the net proceeds from a bond shall be considered to be used to provide a manufacturing facility if such proceeds are used to provide—

''(I) a facility which is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or

''(II) a facility which is functionally related and subordinate to a manufacturing facility (determined without regard to this subclause) if such facility is located on the same site as the manufacturing facility.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED ENERGY FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4), and by adding at the end the following new paragraph:

''(5) the qualifying advanced energy project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after October 31, 2008, or

''(ii) which is acquired by the taxpayer if the original use of such eligible property commences with the taxpayer after October 31, 2008, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

''(c) DEFINITIONS.—

''(1) QUALIFYING ADVANCED ENERGY PROJECT.—

''(A) IN GENERAL.—The term 'qualifying advanced energy project' means a project—

''(i) which re-equips, expands, or establishes a manufacturing facility for the production of property which is—

''(I) designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

''(II) designed to manufacture fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

''(III) designed to manufacture electric grids to support the transmission of intermittent sources of renewable energy,

''(IV) designed to capture and sequester carbon dioxide emissions, or

''(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies), and

''(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

''(B) EXCEPTION.—Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is part of a qualifying advanced energy project and is necessary for the production of property described in paragraph (1)(A)(i).

''(d) QUALIFYING ADVANCED ENERGY PROJECT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

''(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed $2,000,000,000.

''(2) CERTIFICATION.—

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

''(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

''(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

''(3) SELECTION CRITERIA.—In determining which qualifying advanced energy projects to certify under this section, the Secretary shall take into consideration only those projects where there is a reasonable expectation of commercial viability.

''(4) REVIEW AND REDISTRIBUTION.—

''(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

''(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

''(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

''(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

''(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualifying advanced energy project under section 48C.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

''48C. Qualifying advanced energy project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle E—Economic Recovery Tools

SEC. 1401. RECOVERY ZONE BONDS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

''PART III—RECOVERY ZONE BONDS

''Sec. 1400U–1. Allocation of recovery zone bonds.
''Sec. 1400U–2. Recovery zone economic development bonds.
''Sec. 1400U–3. Recovery zone facility bonds.

''SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.

''(a) ALLOCATIONS.—

''(1) IN GENERAL.—The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States—

''(A) by allocating 1 percent of each such limitation to each State, and

''(B) by allocating the remainder of each such limitation among the States in the proportion that each State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

''(2) 2008 STATE EMPLOYMENT DECLINE.—For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of—

''(A) the number of individuals employed in such State determined for December 2007, over

''(B) the number of individuals employed in such State determined for December 2008.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion the each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State.

''(B) LARGE MUNICIPALITIES.—For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

''(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES.—For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—There is a national recovery zone economic development bond limitation of $10,000,000,000.

''(B) RECOVERY ZONE FACILITY BONDS.—There is a national recovery zone facility bond limitation of $15,000,000,000.

''(b) RECOVERY ZONE.—For purposes of this part, the term 'recovery zone' means—

''(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress, and

''(2) any area for which a designation as an empowerment zone or renewal community is in effect.

''SEC. 1400U–2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

''(a) IN GENERAL.—In the case of a recovery zone economic development bond—

''(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

''(2) subsection (b) of such section shall be applied by substituting '40 percent' for '35 percent'.

''(b) RECOVERY ZONE ECONOMIC DEVELOPMENT BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone economic development bond' means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such

issue are to be used for one or more qualified economic development purposes, and

''(B) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U–1.

''(c) QUALIFIED ECONOMIC DEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

''(1) capital expenditures paid or incurred with respect to property located in such zone,

''(2) expenditures for public infrastructure and construction of public facilities, and

''(3) expenditures for job training and educational programs.

''SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.

''(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any recovery zone facility bond.

''(b) RECOVERY ZONE FACILITY BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone facility bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

''(B) such bond is issued before January 1, 2011, and

''(C) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

''(c) RECOVERY ZONE PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if—

''(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the recovery zone took effect,

''(B) the original use of which in the recovery zone commences with the taxpayer, and

''(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

''(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

''(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

''(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

''(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

''(d) NONAPPLICATION OF CERTAIN RULES.—Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

''PART III. RECOVERY ZONE BONDS.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end the following new subsection:

''(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

''(1) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

''(B) NATIONAL LIMITATION.—There is a national tribal economic development bond limitation of $2,000,000,000.

''(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of a tribal economic development bond—

''(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

''(B) the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and

''(C) section 146 shall not apply.

''(3) TRIBAL ECONOMIC DEVELOPMENT BOND.—

''(A) IN GENERAL.—For purposes of this section, the term 'tribal economic development bond' means any bond issued by an Indian tribal government—

''(i) the interest on which would be exempt from tax under section 103 if issued by a State or local government, and

''(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

''(B) EXCEPTIONS.—The term tribal economic development bond shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

''(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

''(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

''(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).''.

(b) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the effects of the amendment made by subsection (a). Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the study conducted under this paragraph, including the Secretary's recommendations regarding such amendment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1403. MODIFICATIONS TO NEW MARKETS TAX CREDIT.

(a) INCREASE IN NATIONAL LIMITATION.—

(1) IN GENERAL.—Section 45D(f)(1) is amended—

(A) by striking ''and'' at the end of subparagraph (C),

(B) by striking '', 2007, 2008, and 2009.'' in subparagraph (D), and inserting ''and 2007,'', and

(C) by adding at the end the following new subparagraphs:

''(E) $5,000,000,000 for 2008, and

''(F) $5,000,000,000 for 2009.''.

(2) SPECIAL RULE FOR ALLOCATION OF INCREASED 2008 LIMITATION.—The amount of the increase in the new markets tax credit limitation for calendar year 2008 by reason of the amendments made by subsection (a) shall be allocated in accordance with section 45D(f)(2) of the Internal Revenue Code of 1986 to qualified community development entities (as defined in section 45D(c) of such Code) which—

(A) submitted an allocation application with respect to calendar year 2008, and

(B)(i) did not receive an allocation for such calendar year, or

(ii) received an allocation for such calendar year in an amount less than the amount requested in the allocation application.

(b) ALTERNATIVE MINIMUM TAX RELIEF.—

(1) IN GENERAL.—Section 38(c)(4)(B) is amended by redesignating clauses (v) through (viii) as clauses (vi) through (ix), respectively, and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 45D to the extent that such credit is attributable to a qualified equity investment which is designated as such under section 45D(b)(1)(C) pursuant to an allocation of the new markets tax credit limitation for calendar year 2009,''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to credits determined under section 45D of the Internal Revenue Code of 1986 in taxable years ending after the date of the enactment of this Act, and to carrybacks of such credits.

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

''(A) IN GENERAL.—In applying paragraph (2)(A), there shall not be taken into account tax-exempt obligations issued during 2009 or 2010.

''(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

''(C) REFUNDINGS.—For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: ''That portion of any obligation not taken into account under paragraph

(2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010.—

''(i) INCREASE IN LIMITATION.—In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '$30,000,000' for '$10,000,000'.

''(ii) QUALIFIED 501(c)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

''(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS.—In the case of a qualified financing issue issued during 2009 or 2010—

''(I) subparagraph (F) shall not apply, and

''(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).

''(iv) QUALIFIED FINANCING ISSUE.—For purposes of this subparagraph, the term 'qualified financing issue' means any composite, pooled, or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to 1 or more ultimate borrowers each of whom is a qualified borrower.

''(v) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

''(vi) QUALIFIED BORROWER.—For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

''(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DURING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 142(i) is amended by striking ''operate at speeds in excess of'' and inserting ''be capable of attaining a maximum speed in excess of''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

PART III—TAX CREDIT BONDS FOR SCHOOLS

SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

''(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

''(3) the issuer designates such bond for purposes of this section.

''(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under subsection (d) for such calendar year to such issuer.

''(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

''(1) $5,000,000,000 for 2009,

''(2) $5,000,000,000 for 2010, and

''(3) except as provided in subsection (e), zero after 2010.

''(d) LIMITATION ALLOCATED AMONG STATES.—

''(1) IN GENERAL.—The limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

''(2) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the amount allocated to such State under this subsection for such year is not less than an amount equal to such State's adjusted minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

''(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is equal to the product of—

''(i) the quotient of—

''(I) the amount the State is eligible to receive under section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(d)) for the most recent fiscal year ending before such calendar year, divided by

''(II) the amount all States are eligible to receive under section 1124 of such Act (20 U.S.C. 6333) for such fiscal year, multiplied by

''(ii) 100.

''(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

''(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2009, and $200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

''(e) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(1) the amount allocated under subsection (d) to any State, exceeds

''(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended by striking ''or'' at the end of subparagraph (C), by inserting ''or'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) a qualified school construction bond,''.

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end

of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54F. Qualified school construction bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Section 54E(c)(1) is amended by striking ''and 2009'' and inserting ''and $1,400,000,000 for 2009 and 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART IV—BUILD AMERICA BONDS

SEC. 1531. BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 is amended by adding at the end the following new subpart:

''Subpart J—Build America Bonds

''Sec. 54AA. Build America bonds.

''SEC. 54AA. BUILD AMERICA BONDS.

''(a) IN GENERAL.—If a taxpayer holds a build America bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is 35 percent of the amount of interest payable by the issuer with respect to such date.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

''(d) BUILD AMERICA BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'build America bond' means any obligation (other than a private activity bond) if—

''(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

''(B) such obligation is issued before January 1, 2012, and

''(C) the issuer makes an irrevocable election to have this section apply.

''(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

''(A) a build America bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6431,

''(B) the yield on a build America bond shall be determined without regard to the credit allowed under subsection (a), and

''(C) a bond shall not be treated as a build America bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

''(e) INTEREST PAYMENT DATE.—For purposes of this section, the term 'interest payment date' means any date on which the holder of record of the build America bond is entitled to a payment of interest under such bond.

''(f) SPECIAL RULES.—

''(1) INTEREST ON BUILD AMERICA BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—For purposes of this title, interest on any build America bond shall be includible in gross income.

''(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).

''(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED BEFORE 2011.—In the case of a qualified bond issued before January 1, 2011—

''(1) ISSUER ALLOWED REFUNDABLE CREDIT.—In lieu of any credit allowed under this section with respect to such bond, the issuer of such bond shall be allowed a credit as provided in section 6431.

''(2) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' means any build America bond issued as part of an issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for capital expenditures, and

''(B) the issuer makes an irrevocable election to have this subsection apply.

''(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6431.''.

(b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE 2011.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

''SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

''(a) IN GENERAL.—In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

''(b) PAYMENT OF CREDIT.—The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

''(c) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

''(d) INTEREST PAYMENT DATE.—For purposes of this subsection, the term 'interest payment date' means each date on which interest is payable by the issuer under the terms of the bond.

''(e) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' has the meaning given such term in section 54AA(g).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or 6428'' and inserting ''6428, or 6431,''.

(2) Section 54A(c)(1)(B) is amended by striking ''subpart C'' and inserting ''subparts C and J''.

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking ''and I'' and inserting '', I, and J''.

(4) Section 6401(b)(1) is amended by striking ''and I'' and inserting ''I, and J''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart J. Build America bonds.''.

(6) The table of section for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6431. Credit for qualified bonds allowed to issuer.''.

(d) TRANSITIONAL COORDINATION WITH STATE LAW.—Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any build America bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle G—Economic Recovery Payments to Certain Individuals

SEC. 1601. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS.

(a) AUTHORITY TO MAKE PAYMENTS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Subject to paragraph (5)(B), the Secretary of the Treasury shall make a $300 payment to each individual who, for any month during the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of this Act, is entitled to a benefit payment described in clause (i), (ii), or (iii) of subparagraph (B) or is eligible for a SSI cash benefit described in subparagraph (C).

(B) BENEFIT PAYMENT DESCRIBED.—For purposes of subparagraph (A):

(i) TITLE II BENEFIT.—A benefit payment described in this clause is a monthly insurance benefit payable (without regard to sections 202(j)(1) and 223(b) of the Social Security Act (42 U.S.C. 402(j)(1), 423(b)) under—

(I) section 202(a) of such Act (42 U.S.C. 402(a));

(II) section 202(b) of such Act (42 U.S.C. 402(b));

(III) section 202(c) of such Act (42 U.S.C. 402(c));

(IV) section 202(d)(1)(B)(ii) of such Act (42 U.S.C. 402(d)(1)(B)(ii));

(V) section 202(e) of such Act (42 U.S.C. 402(e));

(VI) section 202(f) of such Act (42 U.S.C. 402(f));

(VII) section 202(g) of such Act (42 U.S.C. 402(g));

(VIII) section 202(h) of such Act (42 U.S.C. 402(h));

(IX) section 223(a) of such Act (42 U.S.C. 423(a));

(X) section 227 of such Act (42 U.S.C. 427); or

(XI) section 228 of such Act (42 U.S.C. 428).

(ii) RAILROAD RETIREMENT BENEFIT.—A benefit payment described in this clause is a monthly annuity or pension payment payable (without regard to section 5(a)(ii) of the

Railroad Retirement Act of 1974 (45 U.S.C. 231d(a)(ii)) under—

(I) section 2(a)(1) of such Act (45 U.S.C. 231a(a)(1));

(II) section 2(c) of such Act (45 U.S.C. 231a(c));

(III) section 2(d)(1)(i) of such Act (45 U.S.C. 231a(d)(1)(i));

(IV) section 2(d)(1)(ii) of such Act (45 U.S.C. 231a(d)(1)(ii));

(V) section 2(d)(1)(iii)(C) of such Act to an adult disabled child (45 U.S.C. 231a(d)(1)(iii)(C));

(VI) section 2(d)(1)(iv) of such Act (45 U.S.C. 231a(d)(1)(iv));

(VII) section 2(d)(1)(v) of such Act (45 U.S.C. 231a(d)(1)(v)); or

(VIII) section 7(b)(2) of such Act (45 U.S.C. 231f(b)(2)) with respect to any of the benefit payments described in clause (i) of this subparagraph.

(iii) VETERANS BENEFIT.—A benefit payment described in this clause is a compensation or pension payment payable under—

(I) section 1110, 1117, 1121, 1131, 1141, or 1151 of title 38, United States Code;

(II) section 1310, 1312, 1313, 1315, 1316, or 1318 of title 38, United States Code;

(III) section 1513, 1521, 1533, 1536, 1537, 1541, 1542, or 1562 of title 38, United States Code; or

(IV) section 1805, 1815, or 1821 of title 38, United States Code,

to a veteran, surviving spouse, child, or parent as described in paragraph (2), (3), (4)(A)(ii), or (5) of section 101, title 38, United States Code, who received that benefit during any month within the 3 month period ending with the month which ends prior to the month that includes the date of the enactment of this Act.

(C) SSI CASH BENEFIT DESCRIBED.—A SSI cash benefit described in this subparagraph is a cash benefit payable under section 1611 (other than under subsection (e)(1)(B) of such section) or 1619(a) of the Social Security Act (42 U.S.C. 1382, 1382h).

(2) REQUIREMENT.—A payment shall be made under paragraph (1) only to individuals who reside in 1 of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, or the Northern Mariana Islands. For purposes of the preceding sentence, the determination of the individual's residence shall be based on the current address of record under a program specified in paragraph (1).

(3) NO DOUBLE PAYMENTS.—An individual shall be paid only 1 payment under this section, regardless of whether the individual is entitled to, or eligible for, more than 1 benefit or cash payment described in paragraph (1).

(4) LIMITATION.—A payment under this section shall not be made—

(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if, for the most recent month of such individual's entitlement in the 3-month period described in paragraph (1), such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a-8a);

(B) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(iii) if, for the most recent month of such individual's entitlement in the 3 month period described in paragraph (1), such individual's benefit under such paragraph was not payable, or was reduced, by reason of section 1505, 5313, or 5313B of title 38, United States Code;

(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if, for such most recent month, such individual's benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a-8a); or

(D) in the case of any individual whose date of death occurs before the date on which the individual is certified under subsection (b) to receive a payment under this section.

(5) TIMING AND MANNER OF PAYMENTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall commence making payments under this section at the earliest practicable date but in no event later than 120 days after the date of enactment of this Act. The Secretary of the Treasury may make any payment electronically to an individual in such manner as if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of paragraph (1).

(B) DEADLINE.—No payments shall be made under this section after December 31, 2010, regardless of any determinations of entitlement to, or eligibility for, such payments made after such date.

(b) IDENTIFICATION OF RECIPIENTS.—The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of Veterans Affairs shall certify the individuals entitled to receive payments under this section and provide the Secretary of the Treasury with the information needed to disburse such payments. A certification of an individual shall be unaffected by any subsequent determination or redetermination of the individual's entitlement to, or eligibility for, a benefit specified in subparagraph (B) or (C) of subsection (a)(1).

(c) TREATMENT OF PAYMENTS.—

(1) PAYMENT TO BE DISREGARDED FOR PURPOSES OF ALL FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—A payment under subsection (a) shall not be regarded as income and shall not be regarded as a resource for the month of receipt and the following 9 months, for purposes of determining the eligibility of the recipient (or the recipient's spouse or family) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(2) PAYMENT NOT CONSIDERED INCOME FOR PURPOSES OF TAXATION.—A payment under subsection (a) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(3) PAYMENTS PROTECTED FROM ASSIGNMENT.—The provisions of sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407, 1383(d)(1)), section 14(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(a)), and section 5301 of title 38, United States Code, shall apply to any payment made under subsection (a) as if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of subsection (a)(1).

(4) PAYMENTS SUBJECT TO OFFSET.—Notwithstanding paragraph (3), for purposes of section 3716 of title 31, United States Code, any payment made under this section shall not be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1) and all amounts paid shall be subject to offset to collect delinquent debts.

(d) PAYMENT TO REPRESENTATIVE PAYEES AND FIDUCIARIES.—

(1) IN GENERAL.—In any case in which an individual who is entitled to a payment under subsection (a) and whose benefit payment or cash benefit described in paragraph (1) of that subsection is paid to a representative payee or fiduciary, the payment under subsection (a) shall be made to the individual's representative payee or fiduciary and the entire payment shall be used only for the benefit of the individual who is entitled to the payment.

(2) APPLICABILITY.—

(A) PAYMENT ON THE BASIS OF A TITLE II OR SSI BENEFIT.—Section 1129(a)(3) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(i) or (1)(C) of subsection (a) in the same manner as such section applies to a payment under title II or XVI of such Act.

(B) PAYMENT ON THE BASIS OF A RAILROAD RETIREMENT BENEFIT.—Section 13 of the Railroad Retirement Act (45 U.S.C. 2311) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(ii) of subsection (a) in the same manner as such section applies to a payment under such Act.

(C) PAYMENT ON THE BASIS OF A VETERANS BENEFIT.—Sections 5502, 6106, and 6108 of title 38, United States Code, shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(iii) of subsection (a) in the same manner as those sections apply to a payment under that title.

(e) APPROPRIATION.—Out of any sums in the Treasury of the United States not otherwise appropriated, the following sums are appropriated for the period of fiscal years 2009 and 2010 to carry out this section:

(1) For the Secretary of the Treasury—

(A) such sums as may be necessary to make payments under this section; and

(B) $57,000,000 for administrative costs incurred in carrying out this section and section 36A of the Internal Revenue Code of 1986 (as added by this Act).

(2) For the Commissioner of Social Security, $90,000,000 for the Social Security Administration's Limitation on Administrative Expenses for costs incurred in carrying out this section.

(3) For the Railroad Retirement Board, $1,000,000 for administrative costs incurred in carrying out this section.

(4) For the Secretary of Veterans Affairs, $100,000 for the Information Systems Technology account and $7,100,000 for the General Operating Expenses account for administrative costs incurred in carrying out this section.

Subtitle H—Trade Adjustment Assistance

SEC. 1701. TEMPORARY EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) ASSISTANCE FOR WORKERS.—

(1) IN GENERAL.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2010''.

(2) ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.—Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking ''5 years'' and inserting ''7 years''.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''2007, and $4,000,000 for the 3-month period beginning on October 1, 2007,'' and inserting ''December 31, 2010''.

(c) ASSISTANCE FOR FARMERS.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking ''through 2007'' and all that follows through the end period and inserting ''through December 31, 2010 to carry out the purposes of this chapter.''.

(d) EXTENSION OF TERMINATION DATES.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by striking ''December 31, 2007'' each place it appears and inserting ''December 31, 2010''.

(e) SENSE OF THE SENATE REGARDING ADJUSTMENT ASSISTANCE FOR COMMUNITIES.—It is the sense of the Senate that title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) should be amended to assist any community impacted by trade with economic adjustment through—

(1) the coordination of efforts by State and local governments and economic organizations;

(2) the coordination of Federal, State, and local resources;

(3) the creation of community-based development strategies; and

(4) the development and provision of training programs.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 2008.

Subtitle I—Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

SEC. 1801. PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may—

(1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or

(2) offset any past, current, or future distributions of antidumping or countervailing duties assessed with respect to imports from countries that are not parties to the North American Free Trade Agreement in an attempt to recoup any payments described in subsection (b).

(b) PAYMENTS DESCRIBED.—Payments described in this subsection are payments of antidumping or countervailing duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 154))) that were—

(1) assessed and paid on imports of goods from countries that are parties to the North American Free Trade Agreement; and

(2) distributed on or after January 1, 2001, and before January 1, 2006.

(c) PAYMENT OF FUNDS COLLECTED OR WITHHELD.—Not later than the date that is 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) refund any repayments, or any other recoupment, of payments described in subsection (b); and

(2) fully distribute any antidumping or countervailing duties that the U.S. Customs and Border Protection is withholding as an offset as described in subsection (a)(2).

(d) LIMITATION.—Nothing in this section shall be construed to prevent the Secretary of Homeland Security, or any other person, from requiring repayment of, or attempting to otherwise recoup, any payments described in subsection (b) as a result of—

(1) a finding of false statements or other misconduct by a recipient of such a payment; or

(2) the reliquidation of an entry with respect to which such a payment was made.

Subtitle J—Other Provisions

SEC. 1901. APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS.

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

(5) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

SEC. 1902. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting ''$12,140,000,000,000''.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Assistance for Unemployed Workers and Struggling Families Act''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Unemployment Insurance

SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) FEDERAL-STATE AGREEMENTS.—Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (hereinafter in this section referred to as the ''Secretary''). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) ADDITIONAL COMPENSATION.—Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this paragraph) plus an additional $25.

(2) ALLOWABLE METHODS OF PAYMENT.—Any additional compensation provided for in accordance with paragraph (1) shall be payable either—

(A) as an amount which is paid at the same time and in the same manner as any regular compensation otherwise payable for the week involved; or

(B) at the option of the State, by payments which are made separately from, but on the same weekly basis as, any regular compensation otherwise payable.

(c) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts

attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

(d) PAYMENTS TO STATES.—

(1) IN GENERAL.—

(A) FULL REIMBURSEMENT.—There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of additional compensation (as described in subsection (b)(1)) paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) TERMS OF PAYMENTS.—Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010.—In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION.—Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

(f) FRAUD AND OVERPAYMENTS.—The provisions of section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2356) shall apply with respect to additional compensation (as described in subsection (b)(1)) to the same extent and in the same manner as in the case of emergency unemployment compensation.

(g) APPLICATION TO OTHER UNEMPLOYMENT BENEFITS.—

(1) IN GENERAL.—Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (i)(3) to the same extent and in the same manner as if those benefits were regular compensation.

(2) ELIGIBILITY AND TERMINATION RULES.—Additional compensation (as described in subsection (b)(1))—

(A) shall not be payable, pursuant to this subsection, with respect to any unemployment benefits described in subsection (i)(3) for any week beginning on or after the date specified in subsection (e)(1)(B), except in the case of an individual who was eligible to receive additional compensation (as so described) in connection with any regular compensation or any unemployment benefits described in subsection (i)(3) for any period of unemployment ending before such date; and

(B) shall in no event be payable for any week beginning after the date specified in subsection (e)(3).

(h) DISREGARD OF ADDITIONAL COMPENSATION FOR PURPOSES OF MEDICAID AND SCHIP.—A State that enters into an agreement under this section shall disregard the monthly equivalent of $25 per week for any individual who receives additional compensation under subsection (b)(1) in considering the amount of income of the individual for any purposes under the Medicaid program under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act.

(i) DEFINITIONS.—For purposes of this section—

(1) the terms ''compensation'', ''regular compensation'', ''benefit year'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note);

(2) the term ''emergency unemployment compensation'' means emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2353); and

(3) any reference to unemployment benefits described in this paragraph shall be considered to refer to—

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970); and

(B) unemployment compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary.

SEC. 2003. UNEMPLOYMENT COMPENSATION MODERNIZATION.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''Special Transfers for Modernization

''(f)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter 'incentive payments') to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with succeeding provisions of this subsection.

''(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

''(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State—

''(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

''(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

''(2) The State law of a State meets the requirements of this paragraph if such State law—

''(A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation; or

''(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

''(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

''(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time (and not full-time) work, except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work.

''(B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term 'compelling family reason' means the following:

''(i) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).

''(ii) The illness or disability of a member of the individual's immediate family (as defined by the Secretary of Labor).

''(iii) The need for the individual to accompany such individual's spouse—

''(I) to a place from which it is impractical for such individual to commute; and

''(II) due to a change in location of the spouse's employment.

''(C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of

1998. Such programs shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

''(D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has any dependents (as defined by State law), in an amount equal to at least $15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than $50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less).

''(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after the date of the enactment of this subsection prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

''(B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.

''(ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

''(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

''(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

''(iii) No application under subparagraph (A) may be considered if submitted before the date of the enactment of this subsection or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2010. In the case of a State in which the first day of the first regularly scheduled session of the State legislature beginning after the date of enactment of this subsection begins after December 31, 2010, the preceding sentence shall be applied by substituting 'October 1, 2011' for 'October 1, 2010' .

''(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

''(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

''(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve $7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 902, 910, or 1203 of the amount in the Federal unemployment account as of any given time. Any amount so reserved for which the Secretary of the Treasury has not received a certification under paragraph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2011, become unrestricted as to use as part of the Federal unemployment account.

''(7) For purposes of this subsection, the terms 'benefit year', 'base period', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

''(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

''(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(D) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

SEC. 2004. TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.

Section 1202(b) of the Social Security Act (42 U.S.C. 1322(b)) is amended by adding at the end the following new paragraph:

''(10)(A) With respect to the period beginning on the date of enactment of this paragraph and ending on December 31, 2010—

''(i) any interest payment otherwise due from a State under this subsection during such period shall be deemed to have been made by the State; and

''(ii) no interest shall accrue on any advance or advances made under section 1201 to a State during such period.

''(B) The provisions of subparagraph (A) shall have no effect on the requirement for interest payments under this subsection after the period described in such subparagraph or on the accrual of interest under this subsection after such period.''.

Subtitle B—Assistance for Vulnerable Individuals

SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.

(a) TEMPORARY FUND.—

(1) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end the following:

''(c) EMERGENCY FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund which shall be known as the 'Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs' (in this subsection referred to as the 'Emergency Fund').

''(2) DEPOSITS INTO FUND.—

''(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2009, $3,000,000,000 for payment to the Emergency Fund.

''(B) AVAILABILITY AND USE OF FUNDS.—The amounts appropriated to the Emergency Fund under subparagraph (A) shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with the requirements of paragraph (3).

''(C) LIMITATION.—In no case may the Secretary make a grant from the Emergency Fund for a fiscal year after fiscal year 2010.

''(3) GRANTS.—

''(A) GRANT RELATED TO CASELOAD INCREASES.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) CASELOAD INCREASE REQUIREMENT.—A State meets the requirement of this clause

for a quarter if the average monthly assistance caseload of the State for the quarter exceeds the average monthly assistance caseload of the State for the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be 80 percent of the amount (if any) by which the total expenditures of the State for basic assistance (as defined by the Secretary) in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total expenditures of the State for such assistance for the corresponding quarter in the emergency fund base year of the State.

''(B) GRANT RELATED TO INCREASED EXPENDITURES FOR NON-RECURRENT SHORT TERM BENEFITS.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) NON-RECURRENT SHORT TERM EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for non-recurrent short term benefits in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State for non-recurrent short term benefits in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(C) GRANT RELATED TO INCREASED EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) SUBSIDIZED EMPLOYMENT EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for subsidized employment in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total of such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(4) AUTHORITY TO MAKE NECESSARY ADJUSTMENTS TO DATA AND COLLECT NEEDED DATA.—In determining the size of the caseload of a State and the expenditures of a State for basic assistance, non-recurrent short-term benefits, and subsidized employment, during any period for which the State requests funds under this subsection, and during the emergency fund base year of the State, the Secretary may make appropriate adjustments to the data to ensure that the data reflect expenditures under the State program funded under this part and qualified State expenditures. The Secretary may develop a mechanism for collecting expenditure data, including procedures which allow States to make reasonable estimates, and may set deadlines for making revisions to the data.

''(5) LIMITATION.—The total amount payable to a single State under subsection (b) and this subsection for a fiscal year shall not exceed 25 percent of the State family assistance grant.

''(6) LIMITATIONS ON USE OF FUNDS.—A State to which an amount is paid under this subsection may use the amount only as authorized by section 404.

''(7) TIMING OF IMPLEMENTATION.—The Secretary shall implement this subsection as quickly as reasonably possible, pursuant to appropriate guidance to States.

''(8) DEFINITIONS.—In this subsection:

''(A) AVERAGE MONTHLY ASSISTANCE CASELOAD DEFINED.—The term 'average monthly assistance caseload' means, with respect to a State and a quarter, the number of families receiving assistance during the quarter under the State program funded under this part or as qualified State expenditures, subject to adjustment under paragraph (4).

''(B) EMERGENCY FUND BASE YEAR.—

''(i) IN GENERAL.—The term 'emergency fund base year' means, with respect to a State and a category described in clause (ii), whichever of fiscal year 2007 or 2008 is the fiscal year in which the amount described by the category with respect to the State is the lesser.

''(ii) CATEGORIES DESCRIBED.—The categories described in this clause are the following:

''(I) The average monthly assistance caseload of the State.

''(II) The total expenditures of the State for non-recurrent short term benefits, whether under the State program funded under this part or as qualified State expenditures.

''(III) The total expenditures of the State for subsidized employment, whether under the State program funded under this part or as qualified State expenditures.

''(C) QUALIFIED STATE EXPENDITURES.—The term 'qualified State expenditures' has the meaning given the term in section 409(a)(7).''.

(2) REPEAL.—Effective October 1, 2010, subsection (c) of section 403 of the Social Security Act (42 U.S.C. 603) (as added by paragraph (1)) is repealed.

(b) TEMPORARY MODIFICATION OF CASELOAD REDUCTION CREDIT.—Section 407(b)(3)(A)(i) of such Act (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting ''(or if the immediately preceding fiscal year is fiscal year 2008, 2009, or 2010, then, at State option, during the emergency fund base year of the State with respect to the average monthly assistance caseload of the State (within the meaning of section 403(c)(8)(B), except that, if a State elects such option for fiscal year 2008, the emergency fund base year of the State with respect to such caseload shall be fiscal year 2007))'' before ''under the State''.

(c) DISREGARD FROM LIMITATION ON TOTAL PAYMENTS TO TERRITORIES.—Section 1108(a)(2) of the Social Security Act (42 U.S.C. 1308(a)(2)) is amended by inserting ''403(c)(3),'' after ''403(a)(5),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.

(a) EXTENSION THROUGH FISCAL YEAR 2010.—Section 7101(a) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 135), as amended by section 301(a) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''fiscal year 2009'' and inserting ''fiscal year 2010''.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended to read as follows:

''(ii) subparagraph (G) shall be applied as if 'fiscal year 2010' were substituted for 'fiscal year 2001'; and''.

SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS TO PROVIDE TANF BENEFITS AND SERVICES.

Section 404(e) of the Social Security Act (42 U.S.C. 604(e)) is amended to read as follows:

''(e) AUTHORITY TO CARRY OVER CERTAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FUTURE CONTINGENCIES.—A State or tribe may use a grant made to the State or tribe under this part for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part.''.

SEC. 2104. TEMPORARY REINSTATEMENT OF AUTHORITY TO PROVIDE FEDERAL MATCHING PAYMENTS FOR STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

During the period that begins on October 1, 2008, and ends on December 31, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied without regard to the amendment made by section 7309(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 147).

TITLE III—HEALTH INSURANCE ASSISTANCE

SEC. 3000. TABLE OF CONTENTS OF TITLE.

The table of contents for this title is as follows:

TITLE III—HEALTH INSURANCE ASSISTANCE

Subtitle A—Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

(b) PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR UNEMPLOYED WORKERS AND THEIR FAMILIES.—

(1) PROVISION OF PREMIUM ASSISTANCE.—

(A) REDUCTION OF PREMIUMS PAYABLE.—In the case of any premium for a month of coverage beginning after the date of the enactment of the Act for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays 35 percent of the amount of such premium (as determined without regard to this subsection).

(B) PLAN ENROLLMENT OPTION.—

(i) IN GENERAL.—Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in coverage under a plan offered by the employer involved, or the employee organization involved (including, for this purpose, a joint board of trustees of a multiemployer trust affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

(III) the different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time at which such election is made; and

(IV) the different coverage is not—

(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

(bb) a health flexible spending account or health reimbursement arrangement; or

(cc) coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

(C) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6432 of the Internal Revenue Code of 1986, as added by paragraph (12).

(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a health reimbursement arrangement or a health flexible spending arrangement, or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof)) or is eligible for benefits under title XVIII of the Social Security Act; or

(ii) the earliest of—

(I) the date which is 9 months after the first day of first month that paragraph (1)(A) applies with respect to such individual,

(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ''assistance eligible individual'' means any qualified beneficiary if—

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—Notwithstanding section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who is a qualified beneficiary described in paragraph (3)(A) as of the date of the enactment of this Act and has not made the election referred to in paragraph (3)(B) as of such date, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the 60-day period commencing with the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

(i) shall commence on the date of the enactment of this Act, and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

(i) beginning on the date of the qualifying event, and

(ii) ending with the day before the date of the enactment of this Act,

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan by reason of such individual's ineligibility for COBRA continuation coverage, the Secretary of Labor (or the Secretary of Health and Human services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual's eligibility within 10 business days after receipt of such individual's application for review under this paragraph.

(6) DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible individual under this subsection shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.

(7) NOTICES TO INDIVIDUALS.—

(A) GENERAL NOTICE.—

(i) IN GENERAL.—In the case of notices provided under section 606(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of—

(I) the availability of premium reduction with respect to such coverage under this subsection; and

(II) the option to enroll in different coverage if an employer that permits assistance eligible individuals to elect enrollment in different coverage (as described in paragraph (1)(B)).

(ii) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in coordination with administrators of the group health plans (or other entities)

that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

(iii) FORM.—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(B) SPECIFIC REQUIREMENTS.—Each additional notification under subparagraph (A) shall include—

(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided for failure to so notify the plan,

(v) a description, displayed in a prominent manner, of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium; and

(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B).

(C) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of an individual described in paragraph (3)(A) who has elected COBRA continuation coverage as of the date of enactment of this Act or an individual described in paragraph (4)(A), the administrator of the group health plan (or other person) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A).

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph.

(8) SAFEGUARDS.—The Secretary of the Treasury shall provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this subsection.

(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on website of the Departments of Labor, Treasury, and Health and Human Services.

(10) DEFINITIONS.—For purposes of this subsection—

(A) ADMINISTRATOR.—The term ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974

(B) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage. Such term does not include coverage under a health flexible spending arrangement.

(C) COBRA CONTINUATION PROVISION.—The term ''COBRA continuation provision'' means the provisions of law described in subparagraph (B).

(D) COVERED EMPLOYEE.—The term ''covered employee'' has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974.

(E) QUALIFIED BENEFICIARY.—The term ''qualified beneficiary'' has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(11) REPORTS.—

(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

(i) the number of individuals provided such assistance as of the date of the report; and

(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes—

(i) the number of individuals provided premium reduction under this section;

(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

(12) COBRA PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6432. COBRA PREMIUM ASSISTANCE.

''(a) IN GENERAL.—The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed for the amount of premiums not paid by plan beneficiaries by reason of section 3001(b) of the American Recovery and Reinvestment Act of 2009. Such amount shall be treated as a credit against the requirement of such person to make deposits of payroll taxes and the liability of such person for payroll taxes. To the extent that such amount exceeds the amount of such taxes, the Secretary shall pay to such person the amount of such excess. No payment may be made under this subsection to a person with respect to any assistance eligible individual until after such person has received the reduced premium from such individual required under section 3001(a)(1)(A) of such Act.

''(b) PAYROLL TAXES.—For purposes of this section, the term 'payroll taxes' means—

''(1) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding),

''(2) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

''(3) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

''(c) TREATMENT OF CREDIT.—Except as otherwise provided by the Secretary, the credit described in subsection (a) shall be applied as though the employer had paid to the Secretary, on the day that the qualified beneficiary's premium payment is received, an amount equal to such credit.

''(d) TREATMENT OF PAYMENT.—For purposes of section 1324(b)(2) of title 31, United States Code, any payment under this subsection shall be treated in the same manner as a refund of the credit under section 35.

''(e) REPORTING.—

''(1) IN GENERAL.—Each person entitled to reimbursement under subsection (a) for any period shall submit such reports as the Secretary may require, including—

''(A) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a), and

''(B) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated offsets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a).

''(2) TIMING OF REPORTS RELATING TO AMOUNT OF PAYROLL TAXES.—Reports required under paragraph (1)(B) shall be submitted at the same time as deposits of taxes imposed by chapters 21, 22, and 24 or at such time as is specified by the Secretary.

''(f) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including the requirement to report information or the establishment of other methods for verifying the correct amounts of payments and credits under this section, and the application of this section to group health plans which are multiemployer plans.''.

(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—In determining any amount transferred or appropriated to any fund under the Social Security Act, section 6432 of the Internal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6432. COBRA premium assistance.''.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(E) SPECIAL RULE.—

(i) IN GENERAL.—In the case of an assistance eligible individual who pays the full premium amount required for COBRA continuation coverage for any month during the 60-day period beginning on the first day of the first month after the date of enactment of this Act, the person to whom such payment is made shall—

(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (b)(1)(A); or

(II) provide credit to the individual for such amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

(ii) REIMBURSING EMPLOYER.—A person to which clause (i) applies shall be reimbursed as provided for in section 6432 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

(iii) PAYMENT OR CREDITS.—Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of the credit outstanding shall be made to the individual within 60 days of such day.

(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR COBRA PREMIUM ASSISTANCE.

''(a) IN GENERAL.—Any person required to notify a group health plan under section 3001(a)(2)(C) of the American Recovery and Reinvestment Act of 2009 who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of 110 percent of the premium reduction provided under such section after termination of eligibility under such subsection.

''(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(B) CLERICAL AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

''Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to failures occurring after the date of the enactment of this Act.

(14) COORDINATION WITH HCTC.—

(A) IN GENERAL.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

''(9) COBRA PREMIUM ASSISTANCE.—In the case of an assistance eligible individual who receives premium reduction for COBRA continuation coverage under section 3001(a) of the American Recovery and Reinvestment Act of 2009 for any month during the taxable year, such individual shall not be treated as an eligible individual, a certified individual, or a qualifying family member for purposes of this section or section 7527 with respect to such month.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139B the following new section:

"SEC. 139C. COBRA PREMIUM ASSISTANCE.

''In the case of an assistance eligible individual (as defined in section 3001 of the American Recovery and Reinvestment Act of 2009), gross income does not include any premium reduction provided under subsection (a) of such section.''.

(B) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

''Sec. 139C. COBRA premium assistance.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Transitional Medical Assistance (TMA)

SEC. 3101. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

(a) 18-MONTH EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''December 31, 2010''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 2009.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 of the Social Security Act (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting ''but subject to paragraph (5)'' after ''Notwithstanding any other provision of this title'';

(2) by adding at the end of subsection (a) the following:

''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.''; and

(3) in subsection (b)(1), by inserting ''but subject to subsection (a)(5)'' after ''Notwithstanding any other provision of this title''.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting ''subparagraph (B) and'' before ''paragraph (5)'';

(2) by redesignating the matter after ''REQUIREMENT.—'' as a subparagraph (A) with the heading ''IN GENERAL.—'' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

''(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

''(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

''(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

''(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on July 1, 2009.

Subtitle C—Extension of the Qualified Individual (QI) Program

SEC. 3201. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''December 2009'' and inserting ''December 2010''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (K);

(B) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(M) for the period that begins on January 1, 2010, and ends on September 30, 2010, the total allocation amount is $412,500,000; and

''(N) for the period that begins on October 1, 2010, and ends on December 31, 2010, the total allocation amount is $150,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (L)'' and inserting ''(L), or (N)''.

Subtitle D—Other Provisions

SEC. 3301. PREMIUMS AND COST SHARING PROTECTIONS UNDER MEDICAID, ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND CHIP, AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.

(a) PREMIUMS AND COST SHARING PROTECTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''and (i)'' and inserting '', (i), and (j)''; and

(B) by adding at the end the following new subsection:

''(j) NO PREMIUMS OR COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN HEALTH PROGRAMS OR THROUGH REFERRAL UNDER CONTRACT HEALTH SERVICES.—

''(1) NO COST SHARING FOR ITEMS OR SERVICES FURNISHED TO INDIANS THROUGH INDIAN HEALTH PROGRAMS.—

''(A) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made under this title.

''(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under contract health services for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.''.

(2) CONFORMING AMENDMENT.—Section 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3)) is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

''(vi) An Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.''; and

(B) in subparagraph (B), by adding at the end the following new clause:

''(ix) Items and services furnished to an Indian directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.''.

(b) TREATMENT OF CERTAIN PROPERTY FROM RESOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

(1) MEDICAID.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd) Notwithstanding any other requirement of this title or any other provision of Federal or State law, a State shall disregard the following property from resources for purposes of determining the eligibility of an individual who is an Indian for medical assistance under this title:

''(1) Property, including real property and improvements, that is held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

''(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

''(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

''(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.''.

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E), as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

''(B) Section 1902(dd) (relating to disregard of certain property for purposes of making eligibility determinations).''.

(c) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Section 1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following new subparagraph:

''(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.''.

SEC. 3302. RULES APPLICABLE UNDER MEDICAID AND CHIP TO MANAGED CARE ENTITIES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS AND INDIAN MANAGED CARE ENTITIES.

(a) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES WITH RESPECT TO INDIAN ENROLLEES, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

''(1) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH CARE PROVIDER AS PRIMARY CARE PROVIDER.—In the case of a non-Indian Medicaid managed care entity that—

''(A) has an Indian enrolled with the entity; and

''(B) has an Indian health care provider that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Indian health care provider and the Indian health care provider has the capacity to provide primary care services to such Indian, the contract with the entity under section 1903(m) or under section 1905(t)(3) shall require, as a condition of receiving payment under such contract, that the Indian shall be allowed to choose such Indian health care provider as the Indian's primary care provider under the entity.

''(2) ASSURANCE OF PAYMENT TO INDIAN HEALTH CARE PROVIDERS FOR PROVISION OF COVERED SERVICES.—Each contract with a managed care entity under section 1903(m) or under section 1905(t)(3) shall require any such entity, as a condition of receiving payment under such contract, to satisfy the following requirements:

''(A) DEMONSTRATION OF ACCESS TO INDIAN HEALTH CARE PROVIDERS AND APPLICATION OF ALTERNATIVE PAYMENT ARRANGEMENTS.—Subject to subparagraph (C), to—

''(i) demonstrate that the number of Indian health care providers that are participating providers with respect to such entity are sufficient to ensure timely access to covered Medicaid managed care services for those Indian enrollees who are eligible to receive services from such providers; and

''(ii) agree to pay Indian health care providers, whether such providers are participating or nonparticipating providers with respect to the entity, for covered Medicaid managed care services provided to those Indian enrollees who are eligible to receive services from such providers at a rate equal to the rate negotiated between such entity and the provider involved or, if such a rate has not been negotiated, at a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a participating provider which is not an Indian health care provider.

''(B) PROMPT PAYMENT.—To agree to make prompt payment (consistent with rule for prompt payment of providers under section 1932(f)) to Indian health care providers that are participating providers with respect to such entity or, in the case of an entity to which subparagraph (A)(ii) or (C) applies, that the entity is required to pay in accordance with that subparagraph.

''(C) APPLICATION OF SPECIAL PAYMENT REQUIREMENTS FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—

''(i) FEDERALLY-QUALIFIED HEALTH CENTERS.—

''(I) MANAGED CARE ENTITY PAYMENT REQUIREMENT.—To agree to pay any Indian health care provider that is a federally-qualified health center under this title but not a participating provider with respect to the entity, for the provision of covered Medicaid managed care services by such provider to an Indian enrollee of the entity at a rate equal to the amount of payment that the entity would pay a federally-qualified health center that is a participating provider with respect to the entity but is not an Indian health care provider for such services.

''(II) CONTINUED APPLICATION OF STATE REQUIREMENT TO MAKE SUPPLEMENTAL PAYMENT.—Nothing in subclause (I) or subparagraph (A) or (B) shall be construed as waiving the application of section 1902(bb)(5) regarding the State plan requirement to make any supplemental payment due under such section to a federally-qualified health center for services furnished by such center to an enrollee of a managed care entity (regardless of whether the federally-qualified health center is or is not a participating provider with the entity).

''(ii) PAYMENT RATE FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—If the amount paid by a managed care entity to an Indian health care provider that is not a federally-qualified health center for services provided by the provider to an Indian enrollee with the managed care entity is less

than the rate that applies to the provision of such services by the provider under the State plan, the plan shall provide for payment to the Indian health care provider, whether the provider is a participating or nonparticipating provider with respect to the entity, of the difference between such applicable rate and the amount paid by the managed care entity to the provider for such services.

''(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as waiving the application of section 1902(a)(30)(A) (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

''(3) SPECIAL RULE FOR ENROLLMENT FOR INDIAN MANAGED CARE ENTITIES.—Regarding the application of a Medicaid managed care program to Indian Medicaid managed care entities, an Indian Medicaid managed care entity may restrict enrollment under such program to Indians and to members of specific Tribes in the same manner as Indian Health Programs may restrict the delivery of services to such Indians and tribal members.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) INDIAN HEALTH CARE PROVIDER.—The term 'Indian health care provider' means an Indian Health Program or an Urban Indian Organization.

''(B) INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'Indian Medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C)) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization, or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

''(C) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian Medicaid managed care entity' means a managed care entity that is not an Indian Medicaid managed care entity.

''(D) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered Medicaid managed care services' means, with respect to an individual enrolled with a managed care entity, items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

''(E) MEDICAID MANAGED CARE PROGRAM.—The term 'Medicaid managed care program' means a program under sections 1903(m), 1905(t), and 1932 and includes a managed care program operating under a waiver under section 1915(b) or 1115 or otherwise.''.

(b) APPLICATION TO CHIP.—Subject to section __013(d), section 2107(e)(1) of such Act (42 U.S.C. 1397gg(1)) is amended by adding at the end the following new subparagraph:

''(E) Subsections (a)(2)(C) and (h) of section 1932.''.

SEC. 3303. CONSULTATION ON MEDICAID, CHIP, AND OTHER HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.

(a) CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG).—The Secretary of Health and Human Services shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group (TTAG), which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary of Health and Human Services shall include in such Group a representative of a national urban Indian health organization and a representative of the Indian Health Service. The inclusion of a representative of a national urban Indian health organization in such Group shall not affect the nonapplication of the Federal Advisory Committee Act (5 U.S.C. App.) to such Group.

(b) SOLICITATION OF ADVICE UNDER MEDICAID AND CHIP.—

(1) MEDICAID STATE PLAN AMENDMENT.—Subject to subsection (d), section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (70), by striking ''and'' at the end;

(B) in paragraph (71), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (71), the following new paragraph:

''(72) in the case of any State in which 1 or more Indian Health Programs or Urban Indian Organizations furnishes health care services, provide for a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of this title that are likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations and that—

''(A) shall include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations; and

''(B) may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its State plan under this title.''.

(2) APPLICATION TO CHIP.—Subject to subsection (d), section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 3302(b)(2), is amended—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

''(B) Section 1902(a)(72) (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as superseding existing advisory committees, working groups, guidance, or other advisory procedures established by the Secretary of Health and Human Services or by any State with respect to the provision of health care to Indians.

(d) CONTINGENCY RULE.—If the Children's Health Insurance Program Reauthorization Act of 2009 (in this subsection referred to as ''CHIPRA'') has been enacted as of the date of enactment of this Act, the following shall apply:

(1) Subparagraph (I) of section 2107(e) of the Social Security Act (as redesignated by CHIPRA) is redesignated as subparagraph (K) and the subparagraph (E) added to section 2107(e) of the Social Security Act by section 3302(b) is redesignated as subparagraph (J).

(2) Subparagraphs (D) through (H) of section 2107(e) of the Social Security Act (as added and redesignated by CHIPRA) are redesignated as subparagraphs (E) through (I), respectively and the subparagraph (B) of section 2107(e) of the Social Security Act added by subsection (b)(2) of this section is redesignated as subparagraph (D) and amended by striking ''1902(a)(72)'' and inserting ''1902(a)(73)''.

(3) Section 1902(a) of the Social Security Act (as amended by CHIPRA) is amended by striking ''and'' at the end of paragraph (71), by striking the period at the end of the paragraph (72) added by CHIPRA and inserting ''; and'' and by redesignated the paragraph (72) added to such section by subsection (b)(1) of this section as paragraph (73).

SEC. 3304. APPLICATION OF PROMPT PAY REQUIREMENTS TO NURSING FACILITIES.

Section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) is amended by inserting '', or by nursing facilities,'' after ''health facilities''

SEC. 3305. PERIOD OF APPLICATION; SUNSET.

This subtitle and the amendments made by this subtitle shall be in effect only during the period that begins on April 1, 2009, and ends on December 31, 2010. On and after January 1, 2011, the Social Security Act shall be applied as if this subtitle and the amendments made by this subtitle had not been enacted.

TITLE IV—HEALTH INFORMATION TECHNOLOGY

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Medicare and Medicaid Health Information Technology for Economic and Clinical Health Act'' or the ''M-HITECH Act''.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents for this title is as follows:

TITLE IV—HEALTH INFORMATION TECHNOLOGY

Subtitle A—Medicare Program

SEC. 4201. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) INCENTIVE PAYMENTS.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

''(o) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—

''(i) IN GENERAL.—Subject to clause (ii) and the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)),

from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

''(ii) NO INCENTIVE PAYMENTS WITH RESPECT TO YEARS AFTER 2015.—No incentive payments may be made under this subsection with respect to a year after 2015.

''(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS.—

''(i) IN GENERAL.—In no case shall the amount of the incentive payment provided under this paragraph for an eligible professional for a payment year exceed the applicable amount specified under this subparagraph with respect to such eligible professional and such year.

''(ii) AMOUNT.—Subject to clauses (iii) through (v), the applicable amount specified in this subparagraph for an eligible professional is as follows:

''(I) For the first payment year for such professional, $15,000 (or, if the first payment year for such eligible professional is 2011 or 2012, $18,000).

''(II) For the second payment year for such professional, $12,000.

''(III) For the third payment year for such professional, $8,000.

''(IV) For the fourth payment year for such professional, $4,000.

''(V) For the fifth payment year for such professional, $2,000.

''(VI) For any succeeding payment year for such professional, $0.

''(iii) PHASE DOWN FOR ELIGIBLE PROFESSIONALS FIRST ADOPTING EHR IN 2014.—If the first payment year for an eligible professional is 2014, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013.

''(iv) INCREASE FOR CERTAIN RURAL ELIGIBLE PROFESSIONALS.—In the case of an eligible professional who predominantly furnishes services under this part in a rural area that is designated by the Secretary (under section 332(a)(1)(A) of the Public Health Service Act) as a health professional shortage area, the amount that would otherwise apply for a payment year for such professional under subclauses (I) through (V) of clause (ii) shall be increased by 25 percent. In implementing the preceding sentence, the Secretary may, as determined appropriate, apply provisions of subsections (m) and (u) of section 1833 in a similar manner as such provisions apply under such subsection.

''(v) NO INCENTIVE PAYMENT IF FIRST ADOPTING AFTER 2014.—If the first payment year for an eligible professional is after 2014 then the applicable amount specified in this subparagraph for such professional for such year and any subsequent year shall be $0.

''(C) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—

''(i) IN GENERAL.—No incentive payment may be made under this paragraph in the case of a hospital-based eligible professional.

''(ii) HOSPITAL-BASED ELIGIBLE PROFESSIONAL.—For purposes of clause (i), the term 'hospital-based eligible professional' means, with respect to covered professional services furnished by an eligible professional during the reporting period for a payment year, an eligible professional, such as a pathologist, anesthesiologist, or emergency physician, who furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital.

''(D) PAYMENT.—

''(i) FORM OF PAYMENT.—The payment under this paragraph may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(ii) COORDINATION OF APPLICATION OF LIMITATION FOR PROFESSIONALS IN DIFFERENT PRACTICES.—In the case of an eligible professional furnishing covered professional services in more than one practice (as specified by the Secretary), the Secretary shall establish rules to coordinate the incentive payments, including the application of the limitation on amounts of such incentive payments under this paragraph, among such practices.

''(iii) COORDINATION WITH MEDICAID.—The Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XIX. In doing so, the Secretary may deem satisfaction of State requirements for such meaningful use for a payment year under title XIX to be sufficient to qualify as meaningful use under this subsection and subsection (a)(7) and vice versa. The Secretary may also adjust the reporting periods under such title and such subsections in order to carry out this clause.

''(E) PAYMENT YEAR DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a year beginning with 2011.

''(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', 'fourth payment year', and 'fifth payment year' mean, with respect to covered professional services furnished by such eligible professional, each successive year immediately following the first payment year for such professional.

''(2) MEANINGFUL EHR USER.—

''(A) IN GENERAL.—For purposes of paragraph (1), an eligible professional shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (a)(7), for a reporting period under such subsection for a year) if each of the following requirements is met:

''(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary.

''(ii) INFORMATION EXCHANGE.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

''(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible professional submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary may provide for the use of alternative means for meeting the requirements of clauses (i), (ii), and (iii) in the case of an eligible professional furnishing covered professional services in a group practice (as defined by the Secretary). The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

''(B) REPORTING ON MEASURES.—

''(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

''(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

''(II) Prior to any measure being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

''(ii) LIMITATION.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

''(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting otherwise required, including reporting under subsection (k)(2)(C).

''(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

''(i) IN GENERAL.—A professional may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

''(I) an attestation;

''(II) the submission of claims with appropriate coding (such as a code indicating that a patient encounter was documented using certified EHR technology);

''(III) a survey response;

''(IV) reporting under subparagraph (A)(iii); and

''(V) other means specified by the Secretary.

''(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

''(3) APPLICATION.—

''(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

''(B) COORDINATION WITH OTHER PAYMENTS.—The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

''(C) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under

section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (a)(7), including the determination of a meaningful EHR user under paragraph (2), a limitation under paragraph (1)(B), and the exception under subsection (a)(7)(B).

''(D) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of the eligible professionals who are meaningful EHR users and, as determined appropriate by the Secretary, of group practices receiving incentive payments under paragraph (1).

''(4) CERTIFIED EHR TECHNOLOGY DEFINED.—For purposes of this section, the term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(5) DEFINITIONS.—For purposes of this subsection:

''(A) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

''(B) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(C) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(b) INCENTIVE PAYMENT ADJUSTMENT.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

''(7) INCENTIVES FOR MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(A) ADJUSTMENT.—

''(i) IN GENERAL.—Subject to subparagraphs (B) and (D), with respect to covered professional services furnished by an eligible professional during 2015 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for a reporting period for the year, the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

''(ii) APPLICABLE PERCENT.—Subject to clause (iii), for purposes of clause (i), the term 'applicable percent' means—

''(I) for 2015, 99 percent (or, in the case of an eligible professional who was subject to the application of the payment adjustment under section 1848(a)(5) for 2014, 98 percent);

''(II) for 2016, 98 percent; and

''(III) for 2017 and each subsequent year, 97 percent.

''(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2018 AND SUBSEQUENT YEARS.—For 2018 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

''(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

''(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

''(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

''(E) DEFINITIONS.—For purposes of this paragraph:

''(i) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

''(ii) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.''.

(c) APPLICATION TO CERTAIN MA-AFFILIATED ELIGIBLE PROFESSIONALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(l) APPLICATION OF ELIGIBLE PROFESSIONAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) IN GENERAL.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

''(2) ELIGIBLE PROFESSIONAL DESCRIBED.—With respect to a qualifying MA organization, an eligible professional described in this paragraph is an eligible professional (as defined for purposes of section 1848(o)) who—

''(A)(i) is employed by the organization; or

''(ii)(I) is employed by, or is a partner of, an entity that through contract with the organization furnishes at least 80 percent of the entity's patient care services to enrollees of such organization; and

''(II) furnishes at least 75 percent of the professional services of the eligible professional to enrollees of the organization; and

''(B) furnishes, on average, at least 20 hours per week of patient care services.

''(3) ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—In applying section 1848(o) under paragraph (1), instead of the additional payment amount under section 1848(o)(1)(A) and subject to subparagraph (B), the Secretary may substitute an amount determined by the Secretary to the extent feasible and practical to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such professionals was payable under part B instead of this part.

''(B) AVOIDING DUPLICATION OF PAYMENTS.—

''(i) IN GENERAL.—If an eligible professional described in paragraph (2) is eligible for the maximum incentive payment under section 1848(o)(1)(A) for the same payment period, the payment incentive shall be made only under such section and not under this subsection.

''(ii) METHODS.—In the case of an eligible professional described in paragraph (2) who is eligible for an incentive payment under section 1848(o)(1)(A) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

''(I) to ensure that duplicate payments are not made with respect to an eligible professional both under this subsection and under section 1848(o)(1)(A); and

''(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

''(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS.—In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

''(D) CAP FOR ECONOMIES OF SCALE.—In no case may an incentive payment be made under this subsection, including under subparagraph (A), to a qualifying MA organization with respect to more than 5,000 eligible professionals of the organization.

''(4) PAYMENT ADJUSTMENT.—

''(A) IN GENERAL.—In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph (D), the payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

''(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

''(i) a percentage equal to 100 percent reduced by the applicable percent (under section 1848(a)(7)(A)(ii)) for the year; and

''(ii) a percentage equal to the Secretary's estimate of the proportion for the year, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

''(C) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible professionals of the organization are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of all eligible professionals of the organization that are not meaningful EHR users for such year. If the number of eligible professionals of the organization that are not meaningful EHR users for such year exceeds 5,000, such number shall be reduced to 5,000 for purposes of determining the proportion under the preceding sentence.

''(5) QUALIFYING MA ORGANIZATION DEFINED.—In this subsection and subsection (m), the term 'qualifying MA organization' means a Medicare Advantage organization that is organized as a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act).

''(6) MEANINGFUL EHR USER ATTESTATION.—For purposes of this subsection and subsection (m), a qualifying MA organization shall submit an attestation, in a form and manner specified by the Secretary which may include the submission of such attestation as part of submission of the initial bid under section 1854(a)(1)(A)(iv), identifying—

''(A) whether each eligible professional described in paragraph (2), with respect to such organization is a meaningful EHR user (as defined in section 1848(o)(2)) for a year specified by the Secretary; and

''(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.

''(7) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of—

''(A) each qualifying MA organization receiving an incentive payment under this subsection for eligible professionals of the organization; and

''(B) the eligible professionals of such organization for which such incentive payment is based.''.

(d) CONFORMING AMENDMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking ''and (i)'' and inserting ''(i), and (l)'';

(2) in subsection (c)—

(A) in paragraph (1)(D)(i), by striking ''section 1886(h)'' and inserting ''sections 1848(o) and 1886(h)''; and

(B) in paragraph (6)(A), by inserting after ''under part B,'' the following: ''excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,''; and

(3) in subsection (f), by inserting ''and for payments under subsection (l)'' after ''with the organization''.

(e) CONFORMING AMENDMENTS TO E-PRESCRIBING.—

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(5)(A)) is amended—

(A) in clause (i), by striking ''or any subsequent year'' and inserting '', 2013, or 2014''; and

(B) in clause (ii), by striking ''and each subsequent year''.

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w–4(m)(2)) is amended—

(A) in subparagraph (A), by striking ''For 2009'' and inserting ''Subject to subparagraph (D), for 2009''; and

(B) by adding at the end the following new subparagraph:

''(D) LIMITATION WITH RESPECT TO EHR INCENTIVE PAYMENTS.—The provisions of this paragraph shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period the eligible professional (or group practice) receives an incentive payment under subsection (o)(1)(A) with respect to a certified EHR technology (as defined in subsection (o)(4)) that has the capability of electronic prescribing.''.

(f) PROVIDING ASSISTANCE TO ELIGIBLE PROFESSIONALS AND CERTAIN HOSPITALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide assistance to eligible professionals (as defined in section 1848(o)(5), as added by subsection (a)), Medicaid providers (as defined in section 1903(t)(2) of such Act, as added by section 4211(a)), and eligible hospitals (as defined in section 1886(n)(6)(A) of such Act, as added by section 4202(a)) located in rural or other medically underserved areas to successfully choose, implement, and use certified EHR technology (as defined in section 1848(o)(4) of the Social Security Act, as added by section 4201(a)).

(2) USE OF ENTITIES WITH EXPERTISE.—To the extent practicable, the Secretary shall provide such assistance through entities that have expertise in the choice, implementation, and use of such certified EHR technology.

SEC. 4202. INCENTIVES FOR HOSPITALS.

(a) INCENTIVE PAYMENT.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(n) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, with respect to inpatient hospital services furnished by an eligible hospital during a payment year (as defined in paragraph (2)(G)), if the eligible hospital is a meaningful EHR user (as determined under paragraph (3)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this section, there also shall be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable amount specified in paragraph (2)(A) for the hospital for such payment year.

''(2) PAYMENT AMOUNT.—

''(A) IN GENERAL.—Subject to the succeeding subparagraphs of this paragraph, the applicable amount specified in this subparagraph for an eligible hospital for a payment year is equal to the product of the following:

''(i) INITIAL AMOUNT.—The sum of—

''(I) the base amount specified in subparagraph (B); plus

''(II) the discharge related amount specified in subparagraph (C) for a 12-month period selected by the Secretary with respect to such payment year.

''(ii) MEDICARE SHARE.—The Medicare share as specified in subparagraph (D) for the hospital for a period selected by the Secretary with respect to such payment year.

''(iii) TRANSITION FACTOR.—The transition factor specified in subparagraph (E) for the hospital for the payment year.

''(B) BASE AMOUNT.—The base amount specified in this subparagraph is $2,000,000.

''(C) DISCHARGE RELATED AMOUNT.—The discharge related amount specified in this subparagraph for a 12-month period selected by the Secretary shall be determined as the sum of the amount, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

''(i) For the 1,150th through the 9,200nd discharge, $200.

''(ii) For the 9,201st through the 13,800th discharge, 50 percent of the amount specified in clause (i).

''(iii) For the 13,801st through the 23,000th discharge, 30 percent of the amount specified in clause (i).

''(D) MEDICARE SHARE.—The Medicare share specified under this subparagraph for a hospital for a period selected by the Secretary for a payment year is equal to the fraction—

''(i) the numerator of which is the sum (for such period and with respect to the hospital) of—

''(I) the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and

''(II) the number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and

''(ii) the denominator of which is the product of—

''(I) the total number of inpatient-bed-days with respect to the hospital during such period; and

''(II) the total amount of the hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the total amount of the hospital's charges during such period.

Insofar as the Secretary determines that data are not available on charity care necessary to calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

''(E) TRANSITION FACTOR SPECIFIED.—

''(i) IN GENERAL.—Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

''(I) For the first payment year for such hospital, 1.

''(II) For the second payment year for such hospital, ¾.

''(III) For the third payment year for such hospital, ½.

''(IV) For the fourth payment year for such hospital, ¼.

''(V) For any succeeding payment year for such hospital, 0.

''(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

''(F) FORM OF PAYMENT.—The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

''(G) PAYMENT YEAR DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a fiscal year beginning with fiscal year 2011.

''(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to inpatient hospital services furnished by an eligible hospital, the first fiscal

year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', and 'fourth payment year' mean, with respect to an eligible hospital, each successive year immediately following the first payment year for that hospital.

''(3) MEANINGFUL EHR USER.—

''(A) IN GENERAL.—For purposes of paragraph (1), an eligible hospital shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for a reporting period under such subsection for a fiscal year) if each of the following requirements are met:

''(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the hospital is using certified EHR technology in a meaningful manner.

''(ii) INFORMATION EXCHANGE.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

''(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

''(B) REPORTING ON MEASURES.—

''(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

''(I) The Secretary shall provide preference to clinical quality measures that have been selected for purposes of applying subsection (b)(3)(B)(viii) or that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

''(II) Prior to any measure (other than a clinical quality measure that has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

''(ii) LIMITATIONS.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

''(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

''(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

''(i) IN GENERAL.—A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

''(I) an attestation;

''(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

''(III) a survey response;

''(IV) reporting under subparagraph (A)(iii); and

''(V) other means specified by the Secretary.

''(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

''(4) APPLICATION.—

''(A) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (b)(3)(B)(ix), including the determination of a meaningful EHR user under paragraph (3), determination of measures applicable to services furnished by eligible hospitals under this subsection, and the exception under subsection (b)(3)(B)(ix)(II).

''(B) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the eligible hospitals that are meaningful EHR users under this subsection or subsection (b)(3)(B)(ix) and other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that a hospital has the opportunity to review the other relevant data that are to be made public with respect to the hospital prior to such data being made public.

''(5) CERTIFIED EHR TECHNOLOGY DEFINED.—The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means—

''(i) a subsection (d) hospital; and

''(ii) a critical access hospital (as defined in section 1861(mm)(1)).

''(B) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(b) INCENTIVE MARKET BASKET ADJUSTMENT.—

(1) IN GENERAL.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(A) in clause (viii)(I), by inserting ''(or, beginning with fiscal year 2016, by one-quarter)'' after ''2.0 percentage points''; and

(B) by adding at the end the following new clause:

''(ix)(I) For purposes of clause (i) for fiscal year 2015 and each subsequent fiscal year, in the case of an eligible hospital (as defined in subsection (n)(6)(A)) that is not a meaningful EHR user (as defined in subsection (n)(3)) for the reporting period for such fiscal year, three-quarters of the applicable percentage increase otherwise applicable under clause (i) for such fiscal year shall be reduced by 33⅓ percent for fiscal year 2015, 66⅔ percent for fiscal year 2016, and 100 percent for fiscal year 2017 and each subsequent fiscal year. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year.

''(II) The Secretary may, on a case-by-case basis, exempt a subsection (d) hospital from the application of subclause (I) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subclause for more than 5 years.

''(III) For fiscal year 2015 and each subsequent fiscal year, a State in which hospitals are paid for services under section 1814(b)(3) shall adjust the payments to each subsection (d) hospital in the State that is not a meaningful EHR user (as defined in subsection (n)(3)) in a manner that is designed to result in an aggregate reduction in payments to hospitals in the State that is equivalent to the aggregate reduction that would have occurred if payments had been reduced to each subsection (d) hospital in the State in a manner comparable to the reduction under the previous provisions of this clause. The State shall report to the Secretary the methodology it will use to make the payment adjustment under the previous sentence.

''(IV) For purposes of this clause, the term 'reporting period' means, with respect to a fiscal year, any period (or periods), with respect to the fiscal year, as specified by the Secretary.''.

(2) CRITICAL ACCESS HOSPITALS.—Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(l)) is amended—

(A) in subparagraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(B) by adding at the end the following new paragraph:

''(3)(A) Subject to subparagraph (B), for fiscal year 2015 and each subsequent fiscal year, in the case of a critical access hospital that is not a meaningful EHR user (as defined in section 1886(n)(3)) for the reporting period for such fiscal year, paragraph (1) shall be applied by substituting the applicable percent under subparagraph (C) for the percent described in such paragraph (1).

''(B) The Secretary may, on a case-by-case basis, exempt a critical access hospital from the application of subparagraph (A) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subparagraph for more than 5 years.

''(C) The percent described in this subparagraph is—

''(i) for fiscal year 2015, 100.66 percent;

''(ii) for fiscal year 2016, 100.33 percent; and

''(iii) for fiscal year 2017 and each subsequent fiscal year, 100 percent.''.

(c) APPLICATION TO CERTAIN MA-AFFILIATED ELIGIBLE HOSPITALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w-23), as amended by section 4201(c), is further amended by adding at the end the following new subsection:

''(m) APPLICATION OF ELIGIBLE HOSPITAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

''(1) APPLICATION.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1814(l)(3), 1886(n), and 1886(b)(3)(B)(ix) shall apply with respect to eligible hospitals described in paragraph (2) of the organization which the organization attests under subsection (l)(6) to be meaningful EHR users in a similar manner as they apply to eligible hospitals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

''(2) ELIGIBLE HOSPITAL DESCRIBED.—With respect to a qualifying MA organization, an eligible hospital described in this paragraph is an eligible hospital (as defined in section 1886(n)(6)(A)) that is under common corporate governance with such organization and serves individuals enrolled under an MA plan offered by such organization.

''(3) ELIGIBLE HOSPITAL INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—In applying section 1886(n)(2) under paragraph (1), instead of the additional payment amount under section 1886(n)(2), there shall be substituted an amount determined by the Secretary to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such hospitals was payable under part A instead of this part. In implementing the previous sentence, the Secretary—

''(i) shall, insofar as data to determine the discharge related amount under section 1886(n)(2)(C) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such discharge related amount as the Secretary determines appropriate; and

''(ii) shall, insofar as data to determine the medicare share described in section 1886(n)(2)(D) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such share, which data and methodology may include use of the inpatient bed days (or discharges) with respect to an eligible hospital during the appropriate period which are attributable to both individuals for whom payment may be made under part A or individuals enrolled in an MA plan under a Medicare Advantage organization under this part as a proportion of the total number of patient-bed-days (or discharges) with respect to such hospital during such period.

''(B) AVOIDING DUPLICATION OF PAYMENTS.—

''(i) IN GENERAL.—In the case of a hospital that for a payment year is an eligible hospital described in paragraph (2) and for which at least one-third of their discharges (or bed-days) of Medicare patients for the year are covered under part A, payment for the payment year shall be made only under section 1886(n) and not under this subsection.

''(ii) METHODS.—In the case of a hospital that is an eligible hospital described in paragraph (2) and also is eligible for an incentive payment under section 1886(n) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

''(I) to ensure that duplicate payments are not made with respect to an eligible hospital both under this subsection and under section 1886(n); and

''(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

''(4) PAYMENT ADJUSTMENT.—

''(A) Subject to paragraph (3), in the case of a qualifying MA organization (as defined in section 1853(l)(5)), if, according to the attestation of the organization submitted under subsection (l)(6) for an applicable period, one or more eligible hospitals (as defined in section 1886(n)(6)(A)) that are under common corporate governance with such organization and that serve individuals enrolled under a plan offered by such organization are not meaningful EHR users (as defined in section 1886(n)(3)) with respect to a period, the payment amount payable under this section for such organization for such period shall be the percent specified in subparagraph (B) for such period of the payment amount otherwise provided under this section for such period.

''(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

''(i) the number of the percentage point reduction effected under section 1886(b)(3)(B)(ix)(I) for the period; and

''(ii) the Medicare hospital expenditure proportion specified in subparagraph (C) for the year.

''(C) MEDICARE HOSPITAL EXPENDITURE PROPORTION.—The Medicare hospital expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for inpatient hospital services.

''(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible hospitals are meaningful EHR users with respect to an applicable period, the Secretary shall apply the payment adjustment under this paragraph based on a methodology specified by the Secretary, taking into account the proportion of such eligible hospitals, or discharges from such hospitals, that are not meaningful EHR users for such period.

''(5) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, —

''(A) a list of the names, business addresses, and business phone numbers of each qualifying MA organization receiving an incentive payment under this subsection for eligible hospitals described in paragraph (2); and

''(B) a list of the names of the eligible hospitals for which such incentive payment is based.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended—

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting '', subject to section 1886(d)(3)(B)(ix)(III),'' after ''then''; and

(B) by adding at the end the following: ''For purposes of applying paragraph (3), there shall be taken into account incentive payments, and payment adjustments under subsection (b)(3)(B)(ix) or (n) of section 1886.''.

(2) Section 1851(i)(1) of the Social Security Act (42 U.S.C. 1395w–21(i)(1)) is amended by striking ''and 1886(h)(3)(D)'' and inserting ''1886(h)(3)(D), and 1853(m)''.

(3) Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4311(d)(1), is amended—

(A) in subsection (c)—

(i) in paragraph (1)(D)(i), by striking ''1848(o)'' and inserting '', 1848(o), and 1886(n)''; and

(ii) in paragraph (6)(A), by inserting ''and subsections (b)(3)(B)(ix) and (n) of section 1886'' after ''section 1848''; and

(B) in subsection (f), by inserting ''and subsection (m)'' after ''under subsection (l)''.

SEC. 4203. PREMIUM HOLD HARMLESS AND IMPLEMENTATION FUNDING.

(a) PREMIUM HOLD HARMLESS.—

(1) IN GENERAL.—Section 1839(a)(1) of the Social Security Act (42 U.S.C. 1395r(a)(1)) is amended by adding at the end the following: ''In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).''.

(2) PAYMENT.—Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended—

(A) in paragraph (2), by striking the period at the end and inserting ''; plus''; and

(B) by adding at the end the following new paragraph:

''(3) a Government contribution equal to the amount of payment incentives payable under sections 1848(o) and 1853(l)(3).''.

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $100,000,000 for each of fiscal years 2009 through 2015 and $45,000,000 for each succeeding fiscal year through fiscal year 2018, which shall be available for purposes of carrying out the provisions of (and amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4204. NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.

(a) IN GENERAL.—Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or after October 1, 2008, as if such paragraph had never been in effect.

(b) NO EFFECT ON SUBSEQUENT YEARS.—Nothing in subsection (a) shall be construed as having any effect on the application of paragraph (d) of section 412.322 of title 42, Code of Federal Regulations.

SEC. 4205. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment incentives (such as under title XVIII or XIX of the Social Security Act) and other funding for purposes of implementing and using certified EHR technology (as defined in section 1848(o)(4) of the Social Security Act, as added by section 4311(a)) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XVIII or XIX of such Act, or otherwise, for such purposes.

(2) DETAILS OF STUDY.—Such study shall include an examination of—

(A) the adoption rates of certified EHR technology (as so defined) by such health care providers;

(B) the clinical utility of such technology by such health care providers;

(C) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;

(D) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other

funding under this Act, title XVIII or XIX of the Social Security Act, or otherwise;

(E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(F) any other issues the Secretary deems to be appropriate.

(b) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).

SEC. 4206. STUDY ON AVAILABILITY OF OPEN SOURCE HEALTH INFORMATION TECHNOLOGY SYSTEMS.

(a) IN GENERAL.—

(1) STUDY.—The Secretary of Health and Human Services shall, in consultation with the Under Secretary for Health of the Veterans Health Administration, the Director of the Indian Health Service, the Secretary of Defense, the Director of the Agency for Healthcare Research and Quality, the Administrator of the Health Resources and Services Administration, and the Chairman of the Federal Communications Commission, conduct a study on—

(A) the current availability of open source health information technology systems to Federal safety net providers (including small, rural providers);

(B) the total cost of ownership of such systems in comparison to the cost of proprietary commercial products available;

(C) the ability of such systems to respond to the needs of, and be applied to, various populations (including children and disabled individuals); and

(D) the capacity of such systems to facilitate interoperability.

(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the Secretary of Health and Human Services shall take into account the circumstances of smaller health care providers, health care providers located in rural or other medically underserved areas, and safety net providers that deliver a significant level of health care to uninsured individuals, Medicaid beneficiaries, SCHIP beneficiaries, and other vulnerable individuals.

(b) REPORT.—Not later than October 1, 2010, the Secretary of Health and Human Services shall submit to Congress a report on the findings and the conclusions of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

Subtitle B—Medicaid Funding

SEC. 4211. MEDICAID PROVIDER EHR ADOPTION AND OPERATION PAYMENTS; IMPLEMENTATION FUNDING.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(3)—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by striking ''plus'' at the end of subparagraph (E) and inserting ''and''; and

(C) by adding at the end the following new subparagraph:

''(F)(i) 100 percent of so much of the sums expended during such quarter as are attributable to payments for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) by Medicaid providers described in subsection (t)(1); and

''(ii) 90 percent of so much of the sums expended during such quarter as are attributable to payments for reasonable administrative expenses related to the administration of payments described in clause (i) if the State meets the condition described in subsection (t)(9); plus''; and

(2) by inserting after subsection (s) the following new subsection:

''(t)(1)(A) For purposes of subsection (a)(3)(F), the payments for certified EHR technology (and support services including maintenance that is for, or is necessary for the operation of, such technology) by Medicaid providers described in this paragraph are payments made by the State in accordance with this subsection of the applicable percent of the net allowable costs of Medicaid providers (as defined in paragraph (2)) for such technology (and support services).

''(B) For purposes of subparagraph (A), the term 'applicable percent' means—

''(i) in the case of a Medicaid provider described in paragraph (2)(A), 85 percent;

''(ii) in the case of a Medicaid provider described in clause (i) or (ii) of paragraph (2)(B), 100 percent; and

''(iii) in the case of a Medicaid provider described in clause (iii) of paragraph (2)(B), a percent specified by the Secretary, but not less than 85 percent.

''(2) In this subsection and subsection (a)(3)(F), the term 'Medicaid provider' means—

''(A) an eligible professional (as defined in paragraph (3)(B)) who is not hospital-based and has at least 30 percent of the professional's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title; and

''(B)(i) a children's hospital, (ii) an acute-care hospital that is not described in clause (i) and that has at least 10 percent of the hospital's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title, or (iii) a Federally-qualified health center or rural health clinic that has at least 30 percent of the center's or clinic's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title.

An eligible professional shall not qualify as a Medicaid provider under this subsection unless the professional has waived, in a manner specified by the Secretary, any right to payment under section 1848(o) with respect to the adoption or support of certified EHR technology by the eligible professional. In applying clauses (ii) and (iii) of subparagraph (B), the standards established by the Secretary for patient volume shall include individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

''(3) In this subsection and subsection (a)(3)(F):

''(A) The term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(B) The term 'eligible professional' means a physician as defined in paragraphs (1) and (2) of section 1861(r), and includes a nurse mid-wife and a nurse practitioner.

''(C) The term 'hospital-based' means, with respect to an eligible professional, a professional (such as a pathologist, anesthesiologist, or emergency physician) who furnishes substantially all of the individual's professional services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital.

''(4)(A) The term 'allowable costs' means, with respect to certified EHR technology of a Medicaid provider, costs of such technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) as determined by the Secretary to be reasonable.

''(B) The term 'net allowable costs' means allowable costs reduced by any payment that is made to the Medicaid provider involved from any other source that is directly attributable to payment for certified EHR technology or services described in subparagraph (A).

''(C) In no case shall—

''(i) the aggregate allowable costs under this subsection (covering one or more years) with respect to a Medicaid provider described in paragraph (2)(A) for purchase and initial implementation of certified EHR technology (and services described in subparagraph (A)) exceed $25,000 or include costs over a period of longer than 5 years;

''(ii) for costs not described in clause (i) relating to the operation, maintenance, or use of certified EHR technology, the annual allowable costs under this subsection with respect to such a Medicaid provider for costs not described in clause (i) for any year exceed $10,000;

''(iii) payment described in paragraph (1) for costs described in clause (ii) be made with respect to such a Medicaid provider over a period of more than 5 years;

''(iv) the aggregate allowable costs under this subsection with respect to such a Medicaid provider for all costs exceed $75,000; or

''(v) the allowable costs, whether for purchase and initial implementation, maintenance, or otherwise, for a Medicaid provider described in paragraph (2)(B)(iii) exceed such aggregate or annual limitation as the Secretary shall establish, based on an amount determined by the Secretary as being adequate to adopt and maintain certified EHR technology, consistent with paragraph (6).

''(5) Payments described in paragraph (1) are not in accordance with this subsection unless the following requirements are met:

''(A) The State provides assurances satisfactory to the Secretary that amounts received under subsection (a)(3)(F) with respect to costs of a Medicaid provider are paid directly to such provider without any deduction or rebate.

''(B) Such Medicaid provider is responsible for payment of the costs described in such paragraph that are not provided under this title.

''(C) With respect to payments to such Medicaid provider for costs other than costs related to the initial adoption of certified EHR technology, the Medicaid provider demonstrates meaningful use of certified EHR technology through a means that is approved by the State and acceptable to the Secretary, and that may be based upon the methodologies applied under section 1848(o) or 1886(n). In establishing such means, which may include the reporting of clinical quality measures to the State, the State shall ensure that populations with unique needs, such as children, are appropriately addressed.

''(D) To the extent specified by the Secretary, the certified EHR technology is compatible with State or Federal administrative management systems.

''(6)(A) In no case shall the payments described in paragraph (1), with respect to a hospital, exceed in the aggregate the product of—

''(i) the overall hospital EHR amount for the hospital computed under subparagraph (B); and

''(ii) the Medicaid share for such hospital computed under subparagraph (C).

''(B) For purposes of this paragraph, the overall hospital EHR amount, with respect to a hospital, is the sum of the applicable amounts specified in section 1886(n)(2)(A) for such hospital for the first 4 payment years (as estimated by the Secretary) determined as if the Medicare share specified in clause (ii) of such section were 1. The Secretary shall publish in the Federal Register the overall hospital EHR amount for each hospital eligible for payments under this subsection. In computing amounts under clause (ii) for payment years after the first payment year, the Secretary shall assume that in subsequent payment years discharges increase at the average annual rate of growth of the most recent three years for which discharge data are available.

''(C) The Medicaid share computed under this subparagraph, for a hospital for a period specified by the Secretary, shall be calculated in the same manner as the Medicare share under section 1886(n)(2)(D) for such a hospital and period, except that there shall be substituted for the numerator under clause (i) of such section the amount that is equal to the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals who are receiving medical assistance under this title and who are not described in section 1886(n)(2)(D)(i). In computing inpatient-bed-days under the previous sentence, the Secretary shall take into account inpatient-bed-days attributable to inpatient-bed-days that are paid for individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

''(7) With respect to health care providers other than hospitals, the Secretary shall establish and implement a detailed process to ensure coordination of the different programs for payment of such health care providers for adoption or use of health information technology (including certified EHR technology), as well as payments for such health care providers provided under this title or title XVIII, to assure no duplication of funding. The Secretary shall promulgate regulations to carry out the preceding sentence.

''(8) In carrying out paragraph (5)(C), the State and Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XVIII. In doing so, the Secretary may deem satisfaction of requirements for such meaningful use for a payment year under title XVIII to be sufficient to qualify as meaningful use under this subsection. The Secretary may also specify the reporting periods under this subsection in order to carry out this paragraph.

''(9) In order to be provided Federal financial participation under subsection (a)(3)(F)(ii), a State must demonstrate to the satisfaction of the Secretary, that the State—

''(A) is using the funds provided for the purposes of administering payments under this subsection, including tracking of meaningful use by Medicaid providers;

''(B) is conducting adequate oversight of the program under this subsection, including routine tracking of meaningful use attestations and reporting mechanisms; and

''(C) is pursuing initiatives to encourage the adoption of certified EHR technology to promote health care quality and the exchange of health care information under this title, subject to applicable laws and regulations governing such exchange.

''(10) The Secretary shall periodically submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on status, progress, and oversight of payments under paragraph (1).''.

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $40,000,000 for each of fiscal years 2009 through 2015 and $20,000,000 for each succeeding fiscal year through fiscal year 2018, which shall be available for purposes of carrying out the provisions of (and the amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

(c) HHS REPORT ON IMPLEMENTATION OF DETAILED PROCESS TO ASSURE NO DUPLICATION OF FUNDING.—Not later than July 1, 2012, the Secretary of Health and Human Services shall submit to Congress a report on the establishment and implementation of the detailed process under section 1903(t)(7) of the Social Security Act, as added by subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

TITLE V—STATE FISCAL RELIEF

SEC. 5000. PURPOSES; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this title are as follows:

(1) To provide fiscal relief to States in a period of economic downturn.

(2) To protect and maintain State Medicaid programs during a period of economic downturn, including by helping to avert cuts to provider payment rates and benefits or services, and to prevent constrictions of income eligibility requirements for such programs, but not to promote increases in such requirements.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—STATE FISCAL RELIEF

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (e), (f), and (g), if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section;

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first calendar quarter in fiscal year 2011.

(b) GENERAL 7.6 PERCENTAGE POINT INCREASE.—Subject to subsections (e), (f), and (g), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)) , the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 7.6 percentage points.

(c) ADDITIONAL RELIEF BASED ON INCREASE IN UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), if a State is a qualifying State under paragraph (2) for a calendar quarter occurring during the recession adjustment period, the FMAP for the State shall be further increased by the number of percentage points equal to the product of the State percentage applicable for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) after the application of subsections (a) and (b) and the applicable percent determined in paragraph (3) for the calendar quarter (or, if greater, for a previous such calendar quarter, subject to paragraph (4)) .

(2) QUALIFYING CRITERIA.—

(A) IN GENERAL.—For purposes of paragraph (1), a State qualifies for additional relief under this subsection for a calendar quarter occurring during the recession adjustment period if the State is 1 of the 50 States or the District of Columbia and the State satisfies any of the following criteria for the quarter:

(i) An increase of at least 1.5 percentage points, but less than 2.5 percentage points, in the average monthly unemployment rate, seasonally adjusted, for the State or District, as determined by comparing months in the most recent previous 3-consecutive month period for which data are available for the State or District to the lowest average monthly unemployment rate, seasonally adjusted, for the State or District for any 3-consecutive-month period preceding that period and beginning on or after January 1, 2006 (based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor).

(ii) An increase of at least 2.5 percentage points, but less than 3.5 percentage points, in the average monthly unemployment rate, seasonally adjusted, for the State or District (as so determined).

(iii) An increase of at least 3.5 percentage points for the State or District, in the average monthly unemployment rate, seasonally

adjusted, for the State or District (as so determined).

(B) MAINTENANCE OF STATUS.—If a State qualifies for additional relief under this subsection for a calendar quarter, it shall be deemed to have qualified for such relief for each subsequent calendar quarter ending before July 1, 2010.

(3) APPLICABLE PERCENT.—For purposes of paragraph (1), the applicable percent is—

(A) 2.5 percent, if the State satisfies the criteria described in paragraph (2)(A)(i) for the calendar quarter;

(B) 4.5 percent if the State satisfies the criteria described in paragraph (2)(A)(ii) for the calendar quarter; and

(C) 6.5 percent if the State satisfies the criteria described in paragraph (2)(A)(iii) for the calendar quarter.

(4) MAINTENANCE OF HIGHER PERCENTAGE REDUCTION FOR PERIOD AFTER LOWER PERCENTAGE DEDUCTION WOULD OTHERWISE TAKE EFFECT.—

(A) HOLD HARMLESS PERIOD.—If the percentage reduction applied to a State under paragraph (3) for any calendar quarter in the recession adjustment period beginning on or after January 1, 2009, and ending before July 1, 2010, (determined without regard to this paragraph) is less than the percentage reduction applied for the preceding quarter (as so determined), the higher percentage reduction shall continue in effect for each subsequent calendar quarter ending before July 1, 2010.

(B) NOTICE OF DECREASE IN PERCENTAGE REDUCTION.—The Secretary shall notify a State at least 3 months prior to applying any lower percentage reduction to the State under paragraph (3).

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (f) and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by 15.2 percent.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.));

(3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

(5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008.

(f) STATE INELIGIBILITY.—

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES.—A State shall not be ineligible under subparagraph (A)—

(i) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to July 1, 2009, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay in the request for, and approval of, a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—No State shall be eligible for an increased FMAP rate as provided under this section for any claim submitted by a provider subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) during any period in which that State has failed to pay claims in accordance with section 1902(a)(37)(A) of such Act. Each State shall report to the Secretary, no later than 30 days following the 1st day of the month, its compliance with the requirements of section 1902(a)(37)(A) of the Social Security Act as they pertain to claims made for covered services during the preceding month.

(3) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection or subsection (g) under section 1115 of the Social Security Act or otherwise.

(g) REQUIREMENTS.—

(1) IN GENERAL.—A State may not deposit or credit the additional Federal funds paid to the State as a result of this section to any reserve or rainy day fund maintained by the State.

(2) STATE REPORTS.—Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2011, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(3) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (b) or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) POVERTY LINE.—The term ''poverty line'' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(3) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on December 31, 2010.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

SEC. 5002. EXTENSION AND UPDATE OF SPECIAL RULE FOR INCREASE OF MEDICAID DSH ALLOTMENTS FOR LOW DSH STATES.

Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(1) in subparagraph (B)—

(A) in the subparagraph heading, by striking ''YEAR 2004 AND SUBSEQUENT FISCAL YEARS'' and inserting ''YEARS 2004 THROUGH 2008'';

(B) in clause (i), by inserting ''and'' after the semicolon;

(C) in clause (ii), by striking ''; and'' and inserting a period; and

(D) by striking clause (iii); and

(2) by adding at the end the following subparagraph:

''(C) FOR FISCAL YEAR 2009 AND SUBSEQUENT FISCAL YEARS.—In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section for fiscal year 2006, as reported to the Administrator of the Centers for Medicare & Medicaid Services as of August 31, 2009, is greater than 0 but less than 3 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for the State with respect to—

''(i) fiscal year 2009, shall be the DSH allotment for the State for fiscal year 2008 increased by 16 percent;

''(ii) fiscal year 2010, shall be the DSH allotment for the State for fiscal year 2009 increased by 16 percent;

''(iii) fiscal year 2011 for the period ending on December 31, 2010, shall be ¼ of the DSH

allotment for the State for fiscal year 2010 increased by 16 percent;

''(iv) fiscal year 2011 for the period beginning on January 1, 2011, and ending on September 30, 2011, shall be ¾ of the DSH allotment that would have been determined under this subsection for the State for fiscal year 2011 if this subparagraph had not been enacted;

''(v) fiscal year 2012, shall be the DSH allotment that would have been determined under this subsection for the State for fiscal year 2012 if this subparagraph had not been enacted; and

''(vi) fiscal year 2013 and any subsequent fiscal year, shall be the DSH allotment for the State for the previous fiscal year subject to an increase for inflation as provided in paragraph (3)(A).''.

SEC. 5003. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement, not later than 3 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—

(1) DEADLINE FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated $3,000,000,000 for fiscal year 2009 for making payments to States under paragraph (1).

(3) LIMITATIONS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed $3,000,000,000; or

(B) any payments be provided by the Secretary under this section after the first day of the first month that begins 4 months after the date of enactment of this Act.

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the States, determine appropriate.

(2) CONDITIONS FOR PAYMENTS.—A State shall not receive a payment under this section unless the State—

(A) waives the right to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project.

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.—No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

(4) INELIGIBLE STATES.—No State that is a party to a civil action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(d) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(2) MEDICAID PROGRAM.—The term ''Medicaid program'' means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1396n) or otherwise.

(3) MEDICARE PROGRAM.—The term ''Medicare program'' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) SDW CASE.—The term ''SDW case'' means a case in the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which such benefits were not provided to the individual and who was, during all or part of such period, enrolled in a State Medicaid program.

(6) SPECIAL DISABILITY WORKLOAD PROJECT.—The term ''Special Disability Workload project'' means the project described in the 2008 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

(7) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

SEC. 5004. FUNDING FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.

For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $31,250,000 for the recession adjustment period (as defined in section 5001(h)(3)). Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

SEC. 5005. GAO STUDY AND REPORT REGARDING STATE NEEDS DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) IN GENERAL.—The Comptroller General of the United States shall study the period of national economic downturn in effect on the date of enactment of this Act, as well as previous periods of national economic downturn since 1974, for the purpose of developing recommendations for addressing the needs of States during such periods. As part of such analysis, the Comptroller General shall study the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(b) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to the appropriate committees of Congress on the results of the study conducted under paragraph (1). Such report shall include the following:

(1) Such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance formula for temporary adjustment of the Federal medical assistance percentage under Medicaid (also referred to as a ''countercyclical FMAP'') described in GAO report number GAO–07–97 to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that would begin and end the application of such percentage;

(B) how the determination of the amount of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of the amount of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods.

(2) An analysis of the impact on States during such periods of—

(A) declines in private health benefits coverage;

(B) declines in State revenues; and

(C) caseload maintenance and growth under Medicaid, the State Children's Health Insurance Program, or any other publicly-funded programs to provide health benefits coverage for State residents.

(3) Identification of, and recommendations for addressing, the effects on States of any other specific economic indicators that the Comptroller General determines appropriate.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

On Thursday, January 29, 2009, the Senate passed H.R. 2, as amended, as follows:

H.R. 2

Resolved, That the bill from the House of Representatives (H.R. 2) entitled ''An Act to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.'', do pass with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2009''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSE.

It is the purpose of this Act to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION; CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.

(a) GENERAL EFFECTIVE DATE.—Unless otherwise provided in this Act, subject to subsections (b) through (d), this Act (and the amendments made by this Act) shall take effect on April 1, 2009, and shall apply to child health assistance and medical assistance provided on or after that date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11), 2104(k), or 2104(l) of the Social Security Act, as amended by section 201 of Public Law 110–173, to provide allotments to States under CHIP for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before April 1, 2009 are rescinded; and

(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

(d) RELIANCE ON LAW.—With respect to amendments made by this Act (other than title VII) that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

TITLE I—FINANCING

Subtitle A—Funding

SEC. 101. EXTENSION OF CHIP.

Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by amending paragraph (11), by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(3) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $10,562,000,000;

''(13) for fiscal year 2010, $12,520,000,000;

''(14) for fiscal year 2011, $13,459,000,000;

''(15) for fiscal year 2012, $14,982,000,000; and

''(16) for fiscal year 2013, for purposes of making 2 semi-annual allotments—

''(A) $2,850,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

''(B) $2,850,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.''.

SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES FOR FISCAL YEARS 2009 THROUGH 2013.

Section 2104 (42 U.S.C. 1397dd) is amended—

(1) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)'';

(2) in subsection (c)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)(4)''; and

(3) by adding at the end the following new subsection:

''(m) ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) FOR FISCAL YEAR 2009.—

''(A) FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

''(i) The total Federal payments to the State under this title for fiscal year 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(ii) The amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iii) The projected total Federal payments to the State under this title for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

''(B) FOR THE COMMONWEALTHS AND TERRITORIES.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting 'the United States' for 'the State'.

''(C) ADJUSTMENT FOR QUALIFYING STATES.—In the case of a qualifying State described in paragraph (2) of section 2105(g), the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

''(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

''(i) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2010.—For fiscal year 2010, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

''(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

''(ii) REBASING IN FISCAL YEAR 2011.—For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

''(iii) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2012.—For fiscal year 2012, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

''(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

''(3) FOR FISCAL YEAR 2013.—

''(A) FIRST HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

''(B) SECOND HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

''(i) the amount of the allotment to such State under subparagraph (A); to

''(ii) the total of the amount of all of the allotments made available under such subparagraph.

''(C) FULL YEAR AMOUNT BASED ON REBASED AMOUNT.—The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

''(D) FIRST HALF RATIO.—The first half ratio described in this subparagraph is the ratio of—

''(i) the sum of—

''(I) the amount made available under subsection (a)(16)(A); and

''(II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to

''(ii) the sum of the—

''(I) amount described in clause (i); and

''(II) the amount made available under subsection (a)(16)(B).

''(4) PRORATION RULE.—If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2013, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

''(5) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

''(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

''(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

''(6) INCREASE IN ALLOTMENT TO ACCOUNT FOR APPROVED PROGRAM EXPANSIONS.—In the case of one of the 50 States or the District of Columbia that—

''(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this title that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2013); and

''(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

''(i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year; and

''(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year,

subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010 or fiscal year 2012.

''(7) AVAILABILITY OF AMOUNTS FOR SEMI-ANNUAL PERIODS IN FISCAL YEAR 2013.—Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2013 shall remain available for expenditure under this title for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.''.

SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.

Section 2104 (42 U.S.C. 1397dd), as amended by section 102, is amended by adding at the end the following new subsection:

''(n) CHILD ENROLLMENT CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Child Enrollment Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

''(B) AGGREGATE CAP.—The total amount available for payment from the Fund for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), taking into account deposits made under subparagraph (C), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) AVAILABILITY OF EXCESS FUNDS FOR PERFORMANCE BONUSES.—Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 2105(a)(3) for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

''(3) CHILD ENROLLMENT CONTINGENCY FUND PAYMENTS.—

''(A) IN GENERAL.—If a State's expenditures under this title in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, or a semi-annual allotment period for fiscal year 2013, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

''(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

''(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved (or in which the period occurs).

''(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this paragraph, the target average number of child enrollees for a State—

''(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

''(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

''(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

''(D) PRORATION RULE.—If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

''(E) TIMELY PAYMENT; RECONCILIATION.—Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 2105 shall apply to payments under this subsection in the same manner as they apply to payments under such section.

''(F) CONTINUED REPORTING.—For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.''.

SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

Section 2105(a) (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

''(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

''(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

''(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under the State plan under title XIX, respectively; exceeds

''(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under title XIX, respectively;

but not to exceed 10 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under title XIX as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) BASELINE NUMBER OF CHILD ENROLLEES.—Subject to subparagraph (H), the baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of

the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points;

''(II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points;

''(III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and

''(IV) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the fiscal year involved begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 2 percentage points.

''(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

''(i) INITIAL APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there are appropriated $3,225,000,000 for fiscal year 2009 for making payments under this paragraph, to be available until expended.

''(ii) TRANSFERS.—Notwithstanding any other provision of this title, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

''(I) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2009 THROUGH 2012.—As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2013.—As of December 31 of fiscal year 2013, the portion, if any, of the sum of the amounts appropriated under subsection (a)(16)(A) and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2013.—As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B) for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(II) UNEXPENDED ALLOTMENTS NOT USED FOR REDISTRIBUTION.—As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 2104 for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 2104(f) during the period in which such allotments are available for obligation.

''(III) EXCESS CHILD ENROLLMENT CONTINGENCY FUNDS.—As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 2104(n).

''(IV) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—As of October 1, 2011, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2011.

''(iii) PROPORTIONAL REDUCTION.—If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

''(F) QUALIFYING CHILDREN DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clauses (ii) and (iii), the term 'qualifying children' means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.

''(ii) LIMITATION.—A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a 'qualifying child' only if the child is determined to be eligible for medical assistance under title XIX.

''(iii) EXCLUSION.—Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v).

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—The provisions of subparagraph (G) of section 2104(n)(3) shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

''(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—In the case of a State that provides coverage under section 115 of the Children's Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

''(i) any child enrolled in the State plan under title XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and

''(ii) in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under title XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX for such third fiscal year.

''(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

''(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

''(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

''(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

''(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

''(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

''(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

''(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

''(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

''(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

''(i) IN GENERAL.—The State provides, in the case of renewal of a child's eligibility for medical assistance under title XIX or child health assistance under this title, a pre-printed form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

''(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State's possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant's parent or caretaker relative.

''(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is implementing the option of providing premium assistance subsidies under section 2105(c)(10) or section 1906A.''.

SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.

(a) BEGINNING WITH FISCAL YEAR 2007.—

(1) IN GENERAL.—Section 2104(f) (42 U.S.C. 1397dd(f)) is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''States that have fully expended the amount of their allotments under this section.'' and inserting ''States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).''; and

(C) by adding at the end the following new paragraph:

''(2) SHORTFALL STATES DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

''(i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

''(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

''(iii) the amount of the State's allotment for the fiscal year.

''(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

''(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.

(b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C. 1397dd(k)) is amended—

(1) in the subsection heading, by striking ''THE FIRST 2 QUARTERS OF'';

(2) in paragraph (1), by striking ''the first 2 quarters of''; and

(3) in paragraph (6)—

(A) by striking ''the first 2 quarters of''; and

(B) by striking ''March 31'' and inserting ''September 30''.

SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN.

(a) IN GENERAL.—Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

(1) in paragraph (1)(A), as amended by section 201(b)(1) of Public Law 110–173—

(A) by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

(B) by striking ''2008, or 2009'' and inserting ''or 2008''; and

(2) by adding at the end the following new paragraph:

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2009 through 2013 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is repealed.

SEC. 108. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $11,706,000,000 to accompany the allotment made for the period beginning on October 1, 2012, and ending on March 31, 2013, under section 2104(a)(16)(A) of the Social Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under paragraph (3) of section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(i)), as added by section 102, for the first 6 months of fiscal year 2013 in the same manner as allotments are provided under subsection (a)(16)(A) of such section 2104 and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(16)(A).

SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID.

Section 1108(g) (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2009, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

Subtitle B—Focus on Low-Income Children and Pregnant Women

SEC. 111. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 112(a), is amended by adding at the end the following new section:

''SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

''(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR PREGNANT WOMEN AND CHILDREN.—The State has established an income eligibility level—

''(A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and

''(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the

State child health plan, and in addition to providing child health assistance for such women.

''(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

''(d) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

''(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

''(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

*(A) in the heading, by inserting ''**OR PREGNANCY-RELATED ASSISTANCE**'' after ''**PREVENTIVE SERVICES**''; and*

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

(1) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF 2009.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2010, notwithstanding the requirements of subsections (e) and (f) of section 1115, a State may submit, not later than September 30, 2009, a request to the Secretary for an extension of the waiver. The Secretary shall approve a request for an extension of an applicable existing waiver submitted pursuant to this subparagraph, but only through December 31, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on the date of the enactment of this subsection and ending on December 31, 2009.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the year involved over the preceding calendar year, as most recently published by the Secretary.

''(b) RULES AND CONDITIONS FOR COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN.—

''(1) TWO-YEAR PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2011.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during the third and fourth quarters of fiscal year 2009 and during fiscal years 2010 and 2011.

''(2) RULES FOR FISCAL YEARS 2012 THROUGH 2013.—

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 2104(a)(16) and any reduction in the allotment for either such period under section 2104(m)(4) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2012 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraph (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2013.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply.

For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

''(v) NO FEDERAL PAYMENTS OTHER THAN FROM BLOCK GRANT SET ASIDE.—No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2011;

''(ii) implemented 1 or more of the enrollment and retention provisions described in section 2105(a)(4) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest 1/3 of States in terms of the State's percentage of low-income children without health insurance.

''(C) STATE INCREASING ENROLLMENT OF LOW-INCOME CHILDREN.—The State qualified for a performance bonus payment under section 2105(a)(3)(B) for the most recent fiscal year applicable under such section.

''(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect during fiscal year 2009.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(i) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

(ii) in the first sentence, by inserting ''or a parent (as defined in section 2111(c)(2)(A)), who is not pregnant, of a targeted low-income child'' before the period;

(iii) by striking the second sentence; and

(iv) by adding at the end the following new paragraph:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009 that would waive or modify the requirements of section 2111.''.

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 112 of the Children's Health Insurance Program Reauthorization Act of 2009, nothing''.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of whether—

(A) the coverage of a parent, a caretaker relative (as such term is used in carrying out section 1931), or a legal guardian of a targeted low-income child under a State health plan under title XXI of the Social Security Act increases the enrollment of, or the quality of care for, children, and

(B) such parents, relatives, and legal guardians who enroll in such a plan are more likely to enroll their children in such a plan or in a State plan under title XIX of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall report the results of the study to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations (if any) for changes in legislation.

SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

(a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) [reserved]''.

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking ''so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance''.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) (42 U.S.C. 1396r–1(b)) is amended by adding after paragraph (2) the following flush sentence:

''The term 'qualified provider' also includes a qualified entity, as defined in section 1920A(b)(3).''.

SEC. 114. LIMITATION ON MATCHING RATE FOR STATES THAT PROPOSE TO COVER CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) FMAP APPLIED TO EXPENDITURES.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON MATCHING RATE FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE PROVIDED TO CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) FMAP APPLIED TO EXPENDITURES.—Except as provided in subparagraph (B), for fiscal years beginning with fiscal year 2009, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as—

(1) changing any income eligibility level for children under title XXI of the Social Security Act; or

(2) changing the flexibility provided States under such title to establish the income eligibility level for targeted low-income children under a State child health plan and the methodologies used by the State to determine income or assets under such plan.

SEC. 115. STATE AUTHORITY UNDER MEDICAID.

Notwithstanding any other provision of law, including the fourth sentence of subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) or subsection (u) of such section, at State option, the Secretary shall provide the State with the Federal medical assistance percentage determined for the State for Medicaid with respect to expenditures described in section 1905(u)(2)(A) of such Act or otherwise made to provide medical assistance under Medicaid to a child who could be covered by the State under CHIP.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 111, is amended by adding at the end the following:

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2013 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

''(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

''(1) STATE MAINTENANCE OF EFFORT.—In the case of a State that is awarded a grant under this section, the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded.

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to nongovernmental entities.

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual

who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $100,000,000 for the period of fiscal years 2009 through 2013, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR INTERPRETATION SERVICES UNDER CHIP AND MEDICAID.—

(1) CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as amended by section 113, is amended—

(A) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ''and'' at the end;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(2) MEDICAID.—

(A) USE OF MEDICAID FUNDS.—Section 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, children of families for whom English is not the primary language; plus''.

(B) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(i) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397bb(c)(1)) is amended by inserting ''(through community health workers and others)'' after ''Outreach''.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting ''(such as through community health workers and others)'' after ''including practices''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended to read as follows:

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE xix.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13) EXPRESS LANE OPTION.—

''(A) IN GENERAL.—

''(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (G)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (F)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B) and 1137(d) or any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

''(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

''(II) NOTICE REQUIREMENT.—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency's finding of such child's income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its regular policies and of the procedures for requesting such an evaluation.

''(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

''(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9), as applicable for verifications of citizenship or nationality status.

''(V) CODING.—The State meets the requirements of subparagraph (E).

''(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

''(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

''(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

''(i) IN GENERAL.—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

''(ii) ESTABLISHING A SCREENING THRESHOLD.—

''(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

''(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

''(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

''(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State's regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for medical assistance under this title using such regular procedures.

''(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

''(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

''(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

''(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child's eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

''(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

''(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child's parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

''(V) AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

''(D) OPTION FOR AUTOMATIC ENROLLMENT.—

''(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary or by signature on an Express Lane agency application, if the requirement of clause (ii) is met.

''(ii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

''(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iv), the requirement of this subparagraph for a State is that the State agrees to—

''(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's election under this paragraph;

''(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate (as described in clause (iv)) with respect to the enrollment of such children (and shall not include such children in any data or samples used for purposes of complying with a Medicaid Eligibility Quality Control (MEQC) review or a payment error rate measurement (PERM) requirement);

''(III) submit the error rate determined under subclause (II) to the Secretary;

''(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State elects to apply this paragraph, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

''(V) if such error rate exceeds 3 percent for any fiscal year in which the State elects to apply this paragraph, a reduction in the amount otherwise payable to the State under section 1903(a) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year that are in excess of a 3 percent error rate with respect to such children.

''(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

''(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as relieving a State that elects to apply this paragraph from being subject to a penalty under section 1903(u), for payments made under the State Medicaid plan with respect to ineligible individuals and families that are determined to exceed the error rate permitted under that section (as determined without regard to the error rate determined under clause (i)(II)).

''(iv) ERROR RATE DEFINED.—In this subparagraph, the term 'error rate' means the rate of erroneous excess payments for medical assistance (as defined in section 1903(u)(1)(D)) for the period involved, except that such payments shall be limited to individuals for which eligibility determinations are made under this paragraph and except that in applying this paragraph under title XXI, there shall be substituted for references to provisions of this title corresponding provisions within title XXI.

''(F) EXPRESS LANE AGENCY.—

''(i) IN GENERAL.—In this paragraph, the term 'Express Lane agency' means a public agency that—

''(I) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of one or more eligibility requirements described in subparagraph (A)(i);

''(II) is identified in the State Medicaid plan or the State CHIP plan; and

''(III) notifies the child's family—

''(aa) of the information which shall be disclosed in accordance with this paragraph;

''(bb) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

''(cc) that the family may elect to not have the information disclosed for such purposes; and

''(IV) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

''(ii) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such term includes the following:

''(I) A public agency that determines eligibility for assistance under any of the following:

''(aa) The temporary assistance for needy families program funded under part A of title IV.

''(bb) A State program funded under part D of title IV.

''(cc) The State Medicaid plan.

''(dd) The State CHIP plan.

''(ee) The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

''(ff) The Head Start Act (42 U.S.C. 9801 et seq.).

''(gg) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(hh) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(ii) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(jj) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

''(kk) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

''(ll) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(II) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

''(III) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

''(iii) EXCLUSIONS.—Such term does not include an agency that determines eligibility for a program established under the Social Services Block Grant established under title XX or a private, for-profit organization.

''(iv) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(I) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

''(II) authorizing a State Medicaid agency that elects to use Express Lane agencies under this subparagraph to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

''(v) ADDITIONAL DEFINITIONS.—In this paragraph:

''(I) STATE.—The term 'State' means 1 of the 50 States or the District of Columbia.

''(II) STATE CHIP AGENCY.—The term 'State CHIP agency' means the State agency responsible for administering the State CHIP plan.

''(III) STATE CHIP PLAN.—The term 'State CHIP plan' means the State child health plan established under title XXI and includes any waiver of such plan.

''(IV) STATE MEDICAID AGENCY.—The term 'State Medicaid agency' means the State agency responsible for administering the State Medicaid plan.

''(V) STATE MEDICAID PLAN.—The term 'State Medicaid plan' means the State plan established under title XIX and includes any waiver of such plan.

''(G) CHILD DEFINED.—For purposes of this paragraph, the term 'child' means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.

''(I) APPLICATION.—This paragraph shall not apply with respect to eligibility determinations made after September 30, 2013.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the option provided under the amendments made by subsection (a). Such evaluation shall include an analysis of the effectiveness of the option, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such plans through reliance on a finding made by an Express Lane agency improves the ability of a State to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans;

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

(D) any recommendations for legislative or administrative changes that would improve the effectiveness of enrolling children in such plans through reliance on such findings.

(2) REPORT TO CONGRESS.—Not later than September 30, 2012, the Secretary shall submit a report to Congress on the results of the evaluation under paragraph (1).

(3) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out the evaluation under this subsection $5,000,000 for the period of fiscal years 2009 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of such amount to conduct the evaluation under this subsection.

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant's signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.''.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX is amended by adding at the end the following new section:

''SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in section 1902(e)(13)(F), information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

''(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

''(1) The individual whose circumstances are described in the data or information (or such individual's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

''(B) verifying the eligibility of individuals for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

''(c) PENALTIES FOR IMPROPER DISCLOSURE.—

''(1) CIVIL MONEY PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to $10,000 for each such unauthorized publication or disclosure. The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(2) CRIMINAL PENALTY.—A private entity described in the subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than $10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

''(F) Section 1942 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ''(and, at State option, individuals who apply or whose eligibility for medical assistance is being evaluated in accordance with section 1902(e)(13)(D))'' after ''with respect to individuals who are eligible''; and

(B) by inserting ''under this title (and, at State option, child health assistance under title XXI)'' after ''the State plan''.

(e) AUTHORIZATION FOR STATES ELECTING EXPRESS LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall enter into such agreements as are necessary to permit a State that elects the Express Lane option under section 1902(e)(13) of the Social Security Act to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under a State child health plan under CHIP or a State plan under Medicaid from the following:

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.

(f) EFFECTIVE DATE.—The amendments made by this section are effective on the date of the enactment of this Act.

Subtitle B—Reducing Barriers to Enrollment

SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

(a) ALTERNATIVE STATE PROCESS FOR VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID.—

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a), as amended by section 203(c), is amended—

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

(III) by adding at the end the following new subparagraph:

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (ee);''; and

(ii) by adding at the end the following new subsection:

''(ee)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the Commissioner of Social Security as part of the program established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number, or the declaration of citizenship or nationality, of the individual is inconsistent with information in the records maintained by the Commissioner—

''(i) the State makes a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality and by taking such additional actions as the Secretary, through regulation or other guidance, or the State may identify, and continues to provide the individual with medical assistance while making such effort; and

''(ii) in the case such inconsistency is not resolved under clause (i), the State—

''(I) notifies the individual of such fact;

''(II) provides the individual with a period of 90 days from the date on which the notice required under subclause (I) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or resolve the inconsistency with the Commissioner of Social Security (and continues to provide the individual with medical assistance during such 90-day period); and

''(III) disenrolls the individual from the State plan under this title within 30 days after the end of such 90-day period if no such documentary evidence is presented or if such inconsistency is not resolved.

''(2)(A) Each State electing to satisfy the requirements of this subsection for purposes of section 1902(a)(46)(B) shall establish a program under which the State submits at least monthly to the Commissioner of Social Security for comparison of the name and social security number, of each individual newly enrolled in the State plan under this title that month who is not described in section 1903(x)(2) and who declares to be a United States citizen or national, with information in records maintained by the Commissioner.

''(B) In establishing the State program under this paragraph, the State may enter into an agreement with the Commissioner of Social Security—

''(i) to provide, through an on-line system or otherwise, for the electronic submission of, and response to, the information submitted under subparagraph (A) for an individual enrolled in the State plan under this title who declares to be citizen or national on at least a monthly basis; or

''(ii) to provide for a determination of the consistency of the information submitted with the information maintained in the records of the Commissioner through such other method as agreed to by the State and the Commissioner and approved by the Secretary, provided that such method is no more burdensome for individuals to comply with than any burdens that may apply under a method described in clause (i).

''(C) The program established under this paragraph shall provide that, in the case of any individual who is required to submit a social security number to the State under subparagraph (A) and who is unable to provide the State with such number, shall be provided with at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the inconsistent submissions bears to the total submissions made for comparison for such month. For purposes of this subparagraph, a name, social security number, or declaration of citizenship or nationality of an individual shall be treated as inconsistent and included in the determination of such percentage only if—

''(i) the information submitted by the individual is not consistent with information in records maintained by the Commissioner of Social Security;

''(ii) the inconsistency is not resolved by the State;

''(iii) the individual was provided with a reasonable period of time to resolve the inconsistency with the Commissioner of Social Security or provide satisfactory documentation of citizenship status and did not successfully resolve such inconsistency; and

''(iv) payment has been made for an item or service furnished to the individual under this title.

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 3 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided inconsistent information as the number of individuals with inconsistent information in excess of 3 percent of such total submitted bears to the total number of individuals with inconsistent information.

''(C) The Secretary may waive, in certain limited cases, all or part of the payment under subparagraph (B)(ii) if the State is unable to reach the allowable error rate despite a good faith effort by such State.

''(D) Subparagraphs (A) and (B) shall not apply to a State for a fiscal year if there is an agreement described in paragraph (2)(B) in effect as of the close of the fiscal year that provides for the submission on a real-time basis of the information described in such paragraph.

''(4) Nothing in this subsection shall affect the rights of any individual under this title to appeal any disenrollment from a State plan.''.

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

(ii) by adding at the end the following new subparagraph:

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(ee) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

(3) CONFORMING AMENDMENTS.—Section 1903 (42 U.S.C. 1396b) is amended—

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(4) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Commissioner of Social Security $5,000,000 to remain available until expended to carry out the Commissioner's responsibilities under section 1902(ee) of the Social Security Act, as added by subsection (a).

(b) CLARIFICATION OF REQUIREMENTS RELATING TO PRESENTATION OF SATISFACTORY DOCUMENTARY EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

(1) ACCEPTANCE OF DOCUMENTARY EVIDENCE ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.—Section 1903(x)(3)(B) (42 U.S.C. 1396b(x)(3)(B)) is amended—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

(3) CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—

(A) CLARIFICATION OF RULES.—Section 1903(x) (42 U.S.C. 1396b(x)), as amended by paragraph (2), is amended—

(i) in paragraph (2)—

(I) in subparagraph (C), by striking ''or'' at the end;

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

(ii) by adding at the end the following new paragraph:

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

(4) TECHNICAL AMENDMENTS.—Section 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

(A) in subparagraph (B)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left; and

(B) in subparagraph (C)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left.

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(ii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect on January 1, 2010.

(B) TECHNICAL AMENDMENTS.—The amendments made by—

(i) paragraphs (1), (2), and (3) of subsection (b) shall take effect as if included in the enactment of section 6036 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 80); and

(ii) paragraph (4) of subsection (b) shall take effect as if included in the enactment of section 405 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 2996).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2009, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

(3) SPECIAL TRANSITION RULE FOR INDIANS.—During the period that begins on July 1, 2006, and ends on the effective date of final regulations issued under subclause (II) of section 1903(x)(3)(B)(v) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by subsection (b)(1)(B)), an individual who is a member of a federally-recognized Indian tribe described in subclause (II) of that section who presents a document described in subclause (I) of such section that is issued by such Indian tribe, shall be deemed to have presented satisfactory evidence of citizenship or nationality for purposes of satisfying the requirement of subsection (x) of section 1903 of such Act.

SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Secretary of Health and Human Services shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

SEC. 214. PERMITTING STATES TO ENSURE COVERAGE WITHOUT A 5-YEAR DELAY OF CERTAIN CHILDREN AND PREGNANT WOMEN UNDER THE MEDICAID PROGRAM AND CHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to children and pregnant women who are lawfully residing in the United States (including battered individuals described in section 431(c) of such Act) and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

''(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

''(ii) CHILDREN.—Individuals under 21 years of age, including optional targeted low-income children described in section 1905(u)(2)(B).

''(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

(b) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by sections 203(a)(2) and 203(d)(2), is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively and by inserting after subparagraph (D) the following new subparagraph:

''(E) Paragraph (4) of section 1903(v) (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under title XIX.''.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.

(a) CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by sections 114(a) and 211(c), is amended by adding at the end the following:

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph. No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

''(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(D) APPLICATION OF SECONDARY PAYOR RULES.—The State shall be a secondary payor for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

''(G) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

''(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(iii) CLARIFICATION OF PAYMENT FOR ADMINISTRATIVE EXPENDITURES.—Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this title.

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906 or 1906A, a waiver described in paragraph (2)(B)

or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

''(M) SATISFACTION OF COST-EFFECTIVENESS TEST.—Premium assistance subsidies for qualified employer-sponsored coverage offered under this paragraph shall be deemed to meet the requirement of subparagraph (A) of paragraph (3).

''(N) COORDINATION WITH MEDICAID.—In the case of a targeted low-income child who receives child health assistance through a State plan under title XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1906A shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.''.

(2) DETERMINATION OF COST-EFFECTIVENESS FOR PREMIUM ASSISTANCE OR PURCHASE OF FAMILY COVERAGE.—

(A) IN GENERAL.—Section 2105(c)(3)(A) (42 U.S.C. 1397ee(c)(3)(A)) is amended by striking ''relative to'' and all that follows through the comma and inserting ''relative to

''(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

''(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families.''.

(B) NONAPPLICATION TO PREVIOUSLY APPROVED COVERAGE.—The amendment made by subparagraph (A) shall not apply to coverage the purchase of which has been approved by the Secretary under section 2105(c)(3) of the Social Security Act prior to the date of enactment of this Act.

(b) MEDICAID.—Title XIX is amended by inserting after section 1906 the following new section:

''PREMIUM ASSISTANCE OPTION FOR CHILDREN

''SEC. 1906A. (a) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subsection (c)) for qualified employer-sponsored coverage (as defined in subsection (b)) to all individuals under age 19 who are entitled to medical assistance under this title (and to the parent of such an individual) who have access to such coverage if the State meets the requirements of this section.

''(b) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(1) IN GENERAL.—Subject to paragraph (2)), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(A) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(B) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(C) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(2) EXCEPTION.—Such term does not include coverage consisting of—

''(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(3) TREATMENT AS THIRD PARTY LIABILITY.—The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1902(a)(25).

''(c) PREMIUM ASSISTANCE SUBSIDY.—In this section, the term 'premium assistance subsidy' means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family. Premium assistance subsidies under this section shall be considered, for purposes of section 1903(a), to be a payment for medical assistance.

''(d) VOLUNTARY PARTICIPATION.—

''(1) EMPLOYERS.—Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

''(2) BENEFICIARIES.—No subsidy shall be provided to an individual under age 19 under this section unless the individual (or the individual's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. State may not require, as a condition of an individual under age 19 (or the individual's parent) being or remaining eligible for medical assistance under this title, apply for enrollment in qualified employer-sponsored coverage under this section.

''(3) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of an individual under age 19 receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

''(e) REQUIREMENT TO PAY PREMIUMS AND COST-SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In the case of the participation of an individual under age 19 (or the individual's parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916 or, if applicable, section 1916A). The fact that an individual under age 19 (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual's (or parent's) eligibility for medical assistance under the State plan, except insofar as section 1902(a)(25) provides that payments for such assistance shall first be made under such coverage.''.

(c) GAO STUDY AND REPORT.—Not later than January 1, 2010, the Comptroller General of the United States shall study cost and coverage issues relating to any State premium assistance programs for which Federal matching payments are made under title XIX or XXI of the Social Security Act, including under waiver authority, and shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the results of such study.

SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

(a) REQUIREMENT TO INCLUDE DESCRIPTION OF OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following new paragraph:

''(3) PREMIUM ASSISTANCE SUBSIDIES.—In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 211(c)(2), is amended by adding at the end the following new clause:

''(iii) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE xix THROUGH PREMIUM ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).''.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE; COORDINATION OF COVERAGE.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

(ii) by inserting before the period the following: '', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside''.

(C) WORKING GROUP TO DEVELOP MODEL COVERAGE COORDINATION DISCLOSURE FORM.—

(i) MEDICAID, CHIP, AND EMPLOYER-SPONSORED COVERAGE COORDINATION WORKING GROUP.—

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure

form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

(aa) A determination of whether the employee is eligible for coverage under the group health plan.

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

(dd) The premiums and cost-sharing required under the plan.

(ee) Any other information relevant to coverage under the plan.

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(iii) COMPENSATION.—The members of the Working Group shall serve without compensation.

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

(E) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking ''or (8)'' and inserting ''(8), or (9)''; and

(ii) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following:

''(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

''(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

"SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

''(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

''(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

''(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

''(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability and effectiveness of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth, prevent and treat premature birth, and detect the presence or risk of physical or mental conditions that could adversely affect growth and development; and

''(ii) treatments to correct or ameliorate the effects of physical and mental conditions, including chronic conditions, in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children, including children with special needs, and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2011, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2011, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing children, including children with disabilities and children with chronic conditions;

''(F) national organizations representing consumers and purchasers of children's health care;

''(G) national organizations and individuals with expertise in pediatric health quality measurement; and

''(H) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2013, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(7) CONSTRUCTION.—Nothing in this section shall be construed as supporting the restriction of coverage, under title XIX or XXI or otherwise, to only those services that are evidence-based.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2010, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2009 through 2013, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

''(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A Federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problemsolving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2009 through 2013.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2010, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI.

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2009 through 2013, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE ''FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following new clause:

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMATION REGARDING ENROLLMENT OF CHILDREN IN CHIP AND MEDICAID.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

(2) by adding at the end the following new subsection:

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) STANDARDIZED REPORTING FORMAT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act, as added by subsection (a)(2).

(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act that includes the information required

under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).

(c) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary for fiscal year 2009 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of providing more timely data on enrollment and eligibility of children under Medicaid and CHIP and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be designed and implemented (including with respect to any necessary guidance for States to report such information in a complete and expeditious manner) so that, beginning no later than October 1, 2009, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

(d) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

(a) IN GENERAL.—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

''(3) COMPLIANCE WITH MANAGED CARE REQUIREMENTS.—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2009.

TITLE V—IMPROVING ACCESS TO BENEFITS

SEC. 501. DENTAL BENEFITS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(ii) in paragraph (1), by inserting ''at least'' after ''that is''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) DENTAL BENEFITS.—

''(A) IN GENERAL.—The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

''(B) PERMITTING USE OF DENTAL BENCHMARK PLANS BY CERTAIN STATES.—A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

''(C) BENCHMARK DENTAL BENEFIT PACKAGES.—The benchmark dental benefit packages are as follows:

''(i) FEHBP CHILDREN'S DENTAL COVERAGE.—A dental benefits plan under chapter 89A of title 5, United States Code, that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(ii) STATE EMPLOYEE DEPENDENT DENTAL COVERAGE.—A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(iii) COVERAGE OFFERED THROUGH COMMERCIAL DENTAL PLAN.—A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.''.

(2) ASSURING ACCESS TO CARE.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to coverage of items and services furnished on or after October 1, 2009.

(b) STATE OPTION TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

(1) IN GENERAL.—Section 2110(b) (42 U.S.C. 1397jj(b)) is amended—

(A) in paragraph (1)(C), by inserting '', subject to paragraph (5),'' after ''under title XIX or''; and

(B) by adding at the end the following new paragraph:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

(c) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(d) PROVISION OF DENTAL SERVICES THROUGH FQHCS.—

(1) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (70);

(B) by striking the period at the end of paragraph (71) and inserting ''; and''; and

(C) by inserting after paragraph (71) the following new paragraph:

''(72) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397g(e)(1)), as amended by subsections (a)(2) and (d)(2) of section 203, is amended by inserting after subparagraph (B) the following new

subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(C) Section 1902(a)(72) (relating to limiting FQHC contracting for provision of dental services).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2009.

(e) REPORTING INFORMATION ON DENTAL HEALTH.—

(1) MEDICAID.—Section 1902(a)(43)(D)(iii) (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting ''and other information relating to the provision of dental services to such children described in section 2108(e)'' after ''receiving dental services,''.

(2) CHIP.—Section 2108 (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

''(e) INFORMATION ON DENTAL CARE FOR CHILDREN.—

''(1) IN GENERAL.—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

''(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

''(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

''(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

''(2) INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(f) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act, on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually.

(g) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a), as added by section 401(a), is amended—

(1) in paragraph (3)(B)(ii), by inserting ''and, with respect to dental care, conditions requiring the restoration of teeth, relief of pain and infection, and maintenance of dental health'' after ''chronic conditions''; and

(2) in paragraph (6)(A)(ii), by inserting ''dental care,'' after ''preventive health services,''.

(h) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas;

(B) children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(i) the extent to which dental providers are willing to treat children eligible for such programs;

(ii) information on such children's access to networks of care, including such networks that serve special needs children; and

(iii) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(C) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) REPORT.—Not later than 18 months year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by inserting after paragraph (5), the following:

''(6) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance use disorder benefits comply with the requirements of section 2705(a) of the Public Health Service Act in the same manner as such requirements apply to a group health plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), as amended by section 501(a)(1)(A)(i), in the matter preceding paragraph (1), by inserting '', (6),'' after ''(5)''; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 501(c)(2) is amended by inserting after subparagraph (C) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2009.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2009, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(D) of the Social Security Act (as added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2011, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 504. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) PREMIUM GRACE PERIOD.—The State child health plan—

''(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

''(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

''(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

''(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term 'new coverage period' means the month immediately following the last month for which the premium has been paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after the date of the enactment of this Act.

SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES PROVIDED THROUGH SCHOOL-BASED HEALTH CENTERS.

(a) IN GENERAL.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by adding at the end the following new paragraph:

''(8) AVAILABILITY OF COVERAGE FOR ITEMS AND SERVICES FURNISHED THROUGH SCHOOL-BASED HEALTH CENTERS.—Nothing in this title shall be construed as limiting a State's ability to provide child health assistance for covered items and services that are furnished through school-based health centers (as defined in section 2110(c)(9)).''.

(b) DEFINITION.—Section 2110(c) (42 U.S.C. 1397jj) is amended by adding at the end the following:

''(9) SCHOOL-BASED HEALTH CENTER.—

''(A) IN GENERAL.—The term 'school-based health center' means a health clinic that—

''(i) is located in or near a school facility of a school district or board or of an Indian tribe or tribal organization;

''(ii) is organized through school, community, and health provider relationships;

''(iii) is administered by a sponsoring facility;

''(iv) provides through health professionals primary health services to children in accordance with State and local law, including laws relating to licensure and certification; and

''(v) satisfies such other requirements as a State may establish for the operation of such a clinic.

''(B) SPONSORING FACILITY.—For purposes of subparagraph (A)(iii), the term 'sponsoring facility' includes any of the following:

''(i) A hospital.

''(ii) A public health department.

''(iii) A community health center.

''(iv) A nonprofit health care agency.

''(v) A school or school system.

''(vi) A program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization.''.

SEC. 506. MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by inserting before section 1901 the following new section:

''MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION

''SEC. 1900. (a) ESTABLISHMENT.—There is hereby established the Medicaid and CHIP Payment and Access Commission (in this section referred to as 'MACPAC').

''(b) DUTIES.—

''(1) REVIEW OF ACCESS POLICIES AND ANNUAL REPORTS.—MACPAC shall—

''(A) review policies of the Medicaid program established under this title (in this section referred to as 'Medicaid') and the State Children's Health Insurance Program established under title XXI (in this section referred to as 'CHIP') affecting children's access to covered items and services, including topics described in paragraph (2);

''(B) make recommendations to Congress concerning such access policies;

''(C) by not later than March 1 of each year (beginning with 2010), submit a report to Congress containing the results of such reviews and MACPAC's recommendations concerning such policies; and

''(D) by not later than June 1 of each year (beginning with 2010), submit a report to Congress containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

''(2) SPECIFIC TOPICS TO BE REVIEWED.—Specifically, MACPAC shall review and assess the following:

''(A) MEDICAID AND CHIP PAYMENT POLICIES.—Payment policies under Medicaid and CHIP, including—

''(i) the factors affecting expenditures for items and services in different sectors, including the process for updating hospital, skilled nursing facility, physician, Federally-qualified health center, rural health center, and other fees;

''(ii) payment methodologies; and

''(iii) the relationship of such factors and methodologies to access and quality of care for Medicaid and CHIP beneficiaries.

''(B) INTERACTION OF MEDICAID AND CHIP PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—The effect of Medicaid and CHIP payment policies on access to items and services for children and other Medicaid and CHIP populations other than under this title or title XXI and the implications of changes in health care delivery in the United States and in the general market for health care items and services on Medicaid and CHIP.

''(C) OTHER ACCESS POLICIES.—The effect of other Medicaid and CHIP policies on access to covered items and services, including policies relating to transportation and language barriers.

''(3) CREATION OF EARLY-WARNING SYSTEM.—MACPAC shall create an early-warning system to identify provider shortage areas or any other problems that threaten access to care or the health care status of Medicaid and CHIP beneficiaries.

''(4) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to access policies, including with respect to payment policies, under Medicaid or CHIP, the Secretary shall transmit a copy of the report to MACPAC. MACPAC shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as MACPAC deems appropriate.

''(5) AGENDA AND ADDITIONAL REVIEWS.—MACPAC shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding MACPAC's agenda and progress towards achieving the agenda. MACPAC may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title or title XXI as may be requested by such chairmen and members and as MACPAC deems appropriate.

''(6) AVAILABILITY OF REPORTS.—MACPAC shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

''(7) APPROPRIATE COMMITTEE OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

''(8) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of MACPAC shall vote on the recommendation, and MACPAC shall include, by member, the results of that vote in the report containing the recommendation.

''(9) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, MACPAC shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—MACPAC shall be composed of 17 members appointed by the Comptroller General of the United States.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—The membership of MACPAC shall include individuals who have had direct experience as enrollees or parents of enrollees in Medicaid or CHIP and individuals with national recognition for their expertise in Federal safety net health programs, health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, health information technology, pediatric physicians, dentists, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(B) INCLUSION.—The membership of MACPAC shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, and individuals with expertise in the delivery of health services. Such membership shall also include consumers representing children, pregnant women, the elderly, and individuals with disabilities, current or former representatives of State agencies responsible for administering Medicaid, and current or former representatives of State agencies responsible for administering CHIP.

''(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under Medicaid or CHIP shall not constitute a majority of the membership of MACPAC.

''(D) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of MACPAC of financial and other potential conflicts of interest relating to such members. Members of MACPAC shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(3) TERMS.—

''(A) IN GENERAL.—The terms of members of MACPAC shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in MACPAC shall be filled in the manner in which the original appointment was made.

''(4) COMPENSATION.—While serving on the business of MACPAC (including travel time), a member of MACPAC shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of MACPAC. Physicians serving as personnel of MACPAC may be provided a physician comparability allowance by MACPAC in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to MACPAC in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of MACPAC) and employment benefits, rights, and privileges, all personnel of MACPAC shall be treated as if they were employees of the United States Senate.

''(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate a member of MACPAC, at the time of appointment of the member as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General of the United States may designate another member for the remainder of that member's term.

''(6) MEETINGS.—MACPAC shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of MACPAC, MACPAC may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General of the United States) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of MACPAC (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of MACPAC;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of MACPAC.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—MACPAC may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to MACPAC on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, MACPAC shall—

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

''(C) adopt procedures allowing any interested party to submit information for MACPAC's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of MACPAC, immediately upon request.

''(4) PERIODIC AUDIT.—MACPAC shall be subject to periodic audit by the Comptroller General of the United States.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—MACPAC shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for MACPAC shall be separate from amounts appropriated for the Comptroller General of the United States.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.''.

(b) DEADLINE FOR INITIAL APPOINTMENTS.—Not later than January 1, 2010, the Comptroller General of the United States shall appoint the initial members of the Medicaid and CHIP Payment and Access Commission established under section 1900 of the Social Security Act (as added by subsection (a)).

(c) ANNUAL REPORT ON MEDICAID.—Not later than January 1, 2010, and annually thereafter, the Secretary, in consultation with the Secretary of the Treasury, the Secretary of Labor, and the States (as defined for purposes of Medicaid), shall submit an annual report to Congress on the financial status of, enrollment in, and spending trends for, Medicaid for the fiscal year ending on September 30 of the preceding year.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

SEC. 601. PAYMENT ERROR RATE MEASUREMENT ("PERM").

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(a), is amended by adding at the end the following new paragraph:

''(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.''.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)C)), as amended by section 302(b)), is amended by adding at the end the following:

''(iv) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).''.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ''PERM'') requirements to CHIP until after the date that is 6 months after the date on which a new final rule (in this section referred to as the ''new final rule'') promulgated after the date of the enactment of this Act and implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such new final rule in effect for all States may only be inclusive of errors, as defined in such new final rule or in guidance issued within a reasonable time frame after the effective date for such new final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR NEW FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the new final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State's verification of an applicant's self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant's self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(d) OPTION FOR APPLICATION OF DATA FOR STATES IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL RULE.—After the new final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 or under a final rule for fiscal year 2008 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 or fiscal year 2011 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ''MEQC'') requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the new final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) STATE OPTION TO APPLY MEQC DATA.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with the first fiscal year that begins on or after the date on which the new final rule is in effect for all States, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act.

SEC. 602. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2009''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine the child population growth factor under section 2104(m)(5)(B) and any other data necessary for carrying out this title.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.

Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

''(5) SUBSEQUENT EVALUATION USING UPDATED INFORMATION.—

''(A) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

''(B) SELECTION OF STATES AND MATTERS INCLUDED.—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

''(C) SUBMISSION TO CONGRESS.—Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

''(D) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.''.

SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.

Section 2108(d) (42 U.S.C. 1397hh(d)) is amended to read as follows:

''(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.—For the purpose of evaluating and auditing the program established under this title, or title XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.''.

SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DISALLOWANCE FOR UNAUTHORIZED EXPENDITURES.

Nothing in this Act allows Federal payment for individuals who are not legal residents. Titles XI, XIX, and XXI of the Social Security Act provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively.

Subtitle B—Miscellaneous Health Provisions

SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i)—

(i) by striking ''Notwithstanding any other provision of this title'' and inserting ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability) and any other provision of this title which would be directly contrary to the authority under this section and subject to subsection (E)''; and

(ii) by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(B) in clause (i), by inserting ''provides'' after ''(i)''; and

(C) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(2) in subparagraph (C)—

(A) in the heading, by striking ''**WRAP-AROUND**'' and inserting ''**ADDITIONAL**''; and

(B) by striking ''wrap-around or''; and

(3) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2);

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(iii) affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise.''.

(b) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are made available under part B of title IV on the basis of being a child in foster care or''.

(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—With respect to a State plan amendment to provide benchmark benefits in accordance with subsections (a) and (b) that is approved by the Secretary, the Secretary shall publish on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out the plan amendment and the reason for each such determination on the date such approval is made, and shall publish such list in the Federal Register and not later than 30 days after such date of approval.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 612. REFERENCES TO TITLE XXI.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the FMAP (as defined in subsection (e)) for a State for a fiscal year (beginning with fiscal year 2006) and applying the FMAP under title XIX of the Social Security Act, any significantly disproportionate employer pension or insurance fund contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION AND INSURANCE FUND CONTRIBUTION.—

(1) IN GENERAL.—For purposes of this section, a significantly disproportionate employer pension and insurance fund contribution described in this subsection with respect to a State is any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such State for a calendar year (beginning with calendar year 2003) if the increase in the amount so estimated exceeds 25 percent of the total increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjustment a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than May 15, 2009, the Secretary shall submit to the Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of Economic Affairs calculations for the FMAP and for Medicaid and on possible alternative methodologies to mitigate such problems.

(e) FMAP DEFINED.—For purposes of this section, the term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396(d)).

SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) (42 U.S.C. 1396r–4(f)(6)), as amended by section 202 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended—

(1) in the paragraph heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012'';

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''and 2009'' and inserting '', 2009, 2010, and 2011''; and

(II) by striking ''such portion of''; and

(ii) in the third sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for period in fiscal year 2012''; and

(C) in clause (iv)—

(i) in the clause heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012''; and

(ii) in each of subclauses (I) and (II), by striking '' or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for a period in fiscal year 2012''; and

(3) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence, by striking ''2009'' and inserting ''2011''; and

(ii) in the second sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011''.

SEC. 617. GAO REPORT ON MEDICAID MANAGED CARE PAYMENT RATES.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives analyzing the extent to which State payment rates for medicaid managed care organizations under Medicaid are actuarially sound.

Subtitle C—Other Provisions

SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''52.75 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''40.26 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$105.69 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.15 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.30 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.51'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50.33 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8311 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$24.78''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, INVENTORIES, REPORTS, AND RECORDS REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMIT.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES, REPORTS, AND PACKAGES.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(C) PACKAGES, MARKS, LABELS, AND NOTICES.—Section 5723 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products'' each place it appears.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 5702(h) of such Code is amended by striking ''tobacco products and cigarette papers and tubes'' and inserting ''tobacco products or cigarette papers or tubes or any processed tobacco''.

(B) Sections 5702(j) and 5702(k) of such Code are each amended by inserting '', or any processed tobacco,'' after ''tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause

why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) IN GENERAL.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles imported after the date of the enactment of this Act.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—

(1) IN GENERAL.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) DISCLOSURE.—

(1) IN GENERAL.—Paragraph (1) of section 6103(o) of such Code is amended by designating the text as subparagraph (A), moving such text 2 ems to the right, striking ''Returns'' and inserting ''(A) IN GENERAL.—Returns'', and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.''.

(2) CONFORMING AMENDMENT.—Section 6103(p)(4) of such Code is amended by striking ''(o)(1)'' both places it appears and inserting ''(o)(1)(A)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on or after the date of the enactment of this Act.

(g) TRANSITIONAL RULE.—Any person who—

(1) on April 1, 2009 is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF TOBACCO SMUGGLING IN THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study concerning the magnitude of tobacco smuggling in the United States and submit to Congress recommendations for the most effective steps to reduce tobacco smuggling. Such study shall also include a review of the loss of Federal tax receipts due to illicit tobacco trade in the United States and the role of imported tobacco products in the illicit tobacco trade in the United States.

SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.5 percentage point.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 1 at 2 p.m., Monday, February 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the Inouye-Baucus amendment to H.R. 1, which is at the desk, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

AMENDMENT NO. 63, AS FURTHER MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the adoption of the Bingaman amendment No. 63, as modified, and the passage of H.R. 2, the Bingaman amendment No. 63 be modified further with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment No. 63, as further modified, is as follows:

AMENDMENT NO. 63

On page 99, line 9 strike ''and'' and insert ''in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary or by''.

On page 108, between lines 3 and 4, insert the following:

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.''.

ORDER FOR STAR PRINT—S. 350

Mr. REID. Mr. President, I ask unanimous consent that S. 350 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the resolution of January 24, 1901, the traditional reading of Washington's Farewell Address take place on Monday, February 23, 2009, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate on January 24, 1901, as modified by the order of January 30, 2009, appoints the Senator from Nebraska, Mr. JOHANNS, to read Washington's Farewell Address on Monday, February 23, 2009.

The Chair, on behalf of the majority leader, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from California (Mrs. FEINSTEIN) as Chairman of the United States Caucus on International Narcotics Control.

ORDERS FOR MONDAY, FEBRUARY 2, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m., Monday, February 2; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to the consideration of H.R. 1, the American Recovery and Reinvestment Act of 2009; further, that at 3:15 p.m., the Senate proceed to executive session, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, at 6:15 p.m. on Monday, the Senate will proceed to a vote on confirmation of Eric Holder to be Attorney General of the United States.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 2, 2009, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned as under the previous order.

There being no objection, the Senate, at 2:37 p.m., adjourned until Monday, February 2, 2009, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

CENTRAL INTELLIGENCE AGENCY

LEON E. PANETTA, OF CALIFORNIA, TO BE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY, VICE GENERAL MICHAEL V. HAYDEN, UNITED STATES AIR FORCE.

DEPARTMENT OF JUSTICE

THOMAS JOHN PERRELLI, OF VIRGINIA, TO BE ASSOCIATE ATTORNEY GENERAL, VICE KEVIN J. O'CONNOR, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY WHILE SERVING AS THE ATTENDING PHYSICIAN TO THE CONGRESS, UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION:

To be rear admiral

CAPT. BRIAN P. MONAHAN

HOUSE OF REPRESENTATIVES—*Monday, February 2, 2009*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Ms. EDWARDS of Maryland).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 2, 2009.

I hereby appoint the honorable DONNA F. EDWARDS to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

Dr. Alan N. Keiran, Chief of Staff, Office of the Senate Chaplain, offered the following prayer:

Lord God Almighty, as the Psalmist tells us, ''You have been our dwelling place throughout all generations. Before the mountains were born or You brought forth the Earth and the world, from everlasting to everlasting to everlasting, You are God.''

Your Word is a light unto the nations, a lamp for all who seek the path to eternal life. As the Psalmist says, ''Show us Your ways, O Lord; teach us Your paths; guide us in Your truth and teach us, for You are God our Savior, and our hope is in You all day long.''

Sovereign God, we depend on You to make known to our Nation's leaders Your plans to prosper us and not to harm us, plans to give us hope and a bright future. Move in Your mighty power and restore us to faith in the veracity of Your Word. Inspire and equip us to take charge of our destiny by seeking Your wisdom and praying for Your favor to fall upon us as we align ourselves with Your perfect will.

May the heart of every leader turn to You for wisdom and guidance, for You are the One who promises that all who seek You will find You. If we confess, we will be forgiven. If we humble ourselves and pray, You will hear our petitions and move mightily on our behalf.

Restore faith to the fearful, joy to the brokenhearted and comfort to the afflicted. Be with those in harm's way and their families. This I ask in the Name above every name.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

JANUARY 30, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on January 30, 2009, at 4:06 p.m.:

That the Senate passed with an amendment; requested a conference and appointed conferees H.R. 2.

That the Senate passed S. 352.

Appointments: United States Senate Caucus on International Narcotics Control.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,
Clerk of the House.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning-hour debate.

There was no objection.

Accordingly (at 2 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, February 3, 2009, at 12:30 p.m., for morning-hour debate.

NOTICE OF PROPOSED RULE MAKING

OFFICE OF COMPLIANCE,
Washington, DC, January 26, 2009.

Re USERRA regulations.

Hon. NANCY J. PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), requires that, with regard to substantive regulations under the CAA, after the Board has published a general notice of proposed rulemaking as required by subsection (b)(1), and received comments as required by subsection (b)(2), ''the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.''

The Board of Directors of the Office of Compliance has adopted the proposed regulations in the Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval which accompany this transmittal letter. The Board requests that the accompanying Notice, ''H'' and ''C'' versions of the Adopted Regulations, and the Numbering Index be published in the House version of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. The Board also requests that Congress approve the proposed Regulations, as further specified in the accompanying Notice.

Any inquiries regarding the accompanying Notice should be addressed to Tamara E. Chrisler, Executive Director of the Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9250, TDD 202–426–1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.

Text of USERRA Regulations

"H" Version

When approved by the House of Representatives for the House of Representative, these regulations will have the prefix "H."

Subpart A: Introduction to the Regulations

§ 1002.1 What is the purpose of this part?

This part implements certain provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA" or "the Act"), as applied by the Congressional Accountability Act ("CAA"). 2 U.S.C. 1316. USERRA is a law that establishes certain rights and benefits for employees, and duties for employers. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services. There are five subparts to these regulations. Subpart A gives an introduction to the USERRA regulations. Subpart B describes USERRA's anti-discrimination and anti-retaliation provisions. Subpart C explains the steps that must be taken by a uniformed service member who wants to return to his or her previous civilian employment. Subpart D describes the rights, benefits, and obligations of persons absent from employment due to service in the uniformed services, including rights and obligations related to health plan coverage. Subpart E describes the rights, benefits, and obligations of the returning veteran or service member. Subpart F explains the role of the Office of Compliance in administering USERRA as applied by the CAA.

§ 1002.2 Is USERRA a new law?

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized USERRA's continuity with the VRRA and its intention to clarify and strengthen that law. Congress also emphasized that Federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA. USERRA authorized the Department of Labor to publish regulations implementing the Act for State, local government, and private employers. USERRA also authorized the Office of Personnel Management to issue regulations implementing the Act for Federal executive agencies, with the exception of certain Federal intelligence agencies. For those Federal intelligence agencies, USERRA established a separate program for employees. Section 206 of the CAA requires the Board of Directors of the Office of Compliance to issue regulations to implement the statutory provisions relating to employment and reemployment rights of members of the uniformed services. The regulations are required to be the same as substantive regulations promulgated by the Secretary of Labor, except where a modification of such regulations would be more effective for the implementation of the rights and protections of the Act. The Department of Labor issued its regulations, effective January 18, 2006. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated for the legislative branch, for the implementation of the USERRA provisions of the CAA. All references to USERRA in these regulations, means USERRA, as applied by the CAA.

§ 1002.3 When did USERRA become effective?
USERRA, as applied by the CAA, became effective for employing offices of the legislative branch on January 23, 1996. These regulations will become effective upon approval by Congress.

§ 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
(a) As applied by the CAA, the Executive Director of the Office of Compliance is responsible for providing education and information to any covered employing office or employee with respect to their rights, benefits, and obligations under the USERRA provisions of the CAA.
(b) The Office of Compliance, under the direction of the Executive Director, is responsible for the processing of claims filed pursuant to these regulations. More information about the Office of Compliance's role is contained in Subpart F.

§ 1002.5 What definitions apply to these USERRA regulations?
(a) **Act or USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as applied by the CAA.
(b) **Benefit, benefit of employment, or rights and benefits** means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of an employment contract, employment agreement, or employing office policy, plan, or practice. The term includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and, where applicable, the opportunity to select work hours or the location of employment.
(c) **Board** means Board of Directors of the Office of Compliance.
(d) **CAA** means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).
(e) **Covered employee** means any employee, including an applicant for employment and a former employee, of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Government Accountability Office; (9) the Library of Congress; and (10) the Office of Compliance.
(f) **Eligible employee** means a covered employee performing service in the uniformed services, as defined in 1002.5 (t) of this subpart, whose service has not been terminated upon occurrence of any of the events enumerated in section 1002.135 of these regulations. For the purpose of defining who is covered under the discrimination section of these regulations, "performing service" means an eligible employee who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the uniformed services.
(g) **Employee of the Office of the Architect of the Capitol** includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.
(h) **Employee of the Capitol Police** includes any member or officer of the Capitol Police.
(i) **Employee of the House of Representatives** includes an individual occupying a position for which the pay is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not

any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(j) **Employee of the Senate** includes an individual occupying a position for which the pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(k) **Employing office** means (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee of the House of Representatives and the Senate (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives.

(l) **Health plan** means an insurance policy, insurance contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(m) **Notice**, when the eligible employee is required to give advance notice of service, means any written or oral notification of an obligation or intention to perform service in the uniformed services provided to an employing office by the employee who will perform such service, or by the uniformed service in which the service is to be performed.

(n) **Office** means the Office of Compliance.

(o) **Qualified**, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(p) **Reasonable efforts**, in the case of actions required of an employing office, means actions, including training provided by an employing office that do not place an undue hardship on the employing office.

(q) **Seniority** means longevity in employment together with any benefits of employment that accrue with, or are determined by, longevity in employment.

(r) **Service in the uniformed services** means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. Service in the uniformed services includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty as authorized by law (10 U.S.C. 12503 or 32 U.S.C. 115). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107– 188, provides that service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized training program is deemed "service in the uniformed services." 42 U.S.C. 300hh– 11(d)(3).

(s) **Undue hardship**, in the case of actions taken by an employing office, means an action requiring significant difficulty or expense, when considered in light of—

(1) The nature and cost of the action needed under USERRA and these regulations; (2) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) The overall financial resources of the employing office; the overall size of the business of an employing office with respect to the number of its employees; the number, type, and location of its facilities; and, (4) The type of operation or operations of the employing office, including the composition, structure, and functions of the work force of such employing office; the geographic

separateness, administrative, or fiscal relationship of the State, District, or satellite office in question to the employing office.
(t) **Uniformed services** means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. For purposes of USERRA coverage only, service as an intermittent disaster response appointee of the National Disaster Medical System (NDMS) when federally activated or attending authorized training in support of their Federal mission is deemed "service in the uniformed services," although such appointee is not a member of the "uniformed services" as defined by USERRA.

§ 1002.6 What types of service in the uniformed services are covered by USERRA?
The definition of "service in the uniformed services" covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.

§ 1002.7 How does USERRA, as applied by the Congressional Accountability Act, relate to other laws, public and private contracts, and employing office practices?
(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employing office may provide greater rights and benefits than USERRA requires, but no employing office can refuse to provide any right or benefit guaranteed by USERRA, as applied by the CAA.
(b) USERRA supersedes any contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit. For example, an office policy that determines seniority based only on actual days of work in the place of employment would be superseded by USERRA, which requires that seniority credit be given for periods of absence from work due to service in the uniformed services.
(c) USERRA does not supersede, nullify or diminish any Federal law, contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit provided under the Act. For example, although USERRA does not require an employing office to pay an eligible employee for time away from work performing service, an employing office policy, plan, or practice that provides such a benefit is permissible under USERRA.
(d) If an employing office provides a benefit that exceeds USERRA's requirements in one area, it cannot reduce or limit other rights or benefits provided by USERRA. For example, even though USERRA does not require it, an employing office may provide a fixed number of days of paid military leave per year to employees who are members of the National Guard or Reserve. The fact that it provides such a benefit, however, does not permit an employing office to refuse to provide an unpaid leave of absence to an employee to perform service in the uniformed services in excess of the number of days of paid military leave.

Subpart B: Anti-Discrimination and Anti-Retaliation

PROTECTION FROM EMPLOYER DISCRIMINATION AND RETALIATION

§ 1002.18 What status or activity is protected from employer discrimination by USERRA?
An employing office must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

§ 1002.19 What activity is protected from employer retaliation by USERRA?
An employing office must not retaliate against an eligible employee by taking any adverse employment action against him or her because the eligible employee has taken an action to enforce a protection afforded any person under USERRA; testified or otherwise made a statement in or in connection with a proceeding under USERRA; assisted or participated in a USERRA investigation; or exercised a right provided for by USERRA.

§ 1002.20 Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions?
Under USERRA, as applied by the CAA, the prohibitions against discrimination and retaliation apply to eligible employees in all positions within covered employing offices, including those that are for a brief, nonrecurrent period, and for which there is no reasonable expectation that the employment position will continue indefinitely or for a significant period. However, USERRA's reemployment rights and benefits do not apply to such brief, non-recurrent positions of employment

§ 1002.21 Does USERRA protect a covered employee who has not actually performed service in the uniformed services?
USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation only against eligible employees. Section 207(a) of the CAA, however, prohibits retaliation against all covered employees because the employee has opposed any practice made unlawful under the CAA, including a violation of USERRA's provisions, as applied by the CAA; or testified; assisted; or participated in any manner in a hearing or proceeding under the CAA.

Subpart C – Eligibility for Reemployment

GENERAL ELIGIBILITY FOR REEMPLOYMENT

§ 1002.32 What criteria must an employee meet to be eligible under USERRA for reemployment after service in the uniformed services?
(a) In general, if an eligible employee has been absent from a position of employment in an employing office by reason of service in the uniformed services, he or she will be eligible for reemployment in that same employing office, if that employing office continues to exist at such time, by meeting the following criteria:
(1) The employing office had advance notice of the eligible employee's service; (2) The eligible employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employing office; (3) The eligible employee timely returns to work or applies for reemployment; and, (4) The eligible employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.
(b) These general eligibility requirements have important qualifications and exceptions, which are described in detail in §§ 1002.73 through 1002.138. If the employee meets these eligibility criteria, then he or she is eligible for reemployment unless the employing office establishes one of the defenses described in § 1002.139. The employment position to which the eligible employee is entitled is described in §§ 1002.191 through 1002.199.

§ 1002.33 Does the eligible employee have to prove that the employing office discriminated against him or her in order to be eligible for reemployment?
No. The eligible employee is not required to prove that the employing office discriminated against him or her because of the employee's uniformed service in order to be eligible for reemployment

COVERAGE OF EMPLOYERS AND POSITIONS

§ 1002.34 Which employing offices are covered by these regulations?
(a) USERRA applies to all covered employing offices of the legislative branch as defined in 2 U.S.C. § 1301(9) and 2 U.S.C.§ 1316(a)(2)(C).

§ 1002.40 Does USERRA protect against discrimination in initial hiring decisions?
Yes. The definition of employer in the USERRA provision as applied by the CAA includes an employing office that has denied initial employment to an individual in violation of USERRA's anti-discrimination provisions. An employing office need not actually employ an individual to be liable under the Act, if it has denied initial employment on the basis of the individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Similarly, the employing office would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. For example, if the individual has been denied initial employment because of his or her obligations as a member of the National Guard or Reserves, the employing office denying employment is liable under USERRA. Similarly, if an employing office withdraws an offer of employment because the individual is called upon to fulfill an

obligation in the uniformed services, the employing office withdrawing the employment offer is also liable under USERRA.

§ 1002.41 Does an eligible employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?
USERRA rights are not diminished because an eligible employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employing office is not required to reemploy an eligible employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employing office bears the burden of proving this affirmative defense.

§ 1002.42 What rights does an eligible employee have under USERRA if he or she is on layoff or on a leave of absence?
(a) If an eligible employee is laid off with recall rights, or on a leave of absence, he or she is protected under USERRA. If the eligible employee is on layoff and begins service in the uniformed services, or is laid off while performing service, he or she may be entitled to reemployment on return if the employing office would have recalled the employee to employment during the period of service. Similar principles apply if the eligible employee is on a leave of absence from work when he or she begins a period of service in the uniformed services.
(b) If the eligible employee is sent a recall notice during a period of service in the uniformed services and cannot resume the position of employment because of the service, he or she still remains an eligible employee for purposes of the Act. Therefore, if the employee is otherwise eligible, he or she is entitled to reemployment following the conclusion of the period of service, even if he or she did not respond to the recall notice.
(c) If the eligible employee is laid off before or during service in the uniformed services, and the employing office would not have recalled him or her during that period of service, the employee is not entitled to reemployment following the period of service simply because he or she is an eligible employee. Reemployment rights under USERRA cannot put the eligible employee in a better position than if he or she had remained in the civilian employment position.

§ 1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?
Yes. USERRA applies to all eligible employees. There is no exclusion for executive, managerial, or professional employees.

§ 1002.44 Does USERRA cover an independent contractor?
No. USERRA, as applied by the CAA, does not provide protections for an independent contractor.

COVERAGE OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.54 Are all military fitness examinations considered "service in the uniformed services?"
Yes. USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from a position of employment for the purpose of an examination to determine his or her fitness to perform duty in the uniformed services. Military fitness examinations can address more than physical or medical fitness, and include evaluations for

mental, educational, and other types of fitness. Any examination to determine an eligible employee's fitness for service is covered, whether it is an initial or recurring examination. For example, a periodic medical examination required of a Reserve component member to determine fitness for continued service is covered.

§ 1002.55 Is all funeral honors duty considered "service in the uniformed services?"

(a) USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from employment for the purpose of performing authorized funeral honors duty under 10 U.S.C. 12503 (members of Reserve ordered to perform funeral honors duty) or 32 U.S.C. 115 (Member of Air or Army National Guard ordered to perform funeral honors duty).

(b) Funeral honors duty performed by persons who are not members of the uniformed services, such as members of veterans' service organizations, is not "service in the uniformed services."

§ 1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"

Under a provision of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 300hh 11(d)(3), "service in the uniformed services" includes service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System or participation in an authorized training program, even if the eligible employee is not a member of the uniformed services.

§ 1002.57 Is all service as a member of the National Guard considered "service in the uniformed services?"

No. Only Federal National Guard Service is considered "service in the uniformed services." The National Guard has a dual status. It is a Reserve component of the Army, or, in the case of the Air National Guard, of the Air Force. Simultaneously, it is a State military force subject to call-up by the State Governor for duty not subject to Federal control, such as emergency duty in cases of floods or riots. National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA.

(a) National Guard service under Federal authority is protected by USERRA. Service under Federal authority includes active duty performed under Title 10 of the United States Code. Service under Federal authority also includes duty under Title 32 of the United States Code, such as active duty for training, inactive duty training, or full-time National Guard duty.

(b) National Guard service under authority of State law is not protected by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Enforcement of those State laws is not covered by USERRA or these regulations.

§ 1002.58 Is service in the commissioned corps of the Public Health Service considered "service in the uniformed services?"

Yes. Service in the commissioned corps of the Public Health Service (PHS) is "service in the uniformed services" under USERRA.

§ 1002.59 Are there any circumstances in which special categories of persons are considered to perform "service in the uniformed services?"
Yes. In time of war or national emergency, the President has authority to designate any category of persons as a "uniformed service" for purposes of USERRA. If the President exercises this authority, service as a member of that category of persons would be "service in the uniformed services" under USERRA.

§ 1002.60 Does USERRA cover an individual attending a military service academy?
Yes. Attending a military service academy is considered uniformed service for purposes of USERRA. There are four service academies: The United States Military Academy (West Point, New York), the United States Naval Academy (Annapolis, Maryland), the United States Air Force Academy (Colorado Springs, Colorado), and the United States Coast Guard Academy (New London, Connecticut).

§ 1002.61 Does USERRA cover a member of the Reserve Officers Training Corps?
Yes, under certain conditions:
(a) Membership in the Reserve Officers Training Corps (ROTC) or the Junior ROTC is not "service in the uniformed services." However, some Reserve and National Guard enlisted members use a college ROTC program as a means of qualifying for commissioned officer status. National Guard and Reserve members in an ROTC program may at times, while participating in that program, be receiving active duty and inactive duty training service credit with their unit. In these cases, participating in ROTC training sessions is considered "service in the uniformed services," and qualifies a person for protection under USERRA's reemployment and anti-discrimination provisions.
(b) Typically, an individual in a College ROTC program enters into an agreement with a particular military service that obligates such individual to either complete the ROTC program and accept a commission or, in case he or she does not successfully complete the ROTC program, to serve as an enlisted member. Although an individual does not qualify for reemployment protection, except as specified in (a) above, he or she is protected under USERRA's anti-discrimination provisions because, as a result of the agreement, he or she has applied to become a member of the uniformed services and has incurred an obligation to perform future service.

§ 1002.62 Does USERRA cover a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the Civil Air Patrol, or the Coast Guard Auxiliary?
No. Although the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) is a "uniformed service" for some purposes, it is not included in USERRA's definition of this term. Service in the Civil Air Patrol and the Coast Guard Auxiliary similarly is not considered "service in the uniformed services" for purposes of USERRA. Consequently, service performed in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), the Civil Air Patrol, and the Coast Guard Auxiliary is not protected by USERRA.

ABSENCE FROM A POSITION OF EMPLOYMENT NECESSITATED BY REASON OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.73 Does service in the uniformed services have to be an eligible employee's sole reason for leaving an employment position in order to have USERRA reemployment rights?
No. If absence from a position of employment is necessitated by service in the uniformed services, and the employee otherwise meets the Act's eligibility requirements, he or she has reemployment rights under USERRA, even if the eligible employee uses the absence for other purposes as well. An eligible employee is not required to leave the employment position for the sole purpose of performing service in the uniformed services, although such uniformed service must be the main reason for departure from employment. For example, if the eligible employee is required to report to an out of state location for military training and he or she spends off-duty time during that assignment moonlighting as a security guard or visiting relatives who live in that State, the eligible employee will not lose reemployment rights simply because he or she used some of the time away from the job to do something other than attend the military training. Also, if an eligible employee receives advance notification of a mobilization order, and leaves his or her employment position in order to prepare for duty, but the mobilization is cancelled, the employee will not lose any reemployment rights.

§ 1002.74 Must the eligible employee begin service in the uniformed services immediately after leaving his or her employment position in order to have USERRA reemployment rights?
No. At a minimum, an eligible employee must have enough time after leaving the employment position to travel safely to the uniformed service site and arrive fit to perform the service. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service, additional time to rest, or to arrange affairs and report to duty, may be necessitated by reason of service in the uniformed services. The following examples help to explain the issue of the period of time between leaving civilian employment and beginning service in the uniformed services:
(a) If the eligible employee performs a full overnight shift for the civilian employer and travels directly from the work site to perform a full day of uniformed service, the eligible employee would not be considered fit to perform the uniformed service. An absence from that work shift is necessitated so that the eligible employee can report for uniformed service fit for duty.
(b) If the eligible employee is ordered to perform an extended period of service in the uniformed services, he or she may require a reasonable period of time off from the civilian job to put his or her personal affairs in order, before beginning the service. Taking such time off is also necessitated by the uniformed service.
(c) If the eligible employee leaves a position of employment in order to enlist or otherwise perform service in the uniformed services and, through no fault of his or her own, the beginning date of the service is delayed, this delay does not terminate any reemployment rights.

§ 1002.85 Must the eligible employee give advance notice to the employing office of his or her service in the uniformed services?
(a) Yes. The eligible employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify the employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below. In cases in which an eligible employee is employed by more than one employing office, the employee, or an appropriate officer of the uniformed service in which

his or her service is to be performed, must notify each employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below.
(b) The Department of Defense USERRA regulations at 32 CFR 104.3 provide that an "appropriate officer" can give notice on the eligible employee's behalf. An "appropriate officer" is a commissioned, warrant, or non-commissioned officer authorized to give such notice by the military service concerned.
(c) The eligible employee's notice to the employing office may be either oral or written. The notice may be informal and does not need to follow any particular format.
(d) Although USERRA does not specify how far in advance notice must be given to the employing office, an eligible employee should provide notice as far in advance as is reasonable under the circumstances. In regulations promulgated by the Department of Defense under USERRA, 32 CFR 104.6(a)(2)(i)(B), the Defense Department "strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so."

§ 1002.86 When is the eligible employee excused from giving advance notice of service in the uniformed services?
The eligible employee is required to give advance notice of pending service unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.
(a) Only a designated authority can make a determination of "military necessity," and such a determination is not subject to judicial review. Guidelines for defining "military necessity" appear in regulations issued by the Department of Defense at 32 CFR 104.3. In general, these regulations cover situations where a mission, operation, exercise or requirement is classified, or could be compromised or otherwise adversely affected by public knowledge. In certain cases, the Secretary of Homeland Security, in consultation with the Secretary of Defense, can make a determination that giving of notice by intermittent disaster-response appointees of the National Disaster Medical System is precluded by "military necessity." See 42 U.S.C300hh–11(d)(3)(B).
(b) It may be impossible or unreasonable to give advance notice under certain circumstances. Such circumstances may include the unavailability of the eligible employee's employing office or the employing office's representative, or a requirement that the eligible employee report for uniformed service in an extremely short period of time.

§ 1002.87 Is the eligible employee required to get permission from his or her employing office before leaving to perform service in the uniformed services?
No. The eligible employee is not required to ask for or get the employing office's permission to leave to perform service in the uniformed services. The eligible employee is only required to give the employing office notice of pending service.

§ 1002.88 Is the eligible employee required to tell the employing office that he or she intends to seek reemployment after completing uniformed service before the employee leaves to perform service in the uniformed services?
No. When the eligible employee leaves the employment position to begin a period of service, he or she is not required to tell the employing office that he or she intends to seek reemployment after completing uniformed service. Even if the eligible employee tells the employing office before entering or completing uniformed service that he or she does not intend to seek

reemployment after completing the uniformed service, the employee does not forfeit the right to reemployment after completing service. The eligible employee is not required to decide in advance of leaving the position with the employing office, whether he or she will seek reemployment after completing uniformed service.

PERIOD OF SERVICE

§ 1002.99 Is there a limit on the total amount of service in the uniformed services that an eligible employee may perform and still retain reemployment rights with the employing office?
Yes. In general, the eligible employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the employing office. The exceptions to this rule are described below.

§ 1002.100 Does the five-year service limit include all absences from an employment position that are related to service in the uniformed services?
No. The five-year period includes only the time the eligible employee spends actually performing service in the uniformed services. A period of absence from employment before or after performing service in the uniformed services does not count against the five-year limit. For example, after the eligible employee completes a period of service in the uniformed services, he or she is provided a certain amount of time, depending upon the length of service, to report back to work or submit an application for reemployment. The period between completing the uniformed service and reporting back to work or seeking reemployment does not count against the five-year limit.

§ 1002.101 Does the five-year service limit include periods of service that the eligible employee performed when he or she worked for a previous employing office?
No. An eligible employee is entitled to a leave of absence for uniformed service for up to five years with each employing office for whom he or she works or has worked. When the eligible employee takes a position with a new employing office, the five-year period begins again regardless of how much service he or she performed while working in any previous employment relationship. If an eligible employee is employed by more than one employing office, a separate five-year period runs as to each employing office independently, even if those employing offices share or co-determine the employee's terms and conditions of employment. For example, an eligible employee of the legislative branch may work part-time for two employing offices. In this case, a separate five-year period would run as to the eligible employee's employment with each respective employing office.

§ 1002.102 Does the five-year service limit include periods of service that the eligible employee performed before USERRA was enacted?
It depends. Under the CAA, USERRA provides reemployment rights to which an eligible employee may become entitled beginning on or after January 23, 1996, but any uniformed service performed before January 23, 1996, that was counted against the service limitations of the previous law (the Veterans Reemployment Rights Act), also counts against USERRA's five-year limit.

§ 1002.103 Are there any types of service in the uniformed services that an eligible employee can perform that do not count against USERRA's five-year service limit?

(a) USERRA creates the following exceptions to the five-year limit on service in the uniformed services:

(1) Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the eligible employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;

(2) If the eligible employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;

(3)(i) Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and, (ii) Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the eligible employee's professional development, or to complete skill training or retraining;

(4) Service performed in a uniformed service if he or she was ordered to or retained on active duty under:

(i) 10 U.S.C. 688 (involuntary active duty by a military retiree);

(ii) 10 U.S.C. 12301(a) (involuntary active duty in wartime);

(iii) 10 U.S.C. 12301(g) (retention on active duty while in captive status);

(iv) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);

(v) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);

(vi) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);

(vii) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);

(viii) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);

(ix) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);

(x) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);

(xi) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); and

(xii) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

(5) Service performed in a uniformed service if the eligible employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(6) Service performed in a uniformed service if the eligible employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;

(7) Service performed in a uniformed service if the eligible employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,

(8) Service performed as a member of the National Guard if the eligible employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.

(b) Service performed in a uniformed service to mitigate economic harm where the eligible employee's employing office is in violation of its employment or reemployment obligations to him or her.

§ 1002.104 Is the eligible employee required to accommodate his or her employing office's needs as to the timing, frequency or duration of service?
No. The eligible employee is not required to accommodate his or her employing office's interests or concerns regarding the timing, frequency, or duration of uniformed service. The employing office cannot refuse to reemploy the eligible employee because it believes that the timing, frequency or duration of the service is unreasonable. However, the employing office is permitted to bring its concerns over the timing, frequency, or duration of the eligible employee's service to the attention of the appropriate military authority. Regulations issued by the Department of Defense at 32 CFR 104.4 direct military authorities to provide assistance to an employer in addressing these types of employment issues. The military authorities are required to consider requests from employers of National Guard and Reserve members to adjust scheduled absences from civilian employment to perform service.

APPLICATION FOR EMPLOYMENT

§ 1002.115 Is the eligible employee required to report to or submit a timely application for reemployment to his or her pre-service employing office upon completing the period of service in the uniformed services?
Yes. Upon completing service in the uniformed services, the eligible employee must notify the pre-service employing office of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the eligible employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:
(a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the eligible employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the eligible employee must report back to the employing office not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the eligible employee's residence. For example, if the eligible employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the employing office until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the eligible employee to report within such time period through no fault of his or her own, he or she must report to the employing office as soon as possible after the expiration of the eight-hour period.
(b) Period of service more than 30 days but less than 181 days. If the eligible employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or oral) with the employing office not later than 14 days after completing service. If it is impossible or unreasonable for the eligible

employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.
(c) Period of service more than 180 days. If the eligible employee's period of service in the uniformed services was for more than 180 days, he or she must submit an application for reemployment (written or oral) not later than 90 days after completing service.

§1002.116 Is the time period for reporting back to an employing office extended if the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service?
Yes. If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he or she must report to or submit an application for reemployment to the employing office at the end of the period necessary for recovering from the illness or injury. This period may not exceed two years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the eligible employee's control that make reporting within the period impossible or unreasonable. This period for recuperation and recovery extends the time period for reporting to or submitting an application for reemployment to the employing office, and is not applicable following reemployment.

§ 1002.117 Are there any consequences if the eligible employee fails to report for or submit a timely application for reemployment?
(a) If the eligible employee fails to timely report for or apply for reemployment, he or she does not automatically forfeit entitlement to USERRA's reemployment and other rights and benefits. However, the eligible employee does become subject to any conduct rules, established policy, and general practices of the employing office pertaining to an absence from scheduled work.
(b) If reporting or submitting an employment application to the employing office is impossible or unreasonable through no fault of the eligible employee, he or she may report to the employing office as soon as possible (in the case of a period of service less than 31 days) or submit an application for reemployment to the employing office by the next full calendar day after it becomes possible to do so (in the case of a period of service from 31 to 180 days), and the eligible employee will be considered to have timely reported or applied for reemployment.

§ 1002.118 Is an application for reemployment required to be in any particular form?
An application for reemployment need not follow any particular format. The eligible employee may apply orally or in writing. The application should indicate that the employee is a former employee returning from service in the uniformed services and that he or she seeks reemployment with the pre-service employing office. The eligible employee is permitted but not required to identify a particular reemployment position in which he or she is interested.

§ 1002.119 To whom must the eligible employee submit the application for reemployment?
The application must be submitted to the pre-service employing office or to an agent or representative of the employing office who has apparent responsibility for receiving employment applications. Depending upon the circumstances, such a person could be a personnel or human resources officer, or a first-line supervisor.

§ 1002.120 If the eligible employee seeks or obtains employment with an employer other than the pre-service employing office before the end of the period within which a reemployment application must be filed, will that jeopardize reemployment rights with the pre-service employing office?
No. The eligible employee has reemployment rights with the pre-service employing office provided that he or she makes a timely reemployment application to that employing office. The eligible employee may seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. However, such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. For instance, if the employing office forbids outside employment, violation of such a policy may constitute a cause for discipline or even termination.

§ 1002.121 Is the eligible employee required to submit documentation to the employing office in connection with the application for reemployment?
Yes, if the period of service exceeded 30 days and if requested by the employing office to do so. If the eligible employee submits an application for reemployment after a period of service of more than 30 days, he or she must, upon the request of the employing office, provide documentation to establish that:
(a) The reemployment application is timely;
(b) The eligible employee has not exceeded the five-year limit on the duration of service (subject to the exceptions listed at § 1002.103); and,
(c) The eligible employee's separation or dismissal from service was not disqualifying.

§ 1002.122 Is the employing office required to reemploy the eligible employee if documentation establishing the employee's eligibility does not exist or is not readily available?
Yes. The employing office is not permitted to delay or deny reemployment by demanding documentation that does not exist or is not readily available. The eligible employee is not liable for administrative delays in the issuance of military documentation. If the eligible employee is re-employed after an absence from employment for more than 90 days, the employing office may require that he or she submit the documentation establishing entitlement to reemployment before treating the employee as not having had a break in service for pension purposes. If the documentation is received after reemployment and it shows that the eligible employee is not entitled to reemployment, the employing office may terminate employment and any rights or benefits that the employee may have been granted.

§ 1002.123 What documents satisfy the requirement that the employee establish eligibility for reemployment after a period of service of more than thirty days?
(a) Documents that satisfy the requirements of USERRA include the following:
(1) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty;
(2) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;
(3) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;
(4) Certificate of completion from military training school;

(5) Discharge certificate showing character of service; and,
(6) Copy of extracts from payroll documents showing periods of service;
(7) Letter from NDMS Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
(b) The types of documents that are necessary to establish eligibility for reemployment will vary from case to case. Not all of these documents are available or necessary in every instance to establish reemployment eligibility.

CHARACTER OF SERVICE

§ 1002.134 What type of discharge or separation from service is required for an eligible employee to be entitled to reemployment under USERRA?
USERRA does not require any particular form of discharge or separation from service. However, even if the employee is otherwise eligible for reemployment, he or she will be disqualified if the characterization of service falls within one of four categories. USERRA requires that the employee not have received one of these types of discharge.

§ 1002.135 What types of discharge or separation from uniformed service will make the employee ineligible for reemployment under USERRA?
Reemployment rights are terminated if the employee is:
(a) Separated from uniformed service with a dishonorable or bad conduct discharge;
(b) Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
(c) A commissioned officer dismissed as permitted under 10 U.S.C. 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
(d) A commissioned officer dropped from the rolls under 10 U.S.C. 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

§ 1002.136 Who determines the characterization of service?
The branch of service in which the employee performs the tour of duty determines the characterization of service.

§ 1002.137 If the employee receives a disqualifying discharge or release from uniformed service and it is later upgraded, will reemployment rights be restored?
Yes. A military review board has the authority to prospectively or retroactively upgrade a disqualifying discharge or release. A retroactive upgrade would restore reemployment rights providing the employee otherwise meets the Act's eligibility criteria.

§ 1002.138 If the employee receives a retroactive upgrade in the characterization of service, will that entitle him or her to claim back wages and benefits lost as of the date of separation from service?
No. A retroactive upgrade allows the employee to obtain reinstatement with the former employing office, provided the employee otherwise meets the Act's eligibility criteria. Back pay and other benefits such as pension plan credits attributable to the time period between

discharge and the retroactive upgrade are not required to be restored by the employing office in this situation.

EMPLOYER STATUTORY DEFENSES

§ 1002.139 Are there any circumstances in which the pre-service employing office is excused from its obligation to reemploy the eligible employee following a period of uniformed service? What statutory defenses are available to the employing office in an action or proceeding for reemployment benefits?

(a) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if the employing office establishes that its circumstances have so changed as to make reemployment impossible or unreasonable. For example, an employing office may be excused from re-employing the eligible employee where there has been an intervening reduction in force that would have included that employee. The employing office may not, however, refuse to reemploy the eligible employee on the basis that another employee was hired to fill the reemployment position during the employee's absence, even if reemployment might require the termination of that replacement employee;

(b) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that assisting the eligible employee in becoming qualified for reemployment would impose an undue hardship, as defined in § 1002.5(s) and discussed in § 1002.198, on the employing office; or,

(c) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that the employment position vacated by the eligible employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

(d) The employing office defenses included in this section are affirmative ones, and the employing office carries the burden to prove by a preponderance of the evidence that any one or more of these defenses is applicable.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

FURLOUGH AND LEAVE OF ABSENCE

§ 1002.149 What is the eligible employee's status with the employing office while performing service in the uniformed services?
During a period of service in the uniformed services, the eligible employee is deemed to be on leave of absence from the employing office. In this status, the eligible employee is entitled to the non-seniority rights and benefits generally provided by the employing office to other employees with similar seniority, status, and pay that are on leave of absence. Entitlement to these non-seniority rights and benefits is not dependent on how the employing office characterizes the eligible employee's status during a period of service. For example, if the employing office characterizes the employee as "terminated" during the period of uniformed service, this characterization cannot be used to avoid USERRA's requirement that the employee be deemed on leave of absence, and therefore, entitled to the non-seniority rights and benefits generally provided to employees on leave of absence.

§ 1002.150 Which non-seniority rights and benefits is the eligible employee entitled to during a period of service?
(a) The non-seniority rights and benefits to which an eligible employee is entitled during a period of service are those that the employing office provides to similarly situated employees by an agreement, policy, practice, or plan in effect at the employee's workplace. These rights and benefits include those in effect at the beginning of the eligible employee's employment and those established after employment began. They also include those rights and benefits that become effective during the eligible employee's period of service and that are provided to similarly situated employees on leave of absence.
(b) If the non-seniority benefits to which employees on leave of absence are entitled vary according to the type of leave, the eligible employee must be given the most favorable treatment accorded to any comparable form of leave when he or she performs service in the uniformed services. In order to determine whether any two types of leave are comparable, the duration of the leave may be the most significant factor to compare. For instance, a two-day funeral leave will not be "comparable" to an extended leave for service in the uniformed service. In addition to comparing the duration of the absences, other factors such as the purpose of the leave and the ability of the employee to choose when to take the leave should also be considered.
(c) As a general matter, accrual of vacation leave is considered to be a non-seniority benefit that must be provided by an employing office to an eligible employee on a military leave of absence only if the employing office provides that benefit to similarly situated employees on comparable leaves of absence.
(d) Nothing in this section gives the eligible employee rights or benefits to which the employee otherwise would not be entitled if the employee had remained continuously employed with the employing office.

§ 1002.151 If the employing office provides full or partial pay to the eligible employee while he or she is on military leave, is the employing office required to also provide the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
Yes. If the employing office provides additional benefits such as full or partial pay when the eligible employee performs service, the employing office is not excused from providing other rights and benefits to which the employee is entitled under the Act.

§ 1002.152 If employment is interrupted by a period of service in the uniformed services, are there any circumstances under which the eligible employee is not entitled to the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
If employment is interrupted by a period of service in the uniformed services and the eligible employee knowingly provides written notice of intent not to return to the position of employment after service in the uniformed services, he or she is not entitled to those non-seniority rights and benefits. The eligible employee's written notice does not waive entitlement to any other rights to which he or she is entitled under the Act, including the right to reemployment after service.

§ 1002.153 If employment is interrupted by a period of service in the uniformed services, is the eligible employee permitted upon request to use accrued vacation, annual or similar leave with pay during the service? Can the employing office require the eligible employee to use accrued leave during a period of service?
(a) If employment is interrupted by a period of service, the eligible employee must be permitted upon request to use any accrued vacation, annual, or similar leave with pay during the period of service, in order to continue his or her civilian pay. However, the eligible employee is not entitled to use sick leave that accrued with the employing office during a period of service in the uniformed services, unless the employing office allows employees to use sick leave for any reason, or allows other similarly situated employees on comparable furlough or leave of absence to use accrued paid sick leave. Sick leave is usually not comparable to annual or vacation leave; it is generally intended to provide income when the employee or a family member is ill and the employee is unable to work.
(b) The employing office may not require the eligible employee to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

HEALTH PLAN COVERAGE

§ 1002.163 What types of health plans are covered by USERRA?
(a) USERRA defines a health plan to include an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or arrangement under which the employee's health services are provided or the expenses of those services are paid.
(b) USERRA covers group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. 1191b(a). USERRA applies to group health plans that are subject to ERISA, and plans that are not subject to ERISA, such as those sponsored by the Federal Government.
(c) USERRA covers multi-employer plans maintained pursuant to one or more collective bargaining agreements between employers and employee organizations. USERRA applies to

multi-employer plans as they are defined in ERISA at 29 U.S.C. 1002(37). USERRA contains provisions that apply specifically to multi-employer plans in certain situations.

§ 1002.164 What health plan coverage must the employing office provide for the eligible employee under USERRA?

If the eligible employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the eligible employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the eligible employee to elect to continue coverage for a period of time that is the lesser of:

(1) The 24-month period beginning on the date on which the eligible employee's absence for the purpose of performing service begins; or,

(2) The period beginning on the date on which the eligible employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115–123 of these regulations.

(b) USERRA does not require the employing office to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employing office to permit the eligible employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§ 1002.165 How does the eligible employee elect continuing health plan coverage?

USERRA does not specify requirements for electing continuing coverage. Health plan administrators may develop reasonable requirements addressing how continuing coverage may be elected, consistent with the terms of the plan and the Act's exceptions to the requirement that the employee give advance notice of service in the uniformed services. For example, the eligible employee cannot be precluded from electing continuing health plan coverage under circumstances where it is impossible or unreasonable for him or her to make a timely election of coverage.

§ 1002.166 How much must the eligible employee pay in order to continue health plan coverage?

(a) If the eligible employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the eligible employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employing office's share plus the employee's share, plus 2% for administrative costs.

(c)USERRA does not specify requirements for methods of paying for continuing coverage. Health plan administrators may develop reasonable procedures for payment, consistent with the terms of the plan.

§ 1002.167 What actions may a plan administrator take if the eligible employee does not elect or pay for continuing coverage in a timely manner?

The actions a plan administrator may take regarding the provision or cancellation of an eligible employee's continuing coverage depend on whether the employee is excused from the requirement to give advance notice, whether the plan has established reasonable rules for election of continuation coverage, and whether the plan has established reasonable rules for the payment for continuation coverage.

(a) No notice of service and no election of continuation coverage:

If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service without giving advance notice of service, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service. However, in cases in which an eligible employee's failure to give advance notice of service was excused under the statute because it was impossible, unreasonable, or precluded by military necessity, the plan administrator must reinstate the employee's health coverage retroactively upon his or her election to continue coverage and payment of all unpaid amounts due, and the employee must incur no administrative reinstatement costs. In order to qualify for an exception to the requirement of timely election of continuing health care, an eligible employee must first be excused from giving notice of service under the statute.

(b) Notice of service but no election of continuing coverage:

Plan administrators may develop reasonable requirements addressing how continuing coverage may be elected. Where health plans are also covered under the Consolidated Omnibus Budget Reconciliation Act of 1985, 26 U.S.C. 4980B (COBRA), it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding election of continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule. If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service for a period of service in excess of 30 days after having given advance notice of service but without making an election regarding continuing coverage, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service, but must reinstate coverage without the imposition of administrative reinstatement costs under the following conditions:

(1) Plan administrators who have developed reasonable rules regarding the period within which an employee may elect continuing coverage must permit retroactive reinstatement of uninterrupted coverage to the date of departure if the eligible employee elects continuing coverage and pays all unpaid amounts due within the periods established by the plan; (2) In cases in which plan administrators have not developed rules regarding the period within which an employee may elect continuing coverage, the plan must permit retroactive reinstatement of uninterrupted coverage to the date of departure upon the eligible employee's election and payment of all unpaid amounts at any time during the period established in section 1002.164(a).

(c) Election of continuation coverage without timely payment:

Health plan administrators may adopt reasonable rules allowing cancellation of coverage if timely payment is not made. Where health plans are covered under COBRA, it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding payment for continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule.

§ 1002.168 If the eligible employee's coverage was terminated at the beginning of or during service, does his or her coverage have to be reinstated upon reemployment?

(a) If health plan coverage for the eligible employee or a dependent was terminated by reason of service in the uniformed services, that coverage must be reinstated upon reemployment. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment, if an exclusion or waiting period would not have been imposed had coverage not been terminated by reason of such service.

(b) USERRA permits a health plan to impose an exclusion or waiting period as to illnesses or injuries determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services. The determination that the employee's illness or injury was incurred in, or aggravated during, the performance of service may only be made by the Secretary of Veterans Affairs or his or her representative. Other coverage, for injuries or illnesses that are not service-related (or for the employee's dependents, if he or she has dependent coverage), must be reinstated subject to paragraph (a) of this section.

§ 1002.169 Can the eligible employee elect to delay reinstatement of health plan coverage until a date after the date he or she is reemployed?

USERRA requires the employing office to reinstate or direct the reinstatement of health plan coverage upon request at reemployment. USERRA permits but does not require the employing office to allow the employee to delay reinstatement of health plan coverage until a date that is later than the date of reemployment.

§ 1002.170 In a multi-employer health plan, how is liability allocated for employer contributions and benefits arising under USERRA's health plan provisions?

Liability under a multi-employer plan for employer contributions and benefits in connection with USERRA's health plan provisions must be allocated either as the plan sponsor provides, or, if the sponsor does not provide, to the eligible employee's last employer before his or her service. If the last employer is no longer functional, liability for continuing coverage is allocated to the health plan.

§ 1002.171 How does the continuation of health plan benefits apply to a multi-employer plan that provides health plan coverage through a health benefits account system?

(a) Some employees receive health plan benefits provided pursuant to a multi-employer plan that utilizes a health benefits account system in which an employee accumulates prospective health benefit eligibility, also commonly referred to as "dollar bank," "credit bank," and "hour bank" plans. In such cases, where an employee with a positive health benefits account balance elects to continue the coverage, the employee may further elect either option below:

(1) The eligible employee may expend his or her health account balance during an absence from employment due to service in the uniformed services in lieu of paying for the continuation of coverage as set out in § 1002.166. If an eligible employee's health account balance becomes depleted during the applicable period provided for in § 1002.164(a), the employee must be permitted, at his or her option, to continue coverage pursuant to § 1002.166. Upon reemployment, the plan must provide for immediate reinstatement of the eligible employee as required by § 1002.168, but may require the employee to pay the cost of the coverage until the employee earns the credits necessary to sustain continued coverage in the plan.

(2) The eligible employee may pay for continuation coverage as set out in § 1002.166, in order to maintain intact his or her account balance as of the beginning date of the absence from employment due to service in the uniformed services. This option permits the eligible employee to resume usage of the account balance upon reemployment.

(b) Employers or plan administrators providing such plans should counsel employees of their options set out in this subsection.

Subpart E—Reemployment Rights and Benefits

PROMPT REEMPLOYMENT

§ 1002.180 When is an eligible employee entitled to be reemployed by the employing office?
The employing office must promptly reemploy the employee when he or she returns from a period of service if the employee meets the Act's eligibility criteria as described in Subpart C of these regulations.

§ 1002.181 How is "prompt reemployment" defined?
"Prompt reemployment" means as soon as practicable under the circumstances of each case. Absent unusual circumstances, reemployment must occur within two weeks of the eligible employee's application for reemployment. For example, prompt reinstatement after a weekend National Guard duty generally means the next regularly scheduled working day. On the other hand, prompt reinstatement following several years of active duty may require more time, because the employing office may have to reassign or give notice to another employee who occupied the returning employee's position.

REEMPLOYMENT POSITION

§ 1002.191 What position is the eligible employee entitled to upon reemployment?
As a general rule, the eligible employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the eligible employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events. The escalator principle requires that the eligible employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. Depending upon the specific circumstances, the employing office may have the option, or be required, to reemploy the eligible employee in a position other than the escalator position.

§ 1002.192 How is the specific reemployment position determined?
In all cases, the starting point for determining the proper reemployment position is the escalator position, which is the job position that the eligible employee would have attained if his or her continuous employment had not been interrupted due to uniformed service. Once this position is determined, the employing office may have to consider several factors before determining the appropriate reemployment position in any particular case. Such factors may include the eligible employee's length of service, qualifications, and disability, if any. The actual reemployment position may be either the escalator position; the pre-service position; a position comparable to the escalator or pre-service position; or, the nearest approximation to one of these positions.

§ 1002.193 Does the reemployment position include elements such as seniority, status, and rate of pay?
(a) Yes. The reemployment position includes the seniority, status, and rate of pay that an eligible employee would ordinarily have attained in that position given his or her job history, including

prospects for future earnings and advancement. The employing office must determine the seniority rights, status, and rate of pay as though the eligible employee had been continuously employed during the period of service. The seniority rights, status, and pay of an employment position include those established (or changed) by a collective bargaining agreement, employer policy, or employment practice. The sources of seniority rights, status, and pay include agreements, policies, and practices in effect at the beginning of the eligible employee's service, and any changes that may have occurred during the period of service. In particular, the eligible employee's status in the reemployment position could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility, and geographical location.

(b) If an opportunity for promotion, or eligibility for promotion, that the eligible employee missed during service is based on a skills test or examination, then the employing office should give him or her a reasonable amount of time to adjust to the employment position and then give a skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. If the eligible employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had employment not been interrupted by uniformed service.

§ 1002.194 Can the application of the escalator principle result in adverse consequences when the eligible employee is reemployed?

Yes. The Act does not prohibit lawful adverse job consequences that result from the eligible employee's restoration on the seniority ladder. Depending on the circumstances, the escalator principle may cause an eligible employee to be reemployed in a higher or lower position, laid off, or even terminated. For example, if an eligible employee's seniority or job classification would have resulted in the employee being laid off during the period of service, and the layoff continued after the date of reemployment, reemployment would reinstate the employee to layoff status. Similarly, the status of the reemployment position requires the employing office to assess what would have happened to such factors as the eligible employee's opportunities for advancement, working conditions, job location, shift assignment, rank, responsibility, and geographical location, if he or she had remained continuously employed. The reemployment position may involve transfer to another shift or location, more or less strenuous working conditions, or changed opportunities for advancement, depending upon the application of the escalator principle.

§ 1002.195 What other factors can determine the reemployment position?

Once the eligible employee's escalator position is determined, other factors may allow, or require, the employing office to reemploy the employee in a position other than the escalator position. These factors, which are explained in §§ 1002.196 through 1002.199, are:

(a) The length of the eligible employee's most recent period of uniformed service;
(b) The eligible employee's qualifications; and,
(c) Whether the eligible employee has a disability incurred or aggravated during uniformed service.

§ 1002.196 What is the eligible employee's reemployment position if the period of service was less than 91 days?

Following a period of service in the uniformed services of less than 91 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position or the pre-service position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.197 What is the reemployment position if the eligible employee's period of service in the uniformed services was more than 90 days?

Following a period of service of more than 90 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position or a position of like seniority, status, and pay. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position or a like position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began or in a position of like seniority, status, and pay. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position, the pre-service position, or a like position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.198 What efforts must the employing office make to help the eligible employee become qualified for the reemployment position?

The eligible employee must be qualified for the reemployment position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(a)(1) "Qualified" means that the employee has the ability to perform the essential tasks of the position. The employee's inability to perform one or more non-essential tasks of a position does not make him or her unqualified.

(2) Whether a task is essential depends on several factors, and these factors include but are not limited to:

(i) The employing office's judgment as to which functions are essential;

(ii) Written job descriptions developed before the hiring process begins;

(iii) The amount of time on the job spent performing the function;

(iv) The consequences of not requiring the individual to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(b) Only after the employing office makes reasonable efforts, as defined in § 1002.5(p), may it determine that the otherwise eligible employee is not qualified for the reemployment position. These reasonable efforts must be made at no cost to the employee.

§ 1002.199 What priority must the employing office follow if two or more returning employees are entitled to reemployment in the same position?

If two or more eligible employees are entitled to reemployment in the same position and more than one employee has reported or applied for employment in that position, the employee who first left the position for uniformed service has the first priority on reemployment in that position. The remaining employee (or employees) is entitled to be reemployed in a position similar to that in which the employee would have been re-employed according to the rules that normally determine a reemployment position, as set out in §§ 1002.196 and 1002.197.

SENIORITY RIGHTS AND BENEFITS

§ 1002.210 What seniority rights does an eligible employee have when reemployed following a period of uniformed service?

The eligible employee is entitled to the seniority and seniority-based rights and benefits that he or she had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if he or she had remained continuously employed. The eligible employee is not entitled to any benefits to which he or she would not have been entitled had the employee been continuously employed with the employing office. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employing office and those required by statute. For example, under USERRA, a reemployed service member would be eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601–2654 (FMLA), if the number of

months and the number of hours of work for which the service member was employed by the employing office, together with the number of months and the number of hours of work for which the service member would have been employed by the employing office during the period of uniformed service, meet FMLA's eligibility requirements. In the event that a service member is denied FMLA leave for failing to satisfy the FMLA's hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under the FMLA.

§ 1002.211 Does USERRA require the employing office to use a seniority system?
No. USERRA does not require the employing office to adopt a formal seniority system. USERRA defines seniority as longevity in employment together with any employment benefits that accrue with, or are determined by, longevity in employment. In the absence of a formal seniority system, such as one established through collective bargaining, USERRA looks to the custom and practice in the place of employment to determine the eligible employee's entitlement to any employment benefits that accrue with, or are determined by, longevity in employment.

§ 1002.212 How does a person know whether a particular right or benefit is a seniority-based right or benefit?
A seniority-based right or benefit is one that accrues with, or is determined by, longevity in employment. Generally, whether a right or benefit is seniority-based depends on three factors:
(a) Whether the right or benefit is a reward for length of service rather than a form of short-term compensation for work performed;
(b) Whether it is reasonably certain that the eligible employee would have received the right or benefit if he or she had remained continuously employed during the period of service; and,
(c) Whether it is the employing office's actual custom or practice to provide or withhold the right or benefit as a reward for length of service. Provisions of an employment contract or policies in the employee handbook are not controlling if the employing office's actual custom or practice is different from what is written in the contract or handbook.

§ 1002.213 How can the eligible employee demonstrate a reasonable certainty that he or she would have received the seniority right or benefit if he or she had remained continuously employed during the period of service?
A reasonable certainty is a high probability that the eligible employee would have received the seniority or seniority-based right or benefit if he or she had been continuously employed. The eligible employee does not have to establish that he or she would have received the benefit as an absolute certainty. The eligible employee can demonstrate a reasonable certainty that he or she would have received the seniority right or benefit by showing that other employees with seniority similar to that which the employee would have had if he or she had remained continuously employed received the right or benefit. The employing office cannot withhold the right or benefit based on an assumption that a series of unlikely events could have prevented the eligible employee from gaining the right or benefit.

DISABLED EMPLOYEES

§ 1002.225 Is the eligible employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?
Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the eligible employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employing office must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the eligible employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employing office to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employing office must make reasonable efforts to accommodate the eligible employee's disability and to help him or her to become qualified to perform the duties of one of these positions:
(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,
(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the eligible employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226 If the eligible employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employing office make to help him or her become qualified for the reemployment position?
(a) USERRA requires that the eligible employee be qualified for the reemployment position regardless of any disability. The employing office must make reasonable efforts to help the eligible employee to become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.
(b) "Qualified" has the same meaning here as in § 1002.198.

RATE OF PAY

§ 1002.236 How is the eligible employee's rate of pay determined when he or she returns from a period of service?
The eligible employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:
(a) If the eligible employee is reemployed in the escalator position, the employing office must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employing office may examine the returning eligible employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position. For example, if the eligible employee missed a merit

pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the eligible employee missed during service is based on a skills test or examination, then the employing office should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the eligible employee's employment not been interrupted by uniformed service.

(b) If the eligible employee is reemployed in the pre-service position or another position, the employing office must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

PROTECTION AGAINST DISCHARGE

§ 1002.247 Does USERRA provide the eligible employee with protection against discharge?

Yes. If the eligible employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause –

(a) For 180 days after the eligible employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,

(b) For one year after the date of reemployment if the eligible employee's most recent period of uniformed service was more than 180 days.

§ 1002.248 What constitutes cause for discharge under USERRA?

The eligible employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.

(a) In a discharge action based on conduct, the employing office bears the burden of proving that it is reasonable to discharge the eligible employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.

(b) If, based on the application of other legitimate nondiscriminatory reasons, the eligible employee's job position is eliminated, or the eligible employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employing office bears the burden of proving that the eligible employee's job would have been eliminated or that he or she would have been laid off.

PENSION PLAN BENEFITS

§ 1002.259 How does USERRA protect an eligible employee's pension benefits?
On reemployment, the eligible employee is treated as not having a break in service with the employing office for purposes of participation, vesting and accrual of benefits in a pension plan, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.
(a) Depending on the length of the eligible employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employing office for purposes of determining participation, vesting and accrual of pension benefits under the plan.
(b) If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the eligible employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employing office for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

§ 1002.260 What pension benefit plans are covered under USERRA?
(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by the Federal Government.
(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

§ 1002.261 Who is responsible for funding any plan obligation to provide the eligible employee with pension benefits?
With the exception of multi-employer plans, which have separate rules discussed below, the employing office is required to ensure the funding of any obligation of the plan to provide benefits that are attributable to the eligible employee's period of service. In the case of a defined contribution plan, once the eligible employee is reemployed, the employing office must ensure that the amount of the make-up contribution for the employee, if any; the employee's make-up contributions, if any; and the employee's elective deferrals, if any; in the same manner and to the same extent that the amounts are allocated for other employees during the period of service. In the case of a defined benefit plan, the eligible employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

§ 1002.262 When must the plan contribution that is attributable to the employee's period of uniformed service be made?
(a) Employer contributions are not required until the eligible employee is reemployed. For employer contributions to a plan in which the eligible employee is not required or permitted to

contribute, the contribution attributable to the employee's period of service must be made no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the contribution to be made within this time period, the contribution must be made as soon as practicable.

(b) If the eligible employee is enrolled in a contributory plan, he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions, or elective deferrals, must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the eligible employee's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employing office.

(c) If the eligible employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution. This is true because employer contributions are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employer contributions that are contingent on or attributable to the eligible employee's make-up contributions or elective deferrals must be made according to the plan's requirements for employer matching contributions.

(d) The eligible employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the eligible employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.

(e) Any vested accrued benefit in the pension plan that the eligible employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.

(f) An adjustment will be made to the amount of employee contributions or elective deferrals that the eligible employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

§ 1002.263 Does the eligible employee pay interest when he or she makes up missed contributions or elective deferrals?

No. The eligible employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

§ 1002.264 Is the eligible employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?

Yes, provided the plan is a defined benefit plan. If the eligible employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the eligible employee must repay includes any interest that would have accrued had the monies not been withdrawn. The eligible employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length

of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employing office and the employee), provided the employee is employed with the post-service employing office during this period.

§ 1002.265 If the eligible employee is reemployed with his or her pre-service employing office, is the employee's pension benefit the same as if he or she had remained continuously employed?
The amount of the eligible employee's pension benefit depends on the type of pension plan.
(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the eligible employee's benefit will be the same as though he or she had remained continuously employed during the period of service.
(b) In a contributory defined benefit plan, the eligible employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.
(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employer make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

§ 1002.266 What are the obligations of a multi-employer pension benefit plan under USERRA?
A multi-employer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multi-employer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multi-employer plans, as follows:
(a) The last employer that employed the eligible employee before the period of service is responsible for making the employer contribution to the multi-employer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the eligible employee.
(b) An employer that contributes to a multi-employer plan and that reemploys the eligible employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within which the reemploying employer must provide written notice to the multi-employer plan pursuant to this subsection does not begin until the employer has knowledge that the eligible employee was re-employed pursuant to USERRA.
(c) The eligible employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multi-employer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

§ 1002.267 How is compensation during the period of service calculated in order to determine the eligible employee's pension benefits, if benefits are based on compensation?

In many pension benefit plans, the eligible employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the eligible employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b) (1) Where the rate of pay the eligible employee would have received is not reasonably certain, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the eligible employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

Subpart F—Compliance Assistance, Enforcement and Remedies

COMPLIANCE ASSISTANCE

§ 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?

The Office of Compliance provides assistance to any person or entity who is covered by the CAA with respect to employment and reemployment rights and benefits under USERRA as applied by the CAA. This assistance includes responding to inquiries, and providing a program of education and information on matters relating to USERRA.

INVESTIGATION AND REFERRAL

§ 1002.288 How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?

(a) If an eligible employee is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employing office has failed or refused, or is about to fail or refuse, to comply with the Act, the eligible employee may file a complaint with the Office of Compliance, after a required period of counseling and mediation.

(b) To commence a proceeding, an eligible employee alleging a violation of the rights and protections of USERRA must request counseling by the Office of Compliance no later than 180 days after the date of the alleged violation. If an eligible employee misses this deadline, the claim may be time barred under the CAA.

(c) The following procedures are available under subchapter IV of the CAA for eligible employees who believe their rights under USERRA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either -

(A) a formal complaint filed with the Office of Compliance (which must meet the requirements as set forth in the Office of Compliance Procedural Rules, Section 5.01(c)), and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(d) Regulations of the Office of Compliance describing and governing these procedures can be found at 141 Cong. Rec. H15645-H15655 (daily ed. December 30, 1995) and 141 Cong. Rec. S19239-19249 (daily ed. December 22, 1995), 143 Cong. Rec. H8316-H8317 (daily ed. October 2, 1997)(as amended, applying USERRA to the Government Accountability Office and the Library of Congress).

ENFORCEMENT OF RIGHTS AND BENEFITS AGAINST AN EMPLOYING OFFICE

§ 1002.303 Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?

Yes. All eligible employees who file claims under Section 206 of the CAA, are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance

§ 1002.308 Who has legal standing to bring a USERRA claim under the CAA?
An action under Section 206 of the CAA may be brought by an eligible employee, as defined by Section 1002.5 (f) of Subpart A of these regulations. An action under 207(a) of the CAA may be brought by a covered employee, as defined by section 1002.5 (e) of Subpart A of these regulations. An employing office, prospective employing office or other similar entity may not bring an action under the Act.

§ 1002.309 Who is a necessary party in an action under USERRA?
In an action under USERRA, only the covered employing office or a potential covered employing office, as the case may be, is a necessary party respondent. Under the Office of Compliance Procedural Rules, a hearing officer has authority to require the filing of briefs, memoranda of law, and the presentation of oral argument. A hearing officer also may order the production of evidence and the appearance of witnesses.

§ 1002.310 How are fees and court costs awarded in an action under USERRA?
If an eligible employee is a prevailing party with respect to any claim under USERRA, the hearing officer, Board, or court may award reasonable attorney fees, expert witness fees, and other litigation expenses.

§ 1002.311 Is there a statute of limitations in an action under USERRA?
USERRA does not have a statute of limitations. However, Section 402 of the CAA requires a covered employee to bring a request for counseling alleging a violation of the CAA no later than 180 days after the date of the alleged violation. A claim by an eligible employee alleging a USERRA violation as applied by the CAA would follow this requirement .

§ 1002.312 What remedies may be awarded for a violation of USERRA?
In any action or proceeding the following relief may be awarded:
(a) The court and/or hearing officer may require the employing office to comply with the provisions of the Act;
(b) The court and/or hearing officer may require the employing office to compensate the eligible employee for any loss of wages or benefits suffered by reason of the employing office's failure to comply with the Act;
(c) The court and/or hearing officer may require the employing office to pay the eligible employee an amount equal to the amount of lost wages and benefits as liquidated damages, if the court and/or hearing officer determines that the employing office's failure to comply with the Act was willful. A violation shall be considered to be willful if the employing office either knew or showed reckless disregard for whether its conduct was prohibited by the Act.
(d) Any wages, benefits, or liquidated damages awarded under paragraphs (b) and (c) of this section are in addition to, and must not diminish, any of the other rights and benefits provided by USERRA (such as, for example, the right to be employed or reemployed by the employing office).

DOL SECTIONS	OOC SECTIONS
Subpart A **Sec. 1002.1** What is the purpose of this subpart? **Sec. 1002.2** Is USERRA new law? **Sec. 1002.3** When did USERRA become effective? **Sec. 1002.4** What is the role of the Secretary of Labor under USERRA? **Sec. 1002.5** What definitions apply to USERRA? **Sec. 1002.6** What types of service in the uniformed services are covered by USERRA? **Sec. 1002.7** How does USERRA relate to other laws, public and private contracts, and employer practices?	Subpart A **Sec. 1002.1** What is the purpose of this part? **Sec. 1002.2** Is USERRA new law? **Sec. 1002.3** When did USERRA become effective? **Sec. 1002.4** What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA? **Sec. 1002.5** What definitions apply to these USERRA regulations? **Sec. 1002.6** What types of service in the uniformed services are covered by USERRA? **Sec. 1002.7** How does USERRA as applied by the CAA relate to other laws, public and private contracts, and employer practices?
Subpart B **Sec. 1002.18** What status or activity is protected from employer discrimination by USERRA? **Sec. 1002.19** What activity is protected from employer retaliation by USERRA? **Sec. 1002.20** Does USERRA protect an individual who does not actually perform service in the uniformed services? **Sec. 1002.21** Do the Act's prohibitions against discrimination and retaliation apply to all employment positions? **Sec. 1002.22** Who has the burden of proving discrimination or retaliation in violation of USERRA? **Sec. 1002.23** What must the individual show to carry the burden of proving that the employer discriminated or retaliated against him or her?	Subpart B **Sec. 1002.18** What status or activity is protected from employer discrimination by USERRA? **Sec. 1002.19** What activity is protected from employer retaliation by USERRA? **Sec. 1002.20** Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions? **Sec. 1002.21** Does USERRA protect a covered employee who has not actually performed service in the uniformed services? **Sections 1002.22-23** are deleted from OOC regulations.

DOL SECTIONS	OOC SECTIONS
Subpart C **Sections 1002.32-34 and 1002.40-139** are the same in DOL and OOC regulations.	Subpart C **Sections 1002.32-34 and 1002.40-139** are the same in DOL and OOC regulations. **Sections 1002.35-39** are deleted from OOC regulations.
Subpart D **Sections 1002.149-171** are the same in DOL and OOC regulations.	Subpart D **Sections 1002.149-171** are the same in DOL and OOC regulations.
Subpart E **Sections 1002.180-267** are the same in DOL and OOC regulations.	Subpart E **Sections 1002.180-267** are the same in DOL and OOC regulations.
Subpart F **Section 1002.277** What assistance does the Department of Labor provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?	Subpart F **Section 1002.277** What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?
Section 1002.288 How does an individual file a USERRA complaint?	**Section 1002.288** How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?
Section 1002.289 How will VETS investigate a USERRA complaint? **Section 1002.290** Does VETS have the authority to order compliance with USERRA? **Section 1002.291** What actions may an individual take if the complaint is not resolved by VETS? **Section 1002.292** What can the Attorney General do about the complaint?	**Sections 1002.289-292** are deleted from OOC regulations.
Section 1002.303 Is an individual required to file his or her complaint with VETS?	**Section 1002.303** Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?
Section 1002.304 If an individual files a complaint with VETS and VETS' efforts do not resolve the complaint, can the individual pursue the claim on his or her own? **Section 1002.305** What court has jurisdiction in an action against a State or private employer? **Section 1002.306** Is a National Guard civilian technician considered a State or Federal employee for purposes of USERRA? **Section 1002.307** What is the proper venue in an action against a State or Private employer?	**Sections 1002.304-307** are deleted from OOC regulations.

DOL SECTIONS	**OOC SECTIONS**
Section 1002.308 Who has legal standing to bring an action under USERRA?	**Section 1002.308** Who has legal standing to bring a USERRA claim under the CAA?
Section 1002.309 Who is a necessary party in an action under USERRA?	**Section 1002.309** Who is a necessary party in an action under USERRA?
Section 1002.310 How are fees and court costs charged or taxed in an action under USERRA?	**Section 1002.310** How are fees and court costs awarded in an action under USERRA?
Section 1002.311 Is there a statute of limitations in an action under USERRA?	**Section 1002.311** Is there a statute of limitations in an action under USERRA?
Section 1002.312 What remedies may be awarded for a violation of USERRA?	**Section 1002.312** What remedies may be awarded for a violation of USERRA?
Section 1002.313 Are there special damages provisions that apply to actions initiated in the name of the United States?	**Sections 1002.313-314** are deleted from OOC regulations.
Section 1002.314 May a court use its equity powers in an action or proceeding under the Act?	

OFFICE OF COMPLIANCE: NOTICE OF ADOPTION OF SUBSTANTIVE REGULATIONS, AND SUBMISSION FOR CONGRESSIONAL APPROVAL

Adoption of the Office of Compliance Regulations Implementing Certain Substantive Employment Rights and Protections for Veterans, as Required by 2 U.S.C. 1316, the Congressional Accountability Act of 1995, as Amended

Procedural Summary:

Issuance of the Board's Initial Notice of Proposed Rulemaking:

On April 21, 2008 and May 8, 2008, the Office of Compliance published a Notice of Proposed Rulemaking ("NPR") in the Congressional Record (154 Cong. Rec. S3188 (daily ed. April 21, 2008) H3338 (daily ed. May 8, 2008))

Why did the Board propose these new Regulations?

Section 206 of the Congressional Accountability Act ("CAA"), 2 U.S.C. §1316, applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits. Subsection 1316(c) requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may only modify the Department of Labor regulations if it can establish good cause as to why a modification would be more effective for the application of the protections to the legislative branch. In addition, Section 1384 provides procedures for the rulemaking process in general.

What procedure followed the Board's April 16 Notice of Proposed Rulemaking?

The May 8, 2008 Notice of Proposed Rulemaking included a thirty day comment period, which began on May 9, 2008. A number of comments to the proposed substantive regulations were received by the Office of Compliance from interested parties. The Board of Directors has reviewed the comments from interested parties, made a number of changes to the proposed substantive regulations in response to comments, and on December 3, 2008 adopted the amended regulations.

What is the effect of the Board's "adoption" of these proposed substantive regulations?
Adoption of these substantive regulations by the Board of Directors does not complete the promulgation process. Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that:

(1) the Board of Directors issue proposed substantive regulations and publish a general notice of proposed rulemaking in the *Congressional Record*;

(2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; and

(3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the *Congressional Record.*

This **Notice of Adoption of Substantive Regulations and Submission for Congressional Approval** completes the third step described above.

What are the next steps in the process of promulgation of these regulations?
Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the House of Representatives adopt the "H" version of the regulations by resolution; that the Senate adopt the "S" version of the regulations by resolution; and that the House and Senate adopt the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

Which employment and reemployment protections are applied to eligible employees in 2 U.S.C. 1316?
USERRA was enacted in December 1994, and the Department of Labor final regulations for the executive branch became effective in 2006. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in military service. USERRA provides certain reemployment rights; protection from discrimination based on military service, denial of an employment benefit as a result of military service; and protection from retaliation for enforcing USERRA protections.

The selected statutory provisions which Congress incorporated into the CAA and determined "shall apply" to eligible employees in the legislative branch include nine sections: sections 4303(13), 4304, 4311(a)(b), 4312, 4313, 4316, 4317, 4318, and paragraphs (1), (2)(A), and (3) of 4323(c)[1] of title 38.

The first section, section 4303(13), provides a definition for "service in the uniformed services."

[1] As written in Section 206 of the CAA, reference is made to application of paragraphs (1), (2)(A), and (3) of section 4323(c) (Venue). However, in USERRA, section 4323(c) is not comprised of paragraphs (1), (2)(A), and (3) - - section 4323(d) (Remedies) is comprised of those paragraphs. Because of this apparent typographical error, where the CAA references paragraphs (1), (2)(A), and (3) of section 4323(c), the Board refers to section 4323(d).

This is the only definition in USERRA that Congress made applicable to the legislative branch. Section 4303(13) references Section 4304, which describes the "character of service" and illustrates situations which would terminate eligible employees' rights to USERRA benefits.

Congress applied section 4311 to the legislative branch in order to provide discrimination and retaliation protections, respectively to eligible and covered employees. Interestingly, although Congress adopted these protections, it did not adopt the legal standard by which to establish a violation of this section of the regulations.

Sections 4312 and 4313 outline the reemployment rights that are provided to eligible employees. These rights are automatic under the statute, and if an employee meets the eligibility requirements, he or she is entitled to the rights provided therein.

Sections 4316, 4317, and 4318 provide language on the benefits given to eligible employees.

Are there veterans' employment regulations already in force under the CAA?
No. The Board has issued to the Speaker of the House and the President Pro Tempore of the Senate its Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval for Veterans Employment Opportunities Act (VEOA). The Board is awaiting Congressional approval of those regulations.

Why are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?
As the Board of Directors has identified "good cause" to modify the executive branch regulations to implement more effectively the rights and protections for veterans, there are some differences in other parts of the proposed regulations applicable to the Senate, the House of Representatives, and the other employing offices. Therefore, the Board is submitting three separate sets of regulations: an "H" version, an "S" version, and a "C" version, each denoting those provisions in the regulations that are applicable to the House, Senate, and other employing offices, respectively.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives?
Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), these regulations have also been recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

Are these proposed CAA regulations available to persons with disabilities in an alternate format?
This Notice of Adoption of Substantive Regulations, and Submission for Congressional Approval is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Annie Leftwood, Executive Assistant, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250; TDD:

202-426-1912; FAX: 202-426-1913.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

The Board's Responses to Comments

SUMMARY OF MAJOR COMMENTS

General Comments

The Board noted in the Notice of Proposed Regulations (NPR) that it had not identified any "good cause" for issuing three separate sets of regulations and that if the regulations were approved as proposed, there would be one text applicable to all employing offices and covered employees. During the notice and comment period, the Board received comments from the Committee on House Administration ("CHA"), Senate Employment Counsel ("Counsel"), and the United States Capitol Police ("Capitol Police"). All of the commenters noted, in different places throughout the regulations, the need for modifications that would apply specifically to the House, Senate or other employing offices. Although the Board has not found "good cause" to vary the Department of Labor (DOL) regulations in all instances where requested, there are a number of places where such variances are warranted. In light of that and the comment by the CHA that the Congressional Accountability Act (CAA) requires the publication of separate regulations for the Senate, House and other covered employees and employing offices, the Board has made that change and put forward three separate sets of regulations, an "H" version, an "S" version, and a "C" version, each denoting the provisions that are included in the regulations that are applicable to the House, Senate, and other employing offices, respectively.

Eligible Employees

In its comments, CHA maintains that the definition of "eligible employee" in the regulations is overly broad. Pointing to Section 206(a)(2)(A) of the CAA, which defines an "eligible employee" as "a covered employee performing service in the uniformed service, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38," the CHA notes that the definition references only the present tense of the verb "performing" and makes no mention of the past tense. CHA also notes the Section 206 does not define eligible employee to include an individual who was previously a member of the uniformed services or one who applies or has applied to perform service in the uniformed services. CHA acknowledges that this "stands in marked contrast to the general USERRA statute's protection of individuals who currently serve as well as to those who have previously served, to those who have an obligation to serve, and to those who have applied to serve in the uniformed services (regardless of whether they actually served)." CHA further recognizes "that USERRA's intent is to provide broad protections for those who serve and have served in the uniformed services..." CHA comments that the regulations are inappropriately broad, notwithstanding language in Section 206(a)(2)(A) that strongly suggests inclusion of an individual who has been honorably discharged and is therefore not currently serving, but who has served in the past.

The Board acknowledges the tension in the language in Section 206(a)(2)(A), but does not agree with the conclusions reached by the CHA, that, absent a statutory amendment revising the

definition in Section 206(a)(2)(A), the proposed regulations should be revised to reflect that, "as applied by the CAA, USERRA only protects employees who are currently 'performing service in the uniformed services.'"

The Board's authority to promulgate substantive regulations is found in Section 206 of the CAA, 2 U.S.C. §1316, which applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits.

Subsection 1316(c) of the CAA requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may modify the Department of Labor regulations only if it can establish good cause as to why a modification would be more effective for application of the protections to the legislative branch. The Board chooses to apply a broad definition of "eligible employee".

The Board does not read the "performing service" language in Section 206(a)(2)(A) as limiting the discrimination protection of USERRA to only those employees who are currently serving in the uniformed services. Rather, we interpret the phrase "performing service" in this context to refer to covered employees who have some form of military status (i.e., those who have performed service or who have applied or have an obligation to perform military service, as well as those who are currently members of or who are serving in the uniformed services) as distinguished from covered employees who do not have this military status.

This application of the phrase "performing service" is supported by several indicia of Congressional intent. First, Section 206(a)(2)(A) prohibits discrimination against eligible employees "within the meaning of" subsection (a) of section 4311 of Title 38, which states: "A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation." Most, if not all, of these protections would be lost if the phrase "performing service" were applied to exclude covered employees who are not currently performing service at the moment of the alleged violation. It would vitiate the reemployment rights under USERRA because employees would lose their statutory rights at the moment of discharge, whether honorable or not. Similarly, had Congress intended to so limit the coverage of USERRA, it could have said that "any" discharge was a disqualifying condition, not those that are other than honorable.

Congressional intent is also reflected in the USERRA statute itself, passed in 1994, which states, "It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter." 38 USC 4301(b). A narrow application of the phrase "performing service" would be directly contrary to this statement of the sense of Congress.

Finally, we note that after the CAA was enacted, Congress enacted the Veteran Employment Opportunities Act and thereby granted certain preferences in hiring and retention during layoffs to *all* covered employees who are "veterans" as defined in 5 U.S.C. § 2108, or any superseding legislation. We conclude that Congress intended a broad application of the phrase "performing service" so that covered employees who will or have performed service are also protected against discrimination and the improper denial of reemployment or benefits.

In light of the above, the Board has found "good cause" to modify the Department of Labor's definition of "eligible employee". Further, in order to avoid any confusion as to the application of the regulations to "eligible" employees, the Board has made the appropriate editorial changes throughout the adopted regulations.

Other Definitions

Section 1002.5 contains the definitions used in the regulations. Several commenters have recommended that some of the definitions in this section be edited to be consistent with the CAA. Where appropriate, the Board has made those changes.[2]

Section 1002.5(i) defines an employee of the House of Representatives. The Committee on House Administration noted that because there may be some joint employees of the House and Senate, the definition of an employee of the House of Representatives should also include individuals employed by the Senate. We agree and have made the necessary revisions.

Section 1002.5(k) defines employing office. CHA commented that the definition in 1002.5(k)(4) was broader than the definition of "employing office" in Section 101(9) of the CAA. We note that during the rulemaking procedures for the Veterans Equal Opportunities Act (VEOA), the Board determined that in view of the selection process for certain Senate employees, the words "or directed" would be added to the definition of "covered employee" to include any employee who is hired at the direction of a Senator, but whose appointment form is signed by an officer of either House of Congress. Although we included such language in the proposed rules on USERRA, it appears that this language would be overreaching for the House and other employing offices. As the House has different methods of making appointments and selections, this language is unnecessary and may create confusion given the practices of the House. Accordingly, the Board has deleted this provision from the House and other employing offices version, but will include it in the Senate version.

Section 1002.5(l) defines health plan. The Capitol Police has recommended that the language in the definition of health care plans be limited to the FEHB program. As discussed more fully below, the Board is mandated to follow, as closely as possible, the regulations applied to the executive branch. In view of the fact that the DOL regulations apply to federal employees in the executive branch who are also only covered under the Federal Employees Health Benefits (FEHB) program, the Board finds that there is no good cause to limit the definition.

[2] On October 20, 2008, Congress passed the Capitol Visitor Center Act (PL 110-437) amending Sections 101(3)(C) and 101(9)(D) of CAA to substitute "the Office of Congressional Accessibility Services" for both "the Capitol Guide Service" and "the Capitol Guide Board". The Board has modified its regulations to reflect this change in §1002.5(e)(3) in all versions and in §1002.5(k)(1) in the "C" version.

Section 1002.5(q) defines seniority. The Capitol Police has also recommended that this definition of seniority be deleted because of potential conflict with definitions of seniority in various collective bargaining agreements. The Board has determined that there is no good cause for such a change. The definition in the adopted regulations are not limiting and are consistent with §4316 of USERRA. Further, as DOL indicated in its notice to the final USERRA regulations, section 4316(a) of USERRA is not a statutory mandate to impose seniority systems on employers. Rather, USERRA requires only that those employers who provide benefits based on seniority restore the returning service member to his or her proper place on the seniority ladder. Because each employing office defines and determines how seniority is to be applied, the definition of seniority in the adopted regulations should not conflict with collective bargaining agreements.

Section 1002.5(s) defines undue hardship. The CHA has noted that in setting out the standards for considering when an action might require significant difficulty or expense, the proposed regulations did not include the language from §1002.5(n)(2) of the DOL's regulations. In the DOL's regulations, §1002.5(n)(2) provides that an action may be considered to be an undue hardship if it requires significant difficulty or expense when considered in light of: the overall financial resources of the *facility or facilities* involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility. Section 1002.5(s)(2) of the proposed regulations similarly referred to the overall financial resources of the *employing office*. However, in view of the fact that employing offices also may have multiple facilities, the Board agrees with the CHA comments and finds that there is no "good cause" to delete what was §1002.5(n)(2) of the DOL regulations. Therefore, what was §1002.5(n)(2) of the DOL regulations has been included in the adopted regulations as §1002.5(s)(2) and subsequent sections have been renumbered accordingly.

The Relationship Between USERRA and Other Laws, Contracts and Practices

Section 1002.7 states that USERRA supersedes any state and local law, contract, or policy that reduces or limits any rights or benefits provided by USERRA, but does not supersede those provisions that are more beneficial. Senate Employment Counsel has commented that reference to the fact that USERRA supersedes any state and local laws is superfluous and does not apply to legislative offices. Further, Counsel has recommended that the section referring to the fact that USERRA does not supersede more beneficial state or local laws be omitted. The Board acknowledges that state and local laws do not apply to federal employees or the employing offices covered under the CAA. Therefore, in order to avoid any confusion, the Board has made the appropriate changes.

Anti-Discrimination and Anti-Retaliation Provisions

As a general comment, the Capitol Police has raised questions about the Board's reference in the notice to *Britton v. Office of the Architect of the Capitol*. The Capitol Police maintains that *Britton* is not applicable to §4311(a) or (b) and that the USERRA regulations should not be changed to include substantive regulations under section 207 of the CAA. The Board notes that

the reference to the *Britton* case and retaliation under Section 207 of the CAA is merely explanatory and not a part of the substantive regulations. In the NPR, there is a typographical error and the correct statement is that the Board does not propose a particular standard for claims of discrimination or retaliation brought by eligible employees under section 206. Any discussion referring to Section 207 retaliation was for explicative purposes only. Accordingly, it should be noted that in these regulations, the Board is not discussing claims of retaliation under Section 207 and that references to Section 207 have been omitted from the adopted regulations.

Section 1002.20, as set out in the proposed regulations, discussed the extent of the coverage of USERRA's prohibitions against discrimination and retaliation. Several commenters noted that §1002.20 and §1002.21 were confusing and did not clearly differentiate discrimination and retaliation protections as applied by §206 and §207 of the CAA. The Board agrees and has modified section 1002.20 and replaced section 1002.21 with a new section to reflect that USERRA protects eligible employees in all positions with covered employing offices. Thus, because Section 206 of the CAA only covers "eligible employees" as defined in §1002.5(f), "covered employees" would only be protected by the anti-retaliation provisions under Section 207 of the CAA.

Additionally, in its comments, the Capitol Police asks why the numbering of §1002.20 and §1002.21 was reversed and why §1002.22 covering the burden of proving discrimination or retaliation was excluded. The Board notes that it had good cause to delete §1002.22 as Congress specifically did not adopt the "but for" test (38 U.S.C 4311 (c) (1) and (2)) and therefore it was confusing and unnecessary to include this provision. In view of the revisions to sections 1002.20 and 1002.21 noted above, the Board has kept the order as it was in the proposed regulations to be more consistent with these edits.

Eligibility for Reemployment

As a general comment, the CHA notes that with respect to employees in the House, the statement in the NPR that "it is not permitted for an employee to work for a Member office and a Committee at the same time" is incorrect. Although this statement is not part of the substantive regulations, where there are variations in the employment requirements of different employing offices, the Board has made the necessary changes to each of the versions of the adopted regulations.

Section 1002.32 sets out the criteria that an employee must meet to be eligible under USERRA for reemployment after service in the uniformed services. The CHA has recommended that this section be changed to be consistent with the definition of eligible employee in section 206(a)(2)(A) of the CAA, and for clarity as applied to individual employing offices which may cease to exist while an eligible employee is performing service. The Board agrees and has changed the House and Senate versions to reflect that generally, if an eligible employee is absent from a position in an employing office by reason of service in the uniformed services, he or she will be eligible for employment in the same employing office if that employing office continues to exist at such time.

Section 1002.34 of the proposed regulations established that USERRA applies to all covered employing offices of the legislative branch as defined in Subpart A, section 1002.5(e). Both the Capitol Police and Senate Employment Counsel commented that the definition of "employing office" should be changed to track the CAA, rather than the definition in the proposed regulations. Thus, Counsel notes that any regulation the Office of Compliance issues for an "employing office" should track 2 U.S.C. §1301(9), and include the General Accounting Office and Library of Congress, as required under 2 U.S.C. §1316(a)(2)(C). The Board agrees and has changed the definition to more closely follow the CAA.

Section 1002.40 states that in protecting against discrimination in initial hiring decisions, an employing office need not actually employ an individual to be his or her employer. The CHA commented that it is not correct to say that "[a]n employing office need not actually employ an individual to be his or her 'employer'." The CHA notes that while the result is the same-- an applicant who is otherwise an eligible employee cannot be discriminated against in initial employment based on his or her performing service in the uniformed service, to say that the employing office is his or her employer is incorrect. The Board agrees and has made the change to reflect that while an employing office may not technically be the "employer" of an applicant, the result is the same -- the employing office is *liable* under the Act if it engages in discrimination against an applicant based on his or her performing service in the uniformed service.

Section 1002.120 allows an employee to seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. The proposed regulations stated that such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. The CHA has noted that because employees of the House are "at-will", reference to termination and/or discipline for "cause" in this section is inapplicable and could be confusing. While the Board recognizes that employees of the House are "at-will", the same issues raised by the CHA can apply to many executive branch and private sector employees, as well. In view of the fact that the DOL regulations contain the same provision, notwithstanding the different employment arrangements in the private sector and executive branch agencies, the Board finds no good cause to make the change.

Health and Pension Plan Coverage

USERRA ensures that eligible employees are provided with health and pension plan coverage on a continuing basis in certain circumstances and reinstatement of coverage upon reemployment. All of the commenters have raised concerns over the inclusion of provisions concerning health and pension plan benefits and ask that these provisions be withdrawn or limited specifically to the specific health and pension plans covering federal employees. For example, the CHA notes that House employing offices do not provide health or retirement benefits to their employees and do not pay or administer contributions and/or premiums for such plans. Similarly, Senate Employment Counsel explains that while employees of Senate employing offices are entitled to health plan coverage and pension benefits under the FEHB and Civil Service Retirement System

(CSRS) or the Federal Employment Retirement System (FERS), their respective employing offices do not provide the "employer contribution" for such coverage and do not determine when such coverage starts or is reinstated or any terms or conditions of the coverage. Moreover, while the Senate appropriates monies for any agency contribution to such plans, these contributions do not come from the monies appropriated to individual employing offices.

The Board recognizes that the role of the Senate and House employing offices, in administering health and pension plans is somewhat attenuated. With the caveat in mind that it is the U.S. Office of Personnel Management that controls not only federal employee health plans, but pension plans as well, the Board nonetheless does not find good cause to exclude these provisions from the adopted regulations. In support of this, the Board notes that the DOL regulations cover federal employees in the executive branch who are also covered under the FEHB, CSRS and FERS. Moreover, USERRA itself states in Section 4318 that a right provided under any Federal or State law governing pension benefits for governmental employees (except for benefits under the Thrift Savings Plan) is covered. The Board is not aware of every employment relationship in the legislative branch and there is always the possibility that there may be situations where employees are not covered under the FEHB or CSRS/FERS, or may be covered under craft union or multi-employer plans. The Board further notes that to the extent that an employing office does not control nor is responsible for assuring that eligible employees are properly covered under health and pension plans, these provisions would not apply. Although employing offices may not have direct control over health and pension plans, they are responsible for ensuring that eligible employees are covered by facilitating or requesting that the necessary contribution or funding is made. Rather than deleting sections of the regulations, the Board has revised the regulations to reflect the responsibility of the employing offices and where appropriate, has made changes to reflect that while employing agencies may not have control over the plans, they do have some responsibility in assuring that eligible employees are covered as required under USERRA.

Protection Against Discharge

Section 1002.247 protects an employee against discharge. Rather than state that a discharge except for cause is prohibited if an employee's most recent period of service was for more than 30 days, the proposed regulations stated that, because legislative employees are at will, a discharge without cause could create a rebuttable presumption of a violation. In its comments, the CHA notes that in modifying this section, the explanation regarding the discharge of a returning employee was unclear. The Board agrees that there is no "good cause" for making the revisions originally contained in the proposed regulations and has changed this section to be consistent with DOL regulations.

Enforcement of Rights and Benefits Against an Employing Office

Section 102.303 requires that employees who file claims under USERRA are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance. The proposed regulations contained language that provided for "covered" rather than "eligible" employees to bring claims under USERRA to the Office of Compliance. The CHA commented that to be consistent with Section 206(a)(2)(A) of the CAA, this provision

should be modified to make clear that only "eligible employees" may bring claims under Section 206. The Board agrees and because only eligible employees are covered under Section 206 discrimination and retaliation provisions, this section has been modified.

Section 1002.312 provides for the various remedies that may be awarded for violations of USERRA, including liquidated damages. The CHA comments that because of a technical error in the CAA, there is no statutory authority to provide for liquidated damages remedies under USERRA. In its notice of rulemaking, the Board noted the same error. Thus, as written in Section 206 of the CAA, reference is made to the application of paragraphs (1), (2)(A), and (3) of section 4323(c). However, in USERRA, section 4323(c), which refers to venue, is not comprised of paragraphs (1), (2)(A), and (3). Rather, section 4323(d), which does address remedies, is comprised of those paragraphs. Because of this apparent typographical error, the Board noted that where the CAA references paragraphs (1), (2)(A), and (3) of section 4323(c), it would read it as referring to section 4323(d). The Board disagrees with CHA's position that because of this technical error, the liquidated damages remedy section of USERRA is not incorporated into the CAA. There is no question from the context and the express language of §206(b) which specifically provides that the remedy for a violation of §206(a) of the CAA shall be the same as remedies awarded under USERRA, that there has been a waiver of sovereign immunity sufficient to provide for all the remedies covered in paragraphs (1), (2)(A), and (3) of section 4323(d). Contrary to the CHA's observations, it does not require a court to look beyond the express language of the statute to understand Congress's intent that the liquidated damages provision of USERRA be applied under the CAA.

Under sections 1002.310 and 1002.314 of the proposed regulations, respectively, fees and court costs may not be charged against individuals claiming rights under the CAA and courts and/or hearing officers may use their equity powers in actions or proceedings under the Act. The CHA commented that because § 1002.314 and the first sentence of § 1002.310 are based on sections of USERRA that are not incorporated by the CAA (§4323(e) and §4323(h) respectively), these provisions should be deleted from the adopted regulations. The Board has reviewed these comments and while we would find that, notwithstanding any "technical" error, the CAA does incorporate the remedies set out in §1002.314 (a)-(c), we agree that the CAA does not include the remedies articulated in §4323(e) and §4323(h) of USERRA. As the first sentence in §1002.310 of the proposed regulations does appear to mirror §4323(h) of USERRA and §1002.314 of the proposed regulations similarly mirrors §4323(e), in order to avoid any confusion, the Board has found good cause to delete these provisions. The Board has retained the part of §1002.310 pertaining to the awarding of fees and costs. As discussed in the NPR, the Board found that the DOL regulations permitting an award of fees and court costs for an individual who has obtained counsel and prevailed in his or her claim against the employer was consistent with Section 225(a) of the CAA, permitting a prevailing covered employee to be awarded reasonable fees and costs. To be more fully consistent with the CAA, the Board has kept its modification of the language removing the requirement that the individual retain private counsel as a condition of such an award.

Text of USERRA Regulations

"C" Version

When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix "C."

Subpart A: Introduction to the Regulations

§ 1002.1 What is the purpose of this part?

This part implements certain provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA" or "the Act"), as applied by the Congressional Accountability Act ("CAA"). 2 U.S.C. 1316. USERRA is a law that establishes certain rights and benefits for employees, and duties for employers. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services. There are five subparts to these regulations. Subpart A gives an introduction to the USERRA regulations. Subpart B describes USERRA's anti-discrimination and anti-retaliation provisions. Subpart C explains the steps that must be taken by a uniformed service member who wants to return to his or her previous civilian employment. Subpart D describes the rights, benefits, and obligations of persons absent from employment due to service in the uniformed services, including rights and obligations related to health plan coverage. Subpart E describes the rights, benefits, and obligations of the returning veteran or service member. Subpart F explains the role of the Office of Compliance in administering USERRA as applied by the CAA.

§ 1002.2 Is USERRA a new law?

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized USERRA's continuity with the VRRA and its intention to clarify and strengthen that law. Congress also emphasized that Federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA. USERRA authorized the Department of Labor to publish regulations implementing the Act for State, local government, and private employers. USERRA also authorized the Office of Personnel Management to issue regulations implementing the Act for Federal executive agencies, with the exception of certain Federal intelligence agencies. For those Federal intelligence agencies, USERRA established a separate program for employees. Section 206 of the CAA requires the Board of Directors of the Office of Compliance to issue regulations to implement the statutory provisions relating to employment and reemployment rights of members of the uniformed services. The regulations are required to be the same as substantive regulations promulgated by the Secretary of Labor, except where a modification of such regulations would be more effective for the implementation of the rights and protections of the Act. The Department of Labor issued its regulations, effective January 18, 2006. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated for the legislative branch, for the implementation of the USERRA provisions of the CAA. All references to USERRA in these regulations, means USERRA, as applied by the CAA.

§ 1002.3 When did USERRA become effective?
USERRA, as applied by the CAA, became effective for employing offices of the legislative branch on January 23, 1996. These regulations will become effective upon approval by Congress.

§ 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
(a) As applied by the CAA, the Executive Director of the Office of Compliance is responsible for providing education and information to any covered employing office or employee with respect to their rights, benefits, and obligations under the USERRA provisions of the CAA.
(b) The Office of Compliance, under the direction of the Executive Director, is responsible for the processing of claims filed pursuant to these regulations. More information about the Office of Compliance's role is contained in Subpart F.

§ 1002.5 What definitions apply to these USERRA regulations?
(a) **Act or USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as applied by the CAA.
(b) **Benefit, benefit of employment, or rights and benefits** means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of an employment contract, employment agreement, or employing office policy, plan, or practice. The term includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and, where applicable, the opportunity to select work hours or the location of employment.
(c) **Board** means Board of Directors of the Office of Compliance.
(d) **CAA** means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).
(e) **Covered employee** means any employee, including an applicant for employment and a former employee, of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Government Accountability Office; (9) the Library of Congress; and (10) the Office of Compliance.
(f) **Eligible employee** means a covered employee performing service in the uniformed services, as defined in 1002.5 (t) of this subpart, whose service has not been terminated upon occurrence of any of the events enumerated in section 1002.135 of these regulations. For the purpose of defining who is covered under the discrimination section of these regulations, "performing service" means an eligible employee who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the uniformed services.
(g) **Employee of the Office of the Architect of the Capitol** includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.
(h) **Employee of the Capitol Police** includes any member or officer of the Capitol Police.
(i) **Employee of the House of Representatives** includes an individual occupying a position for which the pay is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not

any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(j) **Employee of the Senate** includes an individual occupying a position for which the pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(k) **Employing office** means (1) the Office of Congressional Accessibility Services; (2) the Capitol Police Board; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Government Accountability Office; (7) the Library of Congress; or (8) the Office of Compliance.

(l) **Health plan** means an insurance policy, insurance contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(m) **Notice**, when the eligible employee is required to give advance notice of service, means any written or oral notification of an obligation or intention to perform service in the uniformed services provided to an employing office by the employee who will perform such service, or by the uniformed service in which the service is to be performed.

(n) **Office** means the Office of Compliance.

(o) **Qualified**, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(p) **Reasonable efforts**, in the case of actions required of an employing office, means actions, including training provided by an employing office that do not place an undue hardship on the employing office.

(q) **Seniority** means longevity in employment together with any benefits of employment that accrue with, or are determined by, longevity in employment.

(r) **Service in the uniformed services** means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. Service in the uniformed services includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty as authorized by law (10 U.S.C. 12503 or 32 U.S.C. 115). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107– 188, provides that service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized training program is deemed "service in the uniformed services." 42 U.S.C. 300hh–11(d)(3).

(s) **Undue hardship**, in the case of actions taken by an employing office, means an action requiring significant difficulty or expense, when considered in light of—

(1) The nature and cost of the action needed under USERRA and these regulations; (2) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) The overall financial resources of the employing office; the overall size of the business of an employing office with respect to the number of its employees; the number, type, and location of its facilities; and, (4) The type of operation or operations of the employing office, including the composition, structure, and functions of the work force of such employing office; the geographic separateness, administrative, or fiscal relationship of the State, District, or satellite office in question to the employing office.

(t) **Uniformed services** means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. For purposes of USERRA coverage only, service as an intermittent disaster response appointee of the National Disaster Medical System (NDMS) when federally activated or attending authorized training in support of their Federal mission is deemed "service in the uniformed services," although such appointee is not a member of the "uniformed services" as defined by USERRA.

§ 1002.6 What types of service in the uniformed services are covered by USERRA?
The definition of "service in the uniformed services" covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.

§ 1002.7 How does USERRA, as applied by the Congressional Accountability Act, relate to other laws, public and private contracts, and employing office practices?
(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employing office may provide greater rights and benefits than USERRA requires, but no employing office can refuse to provide any right or benefit guaranteed by USERRA, as applied by the CAA.
(b) USERRA supersedes any contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit. For example, an office policy that determines seniority based only on actual days of work in the place of employment would be superseded by USERRA, which requires that seniority credit be given for periods of absence from work due to service in the uniformed services.
(c) USERRA does not supersede, nullify or diminish any Federal law, contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit provided under the Act. For example, although USERRA does not require an employing office to pay an eligible employee for time away from work performing service, an employing office policy, plan, or practice that provides such a benefit is permissible under USERRA.
(d) If an employing office provides a benefit that exceeds USERRA's requirements in one area, it cannot reduce or limit other rights or benefits provided by USERRA. For example, even though USERRA does not require it, an employing office may provide a fixed number of days of paid military leave per year to employees who are members of the National Guard or Reserve. The fact that it provides such a benefit, however, does not permit an employing office to refuse to provide an unpaid leave of absence to an employee to perform service in the uniformed services in excess of the number of days of paid military leave.

Subpart B: Anti-Discrimination and Anti-Retaliation

PROTECTION FROM EMPLOYER DISCRIMINATION AND RETALIATION

§ 1002.18 What status or activity is protected from employer discrimination by USERRA?
An employing office must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

§ 1002.19 What activity is protected from employer retaliation by USERRA?
An employing office must not retaliate against an eligible employee by taking any adverse employment action against him or her because the eligible employee has taken an action to enforce a protection afforded any person under USERRA; testified or otherwise made a statement in or in connection with a proceeding under USERRA; assisted or participated in a USERRA investigation; or exercised a right provided for by USERRA.

§ 1002.20 Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions?
Under USERRA, as applied by the CAA, the prohibitions against discrimination and retaliation apply to eligible employees in all positions within covered employing offices, including those that are for a brief, nonrecurrent period, and for which there is no reasonable expectation that the employment position will continue indefinitely or for a significant period. However, USERRA's reemployment rights and benefits do not apply to such brief, non-recurrent positions of employment

§ 1002.21 Does USERRA protect a covered employee who has not actually performed service in the uniformed services?
USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation only against eligible employees. Section 207(a) of the CAA, however, prohibits retaliation against all covered employees because the employee has opposed any practice made unlawful under the CAA, including a violation of USERRA's provisions, as applied by the CAA; or testified; assisted; or participated in any manner in a hearing or proceeding under the CAA.

Subpart C – Eligibility for Reemployment

GENERAL ELIGIBILITY FOR REEMPLOYMENT

§ 1002.32 What criteria must an employee meet to be eligible under USERRA for reemployment after service in the uniformed services?

(a) In general, if an eligible employee has been absent from a position of employment in an employing office by reason of service in the uniformed services, he or she will be eligible for reemployment in that same employing office by meeting the following criteria:

(1) The employing office had advance notice of the eligible employee's service; (2) The eligible employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employing office; (3) The eligible employee timely returns to work or applies for reemployment; and, (4) The eligible employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

(b) These general eligibility requirements have important qualifications and exceptions, which are described in detail in §§ 1002.73 through 1002.138. If the employee meets these eligibility criteria, then he or she is eligible for reemployment unless the employing office establishes one of the defenses described in § 1002.139. The employment position to which the eligible employee is entitled is described in §§ 1002.191 through 1002.199.

§ 1002.33 Does the eligible employee have to prove that the employing office discriminated against him or her in order to be eligible for reemployment?

No. The eligible employee is not required to prove that the employing office discriminated against him or her because of the employee's uniformed service in order to be eligible for reemployment

COVERAGE OF EMPLOYERS AND POSITIONS

§ 1002.34 Which employing offices are covered by these regulations?

(a) USERRA applies to all covered employing offices of the legislative branch as defined in 2 U.S.C. § 1301(9) and 2 U.S.C.§ 1316(a)(2)(C).

§ 1002.40 Does USERRA protect against discrimination in initial hiring decisions?

Yes. The definition of employer in the USERRA provision as applied by the CAA includes an employing office that has denied initial employment to an individual in violation of USERRA's anti-discrimination provisions. An employing office need not actually employ an individual to be liable under the Act, if it has denied initial employment on the basis of the individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Similarly, the employing office would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. For example, if the individual has been denied initial employment because of his or her obligations as a member of the National Guard or Reserves, the employing office denying employment is liable under USERRA. Similarly, if an employing office withdraws an offer of employment because the individual is called upon to fulfill an

obligation in the uniformed services, the employing office withdrawing the employment offer is also liable under USERRA.

§ 1002.41 Does an eligible employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?
USERRA rights are not diminished because an eligible employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employing office is not required to reemploy an eligible employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employing office bears the burden of proving this affirmative defense.

§ 1002.42 What rights does an eligible employee have under USERRA if he or she is on layoff or on a leave of absence?
(a) If an eligible employee is laid off with recall rights, or on a leave of absence, he or she is protected under USERRA. If the eligible employee is on layoff and begins service in the uniformed services, or is laid off while performing service, he or she may be entitled to reemployment on return if the employing office would have recalled the employee to employment during the period of service. Similar principles apply if the eligible employee is on a leave of absence from work when he or she begins a period of service in the uniformed services.
(b) If the eligible employee is sent a recall notice during a period of service in the uniformed services and cannot resume the position of employment because of the service, he or she still remains an eligible employee for purposes of the Act. Therefore, if the employee is otherwise eligible, he or she is entitled to reemployment following the conclusion of the period of service, even if he or she did not respond to the recall notice.
(c) If the eligible employee is laid off before or during service in the uniformed services, and the employing office would not have recalled him or her during that period of service, the employee is not entitled to reemployment following the period of service simply because he or she is an eligible employee. Reemployment rights under USERRA cannot put the eligible employee in a better position than if he or she had remained in the civilian employment position.

§ 1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?
Yes. USERRA applies to all eligible employees. There is no exclusion for executive, managerial, or professional employees.

§ 1002.44 Does USERRA cover an independent contractor?
No. USERRA, as applied by the CAA, does not provide protections for an independent contractor.

COVERAGE OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.54 Are all military fitness examinations considered "service in the uniformed services?"
Yes. USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from a position of employment for the purpose of an examination to determine his or her fitness to perform duty in the uniformed services. Military fitness examinations can address more than physical or medical fitness, and include evaluations for

mental, educational, and other types of fitness. Any examination to determine an eligible employee's fitness for service is covered, whether it is an initial or recurring examination. For example, a periodic medical examination required of a Reserve component member to determine fitness for continued service is covered.

§ 1002.55 Is all funeral honors duty considered "service in the uniformed services?"

(a) USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from employment for the purpose of performing authorized funeral honors duty under 10 U.S.C. 12503 (members of Reserve ordered to perform funeral honors duty) or 32 U.S.C. 115 (Member of Air or Army National Guard ordered to perform funeral honors duty).

(b) Funeral honors duty performed by persons who are not members of the uniformed services, such as members of veterans' service organizations, is not "service in the uniformed services."

§ 1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"

Under a provision of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 300hh 11(d)(3), "service in the uniformed services" includes service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System or participation in an authorized training program, even if the eligible employee is not a member of the uniformed services.

§ 1002.57 Is all service as a member of the National Guard considered "service in the uniformed services?"

No. Only Federal National Guard Service is considered "service in the uniformed services." The National Guard has a dual status. It is a Reserve component of the Army, or, in the case of the Air National Guard, of the Air Force. Simultaneously, it is a State military force subject to call-up by the State Governor for duty not subject to Federal control, such as emergency duty in cases of floods or riots. National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA.

(a) National Guard service under Federal authority is protected by USERRA. Service under Federal authority includes active duty performed under Title 10 of the United States Code. Service under Federal authority also includes duty under Title 32 of the United States Code, such as active duty for training, inactive duty training, or full-time National Guard duty.

(b) National Guard service under authority of State law is not protected by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Enforcement of those State laws is not covered by USERRA or these regulations.

§ 1002.58 Is service in the commissioned corps of the Public Health Service considered "service in the uniformed services?"

Yes. Service in the commissioned corps of the Public Health Service (PHS) is "service in the uniformed services" under USERRA.

§ 1002.59 Are there any circumstances in which special categories of persons are considered to perform "service in the uniformed services?"
Yes. In time of war or national emergency, the President has authority to designate any category of persons as a "uniformed service" for purposes of USERRA. If the President exercises this authority, service as a member of that category of persons would be "service in the uniformed services" under USERRA.

§ 1002.60 Does USERRA cover an individual attending a military service academy?
Yes. Attending a military service academy is considered uniformed service for purposes of USERRA. There are four service academies: The United States Military Academy (West Point, New York), the United States Naval Academy (Annapolis, Maryland), the United States Air Force Academy (Colorado Springs, Colorado), and the United States Coast Guard Academy (New London, Connecticut).

§ 1002.61 Does USERRA cover a member of the Reserve Officers Training Corps?
Yes, under certain conditions:
(a) Membership in the Reserve Officers Training Corps (ROTC) or the Junior ROTC is not "service in the uniformed services." However, some Reserve and National Guard enlisted members use a college ROTC program as a means of qualifying for commissioned officer status. National Guard and Reserve members in an ROTC program may at times, while participating in that program, be receiving active duty and inactive duty training service credit with their unit. In these cases, participating in ROTC training sessions is considered "service in the uniformed services," and qualifies a person for protection under USERRA's reemployment and anti-discrimination provisions.
(b) Typically, an individual in a College ROTC program enters into an agreement with a particular military service that obligates such individual to either complete the ROTC program and accept a commission or, in case he or she does not successfully complete the ROTC program, to serve as an enlisted member. Although an individual does not qualify for reemployment protection, except as specified in (a) above, he or she is protected under USERRA's anti-discrimination provisions because, as a result of the agreement, he or she has applied to become a member of the uniformed services and has incurred an obligation to perform future service.

§ 1002.62 Does USERRA cover a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the Civil Air Patrol, or the Coast Guard Auxiliary?
No. Although the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) is a "uniformed service" for some purposes, it is not included in USERRA's definition of this term. Service in the Civil Air Patrol and the Coast Guard Auxiliary similarly is not considered "service in the uniformed services" for purposes of USERRA. Consequently, service performed in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), the Civil Air Patrol, and the Coast Guard Auxiliary is not protected by USERRA.

ABSENCE FROM A POSITION OF EMPLOYMENT NECESSITATED BY REASON OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.73 Does service in the uniformed services have to be an eligible employee's sole reason for leaving an employment position in order to have USERRA reemployment rights?
No. If absence from a position of employment is necessitated by service in the uniformed services, and the employee otherwise meets the Act's eligibility requirements, he or she has reemployment rights under USERRA, even if the eligible employee uses the absence for other purposes as well. An eligible employee is not required to leave the employment position for the sole purpose of performing service in the uniformed services, although such uniformed service must be the main reason for departure from employment. For example, if the eligible employee is required to report to an out of state location for military training and he or she spends off-duty time during that assignment moonlighting as a security guard or visiting relatives who live in that State, the eligible employee will not lose reemployment rights simply because he or she used some of the time away from the job to do something other than attend the military training. Also, if an eligible employee receives advance notification of a mobilization order, and leaves his or her employment position in order to prepare for duty, but the mobilization is cancelled, the employee will not lose any reemployment rights.

§ 1002.74 Must the eligible employee begin service in the uniformed services immediately after leaving his or her employment position in order to have USERRA reemployment rights?
No. At a minimum, an eligible employee must have enough time after leaving the employment position to travel safely to the uniformed service site and arrive fit to perform the service. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service, additional time to rest, or to arrange affairs and report to duty, may be necessitated by reason of service in the uniformed services. The following examples help to explain the issue of the period of time between leaving civilian employment and beginning service in the uniformed services:
(a) If the eligible employee performs a full overnight shift for the civilian employer and travels directly from the work site to perform a full day of uniformed service, the eligible employee would not be considered fit to perform the uniformed service. An absence from that work shift is necessitated so that the eligible employee can report for uniformed service fit for duty.
(b) If the eligible employee is ordered to perform an extended period of service in the uniformed services, he or she may require a reasonable period of time off from the civilian job to put his or her personal affairs in order, before beginning the service. Taking such time off is also necessitated by the uniformed service.
(c) If the eligible employee leaves a position of employment in order to enlist or otherwise perform service in the uniformed services and, through no fault of his or her own, the beginning date of the service is delayed, this delay does not terminate any reemployment rights.

§ 1002.85 Must the eligible employee give advance notice to the employing office of his or her service in the uniformed services?
(a) Yes. The eligible employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify the employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below. In cases in which an eligible employee is employed by more than one employing office, the employee, or an appropriate officer of the uniformed service in which

his or her service is to be performed, must notify each employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below.
(b) The Department of Defense USERRA regulations at 32 CFR 104.3 provide that an "appropriate officer" can give notice on the eligible employee's behalf. An "appropriate officer" is a commissioned, warrant, or non-commissioned officer authorized to give such notice by the military service concerned.
(c) The eligible employee's notice to the employing office may be either oral or written. The notice may be informal and does not need to follow any particular format.
(d) Although USERRA does not specify how far in advance notice must be given to the employing office, an eligible employee should provide notice as far in advance as is reasonable under the circumstances. In regulations promulgated by the Department of Defense under USERRA, 32 CFR 104.6(a)(2)(i)(B), the Defense Department "strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so."

§ 1002.86 When is the eligible employee excused from giving advance notice of service in the uniformed services?
The eligible employee is required to give advance notice of pending service unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.
(a) Only a designated authority can make a determination of "military necessity," and such a determination is not subject to judicial review. Guidelines for defining "military necessity" appear in regulations issued by the Department of Defense at 32 CFR 104.3. In general, these regulations cover situations where a mission, operation, exercise or requirement is classified, or could be compromised or otherwise adversely affected by public knowledge. In certain cases, the Secretary of Homeland Security, in consultation with the Secretary of Defense, can make a determination that giving of notice by intermittent disaster-response appointees of the National Disaster Medical System is precluded by "military necessity." See 42 U.S.C300hh–11(d)(3)(B).
(b) It may be impossible or unreasonable to give advance notice under certain circumstances. Such circumstances may include the unavailability of the eligible employee's employing office or the employing office's representative, or a requirement that the eligible employee report for uniformed service in an extremely short period of time.

§ 1002.87 Is the eligible employee required to get permission from his or her employing office before leaving to perform service in the uniformed services?
No. The eligible employee is not required to ask for or get the employing office's permission to leave to perform service in the uniformed services. The eligible employee is only required to give the employing office notice of pending service.

§ 1002.88 Is the eligible employee required to tell the employing office that he or she intends to seek reemployment after completing uniformed service before the employee leaves to perform service in the uniformed services?
No. When the eligible employee leaves the employment position to begin a period of service, he or she is not required to tell the employing office that he or she intends to seek reemployment after completing uniformed service. Even if the eligible employee tells the employing office before entering or completing uniformed service that he or she does not intend to seek

reemployment after completing the uniformed service, the employee does not forfeit the right to reemployment after completing service. The eligible employee is not required to decide in advance of leaving the position with the employing office, whether he or she will seek reemployment after completing uniformed service.

PERIOD OF SERVICE

§ 1002.99 Is there a limit on the total amount of service in the uniformed services that an eligible employee may perform and still retain reemployment rights with the employing office?

Yes. In general, the eligible employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the employing office. The exceptions to this rule are described below.

§ 1002.100 Does the five-year service limit include all absences from an employment position that are related to service in the uniformed services?

No. The five-year period includes only the time the eligible employee spends actually performing service in the uniformed services. A period of absence from employment before or after performing service in the uniformed services does not count against the five-year limit. For example, after the eligible employee completes a period of service in the uniformed services, he or she is provided a certain amount of time, depending upon the length of service, to report back to work or submit an application for reemployment. The period between completing the uniformed service and reporting back to work or seeking reemployment does not count against the five-year limit.

§ 1002.101 Does the five-year service limit include periods of service that the eligible employee performed when he or she worked for a previous employing office?

No. An eligible employee is entitled to a leave of absence for uniformed service for up to five years with each employing office for whom he or she works or has worked. When the eligible employee takes a position with a new employing office, the five-year period begins again regardless of how much service he or she performed while working in any previous employment relationship. If an eligible employee is employed by more than one employing office, a separate five-year period runs as to each employing office independently, even if those employing offices share or co-determine the employee's terms and conditions of employment. For example, an eligible employee of the legislative branch may work part-time for two employing offices. In this case, a separate five-year period would run as to the eligible employee's employment with each respective employing office.

§ 1002.102 Does the five-year service limit include periods of service that the eligible employee performed before USERRA was enacted?

It depends. Under the CAA, USERRA provides reemployment rights to which an eligible employee may become entitled beginning on or after January 23, 1996, but any uniformed service performed before January 23, 1996, that was counted against the service limitations of the previous law (the Veterans Reemployment Rights Act), also counts against USERRA's five-year limit.

§ 1002.103 Are there any types of service in the uniformed services that an eligible employee can perform that do not count against USERRA's five-year service limit?

(a) USERRA creates the following exceptions to the five-year limit on service in the uniformed services:

(1) Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the eligible employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;

(2) If the eligible employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;

(3)(i) Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and, (ii) Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the eligible employee's professional development, or to complete skill training or retraining;

(4) Service performed in a uniformed service if he or she was ordered to or retained on active duty under:

(i) 10 U.S.C. 688 (involuntary active duty by a military retiree);

(ii) 10 U.S.C. 12301(a) (involuntary active duty in wartime);

(iii) 10 U.S.C. 12301(g) (retention on active duty while in captive status);

(iv) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);

(v) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);

(vi) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);

(vii) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);

(viii) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);

(ix) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);

(x) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);

(xi) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); and

(xii) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

(5) Service performed in a uniformed service if the eligible employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(6) Service performed in a uniformed service if the eligible employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;

(7) Service performed in a uniformed service if the eligible employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,

(8) Service performed as a member of the National Guard if the eligible employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.

(b) Service performed in a uniformed service to mitigate economic harm where the eligible employee's employing office is in violation of its employment or reemployment obligations to him or her.

§ 1002.104 Is the eligible employee required to accommodate his or her employing office's needs as to the timing, frequency or duration of service?
No. The eligible employee is not required to accommodate his or her employing office's interests or concerns regarding the timing, frequency, or duration of uniformed service. The employing office cannot refuse to reemploy the eligible employee because it believes that the timing, frequency or duration of the service is unreasonable. However, the employing office is permitted to bring its concerns over the timing, frequency, or duration of the eligible employee's service to the attention of the appropriate military authority. Regulations issued by the Department of Defense at 32 CFR 104.4 direct military authorities to provide assistance to an employer in addressing these types of employment issues. The military authorities are required to consider requests from employers of National Guard and Reserve members to adjust scheduled absences from civilian employment to perform service.

APPLICATION FOR EMPLOYMENT

§ 1002.115 Is the eligible employee required to report to or submit a timely application for reemployment to his or her pre-service employing office upon completing the period of service in the uniformed services?
Yes. Upon completing service in the uniformed services, the eligible employee must notify the pre-service employing office of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the eligible employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:
(a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the eligible employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the eligible employee must report back to the employing office not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the eligible employee's residence. For example, if the eligible employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the employing office until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the eligible employee to report within such time period through no fault of his or her own, he or she must report to the employing office as soon as possible after the expiration of the eight-hour period.
(b) Period of service more than 30 days but less than 181 days. If the eligible employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or oral) with the employing office not later than 14 days after completing service. If it is impossible or unreasonable for the eligible

employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.
(c) Period of service more than 180 days. If the eligible employee's period of service in the uniformed services was for more than 180 days, he or she must submit an application for reemployment (written or oral) not later than 90 days after completing service.

§1002.116 Is the time period for reporting back to an employing office extended if the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service?
Yes. If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he or she must report to or submit an application for reemployment to the employing office at the end of the period necessary for recovering from the illness or injury. This period may not exceed two years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the eligible employee's control that make reporting within the period impossible or unreasonable. This period for recuperation and recovery extends the time period for reporting to or submitting an application for reemployment to the employing office, and is not applicable following reemployment.

§ 1002.117 Are there any consequences if the eligible employee fails to report for or submit a timely application for reemployment?
(a) If the eligible employee fails to timely report for or apply for reemployment, he or she does not automatically forfeit entitlement to USERRA's reemployment and other rights and benefits. However, the eligible employee does become subject to any conduct rules, established policy, and general practices of the employing office pertaining to an absence from scheduled work.
(b) If reporting or submitting an employment application to the employing office is impossible or unreasonable through no fault of the eligible employee, he or she may report to the employing office as soon as possible (in the case of a period of service less than 31 days) or submit an application for reemployment to the employing office by the next full calendar day after it becomes possible to do so (in the case of a period of service from 31 to 180 days), and the eligible employee will be considered to have timely reported or applied for reemployment.

§ 1002.118 Is an application for reemployment required to be in any particular form?
An application for reemployment need not follow any particular format. The eligible employee may apply orally or in writing. The application should indicate that the employee is a former employee returning from service in the uniformed services and that he or she seeks reemployment with the pre-service employing office. The eligible employee is permitted but not required to identify a particular reemployment position in which he or she is interested.

§ 1002.119 To whom must the eligible employee submit the application for reemployment?
The application must be submitted to the pre-service employing office or to an agent or representative of the employing office who has apparent responsibility for receiving employment applications. Depending upon the circumstances, such a person could be a personnel or human resources officer, or a first-line supervisor.

§ 1002.120 If the eligible employee seeks or obtains employment with an employer other than the pre-service employing office before the end of the period within which a reemployment

application must be filed, will that jeopardize reemployment rights with the pre-service employing office?

No. The eligible employee has reemployment rights with the pre-service employing office provided that he or she makes a timely reemployment application to that employing office. The eligible employee may seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. However, such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. For instance, if the employing office forbids outside employment, violation of such a policy may constitute a cause for discipline or even termination.

§ 1002.121 Is the eligible employee required to submit documentation to the employing office in connection with the application for reemployment?

Yes, if the period of service exceeded 30 days and if requested by the employing office to do so. If the eligible employee submits an application for reemployment after a period of service of more than 30 days, he or she must, upon the request of the employing office, provide documentation to establish that:

(a) The reemployment application is timely;

(b) The eligible employee has not exceeded the five-year limit on the duration of service (subject to the exceptions listed at § 1002.103); and,

(c) The eligible employee's separation or dismissal from service was not disqualifying.

§ 1002.122 Is the employing office required to reemploy the eligible employee if documentation establishing the employee's eligibility does not exist or is not readily available?

Yes. The employing office is not permitted to delay or deny reemployment by demanding documentation that does not exist or is not readily available. The eligible employee is not liable for administrative delays in the issuance of military documentation. If the eligible employee is re-employed after an absence from employment for more than 90 days, the employing office may require that he or she submit the documentation establishing entitlement to reemployment before treating the employee as not having had a break in service for pension purposes. If the documentation is received after reemployment and it shows that the eligible employee is not entitled to reemployment, the employing office may terminate employment and any rights or benefits that the employee may have been granted.

§ 1002.123 What documents satisfy the requirement that the employee establish eligibility for reemployment after a period of service of more than thirty days?

(a) Documents that satisfy the requirements of USERRA include the following:

(1) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty;

(2) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;

(3) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;

(4) Certificate of completion from military training school;

(5) Discharge certificate showing character of service; and,

(6) Copy of extracts from payroll documents showing periods of service;

(7) Letter from NDMS Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
(b) The types of documents that are necessary to establish eligibility for reemployment will vary from case to case. Not all of these documents are available or necessary in every instance to establish reemployment eligibility.

CHARACTER OF SERVICE

§ 1002.134 What type of discharge or separation from service is required for an eligible employee to be entitled to reemployment under USERRA?
USERRA does not require any particular form of discharge or separation from service. However, even if the employee is otherwise eligible for reemployment, he or she will be disqualified if the characterization of service falls within one of four categories. USERRA requires that the employee not have received one of these types of discharge.

§ 1002.135 What types of discharge or separation from uniformed service will make the employee ineligible for reemployment under USERRA?
Reemployment rights are terminated if the employee is:
(a) Separated from uniformed service with a dishonorable or bad conduct discharge;
(b) Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
(c) A commissioned officer dismissed as permitted under 10 U.S.C. 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
(d) A commissioned officer dropped from the rolls under 10 U.S.C. 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

§ 1002.136 Who determines the characterization of service?
The branch of service in which the employee performs the tour of duty determines the characterization of service.

§ 1002.137 If the employee receives a disqualifying discharge or release from uniformed service and it is later upgraded, will reemployment rights be restored?
Yes. A military review board has the authority to prospectively or retroactively upgrade a disqualifying discharge or release. A retroactive upgrade would restore reemployment rights providing the employee otherwise meets the Act's eligibility criteria.

§ 1002.138 If the employee receives a retroactive upgrade in the characterization of service, will that entitle him or her to claim back wages and benefits lost as of the date of separation from service?
No. A retroactive upgrade allows the employee to obtain reinstatement with the former employing office, provided the employee otherwise meets the Act's eligibility criteria. Back pay and other benefits such as pension plan credits attributable to the time period between discharge and the retroactive upgrade are not required to be restored by the employing office in this situation.

EMPLOYER STATUTORY DEFENSES

§ 1002.139 Are there any circumstances in which the pre-service employing office is excused from its obligation to reemploy the eligible employee following a period of uniformed service? What statutory defenses are available to the employing office in an action or proceeding for reemployment benefits?

(a) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if the employing office establishes that its circumstances have so changed as to make reemployment impossible or unreasonable. For example, an employing office may be excused from re-employing the eligible employee where there has been an intervening reduction in force that would have included that employee. The employing office may not, however, refuse to reemploy the eligible employee on the basis that another employee was hired to fill the reemployment position during the employee's absence, even if reemployment might require the termination of that replacement employee;

(b) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that assisting the eligible employee in becoming qualified for reemployment would impose an undue hardship, as defined in § 1002.5(s) and discussed in § 1002.198, on the employing office; or,

(c) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that the employment position vacated by the eligible employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

(d) The employing office defenses included in this section are affirmative ones, and the employing office carries the burden to prove by a preponderance of the evidence that any one or more of these defenses is applicable.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

FURLOUGH AND LEAVE OF ABSENCE

§ 1002.149 What is the eligible employee's status with the employing office while performing service in the uniformed services?

During a period of service in the uniformed services, the eligible employee is deemed to be on leave of absence from the employing office. In this status, the eligible employee is entitled to the non-seniority rights and benefits generally provided by the employing office to other employees with similar seniority, status, and pay that are on leave of absence. Entitlement to these non-seniority rights and benefits is not dependent on how the employing office characterizes the eligible employee's status during a period of service. For example, if the employing office characterizes the employee as "terminated" during the period of uniformed service, this characterization cannot be used to avoid USERRA's requirement that the employee be deemed on leave of absence, and therefore, entitled to the non-seniority rights and benefits generally provided to employees on leave of absence.

§ 1002.150 Which non-seniority rights and benefits is the eligible employee entitled to during a period of service?

(a) The non-seniority rights and benefits to which an eligible employee is entitled during a period of service are those that the employing office provides to similarly situated employees by an agreement, policy, practice, or plan in effect at the employee's workplace. These rights and benefits include those in effect at the beginning of the eligible employee's employment and those established after employment began. They also include those rights and benefits that become effective during the eligible employee's period of service and that are provided to similarly situated employees on leave of absence.

(b) If the non-seniority benefits to which employees on leave of absence are entitled vary according to the type of leave, the eligible employee must be given the most favorable treatment accorded to any comparable form of leave when he or she performs service in the uniformed services. In order to determine whether any two types of leave are comparable, the duration of the leave may be the most significant factor to compare. For instance, a two-day funeral leave will not be "comparable" to an extended leave for service in the uniformed service. In addition to comparing the duration of the absences, other factors such as the purpose of the leave and the ability of the employee to choose when to take the leave should also be considered.

(c) As a general matter, accrual of vacation leave is considered to be a non-seniority benefit that must be provided by an employing office to an eligible employee on a military leave of absence only if the employing office provides that benefit to similarly situated employees on comparable leaves of absence.

(d) Nothing in this section gives the eligible employee rights or benefits to which the employee otherwise would not be entitled if the employee had remained continuously employed with the employing office.

§ 1002.151 If the employing office provides full or partial pay to the eligible employee while he or she is on military leave, is the employing office required to also provide the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
Yes. If the employing office provides additional benefits such as full or partial pay when the eligible employee performs service, the employing office is not excused from providing other rights and benefits to which the employee is entitled under the Act.

§ 1002.152 If employment is interrupted by a period of service in the uniformed services, are there any circumstances under which the eligible employee is not entitled to the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
If employment is interrupted by a period of service in the uniformed services and the eligible employee knowingly provides written notice of intent not to return to the position of employment after service in the uniformed services, he or she is not entitled to those non-seniority rights and benefits. The eligible employee's written notice does not waive entitlement to any other rights to which he or she is entitled under the Act, including the right to reemployment after service.

§ 1002.153 If employment is interrupted by a period of service in the uniformed services, is the eligible employee permitted upon request to use accrued vacation, annual or similar leave with pay during the service? Can the employing office require the eligible employee to use accrued leave during a period of service?
(a) If employment is interrupted by a period of service, the eligible employee must be permitted upon request to use any accrued vacation, annual, or similar leave with pay during the period of service, in order to continue his or her civilian pay. However, the eligible employee is not entitled to use sick leave that accrued with the employing office during a period of service in the uniformed services, unless the employing office allows employees to use sick leave for any reason, or allows other similarly situated employees on comparable furlough or leave of absence to use accrued paid sick leave. Sick leave is usually not comparable to annual or vacation leave; it is generally intended to provide income when the employee or a family member is ill and the employee is unable to work.
(b) The employing office may not require the eligible employee to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

HEALTH PLAN COVERAGE

§ 1002.163 What types of health plans are covered by USERRA?
(a) USERRA defines a health plan to include an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or arrangement under which the employee's health services are provided or the expenses of those services are paid.
(b) USERRA covers group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. 1191b(a). USERRA applies to group health plans that are subject to ERISA, and plans that are not subject to ERISA, such as those sponsored by the Federal Government.
(c) USERRA covers multi-employer plans maintained pursuant to one or more collective bargaining agreements between employers and employee organizations. USERRA applies to

multi-employer plans as they are defined in ERISA at 29 U.S.C. 1002(37). USERRA contains provisions that apply specifically to multi-employer plans in certain situations.

§ 1002.164 What health plan coverage must the employing office provide for the eligible employee under USERRA?

If the eligible employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the eligible employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the eligible employee to elect to continue coverage for a period of time that is the lesser of:

(1) The 24-month period beginning on the date on which the eligible employee's absence for the purpose of performing service begins; or,

(2) The period beginning on the date on which the eligible employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115–123 of these regulations.

(b) USERRA does not require the employing office to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employing office to permit the eligible employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§ 1002.165 How does the eligible employee elect continuing health plan coverage?

USERRA does not specify requirements for electing continuing coverage. Health plan administrators may develop reasonable requirements addressing how continuing coverage may be elected, consistent with the terms of the plan and the Act's exceptions to the requirement that the employee give advance notice of service in the uniformed services. For example, the eligible employee cannot be precluded from electing continuing health plan coverage under circumstances where it is impossible or unreasonable for him or her to make a timely election of coverage.

§ 1002.166 How much must the eligible employee pay in order to continue health plan coverage?

(a) If the eligible employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the eligible employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employing office's share plus the employee's share, plus 2% for administrative costs.

(c)USERRA does not specify requirements for methods of paying for continuing coverage. Health plan administrators may develop reasonable procedures for payment, consistent with the terms of the plan.

§ 1002.167 What actions may a plan administrator take if the eligible employee does not elect or pay for continuing coverage in a timely manner?

The actions a plan administrator may take regarding the provision or cancellation of an eligible employee's continuing coverage depend on whether the employee is excused from the requirement to give advance notice, whether the plan has established reasonable rules for election of continuation coverage, and whether the plan has established reasonable rules for the payment for continuation coverage.

(a) No notice of service and no election of continuation coverage:

If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service without giving advance notice of service, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service. However, in cases in which an eligible employee's failure to give advance notice of service was excused under the statute because it was impossible, unreasonable, or precluded by military necessity, the plan administrator must reinstate the employee's health coverage retroactively upon his or her election to continue coverage and payment of all unpaid amounts due, and the employee must incur no administrative reinstatement costs. In order to qualify for an exception to the requirement of timely election of continuing health care, an eligible employee must first be excused from giving notice of service under the statute.

(b) Notice of service but no election of continuing coverage:

Plan administrators may develop reasonable requirements addressing how continuing coverage may be elected. Where health plans are also covered under the Consolidated Omnibus Budget Reconciliation Act of 1985, 26 U.S.C. 4980B (COBRA), it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding election of continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule. If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service for a period of service in excess of 30 days after having given advance notice of service but without making an election regarding continuing coverage, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service, but must reinstate coverage without the imposition of administrative reinstatement costs under the following conditions:

(1) Plan administrators who have developed reasonable rules regarding the period within which an employee may elect continuing coverage must permit retroactive reinstatement of uninterrupted coverage to the date of departure if the eligible employee elects continuing coverage and pays all unpaid amounts due within the periods established by the plan; (2) In cases in which plan administrators have not developed rules regarding the period within which an employee may elect continuing coverage, the plan must permit retroactive reinstatement of uninterrupted coverage to the date of departure upon the eligible employee's election and payment of all unpaid amounts at any time during the period established in section 1002.164(a).

(c) Election of continuation coverage without timely payment:

Health plan administrators may adopt reasonable rules allowing cancellation of coverage if timely payment is not made. Where health plans are covered under COBRA, it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding payment for continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule.

§ 1002.168 If the eligible employee's coverage was terminated at the beginning of or during service, does his or her coverage have to be reinstated upon reemployment?
(a) If health plan coverage for the eligible employee or a dependent was terminated by reason of service in the uniformed services, that coverage must be reinstated upon reemployment. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment, if an exclusion or waiting period would not have been imposed had coverage not been terminated by reason of such service.
(b) USERRA permits a health plan to impose an exclusion or waiting period as to illnesses or injuries determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services. The determination that the employee's illness or injury was incurred in, or aggravated during, the performance of service may only be made by the Secretary of Veterans Affairs or his or her representative. Other coverage, for injuries or illnesses that are not service-related (or for the employee's dependents, if he or she has dependent coverage), must be reinstated subject to paragraph (a) of this section.

§ 1002.169 Can the eligible employee elect to delay reinstatement of health plan coverage until a date after the date he or she is reemployed?
USERRA requires the employing office to reinstate or direct the reinstatement of health plan coverage upon request at reemployment. USERRA permits but does not require the employing office to allow the employee to delay reinstatement of health plan coverage until a date that is later than the date of reemployment.

§ 1002.170 In a multi-employer health plan, how is liability allocated for employer contributions and benefits arising under USERRA's health plan provisions?
Liability under a multi-employer plan for employer contributions and benefits in connection with USERRA's health plan provisions must be allocated either as the plan sponsor provides, or, if the sponsor does not provide, to the eligible employee's last employer before his or her service. If the last employer is no longer functional, liability for continuing coverage is allocated to the health plan.

§ 1002.171 How does the continuation of health plan benefits apply to a multi-employer plan that provides health plan coverage through a health benefits account system?
(a) Some employees receive health plan benefits provided pursuant to a multi-employer plan that utilizes a health benefits account system in which an employee accumulates prospective health benefit eligibility, also commonly referred to as "dollar bank," "credit bank," and "hour bank" plans. In such cases, where an employee with a positive health benefits account balance elects to continue the coverage, the employee may further elect either option below:
(1) The eligible employee may expend his or her health account balance during an absence from employment due to service in the uniformed services in lieu of paying for the continuation of coverage as set out in § 1002.166. If an eligible employee's health account balance becomes depleted during the applicable period provided for in § 1002.164(a), the employee must be permitted, at his or her option, to continue coverage pursuant to § 1002.166. Upon reemployment, the plan must provide for immediate reinstatement of the eligible employee as required by § 1002.168, but may require the employee to pay the cost of the coverage until the employee earns the credits necessary to sustain continued coverage in the plan.

(2) The eligible employee may pay for continuation coverage as set out in § 1002.166, in order to maintain intact his or her account balance as of the beginning date of the absence from employment due to service in the uniformed services. This option permits the eligible employee to resume usage of the account balance upon reemployment.

(b) Employers or plan administrators providing such plans should counsel employees of their options set out in this subsection.

Subpart E—Reemployment Rights and Benefits

PROMPT REEMPLOYMENT

§ 1002.180 When is an eligible employee entitled to be reemployed by the employing office?
The employing office must promptly reemploy the employee when he or she returns from a period of service if the employee meets the Act's eligibility criteria as described in Subpart C of these regulations.

§ 1002.181 How is "prompt reemployment" defined?
"Prompt reemployment" means as soon as practicable under the circumstances of each case. Absent unusual circumstances, reemployment must occur within two weeks of the eligible employee's application for reemployment. For example, prompt reinstatement after a weekend National Guard duty generally means the next regularly scheduled working day. On the other hand, prompt reinstatement following several years of active duty may require more time, because the employing office may have to reassign or give notice to another employee who occupied the returning employee's position.

REEMPLOYMENT POSITION

§ 1002.191 What position is the eligible employee entitled to upon reemployment?
As a general rule, the eligible employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the eligible employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events. The escalator principle requires that the eligible employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. Depending upon the specific circumstances, the employing office may have the option, or be required, to reemploy the eligible employee in a position other than the escalator position.

§ 1002.192 How is the specific reemployment position determined?
In all cases, the starting point for determining the proper reemployment position is the escalator position, which is the job position that the eligible employee would have attained if his or her continuous employment had not been interrupted due to uniformed service. Once this position is determined, the employing office may have to consider several factors before determining the appropriate reemployment position in any particular case. Such factors may include the eligible employee's length of service, qualifications, and disability, if any. The actual reemployment position may be either the escalator position; the pre-service position; a position comparable to the escalator or pre-service position; or, the nearest approximation to one of these positions.

§ 1002.193 Does the reemployment position include elements such as seniority, status, and rate of pay?
(a) Yes. The reemployment position includes the seniority, status, and rate of pay that an eligible employee would ordinarily have attained in that position given his or her job history, including

prospects for future earnings and advancement. The employing office must determine the seniority rights, status, and rate of pay as though the eligible employee had been continuously employed during the period of service. The seniority rights, status, and pay of an employment position include those established (or changed) by a collective bargaining agreement, employer policy, or employment practice. The sources of seniority rights, status, and pay include agreements, policies, and practices in effect at the beginning of the eligible employee's service, and any changes that may have occurred during the period of service. In particular, the eligible employee's status in the reemployment position could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility, and geographical location.

(b) If an opportunity for promotion, or eligibility for promotion, that the eligible employee missed during service is based on a skills test or examination, then the employing office should give him or her a reasonable amount of time to adjust to the employment position and then give a skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. If the eligible employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had employment not been interrupted by uniformed service.

§ 1002.194 Can the application of the escalator principle result in adverse consequences when the eligible employee is reemployed?

Yes. The Act does not prohibit lawful adverse job consequences that result from the eligible employee's restoration on the seniority ladder. Depending on the circumstances, the escalator principle may cause an eligible employee to be reemployed in a higher or lower position, laid off, or even terminated. For example, if an eligible employee's seniority or job classification would have resulted in the employee being laid off during the period of service, and the layoff continued after the date of reemployment, reemployment would reinstate the employee to layoff status. Similarly, the status of the reemployment position requires the employing office to assess what would have happened to such factors as the eligible employee's opportunities for advancement, working conditions, job location, shift assignment, rank, responsibility, and geographical location, if he or she had remained continuously employed. The reemployment position may involve transfer to another shift or location, more or less strenuous working conditions, or changed opportunities for advancement, depending upon the application of the escalator principle.

§ 1002.195 What other factors can determine the reemployment position?

Once the eligible employee's escalator position is determined, other factors may allow, or require, the employing office to reemploy the employee in a position other than the escalator position. These factors, which are explained in §§ 1002.196 through 1002.199, are:

(a) The length of the eligible employee's most recent period of uniformed service;
(b) The eligible employee's qualifications; and,
(c) Whether the eligible employee has a disability incurred or aggravated during uniformed service.

§ 1002.196 What is the eligible employee's reemployment position if the period of service was less than 91 days?
Following a period of service in the uniformed services of less than 91 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position or the pre-service position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.197 What is the reemployment position if the eligible employee's period of service in the uniformed services was more than 90 days?
Following a period of service of more than 90 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position or a position of like seniority, status, and pay. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position or a like position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began or in a position of like seniority, status, and pay. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position, the pre-service position, or a like position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.198 What efforts must the employing office make to help the eligible employee become qualified for the reemployment position?

The eligible employee must be qualified for the reemployment position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(a)(1) "Qualified" means that the employee has the ability to perform the essential tasks of the position. The employee's inability to perform one or more non-essential tasks of a position does not make him or her unqualified.

(2) Whether a task is essential depends on several factors, and these factors include but are not limited to:

(i) The employing office's judgment as to which functions are essential;

(ii) Written job descriptions developed before the hiring process begins;

(iii) The amount of time on the job spent performing the function;

(iv) The consequences of not requiring the individual to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(b) Only after the employing office makes reasonable efforts, as defined in § 1002.5(p), may it determine that the otherwise eligible employee is not qualified for the reemployment position. These reasonable efforts must be made at no cost to the employee.

§ 1002.199 What priority must the employing office follow if two or more returning employees are entitled to reemployment in the same position?

If two or more eligible employees are entitled to reemployment in the same position and more than one employee has reported or applied for employment in that position, the employee who first left the position for uniformed service has the first priority on reemployment in that position. The remaining employee (or employees) is entitled to be reemployed in a position similar to that in which the employee would have been re-employed according to the rules that normally determine a reemployment position, as set out in §§ 1002.196 and 1002.197.

SENIORITY RIGHTS AND BENEFITS

§ 1002.210 What seniority rights does an eligible employee have when reemployed following a period of uniformed service?

The eligible employee is entitled to the seniority and seniority-based rights and benefits that he or she had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if he or she had remained continuously employed. The eligible employee is not entitled to any benefits to which he or she would not have been entitled had the employee been continuously employed with the employing office. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employing office and those required by statute. For example, under USERRA, a reemployed service member would be eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601–2654 (FMLA), if the number of

months and the number of hours of work for which the service member was employed by the employing office, together with the number of months and the number of hours of work for which the service member would have been employed by the employing office during the period of uniformed service, meet FMLA's eligibility requirements. In the event that a service member is denied FMLA leave for failing to satisfy the FMLA's hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under the FMLA.

§ 1002.211 Does USERRA require the employing office to use a seniority system?
No. USERRA does not require the employing office to adopt a formal seniority system. USERRA defines seniority as longevity in employment together with any employment benefits that accrue with, or are determined by, longevity in employment. In the absence of a formal seniority system, such as one established through collective bargaining, USERRA looks to the custom and practice in the place of employment to determine the eligible employee's entitlement to any employment benefits that accrue with, or are determined by, longevity in employment.

§ 1002.212 How does a person know whether a particular right or benefit is a seniority-based right or benefit?
A seniority-based right or benefit is one that accrues with, or is determined by, longevity in employment. Generally, whether a right or benefit is seniority-based depends on three factors:
(a) Whether the right or benefit is a reward for length of service rather than a form of short-term compensation for work performed;
(b) Whether it is reasonably certain that the eligible employee would have received the right or benefit if he or she had remained continuously employed during the period of service; and,
(c) Whether it is the employing office's actual custom or practice to provide or withhold the right or benefit as a reward for length of service. Provisions of an employment contract or policies in the employee handbook are not controlling if the employing office's actual custom or practice is different from what is written in the contract or handbook.

§ 1002.213 How can the eligible employee demonstrate a reasonable certainty that he or she would have received the seniority right or benefit if he or she had remained continuously employed during the period of service?
A reasonable certainty is a high probability that the eligible employee would have received the seniority or seniority-based right or benefit if he or she had been continuously employed. The eligible employee does not have to establish that he or she would have received the benefit as an absolute certainty. The eligible employee can demonstrate a reasonable certainty that he or she would have received the seniority right or benefit by showing that other employees with seniority similar to that which the employee would have had if he or she had remained continuously employed received the right or benefit. The employing office cannot withhold the right or benefit based on an assumption that a series of unlikely events could have prevented the eligible employee from gaining the right or benefit.

DISABLED EMPLOYEES

§ 1002.225 Is the eligible employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?

Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the eligible employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employing office must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the eligible employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employing office to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employing office must make reasonable efforts to accommodate the eligible employee's disability and to help him or her to become qualified to perform the duties of one of these positions:

(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,

(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the eligible employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226 If the eligible employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employing office make to help him or her become qualified for the reemployment position?

(a) USERRA requires that the eligible employee be qualified for the reemployment position regardless of any disability. The employing office must make reasonable efforts to help the eligible employee to become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(b) "Qualified" has the same meaning here as in § 1002.198.

RATE OF PAY

§ 1002.236 How is the eligible employee's rate of pay determined when he or she returns from a period of service?

The eligible employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:

(a) If the eligible employee is reemployed in the escalator position, the employing office must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employing office may examine the returning eligible employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position. For example, if the eligible employee missed a merit

pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the eligible employee missed during service is based on a skills test or examination, then the employing office should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the eligible employee's employment not been interrupted by uniformed service.

(b) If the eligible employee is reemployed in the pre-service position or another position, the employing office must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

PROTECTION AGAINST DISCHARGE

§ 1002.247 Does USERRA provide the eligible employee with protection against discharge?

Yes. If the eligible employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause –

(a) For 180 days after the eligible employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,

(b) For one year after the date of reemployment if the eligible employee's most recent period of uniformed service was more than 180 days.

§ 1002.248 What constitutes cause for discharge under USERRA?

The eligible employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.

(a) In a discharge action based on conduct, the employing office bears the burden of proving that it is reasonable to discharge the eligible employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.

(b) If, based on the application of other legitimate nondiscriminatory reasons, the eligible employee's job position is eliminated, or the eligible employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employing office bears the burden of proving that the eligible employee's job would have been eliminated or that he or she would have been laid off.

PENSION PLAN BENEFITS

§ 1002.259 How does USERRA protect an eligible employee's pension benefits?
On reemployment, the eligible employee is treated as not having a break in service with the employing office for purposes of participation, vesting and accrual of benefits in a pension plan, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.
(a) Depending on the length of the eligible employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employing office for purposes of determining participation, vesting and accrual of pension benefits under the plan.
(b) If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the eligible employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employing office for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

§ 1002.260 What pension benefit plans are covered under USERRA?
(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by the Federal Government.
(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

§ 1002.261 Who is responsible for funding any plan obligation to provide the eligible employee with pension benefits?
With the exception of multi-employer plans, which have separate rules discussed below, the employing office is required to ensure the funding of any obligation of the plan to provide benefits that are attributable to the eligible employee's period of service. In the case of a defined contribution plan, once the eligible employee is reemployed, the employing office must ensure that the amount of the make-up contribution for the employee, if any; the employee's make-up contributions, if any; and the employee's elective deferrals, if any; in the same manner and to the same extent that the amounts are allocated for other employees during the period of service. In the case of a defined benefit plan, the eligible employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

§ 1002.262 When must the plan contribution that is attributable to the employee's period of uniformed service be made?
(a) Employer contributions are not required until the eligible employee is reemployed. For employer contributions to a plan in which the eligible employee is not required or permitted to

contribute, the contribution attributable to the employee's period of service must be made no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the contribution to be made within this time period, the contribution must be made as soon as practicable.

(b) If the eligible employee is enrolled in a contributory plan, he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions, or elective deferrals, must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the eligible employee's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employing office.

(c) If the eligible employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution. This is true because employer contributions are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employer contributions that are contingent on or attributable to the eligible employee's make-up contributions or elective deferrals must be made according to the plan's requirements for employer matching contributions.

(d) The eligible employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the eligible employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.

(e) Any vested accrued benefit in the pension plan that the eligible employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.

(f) An adjustment will be made to the amount of employee contributions or elective deferrals that the eligible employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

§ 1002.263 Does the eligible employee pay interest when he or she makes up missed contributions or elective deferrals?

No. The eligible employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

§ 1002.264 Is the eligible employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?

Yes, provided the plan is a defined benefit plan. If the eligible employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the eligible employee must repay includes any interest that would have accrued had the monies not been withdrawn. The eligible employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length

of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employing office and the employee), provided the employee is employed with the post-service employing office during this period.

§ 1002.265 If the eligible employee is reemployed with his or her pre-service employing office, is the employee's pension benefit the same as if he or she had remained continuously employed?

The amount of the eligible employee's pension benefit depends on the type of pension plan.

(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the eligible employee's benefit will be the same as though he or she had remained continuously employed during the period of service.

(b) In a contributory defined benefit plan, the eligible employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.

(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employer make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

§ 1002.266 What are the obligations of a multi-employer pension benefit plan under USERRA?

A multi-employer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multi-employer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multi-employer plans, as follows:

(a) The last employer that employed the eligible employee before the period of service is responsible for making the employer contribution to the multi-employer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the eligible employee.

(b) An employer that contributes to a multi-employer plan and that reemploys the eligible employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within which the reemploying employer must provide written notice to the multi-employer plan pursuant to this subsection does not begin until the employer has knowledge that the eligible employee was re-employed pursuant to USERRA.

(c) The eligible employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multi-employer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

§ 1002.267 How is compensation during the period of service calculated in order to determine the eligible employee's pension benefits, if benefits are based on compensation?

In many pension benefit plans, the eligible employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the eligible employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b) (1) Where the rate of pay the eligible employee would have received is not reasonably certain, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the eligible employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

Subpart F—Compliance Assistance, Enforcement and Remedies

COMPLIANCE ASSISTANCE

§ 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?

The Office of Compliance provides assistance to any person or entity who is covered by the CAA with respect to employment and reemployment rights and benefits under USERRA as applied by the CAA. This assistance includes responding to inquiries, and providing a program of education and information on matters relating to USERRA.

INVESTIGATION AND REFERRAL

§ 1002.288 How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?

(a) If an eligible employee is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employing office has failed or refused, or is about to fail or refuse, to comply with the Act, the eligible employee may file a complaint with the Office of Compliance, after a required period of counseling and mediation.

(b) To commence a proceeding, an eligible employee alleging a violation of the rights and protections of USERRA must request counseling by the Office of Compliance no later than 180 days after the date of the alleged violation. If an eligible employee misses this deadline, the claim may be time barred under the CAA.

(c) The following procedures are available under subchapter IV of the CAA for eligible employees who believe their rights under USERRA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either -

(A) a formal complaint filed with the Office of Compliance (which must meet the requirements as set forth in the Office of Compliance Procedural Rules, Section 5.01(c)), and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(d) Regulations of the Office of Compliance describing and governing these procedures can be found at 141 Cong. Rec. H15645-H15655 (daily ed. December 30, 1995) and 141 Cong. Rec. S19239-19249 (daily ed. December 22, 1995), 143 Cong. Rec. H8316-H8317(daily ed. October 2, 1997)(as amended, applying USERRA to the Government Accountability Office and the Library of Congress).

ENFORCEMENT OF RIGHTS AND BENEFITS AGAINST AN EMPLOYING OFFICE

§ 1002.303 Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?

Yes. All eligible employees who file claims under Section 206 of the CAA, are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance

§ 1002.308 Who has legal standing to bring a USERRA claim under the CAA?
An action under Section 206 of the CAA may be brought by an eligible employee, as defined by Section 1002.5 (f) of Subpart A of these regulations. An action under 207(a) of the CAA may be brought by a covered employee, as defined by section 1002.5 (e) of Subpart A of these regulations. An employing office, prospective employing office or other similar entity may not bring an action under the Act.

§ 1002.309 Who is a necessary party in an action under USERRA?
In an action under USERRA, only the covered employing office or a potential covered employing office, as the case may be, is a necessary party respondent. Under the Office of Compliance Procedural Rules, a hearing officer has authority to require the filing of briefs, memoranda of law, and the presentation of oral argument. A hearing officer also may order the production of evidence and the appearance of witnesses.

§ 1002.310 How are fees and court costs awarded in an action under USERRA?
If an eligible employee is a prevailing party with respect to any claim under USERRA, the hearing officer, Board, or court may award reasonable attorney fees, expert witness fees, and other litigation expenses.

§ 1002.311 Is there a statute of limitations in an action under USERRA?
USERRA does not have a statute of limitations. However, Section 402 of the CAA requires a covered employee to bring a request for counseling alleging a violation of the CAA no later than 180 days after the date of the alleged violation. A claim by an eligible employee alleging a USERRA violation as applied by the CAA would follow this requirement .

§ 1002.312 What remedies may be awarded for a violation of USERRA?
In any action or proceeding the following relief may be awarded:
(a) The court and/or hearing officer may require the employing office to comply with the provisions of the Act;
(b) The court and/or hearing officer may require the employing office to compensate the eligible employee for any loss of wages or benefits suffered by reason of the employing office's failure to comply with the Act;
(c) The court and/or hearing officer may require the employing office to pay the eligible employee an amount equal to the amount of lost wages and benefits as liquidated damages, if the court and/or hearing officer determines that the employing office's failure to comply with the Act was willful. A violation shall be considered to be willful if the employing office either knew or showed reckless disregard for whether its conduct was prohibited by the Act.
(d) Any wages, benefits, or liquidated damages awarded under paragraphs (b) and (c) of this section are in addition to, and must not diminish, any of the other rights and benefits provided by USERRA (such as, for example, the right to be employed or reemployed by the employing office).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

304. A letter from the Director, Defense Procurement, Department of Defence, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Responsible Prospective Contractors (DFARS Case 2008-D022) (RIN: 0750-AG20) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

305. A letter from the Director, Legislative & Regulatory Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's ''Major'' final rule — Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits — received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

306. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting a report on the Millenium Challenge Corporation's (MCC) activities for fiscal year 2008, pursuant to Public Law 108-199, section 613; to the Committee on Foreign Affairs.

307. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to Lebanon that was declared in Executive Order 13441 of August 1, 2007; to the Committee on Foreign Affairs.

308. A communication from the President of the United States, transmitting a report including matters relating to the interdiction of aircraft engaged in illicit drug trafficking, pursuant to 22 U.S.C. 2291 -4 Public Law 107-108; (H. Doc. No. 111–18); to the Committee on Foreign Affairs and ordered to be printed.

309. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-609, ''Closing of a Portion of a Public Alley in Square 1872, S.O. 05-2617, Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

310. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-605, ''Ward 4 Neighborhood Investment Fund Boundary Expansion Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

311. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-592, ''Protection of Students with Disabilities Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

312. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-591, ''Vehicle Towing, Storage, and Conveyance Fee Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

313. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-590, ''University of the District of Columbia Board of Trustees Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

314. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-589, ''Utility Line Temporary Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

315. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-588, ''Fiscal Year 2009 Children and Youth Investment Trust Corporation Allowable Administrative Costs Increase Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

316. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-586, ''Washington Metropolitan Area Transit Commission District of Columbia Commissioner Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

317. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-585, ''Neighborhood Supermarket Tax Relief Clarification Temporary Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

318. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-584, ''Adoption and Safe Families Continuing Compliance Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-583, ''SOME, Inc. Technical Amendments Temporary Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-536, ''Firearms Control Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-582, ''Real Property Tax Benefits Revision Temporary Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-524, ''Title 22 Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-581, ''New Convention Center Hotel Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-580, ''Rhode Island Avenue Metro Plaza Revenue Bonds Approval Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-579, ''New Town Boundary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-606, ''Pharmacy Practice Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-577, ''Benning-Stoddert Recreation Center Property Lease Approval Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-608, ''Adverse Event Reporting Requirement Amendment,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-576, ''Property and Casualty Actuarial Opinion Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-619, ''Historic Motor Vehicle Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

331. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-618, ''Anti-Littering Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

332. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-613, ''Smoke and Carbon Monoxide Detector Program Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

333. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-612, ''Veterans Appreciation Scholarship Fund Establishment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

334. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-611, ''Inclusionary Final Rulemaking Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

335. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-610, ''Closing of a Public Alley in square 375, S.O. 06-656, Clarification Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

336. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-607, ''Close Up Foundation Sales Tax Exemption Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

337. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-578, ''Contract No. DCAM-2007-C-0092 Change Orders Approval and Payment Authorization Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to

the Committee on Oversight and Government Reform.

338. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's report for fiscal year 2004 on competitive sourcing, pursuant to Public Law 108-199, section 647(b) of Division F; to the Committee on Oversight and Government Reform.

339. A letter from the Co-Chief Privacy Officer, Federal Election Commission, transmitting the Commission's Privacy Act Report for fiscal year 2008, pursuant to Section 522 of the Consolidated Appropriations Act (2005); to the Committee on House Administration.

340. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures [Docket No.: 080723890-81590-02] (RIN: 0648-AX03) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

341. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot and Rougheye Rockfish in the Bering Sea and Aleutian Islands Management Area [Docket No.: 071106673-8011-02] (RIN: 0648-XM30) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

342. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments [Docket No.: 060824226-6322-02] (RIN: 0648-AX46) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

343. A letter from the Acting Office Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Channel Islands National Marine Sanctuary Regulations [Docket No. 080311420-9008-02] (RIN: 0648-AT17) received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

344. A letter from the Commissioner, Social Security Administration, transmitting the Administration's update on the impact of the economic downturn on the Social Security Administration; to the Committee on Ways and Means.

345. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting notice of proposed rulemaking regulations under Section 304(b)(1) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1384(b)(1); jointly to the Committees on Education and Labor and House Administration.

346. A letter from the Secretary, Department of Energy, transmitting the Department's report entitled, ''2009 Annual Plan,'' pursuant to Public Law 109-58, section 999B(e)(3); jointly to the Committees on Science and Technology and Natural Resources.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FRANK of Massachusetts:

H.R. 786. A bill to make permanent the temporary increase in deposit insurance coverage, and for other purposes; to the Committee on Financial Services.

By Mr. FRANK of Massachusetts:

H.R. 787. A bill to make improvements in the Hope for Homeowners Program, and for other purposes; to the Committee on Financial Services.

By Mr. KANJORSKI (for himself, Mr. CASTLE, and Mr. FRANK of Massachusetts):

H.R. 788. A bill to provide a safe harbor for mortgage servicers who engage in specified mortgage loan modifications, and for other purposes; to the Committee on Financial Services.

By Mr. LEWIS of Georgia:

H.R. 789. A bill to reduce and prevent teen dating violence, and for other purposes; to the Committee on the Judiciary.

By Mr. MARKEY of Massachusetts (for himself, Mr. FRANK of Massachusetts, Mr. DELAHUNT, Mr. MCGOVERN, Mr. TIERNEY, Mr. WELCH, Mr. HODES, Ms. SHEA-PORTER, Ms. PINGREE of Maine, Mr. HINCHEY, Ms. TSONGAS, Mr. CAPUANO, Mr. KENNEDY, and Mr. LYNCH):

H.R. 790. A bill to prohibit issuance of any lease or other authorization by the Federal Government that authorizes exploration, development, or production of oil or natural gas in any marine national monument or national marine sanctuary or in the fishing grounds known as Georges Bank in the waters of the United States; to the Committee on Natural Resources.

By Mr. WEINER:

H.R. 791. A bill to prohibit the Department of Homeland Security from limiting the amount of Urban Area Security Initiative or State Homeland Security Grant Program grant funds that may be used to pay salaries or overtime pay of law enforcement officials engaged in antiterrorism activities, and for other purposes; to the Committee on Homeland Security.

By Mr. WEINER (for himself, Mr. CROWLEY, Ms. BERKLEY, Mr. HOLT, Mrs. MALONEY, and Mr. COHEN):

H.R. 792. A bill to prohibit assistance to Saudi Arabia; to the Committee on Foreign Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia:

H. Res. 102. A resolution supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week; to the Committee on Oversight and Government Reform.

MEMORIALS

Under clause 3 of rule XII,

3. The SPEAKER presented a memorial of the Senate of New Jersey, relative to Resolution No. 37 memorializing Congress to protect the automobile industry and expand national infrastructure project and related industries; jointly to the Committees on Financial Services and Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 74: Mr. MCHUGH and Mrs. MYRICK.

H.R. 155: Mr. CALVERT, Mr. MASSA, Ms. FOXX, Mr. SIMPSON, Mr. ROGERS of Michigan, and Mr. TIAHRT.

H.R. 156: Mr. DENT, Mr. BUCHANAN, Mr. BARROW, Ms. KAPTUR, and Mrs. EMERSON.

H.R. 157: Mr. CONNOLLY of Virginia and Ms. PINGREE of Maine.

H.R. 226: Mr. CASSIDY, Mr. HARPER, and Ms. ROS-LEHTINEN.

H.R. 450: Mr. ROE of Tennessee, Mr. GOHMERT, and Mr. PAUL.

H.R. 460: Mr. BRADY of Pennsylvania, Ms. BERKLEY, Mr. COHEN, Mr. CARNAHAN, and Mr. COURTNEY.

H.R. 587: Mr. CALVERT.

H.R. 622: Mr. BERRY, Mr. MCINTYRE, and Mr. SALAZAR.

H.R. 624: Mr. HALL of New York, Ms. JACKSON-LEE of Texas, Mr. ROSS, and Ms. SHEA-PORTER.

H.R. 636: Mr. SOUDER, Mr. FRANKS of Arizona, Mr. TERRY, Mr. BURTON of Indiana, Mr. PENCE, and Mr. FLEMING.

H.R. 731: Mrs. MCMORRIS RODGERS.

H.R. 775: Mr. PERLMUTTER, Ms. LORETTA SANCHEZ of California, Mr. BURTON of Indiana, Ms. SCHAKOWSKY, Mr. BARROW, and Mr. WAMP.

PETITIONS, ETC.

Under clause 3 of rule XII,

14. The SPEAKER presented a petition of the Village of Moravia, New York, relative to a resolution supporting the relief for infrastructure projects; which was referred to the Committee on Transportation and Infrastructure.

SENATE—*Monday, February 2, 2009*

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, allow the mystery of Your power and grace to be felt by our Senators today. May this transcendent presence empower our lawmakers to be faithful managers of their God-given talents. As they use their different gifts for Your glory, fill their hearts with gratitude. May this spirit of thankfulness engender a unity of purpose that will enable them to meet the challenges of our time. Lord, keep these Your servants under the protection of Your divine favor. Allow them to so conduct the business of freedom that the next generation will speak their names with gratitude.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 2, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WEBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will turn to consideration of H.R. 1, the Economic Recovery Act of 2009.

At 3:15 p.m. today, the Senate will proceed to executive session to consider the nomination of Eric Holder to be United States Attorney General. The time until 6:15 p.m. will be equally divided and controlled between Senator LEAHY and Senator SPECTER or their designees. At 6:15 p.m. the Senate will vote on the Holder confirmation.

This week, Senators should expect long days with votes on numerous amendments as the Senate considers the economic recovery legislation.

I am going to make a few remarks on the Attorney General nomination, but let me say this. Senators BAUCUS and INOUYE are going to be managing the bill, because it is equally divided between appropriations matters and finance matters. We are going to work, starting today, with them making statements—and I haven't finalized this with the Republican leader yet—but I think for tonight it will be debate only, after the Holder nomination, and then tomorrow we will move to amendments.

We are going to have as many amendments as people feel are appropriate on this legislation, without any prejudgment as to what amendments are good or bad. I have worked something out so that on Wednesday Senator INOUYE has agreed to be here at the time when we are at our annual retreat, which is right close to Capitol Hill. We will come in about 10:30 and that will be over about 3 p.m., in the afternoon, but there is no reason why the Republicans can't offer amendments on Wednesday. So we should be able to move this along quite well.

We will try to be as understanding of everyone's schedules, especially the committees, so that, if necessary, we will try to stack some votes. I say to my distinguished Republican colleague that we are willing to have a number of amendments pending at a given time; we just have to be careful that we don't get so many pending it is unmanageable. But we will be happy to work on this.

Before I say anything about the Attorney General nomination, I wish to ask my friend if he has anything to say about the schedule.

Mr. MCCONNELL. I say to my friend the majority leader that the two managers on this side will be Senators COCHRAN and GRASSLEY, of the two relevant committees.

I appreciate very much the thought about Wednesday. My Members are anxious to offer amendments, and that gives us an opportunity to do that during the day on Wednesday, even though your conference is tied up. It would be my hope that we could vote Wednesday night and process amendments. This is such a big week, and such an important measure, as we all know, that I have told my Members—and I hope it is the case—that after tonight, all bets are off in terms of working in the evening, and my Members are expecting that to happen. I ask my friend the majority leader if it is his view that is the way we will operate this week?

Mr. REID. Yes. We should tomorrow have a very long, hard day, and Wednesday, even though there are a few hours that a lot of Democrats won't be in and we won't be able to have votes, in the evening we can have as many votes as we need. There is no reason we can't work into the night and then come back on Thursday.

There are some important things going on this weekend, and the Republican leader and I have talked about that. We will be as understanding as we can of everybody's schedule, but I do remind everyone that the Presidents Day recess is coming up. We have been here 6 weeks, and we not only have obligations here but we have obligations at home. There is work we have to do at home, but we are not going to be able to do that important work until we finish this economic recovery legislation. So we are going to be as thoughtful and as considerate on both sides as necessary.

I have to say, Mr. President, as far as the managers of this legislation, we are in the majority at this time, but it wasn't long ago that Senator COCHRAN and Senator GRASSLEY were chairmen of those committees. These are four of the most respected, knowledgeable, and experienced managers we could have, the four people we have mentioned—INOUYE, BAUCUS, SPECTER, and COCHRAN. So there is no reason that these people, with the experience they have, can't help us move through this legislation.

Mr. MCCONNELL. May I ask the majority leader one other question?

I have a very short statement, unrelated to the Holder nomination, if the majority leader wouldn't mind.

Mr. REID. I would be happy to have the Senator do that.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

JUMP STARTING THE ECONOMY

Mr. McCONNELL. On the same subject, Mr. President, I think we all agree it is important to jump start the economy, and this week we will have the opportunity, as the majority leader and I have been discussing, to have full debate and many amendments on how to do that and how to improve on the bill passed by the House.

Republicans agree with President Obama that we should trim things out that don't put people back to work. The standard he set for this bill is pretty simple and easy to understand. He wanted to incorporate good Republican ideas and trim the fat that won't put people to work right now. I think that is a pretty good principle. Republicans believe a stimulus bill must fix the main problem in the economy, which is housing. We need to fix housing first.

Republicans also believe we must put money back into the pockets of taxpayers, and we believe we must eliminate wasteful spending from this package.

The American people have real questions about the merits of spending tens of millions of dollars sprucing up government buildings here in Washington, for example, or removing fish barriers, rather than growing the economy and creating jobs. We will have an opportunity to further craft this measure as it moves through the Senate. Republicans are anxious to offer amendments, have debate, and have votes.

Mr. President, I yield the floor, and I thank the majority leader for deferring to me for a moment.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

HOLDER NOMINATION

Mr. REID. Mr. President, in the long and lurching march toward equality that in no small manner defines our progress as a nation, this moment in history will be remembered as a golden age. The election of Barack Obama fulfills a dream that seemed unimaginable a generation ago, or even a few years ago. A child born today will have every reason to believe the old adage that in America any boy or girl can grow up to be President.

To join him in governing our country, President Obama has chosen a brilliant, honorable, and exceptionally well qualified individual to serve as Attorney General of the United States. With historic challenges facing the Department of Justice, I urge all my colleagues to support the nomination of Eric Holder.

What began as a one-man, part-time office to represent the United States in Supreme Court trials, the Attorney General now has been transformed over the years to be the lead agency to fight terrorism, prosecute crime, and uphold the fundamental rights of every citizen.

In 1957, with the civil rights movement growing and conflicts bubbling in all regions of our country, the Civil Rights Division of the Department of Justice was established. When Congress passed the Civil Rights Act of 1964, the Voting Rights Act of 1965, and other legislation prohibiting discrimination on the basis of race, sex, handicap, religion, or national origin, it was the Civil Rights Division that ensured they would be enforced; that is, the laws passed would be enforced.

In the fall of 1962, Attorney General Robert F. Kennedy ordered U.S. Marshals to stand guard at the University of Mississippi so that James Meredith, the first African American accepted for admission, could enroll and attend classes peacefully amidst a violent mob of thousands.

In the summer of 1963, the Justice Department, led by Deputy Attorney General Nicholas Katzenbach, confronted Governor George Wallace as he physically blocked the admission of two African-American students to the University of Alabama. It took the federalization of the Alabama National Guard to force Governor Wallace to step aside and allow those students to enter.

These are only two of countless examples of the U.S. Department of Justice enforcing the laws of our country.

Although the parchment of our Constitution may be a little yellow and the ink faded somewhat, as long as the Justice Department stands behind the people's demands for liberty, the spirit of our Founders will never recede. I have no desire to rehash the many ways the Bush administration politicized and degraded the Justice Department away from its historic mission. While we must not fail to remember that sad chapter in our history, I am far more interested in looking toward a more hopeful future.

With President Obama in the White House and Eric Holder leading the Justice Department, that brighter future begins right now. The experience of this nominee is unquestioned. As a young lawyer, fresh out of Columbia Law School, one of the finest law schools in America, Eric Holder accepted a job at the Justice Department. He didn't want to see how much money he could make, he wanted to enter public service, and he did. The job he took at the Justice Department is now a department he stands ready to lead.

At the time he worked there, as a young new lawyer, he was charged with the unenviable task of prosecuting corrupt public officials who had violated the public trust. This kind of work can be thankless and politically sensitive, but from a young age Eric Holder showed the courage to stand for the public interest no matter the personal or political cost.

In 1988, Eric Holder was appointed by President Reagan to be a judge in the District of Columbia Superior Court. In this capacity he presided over countless trials involving violent crimes and murder, proving himself to be a fair and tough administrator of justice.

In 1993, President Clinton chose Eric Holder as U.S. Attorney for the District of Columbia, where he focused on improving some of Washington, DC's most crime-ridden neighborhoods by locking up wrongdoers and involving communities in law enforcement.

As Deputy U.S. Attorney General starting in 1997, Holder showed fearlessness in prosecuting crimes against children, white-collar crimes, and crime in general. During his tenure as Deputy Attorney General, Mr. Holder was also faced with the difficult decision of how to advise Attorney General Janet Reno on the investigation that led to the impeachment of President Clinton. He chose to urge the Attorney General to expand the investigation to ensure that all facts would come to light. He was harshly criticized by members of his own party for causing political trouble for the President.

But in this decision, Eric Holder again showed the courage to uphold perhaps the most important principle for any Justice Department official: answering to the people first.

There is no question that a difficult job awaits our next Attorney General. He must strengthen the fight against terrorism, he must do more to keep our streets and boardrooms safe from crime, and rebuild the Justice Department to be once again a guardian of the common good. Eric Holder has proven that he has the courage and wisdom to do justice to this critical job.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

AMENDMENT NO. 98

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, on behalf of Senators INOUYE and BAUCUS, I call up amendment 98 and ask unanimous consent that once the amendment is offered, no further amendments be in

order during today's session of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. INOUYE and Mr. BAUCUS, proposes an amendment numbered 98.

(The amendment is printed in the RECORD of Friday, January 20, 2009, under ''Text of Amendments.'')

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise today in support of H.R. 1, the American Recovery and Reinvestment Act. This bill will create 4 million American jobs, invest in the future of America by rebuilding our roads, bridges and schools, and will give State and local governments the resources they need to deal with surging demand for social services and falling tax revenues.

Further, this measure will provide tax cuts to working families who are struggling every day to cope with this terrible recession.

Today, we face the gravest economic crisis that this Nation has seen since the Great Depression. Our fourth quarter gross domestic product shrank by 3.8 percent, the largest drop since 1982.

A million jobs have been lost in the past 2 months, and this coming Friday we expect to learn that during the month of January, another 600,000 jobs, at a minimum, have been lost.

The American people fully understand the depth and seriousness of our economic problems.

U.S. foreclosures increased by more than 81 percent last year, a record, with over 2.3 million foreclosures. Our States are struggling terribly, facing the prospect of cutting off vital services, including schools and police.

Forty-four States are facing budget shortfalls totaling $90 billion for fiscal year 2009 and $145 billion for fiscal year 2010.

In 2008, U.S. stocks lost roughly $7 trillion in value. In an instant, the life savings of millions of Americans simply disappeared. Our banking system is in grave shape. Last year, 25 banks with $373.6 billion in total assets failed in the U.S.

All the while, the critical needs of our Nation are going unmet. The American Society of Civil Engineers—ASCE—estimates that $2.2 trillion is needed over a 5-year period to bring the Nation's infrastructure to an adequate condition.

How can we grow our economy and provide opportunities for today's working men and women if the basic physical infrastructure that underlies every job in this country is falling apart?

We must invest in our future by making the necessary commitments to ensure that our infrastructure will support our future economic growth.

But today, we face a much more immediate crisis. In Saturday's New York Times, economist Allen Sinai stated:

My sense is that business is slashing hugely and across the board. Everyone is cutting prices, people, capital spending and all kinds of expenses. It is almost a herd instinct.

There is nothing more destructive to economic growth than deflation. It was the defining characteristic of the Great Depression, and it is the single most difficult economic condition to reverse. We cannot allow a deflationary spiral to develop.

Only one institution in the United States, the Federal Government, has the capacity to step into the breach and stop the terrible spiral of increased layoffs leading to decreased spending, in turn leading to more layoffs and so on.

The Federal Government must take aggressive action. We must use all means at our disposal to address this deepening crisis.

Some argue that this is all part of the natural business cycle, that the best course of action is to stand back and let this crisis work itself out. I would remind those who take this position that the Great Depression was also a part of the natural business cycle.

President Hoover refused to take aggressive action, and the results speak for themselves.

It was not until President Roosevelt took office in 1933 and implemented a series of drastic policy reforms that the economy slowly began to improve, and, almost as important, gave the average American reason to believe that there was a light at the end of the tunnel.

We must act boldly, decisively, and with all possible speed, or we will face dire consequences. The American Recovery and Reinvestment Act is the answer. This legislation will not only create jobs now, but will also begin the process of rebuilding the physical infrastructure of America that is the key to future prosperity.

Based on these needs, The American Recovery and Reinvestment Act focuses on the following goals:

First, creating or saving at least 4 million jobs;

Second, investing in America's future by rebuilding our basic infrastructure.

Third, providing for job retraining for those workers who need to learn new skills in order to compete in the global economy today, while at the same time, improving the education of our children and young adults so Americans can remain competitive tomorrow;

Fourth, moving toward energy independence and away from burning fossil fuels that leave us dependent on foreign oil;

Fifth, improving our healthcare system so all Americans can have access to quality treatment;

Sixth, providing tax cuts and other means of assistance to lessen the impact of this crisis on America's working families.

To meet these goals the Finance and Appropriations Committees recommend a total of $888 billion in funding, including $365.6 billion in new appropriations. This is a significant amount of money, but an amount that we believe is wholly necessary to confront the challenges facing our Nation.

My distinguished colleague from Montana will address the tax and mandatory spending issues that we are recommending and I will address the spending programs that were approved by the Appropriations Committee by a vote of 21 to 9.

It would take far too long to describe in detail the hundreds of programs that are included in this bill, but I would like to take a moment to mention some of the more significant investments that we recommend.

We will invest in our future by funding projects that will rebuild and improve our physical and cyber infrastructure. These projects, totaling $142 billion, will create jobs in the near-term, and will provide an improved foundation for future growth by fixing our crumbling roads, bridges, and schools, improving our broadband network, and increasing our ability to conserve energy.

America's tradition of public education is second-to-none, but it has been sadly underfunded in recent years. We all know that for the United States to compete in the 21st century, Americans must be well-educated and capable of adapting to an ever-changing economic environment.

Accordingly, we recommend investing $125 billion in education and training so that the next generation of American workers is ready and able to meet the challenge of global competition. In addition, providing job training to recently laid-off workers in new and expanding fields will help to lower the unemployment rate and will allow today's workers to better compete against foreign competition.

In the area of energy, the American Recovery and Reinvestment Act provides $49 billion in investments in areas critical to the development of clean, efficient, American energy, including modernizing energy transmission, research and development of renewable energy technologies, and modernizing and upgrading government buildings and vehicles.

The current economic crisis has affected all Americans, but none more so than the most vulnerable among us. The $25 billion in spending proposed here will serve to lessen the blow of the current recession, providing immediate relief for children, the poor, and others who may find themselves struggling to put food on the table or a roof over their head.

The bill provides $16 billion in investments in areas critical to immediate and long-term healthcare for millions of Americans. Improved information technology, research facilities, and health and wellness programs will all provide a better foundation for providing quality healthcare to consumers.

We face a critical period in our Nation's history. The next few years will either see us emerge from this crisis with renewed vigor and with an economy that remains the leading engine of global growth, or we may face years of slow growth and an ongoing struggle just to maintain our current standard of living.

Clearly, the goal of this package is to find ways to stimulate the private sector through public sector spending, to jump start the private sector with much needed projects that will create jobs as soon as possible, and that will provide meaningful improvements for our communities.

At the same time, we seek to ensure that the funds that are appropriated in this legislation are spent carefully and with unprecedented transparency. We include $110 million in the bill to increase the resources of agency Inspectors General and the Government Accountability Office.

In addition, this measure would establish a new oversight board within the executive branch which will be charged with oversight of the funding provided in this bill.

Such times as these are only overcome with courageous leadership and a willingness to embrace change, listen to new ideas and take chances. This bill is not perfect. But we must not let our fear of imperfection stop us from taking the bold steps necessary to address this crisis and move America forward.

The time for action is now. The American Recovery and Reinvestment Act of 2009 is the right policy at the right time, and I urge each and every Member of this body to join me in support of creating jobs, supporting our State and local governments, and investing in the future of America.

I yield the floor.

Mr. BAUCUS. Mr. President, I first want to commend my colleagues, Senator INOUYE from Hawaii, the chairman of the Appropriations Committee, who I think has undertaken a masterful job in helping to craft, along with his counterpart, Senator COCHRAN from Mississippi, an economic recovery package that will go a long way toward getting people back to work.

They have done half of the job; the other half was left to the Finance Committee. I think together we have come up with a very good beginning to get Americans back to work and to invest in many of the projects this country needs so desperately.

In 1932, President Franklin Roosevelt said:

> The country needs and . . . the country demands bold, persistent experimentation. . . . [A]bove all, try something. The millions who are in want will not stand idly by silently forever . . . .

Today, the country once again demands bold action. Our country demands bold action to help rebuild a very badly damaged American economy.

Consider the terrible blows to our economy and the problems that we face if we do not act.

Last Friday the Commerce Department reported that from October through December of last year the economy shrank at its fastest pace in a quarter century.

Last year 2.6 million people lost their jobs. If we do not act, 3 to 4 million more people will lose their jobs.

The decline in home prices and the stock market collapse have sharply reduced the net worth of American families. Net worth declined by roughly one-fifth between the middle of 2007 and the fourth quarter of 2008.

CBO projects that the national average home price will fall by another 14 percent between the third quarter of 2008 and the middle of 2010.

Equity wealth has declined by $6 trillion between the end of 2007 and the end of 2008.

The Standard and Poor's 500 stock index fell by almost 45 percent from October 2007 to December 2008.

And the financial crisis has spread around the world.

These are not just numbers. These are families who are hurting. These are mothers and fathers who have lost jobs. These are parents who have seen college savings decimated. These are couples who are struggling to keep their homes.

We need to act. This economic recovery bill will save or create 3 to 4 million jobs. It will position our economy to be more competitive. The measure before us today provides an appropriate response to the conditions that we face.

The Senate Finance Committee worked with the President and Members of the Senate and the House to put together its part of the economic recovery substitute that we are considering this week. The Senate Appropriations Committee took the lead on its part, as well.

We think that the provisions in this substitute represent the best ways to address spending slowdowns and rising unemployment.

And it will be effective. More than 99 percent of the Finance Committee's provisions effects will come in the first 2 years of the bill.

To counteract weak consumer demand and spending slowdowns, we have included several proposals that will put more cash in the pockets of America's taxpayers, seniors, and disabled veterans.

The making work pay tax credit cuts taxes for more than 95 percent of American working families. It gives single taxpayers up to $500 and married taxpayers up to $1,000 this year and next in additional cash that they can use just now.

People will be able to receive the benefit throughout the year through a reduction in the amount of income tax withheld from their paychecks.

Seniors, disabled veterans, other disabled workers, and SSI recipients would receive a one-time payment of $300.

Families with children would also benefit from these proposals. The income threshold to receive the refundable child tax credit would be reduced so that more people would be eligible. The earned income tax credit would be increased for families with three or more children.

An amendment added in the Finance Committee will ensure that the alternative minimum tax will not hit any new taxpayers for 1 more year.

Folks struggling to pay for higher education would get relief. The proposal includes a partially-refundable new tax credit up to $2,500 for the cost of tuition and fees, including books. Section 529 plans would be enhanced by including the cost of computers as a qualifying expense.

This measure would help homeowners who are taking advantage of the first-time homebuyer's credit enacted last year. Under current law, homebuyers have to pay this credit back over 10 years. The substitute before us today would eliminate the repayment obligation, unless the homebuyer sells the home within 36 months of the purchase.

For small businesses, we have included expanded expensing through section 179. This provision helps small businesses quickly recover the cost of certain capital expenses.

For businesses in general, we would increase the years that they can carry back losses and general business credits. This would put cash in the hands of businesses right now.

Businesses would also get a tax incentive through the work opportunity tax credit for hiring unemployed veterans and disadvantaged youth.

The economic downturn has frozen the municipal bond market. This recovery bill includes changes that would help to free up this market, unlocking cash for infrastructure investment.

Banks would be able to inject more capital into projects creating demand for municipal bonds, driving down interest rates. And increasing the small issuer exception would increase the range of municipalities from which banks can buy.

This substitute would also eliminate tax-exempt interest on private activity bonds as a preference item under the alternative minimum tax. This would

draw new investors and help stabilize the market.

The legislation would also establish parity for tribal governments on $2 billion of tax-exempt bonds. This important change would allow tribal governments to issue debt for projects on equal footing with other government issuers.

And this substitute would create a new tax-credit bond option. This new bond would give State and local governments a new tool to finance infrastructure projects.

We have also included incentives for energy in this recovery package. These incentives would create green jobs producing the next generation of renewable energy sources, wind, solar, geothermal.

The substitute would extend and modify the renewable energy production tax credit for qualifying facilities.

The substitute includes additional funding for clean renewable energy bonds to finance facilities that generate electricity from renewable resources. And the substitute includes conservation bonds for States to use to reduce greenhouse gas emissions.

Energy experts often cite efficiency as the low-hanging fruit. Efficiency is the easiest way for us to reduce our energy consumption and greenhouse gas emissions.

So we have included incentives for energy efficiency. The substitute would increase the value of the existing credit for energy efficient homes. The substitute would eliminate the limitations on specific energy-efficient property. And the substitute would extend the credits for various types of energy efficient property, for both residential and business.

Two new tax credits would spur our alternative energy and production.

The advanced energy research and development credit would provide an enhanced 20 percent R&D credit for research expenditures incurred in the fields of fuel cells, energy storage, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

The second energy tax credit is an advanced energy investment credit for facilities engaged in the manufacture of advanced energy property.

This substitute would make sound investments in health information technology, or health I.T. These investments should reduce costs, improve quality, and help patients make better decisions about their health care. Expanding use of health I.T. should make our health care system more efficient, reduce errors, and help bring down costs.

Health I.T. would also provide a platform for standardizing and collecting data to move toward paying for performance, another way to improve efficiency and decrease costs.

Investing in health I.T. will help to put that infrastructure in place, while creating thousands of high-tech jobs.

And reforming health care is the right way to get a handle on entitlement spending.

The economic crisis has also created significant fiscal difficulties for States. At least 45 States will face budget shortfalls. Economists expect those shortfalls to total more than $350 billion over the next 2 years.

These dire circumstances have forced painful choices. Almost half the States have already made or proposed cuts to their Medicaid Programs.

The continued rise in unemployment places a further strain on Medicaid. Decreased revenue coming in means less money to fund Medicaid. And experts warn that every percentage point increase in unemployment adds 1 million people to the Medicaid and CHIP rolls.

Economists tell us that State fiscal relief is an effective means to stimulate the economy. And they also advise that targeted relief to those most in need, not based on circumstances of States' own making but based on true measures of distress, is the best means of distribution.

The substitute before us today would provide much-needed relief to every State through a temporary increase in the Federal share of Medicaid funding. The substitute would also provide additional aid targeted to States facing the most precarious fiscal situations, measured by an increase in unemployment.

These measures will keep States from having to lay off cops or teachers. And keeping those workers on the job will help the economy.

The economic recovery package also supports those who have lost employment and helps them to find new jobs.

While almost all workers pay into the unemployment insurance program, only about half of them qualify for benefits. American workers deserve better. The substitute before us would increase and extend benefits to those currently looking for work.

The substitute before us would help States to cope with the increasing number of families needing temporary assistance. And it would remove the incentive for States to artificially keep their TANF caseloads low.

In addition, the substitute would ensure that families that qualify could continue to receive child support payments that are intended to be spent on children. For those who receive it, child support constitutes about 30 percent of poor families' income.

The substitute before us would also increase the incentive to become employed by extending the transitional medical assistance program under Medicaid for 18 months. TMA allows former TANF recipients to retain Medicaid coverage for one year after they become employed. These workers usually earn too little to afford private coverage.

The substitute before us would also remove barriers to getting Medicaid and CHIP for low-income American Indians and Alaska Natives.

The funds directed toward these programs for vulnerable populations would go into the hands of folks who need it and who will spend it right away. These proposals will increase economic activity, create jobs, and shorten the amount of time that we all spend in this economic crisis.

Another key component of our economic recovery package would help unemployed workers maintain their health coverage.

When workers lose their jobs, they lose more than their paychecks. They often lose their health insurance coverage, as well.

To address this problem, our proposal includes help for unemployed workers to pay for their health care premiums.

Today, most workers who lose their jobs have the right to keep their health insurance for up to 18 months under the COBRA program. But to be eligible for COBRA health benefits, workers must pay all of the premium costs, plus an additional 2 percent for administrative costs. For most folks who have just lost their job, this is simply unaffordable.

Our plan would provide a subsidy to cover up to 65 percent of health premium costs, for up to 9 months.

This premium subsidy is shortterm. It would be available only to unemployed workers while they look for a new job.

For those workers who lose their jobs to international trade, President Kennedy established trade adjustment assistance, or TAA. I have long championed TAA and worked to expand its reach and improve its effectiveness. Today, TAA gives workers the chance to retrain for new jobs, get access to health care, and ultimately get back to work. And that is why the substitute before us today includes a 2-year extension of TAA.

Yet in a time when Americans are doing everything they can to change, adapt, and be flexible in a global economy, TAA should do the same.

We can do more to expand who can benefit from TAA, and we can improve how we get them those benefits. That is why I am working with Senator GRASSLEY, Chairman RANGEL, and Congressman CAMP on a robust expansion of TAA. We hope to include this improved TAA in the economic recovery package before it is enacted.

The package that we are considering this week is our best effort to reach a consensus on an economic recovery bill that can pass the Senate and the House quickly.

The Nation demands action and action now. Let us act quickly to put our economy back on track. Let us act to

restore the Nation's financial health. And let us act pass this important legislation this week.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Mississippi.

Mr. COCHRAN. Madam President, the bill now before the Senate provides $365 billion in new spending reported by the Appropriations Committee and $522 billion in tax and mandatory spending measures recommended by the Finance Committee. The bill as a whole has a price tag of $887 billion. When the borrowing costs associated with this spending are included, the cost of the package rises well over $1.2 trillion. The President has suggested that even more measures such as this, other requests to stimulate the financial system, may be needed to resuscitate the housing market and reform financial regulatory institutions. We don't know what the cost of all of these measures will be, but it sounds as if we may be asked to enlarge these commitments even further as time goes by.

Proponents of this bill say that the fiscal cost of inaction is also substantial. They argue that failure to enact the bill will lead to lower growth and diminished tax receipts. Yet there is little documentation to back up that claim. Those suggestions have not been described in any detail by administration officials or their economic experts.

In size alone, this measure has few precedents. We are considering this bill in the absence of any formal request or documentation from the executive branch. This bill has been described as President Obama's recovery plan. Yet we have not had an official request from the administration for these funds. I am not one who believes Congress must always wait for the executive branch to lead, but with regard to this bill, we are giving the executive branch immense latitude in the disbursement of the spending it contains. We are doing so without any official request and without any documentation that speaks to the issue of how this spending will stimulate the economy or what the long-term implications of the spending will be. Normally, this kind of information would be contained in an administration budget or supplemental request. For items that are well understood to have a short-term stimulative effect, most of us will feel comfortable debating their merits as part of an emergency measure. But there is a great deal of spending in this bill that is not immediately stimulative.

The majority describes it as investments in our Nation's future. We have the responsibility to be deliberate and consider these items carefully in the context of the President's formal budget request.

The distinguished chairman of the Appropriations Committee, who is my dear friend, made a sincere effort to accommodate priorities expressed by Republican members of the committee and others who are not on the committee and to respond to some of their concerns. He resisted efforts to clutter the bill with controversial policy initiatives that might detract from the focus of the legislation or slow down the progress of the bill. He also insisted on a committee markup of the bill. All of these actions demonstrate his unquestioned sense of fairness.

The fact remains, however, that the Senate is being asked by the administration to take a big leap of faith that the massive spending proposed in this bill will, in fact, stimulate growth of the economy, even though much of the funding will not be spent in the next year or two.

We are all searching for solutions that will help the economy in the short term. Yet we must consider the long-term effects of any so-called stimulative actions we take today. Will the jobs associated with these proposals be created just as the economy is recovering, causing inflationary pressures that may not be welcome 2 years from now? What will be the impacts on Federal borrowing costs of this additional deficit spending, particularly once recovery is underway and we are no longer able to borrow money as cheaply as we are now? And perhaps of greatest concern, is it reasonable to expect stimulus spending to cease after 18 months or 2 years' time? The Federal Government's track record for terminating programs is not very good.

Let me share some of the provisions of this specific legislation. There are well over 20 new spending initiatives and programs that are either being authorized in this bill or being funded for the first time. These programs account for over $230 billion of the appropriated spending in the bill.

The bill allocates $16 billion to build and repair local schools, something which has not before been considered the responsibility of the Federal Government. That is a State and local responsibility.

The bill provides $9 billion to construct broadband infrastructure throughout the country, even as it requires development of a plan to actually spend this money, and the creation of a broadband infrastructure map that might inform development of that plan. Is this putting the cart before the horse or at least maybe putting it alongside the horse?

The bill appropriates $23 billion to create an improved health information technology system, virtually from scratch. This is not a 1- or 2-year project; it is an expensive, long-term program for which there is barely a foundation. Yet we are putting taxpayers on the hook for $23 billion.

The bill invests heavily in science and energy programs. Like many of my colleagues in the Senate, I supported passage of the America COMPETES Act during the last Congress. The goal of that legislation was to ensure that science education in America is of a quality that will sustain our economy in the 21st century. I also supported passage of Energy bills in the last 5 years in the hope that they would enhance our Nation's energy security. Yet I did not support any of these bills with the expectation that their various elements would be immediately funded in their entirety or that they would be funded outside the context of our Federal budget, the regular annual process.

Like most Senators, I assumed we would evaluate the merits of the individual programs as part of the annual budget and appropriations process. Even if this spending may be entirely appropriate, it is reckless to be providing it in the absence of any budgetary context and having done very little due diligence.

Much of the spending will have little stimulative effect. Projected spend-out rates are very slow. The Director of the Congressional Budget Office observed in a January 28 letter to the chairman of the Senate Budget Committee:

> Throughout the federal government, spending for new programs has frequently been slower than expected and rarely been faster.

Is our putting it in this one bill going to change that? What will be the cost of these programs 5 years from now? If we control the overall level of discretionary spending in future years, what programs and priorities will these new initiatives displace? If the spending is entirely additive, what are the impacts of that spending on our national debt or on future tax rates? These questions are difficult to answer without supporting documentation and without having held any hearings.

It seems to me there will be time enough to consider these long-term investments in the regular order and in the context of future Federal budgets.

As former Clinton Budget Director Alice Rivlin recently testified:

> . . . a long-term investment program should not be put together hastily and lumped with an anti-recession package. The elements of the investment program must be carefully planned and will not create many jobs right away.

Yet it is not just these new programs that should concern us. This bill also greatly expands a number of programs such as Head Start, Pell grants, and the Individuals with Disabilities Education Act. These are all programs with merit. I have supported them all, with supporters on both sides of the aisle each year approving bills to extend the authorizations and fund the programs. But the question is, Do they stimulate the economy? How? Is it realistic to expect funding levels for these programs to revert to today's levels once the economy recovers? I think it is safe to expect just the opposite.

The Committee for a Responsible Federal Budget, cochaired by former Congressman Bill Frenzel, my friend, and another of President Clinton's former Budget Directors, Leon Panetta, another friend, recently warned of this danger. Speaking of stimulus recommendations like planting grass on the national mall, the committee said such things are ''a distraction from the bigger risks in this bill.''

More troubling is the number of items in the stimulus plan that are really intended to be permanent new policies rather than temporary items to help boost the economy.

They said:

While we need deficit spending now, extending out borrowing beyond the economic downturn will make our already-dismal fiscal picture far, far worse.

They go on to say:

The economy simply can't handle that. There is a very real risk that many of these items will become a permanent part of the budget and unless Congress suddenly shows an uncharacteristic willingness to pay for the new items, the deficit will deteriorate even further.

The committee they chaired went on to say:

Many of these items may be worthwhile, but an emergency measure is the wrong way to push through permanent changes to the budget. If politicians want to enact long-term spending or tax policies, they should be enacted through the normal legislative process.

I think that is very well put. I think we ought to pay attention to what people like that are saying.

The President's Chief of Staff recently said—probably in jest, maybe in jest—

You never want a serious crisis to go to waste.

Well, clearly we are seeing the efforts by some—and I am not saying the President's Chief of Staff—to use this stimulus bill to achieve long-term objectives that go beyond addressing our short-term economic policies and problems.

But we agree—I think all Senators agree—the economy is under severe pressure and Congress should take quick but sharply focused action to do those things we are confident will have an immediate stimulative impact on the economy and improve economic prospects. We should address the housing problem that seems to be the central problem in this crisis. We should not, however, rush headlong into fiscal commitments that may haunt us for years to come.

If Federal spending on infrastructure and other programs is truly stimulative, is it not unfortunate Congress has failed to enact 9 of the 12 regular appropriations bills for this fiscal year? These bills account for almost half of all discretionary spending. Yet the agencies and programs supported by those bills have essentially been idling for 4 months under a continuing resolution. This is funding at last year's approved levels of spending; whereas, if enactment had taken place in a timely fashion by this Congress—this Senate and the House of Representatives working together—we would have much of this money that has previously been budgeted and approved by committees, approved by the Congress.

Funding contained in those bills is for projects such as roads, bridges, water projects, Federal buildings, and other activities that might provide jobs now, and they have been held in abeyance under the terms of a continuing resolution, which is continuing this fiscal year to spend at the levels appropriated for spending during the last fiscal year.

That is not something that can be laid at the feet of President Bush. That is the Congress. We hear a lot of criticism of the former President, such as he is the reason for all this. We need to look at ourselves. Congress did not even try to enact the bills. The bicameral leadership made a conscious decision not to engage the former President on spending issues or Outer Continental Shelf oil-and-gas leasing—another example of something that could be labeled ''stimulative.''

Had we enacted those appropriations bills last fall, agencies would already be contracting, hiring, and spending their funding allocations. This week we would be having a debate probably about the merits of supplementing some of those allocations of Federal funds. Instead, we are considering a bill that supplements many existing programs without Members even knowing what the regular appropriations bills contain for those same programs.

In closing, I express my heartfelt thanks and appreciation to the distinguished Senator from Hawaii, the chairman of our Appropriations Committee, for his distinguished leadership and congratulate him on the way he has undertaken to respond to these emergency requests that have been submitted to the committee. He has handled it all in a fair and thoughtful way. It is a pleasure working with him and the other members of our Committee on Appropriations in the Senate.

We, I know, stand ready to continue to work to improve this bill, to listen to suggestions of Senators for changes. It has been an open process, an open, public markup of the bill, an effort to invite suggestions from any member of the committee, and now it is open for amendment. This is no effort to railroad something through here without giving individual Senators the opportunity to carefully consider everything in here, to ask questions of those who maybe were responsible for the inclusion of certain provisions and the like. We are ready to take on these suggestions and consider them carefully to improve this bill over the coming days.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, as the Senate turns to the economic recovery bill I believe there is a message coming to the Senate from Oregon and every corner of our country. The message is that Americans do not want a bailout. They do not want a handout. What they want is legislation that provides a path out of these very difficult economic times.

I believe that, working together this week, Democrats and Republicans can start building that path. I want to stress that I am especially interested in working with colleagues on the other side of the aisle on this critical legislation.

I serve on the Senate Finance Committee, led by Chairman BAUCUS, and one of the best additions to this bill has been the relief that it provides from the crushing alternative minimum tax. This is a killer tax for middle-class folks. It is something, in my view, that we ought to get rid of permanently and I have proposed doing that as part of comprehensive tax reform. Well, as a result of the bipartisan work on this legislation in the Finance Committee, there is going to be relief from the AMT for hard-hit, middle-class families.

There has also been important bipartisan work on the legislation's approach to infrastructure financing. A member of the Senate Republican leadership, Senator THUNE of South Dakota, has worked with me to craft legislation called Build America Bonds, which uses a tax credit approach to bonds to wring more value from every dollar that's made available for infrastructure. The economic recovery bill includes a tax credit bond provision that is similar to our legislation, although not quite the same, and I will continue to push to improve it.

I believe there are other ideas we are going to focus on, on the floor of the Senate, that will bring Democrats and Republicans together. A number of my colleagues on the other side of the aisle have stressed the need to expand the legislation's support for homeowners and home buyers, to help make sure that people who want to stay in their homes and who are trying to buy a home can get additional relief. I am very pleased that colleagues on both sides of the aisle have come together to work on these kinds of ideas.

For this week, I think there are several key principles that we ought to focus on. One that I feel especially strongly about is rewarding success. Instead of subsidizing failure, this legislation takes an approach that, in fact, rewards success.

A prime example is the extension, for 3 years, of the renewable energy production tax credit. To get this tax credit, energy companies actually have to produce energy. As a result, American taxpayers will get something back

for their hard-earned money. That is the kind of accountability that I think the American people have a right to expect.

I think the legislation rewards enterprise, and I am very pleased about the bill's provision to provide enhanced writeoffs under section 179 for small businesses that invest in plants and equipment.

Ultimately, what it comes down to is providing relief for middle-class folks so they can get assistance during these difficult times.

For example, there has been discussion of the bill's supports for health information technology. One big reason that middle-class folks cannot get ahead is that their medical costs gobble up their paychecks and one of the reasons that medical costs have skyrocketed is that there are so many errors in the health care system—errors and inefficiencies, such as duplicative tests. It seems to me that by investing in health information technology, you make a downpayment on a long-term strategy for holding down medical costs and that is extraordinarily important to middle-class folks. So we will be talking about this issue more.

I note the presence of the distinguished chairman of the Appropriations Committee. One of the reasons I am confident we can approach this issue in a bipartisan way is because that is how the chairman of the Appropriations Committee has always worked. That has also been the case with Senator COCHRAN, Chairman BAUCUS, and Senator GRASSLEY.

We are open to the best possible ideas. That is why President Obama, to his credit, has been reaching out. As far as I can tell, he has that phone practically attached to his ear talking to colleagues and saying: Bring us your best ideas. We have tried in the Senate Finance Committee, as Chairman INOUYE has done in the Appropriations Committee, to start incorporating good ideas, whether they come from the Republican side of the aisle or the Democratic side.

I think we can improve this bill even more. But because it rewards success, because it rewards enterprise, because there are already good ideas that both parties support, I would urge colleagues to use this week, working with our chairs and with the Obama administration, to come together—because my view is, as I articulated, that the public does want a path out of these terrible economic times. We have a chance to make it clear that this is not a bailout, that it is not a handout, but rather the start of a path out of this tough economic period.

I hope our colleagues will use this week, under the leadership of the chairman of the Appropriations Committee, Chairman BAUCUS of the Finance Committee, and the ranking minority members, to make sure that by the end of this week we have shown the American people that this important legislation on recovery and investment is moving forward—to deal with the critical needs of those we represent at home.

Madam President, I yield the floor.

Mr. INOUYE. Madam President, as we begin the process of our discussions and debate on legislation to revitalize our Nation's economy, I want to take this opportunity to underscore the points I made on Tuesday of last week as we undertook the markup of the American Recovery and Reinvestment Plan.

As I indicated, it is my belief that we all support the central goals of the legislation, which include the creation of jobs, the rebuilding of America's infrastructure, improving our children's education, moving toward energy independence, improving our health care system, and lessening the burden that this crisis has brought to the most vulnerable among us.

As you well know, beginning in 1987, I served for 19 years as the chairman and vice chairman of the Senate's Committee on Indian Affairs—and in that capacity I came to know a group of American citizens who have clearly been the most vulnerable amongst us—the indigenous, native people of the United States—American Indians, Alaska Natives and Native Hawaiians.

President Obama projects that in the near term, the nationwide unemployment rate could reach 10 percent. But for many of our Nation's First Americans, an unemployment rate of 10 percent in their communities would signal a giant step forward—given average unemployment rates in Indian country that range from 50 to 90 percent.

The infrastructure on many Indian reservations is not only in need of rebuilding—in most parts of Indian country, infrastructure is so sorely lacking or simply nonexistent, that it must be built for the first time. Members of Congress have come to this realization time and again, as we have enacted scores of settlements of Indian land and water claims over the years, and ratified agreements between State and tribal governments—only to find that there is none of the necessary infrastructure that would enable the delivery of water to tribal lands, nor the jobs associated with the establishment of businesses on tribal lands.

In Indian country, another goal that this bill seeks to accomplish—stimulating the private sector through public sector spending—Federal funding has rarely been able to achieve. And that phenomenon is also fundamentally a function of the lack of infrastructure—adequate roads, safe water supplies, access to commercial and transportation corridors, good schools and access to quality health care. These are the critical components if we are ever to successfully encourage private sector investment in Native America through public funding.

There are vast natural resources that remain untapped in Indian country—wind energy, hydropower, solar energy, and other sources of clean, renewable energy—undeveloped in large part because of the lack of infrastructure and lack of access to electric transmission lines. The same is true for those things most Americans have come to take for granted—basic connections to the outside world, such telephone service, access to the Internet and broadband services, public health and safety broadcast systems. A transition to digital television isn't a challenge to those who have no electricity.

Safe and affordable housing, running water, potable water, a source of heat—these aren't givens in Indian country as they are elsewhere in America.

So tribal governments have taken matters into their own hands—they have sought to restore their federally recognized status, to reacquire the lands that were lost through the opening of Indian reservations to homesteading and the treaty-making process, and to reconsolidate their traditional tribal land bases, so that in turn, they can develop a geographic base upon which to build and sustain economic growth and the means to effectively serve—through tribal government programs and services—all of those who reside on tribal lands—not just the citizens of their governments.

But our Federal bureaucracies—as well intentioned and well meaning as they may have been—have stood in the way of the tribal governments' efforts to achieve this economic growth and development of Native communities and those communities which surround them, and I believe that the scope of this bill must be inclusive enough to embrace initiatives that are designed to remedy not only centuries-old problems but to fulfill the commitments that we have made in a host of land and water claims settlements, in agreements involving State and tribal governments, and most importantly in our treaties with the Indian nations.

Accordingly I will look forward to working with my colleagues to assure that this bill does not inadvertently place obstacles in the paths of those who seek to become self-sufficient and self-sustaining—those who have faithfully served our country and placed themselves in harm's way in the defense of our country in larger proportions than any other group of Americans—this Nation's First Americans, the Native people of the United States of America.

Madam President, I want to inform the Senate that neither S. 336 as reported to the Senate nor division A of the Inouye-Baucus substitute amendment to H.R. 1, Senate amendment numbered 98, contains any congressional directed spending items as defined in rule XLIV of the Standing

Rules of the Senate. I can also inform the Senate that division B of the amendment, prepared by the Committee on Finance, contains no limited tax benefit, limited tariff benefits, or congressional directed spending items as defined in rule XLIV.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF ERIC H. HOLDER, JR., TO BE ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The assistant legislative clerk read the nomination of Eric H. Holder, Jr., of the District of Columbia, to be Attorney General.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate equally divided and controlled between the Senator from Vermont and the Senator from Pennsylvania or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I thank the distinguished Presiding Officer and appreciate her being here. We are starting a minute or so late. It is my fault. When I saw my friend from Pennsylvania, the distinguished ranking member, come out, we had to have some discussion of last night's Super Bowl game. It was one of the most spectacular ones. He feels even more spectacular than Senators from some other States—any other State—because his State won.

I think it is also a spectacular day because the Senate is considering President Obama's historic nomination of Eric Holder to be Attorney General of the United States.

The Judiciary Committee voted last week to report Mr. Holder's nomination to the Senate for consideration. That strong, bipartisan 17 to 2 vote in favor was a statement that members from both sides of the aisle recognize that Mr. Holder has the character, integrity and independence to be Attorney General. It is a statement that we all want to restore the integrity and competence of the Justice Department and to restore another critical component—the American people's confidence in Federal law enforcement. The broad support Mr. Holder's nomination has from law enforcement, from advocates for crime victims, from civil rights organizations and from across the political spectrum comes as no surprise to those of us that have known of Eric Holder during his decades of dedicated public service.

After more than 2 months of scrutiny and consideration, I was pleased to see Mr. Holder's nomination gain the support of such a large majority from the Judiciary Committee. I thank all the Democratic members for their thorough consideration of this nomination. In particular, I thank our newly assigned members for following the hearings and participating in our deliberations without missing a step. I thank the Republican members, as well. I had said that Senators could vote for or against the nomination and two Senators determined to vote no, as is their right. With respect to the six Republican members who ended up supporting the nomination, I note that Senator HATCH, a former chairman of the Judiciary Committee, did so early on. Then, in the last days the ranking Republican member of the committee, another former committee chairman, as well as Senator GRASSLEY, Senator SESSIONS, a former U.S. attorney and State attorney general, Senator KYL, the Republican whip, and Senator GRAHAM came to support the Holder nomination. In my three and a half decades in the Senate, I have never seen a nominee as qualified as Eric Holder to serve as the Nation's top law enforcement officer.

The need for new leadership at the Department of Justice is as critical today as it has ever been. Over the last few years, political manipulation from the White House has undercut the Justice Department in its mission, and shaken public confidence in our Federal justice system.

The Judiciary Committee expended a good deal of effort over the last 2 years to uncover scandals at the Department of Justice. Former Attorney General Gonzales and virtually every top-ranking Department official resigned during our inquiry. Likewise, Karl Rove and his White House political deputies resigned.

Before the November election, I coauthored an article with our ranking Republican member. We wrote that the next Attorney General ''must be someone who deeply appreciates and respects the work and commitment of the thousands of men and women who work in the branches and divisions of the Justice Department, day in and day out, without regard to politics or ideology, doing their best to enforce the law and promote justice.'' I have every confidence that Eric Holder is such a person.

Mr. Holder's designation was greeted with delight by the career professionals at the Justice Department because they know him well. They know he is the right person to restore the Department. They know him from his 12 years at the Public Integrity Section, from his time as the U.S. attorney for the District of Columbia, from his tenure on the bench, and from his years as the Deputy Attorney General, the second-highest ranking official at the Department. His confirmation will do a great deal to restore morale and purpose throughout the Department.

It is important that the Department also have the rest of its senior leadership in place without delay. This week, we will hold a hearing for the Deputy Attorney General nominee, and I will soon notice hearings for the other members of the Justice Department leadership team.

I wished we could have moved even more quickly to put the new leadership in place at the Department at a time when we face serious challenges and threats. When President Bush nominated Michael Mukasey in 2007 to the Attorney General's seat vacated by the resignation of Alberto Gonzales, Senator JON KYL said:

> Since the Carter administration, attorney general nominees have been confirmed, on average, in approximately three weeks, with some being confirmed even more quickly. The Senate should immediately move to consider Judge Mukasey's nomination and ensure he is confirmed before Congress recesses for Columbus Day.

Well, it has been more than twice that long since Mr. Holder's designation and three times that long since reports of his impending nomination. Our consideration was delayed because I accommodated requests from the ranking Republican member and committee Republicans and postponed the hearing until January 15 and then they postponed consideration another week through procedural objections.

Mr. Holder spent more than nine hours testifying before the Judiciary Committee at his hearing 2½ weeks ago, answering every question any member of the Judiciary Committee, Republicans and Democrats, chose to ask him. All Senators were accorded such time as they needed in three extended rounds of questioning to ask whatever they chose.

Despite that extended hearing and a second day of hearings with public witnesses that I convened at the request of our Republican members, in the week after the hearings 12 Senators sent Mr. Holder 125 pages of extensive follow up questions. He has answered these questions—more than 400 of them—as well.

I asked for the cooperation of all members to debate and vote on Mr. Holder's nomination on the day after the President's inauguration but instead, as is his right, the ranking Republican member held over the nomination for another week. I was, as I said, extremely disappointed. I did not

schedule that markup until I had consulted with the Senator from Pennsylvania first. Indeed, he had assured me that he would not hold the matter over. Yet he joined with the Republican members of this committee in a unanimous request to hold over the nomination. Senator MCCAIN was right last week when he said about the President's Cabinet nominations:

> We shouldn't delay. . . . We had an election, and we also had a remarkable and historic [inauguration], and this nation has come together as it has not for some time.''

He concluded that he understood that ''the message that the American people are sending us now is they want us to work together and get to work.''

Regrettably the Republican members of the Judiciary Committee did not hear or act on that message 2 weeks ago. I am glad that they changed course last week and that so many of them have come to support the nomination.

Yet even after receiving strong bipartisan support in the committee, a handful of Senate Republicans chose to delay yet again confirming this well-qualified nominee to his vital post. We could and should have debated Mr. Holder's nomination and confirmed him last week, but some Senators on the other side of the aisle seem unable to resist continuing their partisan tactics of obstruction and delay.

President Obama in his inaugural address spoke about the real challenges facing the country and the American people. He urged that we all work for the common good and ''proclaim an end to the petty grievances'' and ''recriminations'' and that we ''set aside childish things.''

President Obama is right. There is work to be done. There are real threats. There are abuses to be undone and rights that need to be restored. We need to get on with the task of remaking America.

Eric Holder is a good man, a decent man, a public servant committed to the rule of law. He will be a good Attorney General. Republicans know this. They heard from him at his hearing. They have heard the endorsements of former FBI Director Louis Freeh, President Bush's homeland security adviser Fran Townsend, Senator WARNER of Virginia, Senator HATCH, Senator MARTINEZ, and the many Reagan and Bush administration officials who have endorsed his nomination. They have seen the endorsements from the National Association of Police Organizations, the Fraternal Order of Police and the entire law enforcement community.

I would like to put into the RECORD a list of the more than 130 law enforcement and criminal justice organizations, civil rights organizations, victims' advocates, legal practitioners, bar associations, and current and former public officials that support Senate confirmation of Mr. Holder's nomination. These letters from nearly every part of the political spectrum are in the committee's hearing record and available for any Senator to read.

Judge Louis Freeh, a former Director of the Federal Bureau of Investigation who testified before the committee in support of Mr. Holder, said that Mr. Holder ''has the highest legal competence, total integrity, leadership, and, most importantly, the political independence to discharge faithfully the immense trust this Nation reposes in its Attorney General.'' Judge Freeh was ''honored to give him my very highest personal and professional recommendation.'' Former Attorney General William Barr and nine Republican lawyers and former officials wrote to the committee in support of Mr. Holder's nomination. They noted ''that not only is Eric superbly qualified to be Attorney General, but he is truly a good man.'' They further urged ''his rapid confirmation as our next Attorney General of the United States.'' James Comey, the Deputy Attorney General under President George W. Bush and before that prosecutor in charge of the Marc Rich case and the criminal investigation into the Marc Rich pardon, described Mr. Holder as ''a smart, decent, humble man, who knows and loves the Department and has demonstrated his commitment to the rule of law across an entire career,'' and urged his confirmation.

The endorsement from the Leadership Conference on Civil Rights and a number of civil rights organizations expressed ''strong support for the historic nomination of Eric Holder to the position of Attorney General of the United States,'' citing Holder as ''among the most qualified nominees for Attorney General in the last fifty years and . . . uniquely suited to lead the Department at this moment in time.'' The endorsement noted that: ''The nation urgently needs an Attorney General dedicated to restoring the independence and integrity of the Department, with an unquestionable commitment to the Constitution and the rule of law. Eric Holder is the right person for this job.''

Nearly every major law enforcement organization has expressed support for Mr. Holder, including the National Association of Police Organizations, NAPO, and the Fraternal Order of Police, FOP. The National Sheriffs' Association highlighted Mr. Holder's ''outstanding record of public service in his role as a federal prosecutor, a trial judge, the United States Attorney for the District of Columbia and the Deputy Attorney General for the Department of Justice.'' The National Troopers Coalition urged Mr. Holder's ''speedy confirmation to the office of Attorney General'' and wrote that he ''presents a distinguished career as a prosecutor, Superior Court Justice and Deputy Attorney General. This unmatched experience will prove to be invaluable in directing our law enforcement efforts at this difficult time in history.''

Chuck Canterbury, the national president of the FOP, testified in support of Mr. Holder's nomination, saying that Mr. Holder is ''not only well qualified but possessing in excess the requisite character, knowledge, and skills to do this job and be an extremely effective leader for the Department.''

Fran Townsend, President Bush's homeland security adviser, also testified and said:

> I am not here because I believe that, if confirmed as Attorney General, Eric Holder will decide legal issues necessarily in the same way that I would. On the contrary, I expect that there would often be times where this is not the case. I am here because I believe Eric is competent, capable, and a fair-minded lawyer who will not hesitate to uphold and defend the laws and the Constitution of the United States.

Ms. Townsend also pointed to the dangers of delay in confirming Mr. Holder as Attorney General. She testified:

> The Attorney General position must be filled quickly. We remain a nation at war and a nation that faces the continuous threat of terrorist attack. We cannot afford for the Attorney General position to sit vacant or for there to be a needlessly protracted period where the leadership of the department is in question.

I do not know why Republican Senators who supported the confirmation of Alberto Gonzales without any reservation slowed the consideration of the nomination of Eric Holder. He meets and exceeds any fair standard for confirmation. And at this time in our history, with the challenges we face, we need to move forward and confirm the new Attorney General and the leadership team at the Justice Department.

Mr. Holder has demonstrated that he is committed to restoring the rule of law, and, as President Obama said, ''to reject as false the choice between our safety and our ideals.'' I am more convinced than ever that Eric Holder is a person who will reinvigorate the Department of Justice and serve ably as a key member of the President's national security team. He will pursue the Justice Department's vital missions with skill, integrity, independence and a commitment to the rule of law.

I remember when the senior Senator from Pennsylvania took the occasion of the confirmation hearing for John Ashcroft to be Attorney General to apologize to Judge Ronnie White of Missouri for the manner in which his nomination to the Federal court had been rejected in a party-line vote of Senate Republicans.

I remember when the senior Senator from Utah and I had to labor for weeks to overcome the anonymous Republican hold on the Senate floor of Mr. Holder's nomination to be the Deputy

Attorney General in 1997. Regrettably, after celebrating the Martin Luther King, Jr. holiday and the inauguration of Barack Obama as the 44th President of the United States, the Judiciary Committee treated Mr. Holder's nomination to be Attorney General to the tactics of the past—more delay, more obstruction, more partisan muscle flexing. I am pleased that this week those who sought to delay and were considering opposing had second thoughts. Perhaps the unifying spirit of President Obama's inauguration had a delayed effect, perhaps it was the overwhelming support for the nomination, perhaps it was the qualities and qualifications of the nominee himself. Whatever the reason, I am glad to see so many Senators heed President Obama's call and perhaps heard the echo of President Lincoln's first inaugural address and were "touched . . . by the better angels of [their] nature."

I questioned Mr. Holder at his hearing and he gave his commitment to respect the second amendment right to bear arms as an individual right guaranteed by our Bill of Rights. I asked him to work with me on a media shield law, and he said that he would do so. I asked him about revitalizing the Freedom of Information Act, and he was agreeable. President Obama took action on that score in his first full day in office, and once confirmed, Attorney General Holder can bring that policy to fruition so that the Federal Government is more open to the American people.

I asked about anticrime initiatives, strengthening the Violence Against Women Act and defending the Voting Rights Act. On all these matters he was straightforward and supportive. I look forward to working with him to provide greater Federal assistance to State and local law enforcement and to aggressively target fraud and public corruption. He said that his priorities will be the safety and security of the American people and reinvigorating the traditional work of the Justice Department in protecting the rights of Americans.

Mr. Holder has had a long and distinguished career in public service. His willingness to leave a lucrative private law practice and forego extensive earnings in order to return to public service at a time when judges are leaving the Federal bench because of their salary constraints, is commendable.

We need an Attorney General, as Robert H. Jackson said 68 years ago, "who serves the law and not factional purposes, and who approaches his task with humility." That is the kind of man Eric Holder is, the kind of prosecutor Eric Holder always was, the kind of Attorney General he will be, and the kind of family person he is. I met his wife and his family and his wonderful children, and they show what a person he is. The next Attorney General will understand our moral and legal obligation to protect the fundamental rights of all Americans and to respect the human rights of all people.

It is important that the Justice Department have its senior leadership in place without delay. The Attorney General is the top law enforcement officer in the country and a key member of the national security team. With the Bush administration having devoted billions to bailouts in the last few months, we need to ensure that those resources are not diverted by fraud or deceit. We need the Justice Department to be at its best.

The responsibilities of the Attorney General of the United States are too important to have had this appointment delayed by partisan bickering. We have known and worked with Mr. Holder for more than 20 years. He has been nominated by a Republican President and by a Democratic President and confirmed three times by the Senate to important positions over the last 20 years. His record of public service, his integrity, his experience and his commitment to the rule of law merit our respect and deserve our support.

Republicans over the last months sought to make comparisons to other confirmation hearings at other times, and even to those for lifetime appointments to the Supreme Court. These comparisons are inappropriate. For example, the circumstances of the Ashcroft nomination were very different. The country at that time was deeply divided, and those divisions had been inflamed by the manner by which the Supreme Court had intervened to stop the counting of ballots in Florida and decide the outcome. Just before Christmas, President-elect Bush had further accentuated the divide by his polarizing designation of John Ashcroft to be Attorney General. By contrast, we have just experienced the historic election of Barack Obama. President Obama has made numerous efforts already to be inclusive and to reach across the political aisle.

His selection of Eric Holder 2 months ago was greeted by nearly universal acclaim. The domestic and economic challenges to our country in recent years have been the most serious since the Great Depression. In recognition of those circumstances, Democrats expedited consideration of President Bush's nomination of Michael Mukasey to be Attorney General. Democrats scheduled a hearing quickly and did not hold the nomination over when it was scheduled for consideration. Those of us who were troubled by his unwillingness to acknowledge that waterboarding is torture voted no, but we were not dilatory. We did not play partisan political games.

My fundamental concern with President Bush's nomination of his White House counsel Alberto Gonzales was that he would not be independent of the White House. I did not oppose that nomination in a kneejerk, partisan reflex. Indeed, I initially hoped that he would be an improvement over the Ashcroft years. I met with Mr. Gonzales, raised the issue in my initial statement at his confirmation hearings and gave him opportunity after opportunity to demonstrate that he understood the role of the Attorney General. He did not. Ultimately I opposed that nomination. History proved me right. At the time, not a single Republican Senator was concerned. They all voted in favor of the Gonzales nomination. If that nomination met their standard for consideration, all of them must support Mr. Holder's nomination.

Unlike Mr. Gonzales, Eric Holder understands the responsibilities of the Attorney General of the United States, and the need to uphold the law and act in the interests of the American people, and not just the President. Unlike Mr. Ashcroft, he admitted past errors and has learned from his mistakes. Unlike Judge Mukasey, he recognizes that waterboarding is torture and that the legal opinions of the Bush era need to be reviewed and revised where they are found to be wrong. If an American were waterboarded by some government or terrorist anywhere in the world, it would be torture and illegal. It would not "depend on the circumstances" as the Bush Attorneys General maintained.

I recall the incident that Jane Mayer wrote about in her book "The Dark Side." During a meeting of top White House officials like Vice President Cheney, National Security Adviser Rice, the CIA Director and the Attorney General, in which they were hearing the details of what the Bush administration liked to call "enhanced interrogation techniques," Attorney General Ashcroft is quoted as warning: "History will not judge us kindly."

The Senate should proceed to confirm President Obama's nomination of Eric Holder without further delay. We must have leadership in place at the Justice Department to begin the vital work that must be done to carry out the Executive orders signed by President Obama last week that will finally put an end some of the Bush administration's most damaging national security policies. These orders call for the Attorney General to coordinate comprehensive interagency reviews of the Guantanamo Bay Detention Facility by the State Department, Director of National Intelligence, Homeland Security Department and Joint Chiefs of Staff and to chair task forces with the DNI and Department of Defense reviewing interrogation and detention policies. We need Mr. Holder in place as Attorney General to carry out these orders and put the government's detainee policies on a solid legal footing for the first time in many years.

I do not want another Attorney General who sits in the room while others in our Government approve the secret wiretapping of Americans in violation of our laws, or approve torture.

I want an Attorney General who stands up for the rule of law and our long-cherished American values. I believe Eric Holder will be that kind of Attorney General.

The rationales for holding up and opposing this nomination have shifted over time, since Karl Rove called for partisan opposition. Now it seems that some Republican Senators want the Nation's chief prosecutor to agree that he will turn a blind eye to possible lawbreaking before investigating whether it occurred. Senator WHITEHOUSE is quite right that what Senator CORNYN and others are now asking for is a pledge no prosecutor should give. No Senator should demand such a bargain for his vote. Senators can vote in favor or they can ignore the needs of the country and the qualifications of the nominee and vote against, but no one should be seeking to trade a vote for such a pledge.

When he designated Mr. Holder, President Obama said:

> The Attorney General serves the American people. And I have every expectation that Eric will protect our people, uphold the public trust, and adhere to our Constitution.

I have no doubt that Mr. Holder understands the serious responsibilities of the Attorney General of the United States and that his experience and integrity will serve him and the American people well.

Madam President, I ask unanimous consent to have the list of 130 supporters of the nomination of Eric Holder that I mentioned earlier printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF SUPPORT FOR THE NOMINATION OF ERIC HOLDER TO BE ATTORNEY GENERAL OF THE UNITED STATES

CURRENT & FORMER PUBLIC OFFICIALS

Asa Hutchinson, former U.S. Attorney, Republican Congressman, Undersecretary for Homeland Security in Bush Administration; Bob Barr, Former Congressman; Carla Hills, former Assistant Attorney General, Civil Division, former U.S. Trade Representative; Carol Lamm, former President of the District of Columbia Bar; Charles La Bella, former US Attorney; Chris Wray, former Assistant Attorney General, Criminal Division; Dan Bryant, former Assistant Attorney General, Office of Legal Policy and Office of Legislative Affairs; Congressional Black Caucus; Craig S. Morford, former Acting Deputy Attorney General.

GOP Lawyers: William P. Barr, Former Attorney General; Joseph E. diGenova, Former United States Attorney for the District of Columbia; Manus M. Cooney, Former Chief Counsel, Senate Judiciary Committee; Stuart M. Gerson, Former Acting Attorney General, Former Assistant Attorney General; Makan Delrahim, Former Staff Director, Senate Judiciary Committee and Former Deputy Assistant Attorney General; Michael J. Madigan, Former Federal Prosecutor and Chief Counsel, Senate Special Investigations, Committee on Government Affairs; Michael O'Neill, Former Chief Counsel/Staff Director, Senate Judiciary Committee and Former Commissioner, United States Sentencing Commission; Victoria Toensing, Former Deputy Assistant Attorney General and Former Chief Counsel, Senate Intelligence Committee; George J. Terwilliger, III, Former United States Attorney for the District of Vermont and Former Deputy Attorney General; Charles R. Work, Former Federal Prosecutor and Former President, District of Columbia Bar.

James B. Comey, former Deputy Attorney General; John P. Sarcone, Polk County Attorney, Iowa; Karen Tandy, former Administrator, Drug Enforcement Administration; Larry D. Thompson, former Deputy Attorney General; Louis J. Freeh, Judge and Former FBI Director; Paul McNulty, former Deputy Attorney General, former U.S. Attorney; Sheila Jackson-Lee, Congresswoman, Eighteenth District, Texas.

State Attorneys General: Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wyoming.

Theodore B. Olsen, former Solicitor General and Assistant Attorney General, Office of Legal Counsel; United States Conference of Mayors; Luis G. Fortuño, Governor of Puerto Rico; Kenneth L. Wainstein, former Assistant to the President for Homeland Security and Counterterrorism.

LAW ENFORCEMENT & CRIMINAL JUSTICE ORGANIZATIONS

American Probation and Parole Association; Federal Law Enforcement Officers Association; Fraternal Order of Police; International Association of Chiefs of Police; International Union of Police Associations; Major Cities Chiefs Association; National Association of Assistant U.S. Attorneys ; National Association of Blacks in Criminal Justice; National Association of Drug Court Professionals; National Association of Attorneys General; National Association of Police Organizations (NAPO); National Black Prosecutors Association; National Crime Prevention Council; National Criminal Justice Association; National District Attorneys Association; National Law Enforcement Officers Memorial Fund, Inc.; National Narcotics Officers' Associations' Coalition; National Organization of Black Law Enforcement Executives; National Sheriffs Association; National Troopers Coalition; Police Executive Research Forum.

VICTIMS' ADVOCATES

Anne Seymour, National Crime Victim Advocate; Appriss; Brady Campaign to Prevent Gun Violence; Dan Levey, National President of Parents of Murdered Children, Inc. (POMC), Advisor for Victims to Arizona Governor Janet Napolitano; Illinois Victims; International Organization for Victim Assistance; Justice Solutions, NPO; Maryland Crime Victims' Resource Center, Inc.; Mothers Against Drunk Driving (MADD); National Center for Missing and Exploited Children; National Center for Victims of Crime; National Crime Victims Research & Treatment Center; National Leadership Council for Crime Victim Justice; National Network to End Domestic Violence; National Network to End Violence Against Immigrant Women; National Organization for Victim Assistance; National Organization of Victims of ''Juvenile Lifers''; Partnership for Safety and Justice; Security on Campus; Sharon J. English, Homicide Victim Survivor, Crime Victim Services Advocate.

CIVIL RIGHTS ORGANIZATIONS

American-Arab Anti-Discrimination Committee; Anti-Defamation League; Asian American Justice Center; Center for Neighborhood Enterprise; Leadership Conference on Civil Rights, December 18, 2008 (signatories: Leadership Conference on Civil Rights, Alliance for Justice, American Federation of Labor and Congress of Industrial Organizations, Americans for Democratic Action, Inc., Asian American Justice Center, Center for Inquiry, Feminist Majority, Human Rights Campaign, The Judge David L. Bazelon Center for Mental Health Law, Lawyers' Committee for Civil Rights Under Law, National Abortion Federation, National Association for the Advancement of Colored People, NAACP Legal Defense & Education Fund, Inc., National Council of Jewish Women, National Council of La Raza, National Fair Housing Alliance, National Health Law Program, National Partnership for Women & Families, National Organization for Women, National Urban League, People for the American Way, Planned Parenthood Federation of America).

Leadership Conference of Civil Rights, January 14, 2009 (additional signatories: A Network for Ideas & Action; American Federation of State, County and Municipal Employees; American-Arab Anti-Discrimination Committee; Americans United for Change; Association of Community Organizations for Reform Now; Campaign for America's Future; Center for Community Change; Center for the Study of Hate & Extremism; Coalition of Labor Union Women; Coalition of Human Needs; Common Cause; Communications Workers of America; DC Vote; Family Equality Council; GLSEN—The Gay, Lesbian and Straight Education Network; International Union, United Automobile, Aerospace, & Agricultural Implementation Workers of America; League of United Latin American Citizens; Mexican American Legal Defense and Educational Fund.

National Asian Pacific American Bar Association; National Association of Human Rights Workers; National Black Justice Coalition; National Center for Lesbian Rights; National Center for Transgender Equality; National Coalition for Asian Pacific American Community Development; National Council of Negro Women; National Education Association; National Employment Lawyers Association; National Gay and Lesbian Task Force Action Fund; National Network to End Domestic Violence; National Women's Law Center; Parents, Families and Friends of Lesbians and Gays National; Progressive Future; Service Employees International Union; Sikh American Legal Defense and Education Fund; U.S. Public Interest Research Group; Unitarian Universalist Service Committee; United Food and Commercial Workers International Union; USAction; Wider Opportunities for Women; Women Employed).

Leadership Conference of Civil Rights, January 14, 2009 (signatories: Wade Henderson and Nancy Zirkin); Mexican American Legal Defense and Educational Fund; National Association for the Advancement of Colored People (NAACP); National Women's Law Center; People for the American Way; Southern Poverty Law Center; National Council of Asian Pacific Americans.

OTHER SUPPORTERS

African-American Partners at Covington & Burling, LLP: Thomas S. Williamson, Jr., Michael St. Patrick Baxter, Catherine J. Dargan, Jennifer A. Johnson, Lisa Peets, Loretta Shaw-Lorelle.

Boys and Girls Clubs of America; City of Mendota California; Hispanic National Bar Association; John Walsh, Host of America's Most Wanted; Mario Thomas Gaboury, J.D., Ph.D., Professor and Chair of Criminal Justice, University of New Haven, Ct.; National Bar Association; Partners of Color in Washington, D.C. Firms; Samuel M. Aguayo, M.D., Staff Physician at the Atlanta Veterans Affairs Medical Center; Young Lawyers Section of the Bar Association of the District of Columbia; Washington Bar Association; Wesley S. Williams, Jr., former Partner, Covington & Burling, LLP; Karen Hastie Williams; retired Partner, Crowell & Moring, LLP; Stanley V. Campbell, Jr., CEO of Business Intel Solutions.

Mr. LEAHY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I begin today as I began my opening statement on the confirmation hearing of Mr. Holder as Attorney General-designate. I begin today with the statement that I wish to be helpful to President Obama in his new administration and to reach across in a bipartisan fashion to help the President restructure the Department of Justice. In so doing, the beginning point of reference is the Constitution, which places upon the Senate the responsibility to confirm. That involves, under the principles of checks and balances, inquiry into the nominee, which has been undertaken in the Judiciary Committee.

There is a sharp distinction between the Attorney General and other Cabinet officers. Other Cabinet officers carry out the President's programs and his policies. But the Attorney General has an independent responsibility to the people to uphold the rule of law. That is a very important quality. We have seen, historically, some Attorneys General who have succeeded admirably in that responsibility. Elliot Richardson, for example, refused to fire Archibald Cox at the direction of President Nixon on the infamous Saturday Night Massacre. Richardson himself resigned. Griffin Bell, Attorney General for President Carter, stood up to the President, who wanted him to initiate a certain criminal prosecution that Attorney General Bell thought was inappropriate, and he laid down the marker: If the President wanted that prosecution brought, he would have to find himself a new Attorney General.

Other Attorneys General have not fared so well. Attorney General Daugherty of the Teapot Dome fame was sharply criticized in that scandal, although later he was personally exonerated. Attorney General Homer Cummings in the Roosevelt administration, author of the so-called court-packing plan, did not display the kind of independence that was requisite. And I expressed my own concerns about Mr. Holder on a series of matters he handled as Deputy Attorney General.

Beyond any question, Mr. Holder brings an extraordinary résumé to this position, an excellent academic record, including Columbia for his undergraduate degree and law school; he served as U.S. attorney for the District of Columbia; he was a District of Columbia Superior Court judge; he served as a Deputy Attorney General and as a partner in a prestigious law firm handling many important matters.

One recommendation in favor of his nomination I found particularly weighty was the recommendation of former FBI Director Louis Freeh. I have a very high regard for former Director Freeh. I knew him and worked closely with him on the Judiciary Committee on FBI matters and especially closely during the 104th Congress when I chaired the Intelligence Committee. Director Freeh was sharply critical of Mr. Holder on a number of items that were concerns of mine. Notwithstanding that, Director Freeh recommended Mr. Holder for the job.

There is the infamous case of the Marc Rich pardon. He was a man who was a fugitive from justice, a man who had violated the Federal law, selling arms to Iran. Yet he was given a pardon out of the ordinary, without going through regular channels. That was a pardon to be rejected by any standard, in my opinion. Mr. Freeh characterized the pardon as corrupt. I cannot be any stronger than that. The corrupt act was in granting the pardon, not in Mr. Holder's recommendation of ''neutral, leaning favorable.'' But that was beyond the realm of what would ordinarily be considered prudent and independent.

Mr. Freeh was also critical of Mr. Holder on the FALN terrorist commutation of sentences. The FALN terrorists robbed banks and committed murders and were released from jail on the recommendation of Mr. Holder. There again, Mr. Freeh was very critical. Nonetheless, he recommended Mr. Holder for Attorney General.

The failure to appoint independent counsel in the investigation into Vice President Gore for an alleged violation of campaign finance laws, raising money from the White House—Director Freeh characterized it as one of the strongest possible grounds for appointing independent counsel, and the Department of Justice, with Mr. Holder's participation, declined to do so. Still, Mr. Freeh recommended the confirmation of Mr. Holder.

Also, there is the strong recommendation of former Deputy Attorney General James Comey, a man whom I also worked with in the Department of Justice, which was weighty, as was the strong recommendation of former Secretary of Transportation William Coleman.

So with all of those factors considered, it seemed to me that Mr. Holder was entitled to the benefit of the doubt and President Obama's nominee ought to be confirmed. It was for that reason that I voted aye in recommending Mr. Holder for action by the full Senate.

I think, too, at the beginning of an administration it is significant to have bipartisan support. I commented at the committee level that when Senator LEAHY or his ranking member supported the confirmation of Chief Justice Roberts, that was a signal of bipartisan support, which was important and another factor that weighed in my consideration.

I had discussed with Mr. Holder the issue of how to handle possible prosecutions against individuals who may have been engaged in waterboarding, where that question has been raised in some quarters. Mr. Holder went about as far as he could, saying that if there is a valid legal opinion and there is action within the confines of the opinion, that would weigh heavily against prosecution. Obviously, all of these matters are very much fact-determinative. I think those assurances go about as far as one can go.

I also questioned Mr. Holder about the recognition of the differences in interrogation techniques of the Army Field Manual, contrasted with that of the FBI, which is stronger, and then again contrasted with the CIA, which may be a little stronger yet, and that all of those factors had to be considered in evaluating the interrogation tactics, depending upon the rule and the circumstances.

I expressed my concerns to Mr. Holder about the Department of Justice policy on extracting really what amounts to coercion of a waiver of the attorney-client privilege, where the Department goes in and deals with the corporation and secures a waiver of the attorney-client privilege, subjecting employees to losing their privilege, in the context where the Department threatens more severe charges or stronger recommendation on sentencing. This practice began with the Holder Memo in 1999 and was carried through in the so-called Thompson Memo and then the McNulty Memo, and legislation is pending which would change that.

In my view, there are two very basic principles involved. One is the obligation of the commonwealth government to prove its case beyond a reasonable doubt and, secondly, the right to counsel. An indispensable ingredient of right to counsel is a privilege, to be able to communicate freely to an attorney. When I was district attorney of Philadelphia, handling very complex, tough prosecutions, many involving governmental corruption, I would never have dreamed of trying to prove

my case out of the mouth of the defendant. I believe Mr. Holder will look at this with a conciliatory attitude as we work on that legislation through the Congress.

I also talked to Mr. Holder about the issue of reporters' privilege. Judith Miller of the New York Times spent 85 days in jail—I visited her in a jail in Virginia—for failing to disclose confidential informants when the source of the information was known. Mr. Holder also acknowledged the extensive authority of the Congress under standards defined in the congressional research memorandum, which I provided to him, and gave assurances that he would be available to talk to the minority as well as to the majority on matters of concern.

For all these reasons, I am pleased to move ahead at this time to lend my support to the confirmation of Attorney General-designate Eric Holder.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I was about to yield—we do our normal back and forth—to the Senator from Illinois. I understand the Senator from Oklahoma has a time constraint, if the Senator from Pennsylvania would like to yield time off his side to him.

Mr. SPECTER. Yes, I am prepared to yield time. Senator CORNYN is next on the list. How much time would the Senator from Oklahoma like?

Mr. COBURN. Madam President, short of 15 minutes; probably 15 minutes.

Mr. SPECTER. I yield that time to Senator COBURN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I thank the chairman for his graciousness, and I thank the ranking member.

Last week in the Judiciary Committee, I voted against the nomination of Eric Holder. I was not, because of time constraints, offered the opportunity to express my reasoning and logic for that opposition. Today, I rise to explain my opposition and to urge others to share my concerns to do the same.

I have high praise for Eric Holder as an individual and as a lawyer. I believe certain aspects, however, of his record disqualify him as serving as Attorney General. I plan on outlining those in this talk before the Senate today, specifically, his facilitation of the Marc Rich pardon, his defense as reasonable of the FALN terrorists' commutations, in addition to his views on the first amendment and second amendment, specifically his answers with respect to the fairness doctrine.

Eric Holder has spent most of his distinguished career as a public servant. By all accounts, he is a brilliant lawyer. His nomination was met with high praise from both sides of the aisle. His intellect and ability have been noted throughout his career, and they were duly noted in his appearance before the Senate Judiciary Committee.

Moreover, I believe him to be a man of good character. The long line of individuals who have voiced support for his nomination speaks to the high regard in which he is clearly held. In our private meeting, I found him to be personable and kind. He is undoubtedly a good man.

These good qualities, however, are not enough to overcome the concerns I have with this nomination. In particular, four issues have caused me to conclude that Eric Holder should not be given the assignment as the next Attorney General of the United States. I believe these matters suggest he lacks judgment, that he lacks independence, and my concern is that he now, from his testimony, lacks candor for such an important job.

Eric Holder's role in facilitating the controversial pardon of fugitive financier Marc Rich is perhaps the most notorious blight on his record. Even now, 10 years later, the condemnation of that pardon is strong. Indeed, not even Mr. Holder will defend his actions, telling the committee it was a naive mistake.

Eric Holder's involvement in this unconscionable pardon suggests he has dangerously poor judgment or he has an inability to say no to powerful political pressure. As Deputy Attorney General, he orchestrated an end run around the Justice Department, ignoring the advice of prosecutors and career professionals who opposed clemency for Marc Rich. Although pardoning a fugitive was extremely rare, the candidate appeared to have no qualms with the proposition.

While he acknowledges his role in this pardon as a mistake, Mr. Holder offers a curious explanation for the error. He told the committee he was not familiar with Rich's record at the time of the pardon. First of all, I find this to be unbelievable, as the facts suggest otherwise.

Just a few years before the pardon, when Holder was U.S. attorney for the District of Columbia, his office sued one of Rich's companies after an extensive investigation into contract fraud. The complaint that was filed in that case and comments that were made to the press make it almost impossible to believe Eric Holder was unfamiliar with Rich at the time of the pardon.

Moreover, given that Rich had been featured as one of the FBI's top 10 most wanted fugitives, it is even harder to believe Mr. Holder did not become familiar with the man in the 15 months that passed between the time he was first contacted by Rich's lawyer and the day clemency was issued.

To say that this pardon was a mistake is an understatement of the worst kind. As others have pointed out, the best thing Eric Holder could have done for himself and his boss would have been to oppose the pardon and convince President Clinton not to issue it.

While I readily acknowledge mistakes are inevitably made by us all, I find the excuse for this one implausible. Eric Holder is a bright and contentious lawyer. At the time of the Rich pardon, he had served for 3 years as Deputy Attorney General. In short, he should have known better. Because he allowed his good judgment to be overridden by political influence, I believe this act alone should suffice to disqualify him from higher office.

Although the Marc Rich pardon may have been the best known act of controversial clemency in Eric Holder's record, the commutation of sentences for 16 FALN terrorists became an issue of equal, if not greater, concern throughout the hearing. The FALN organization had been linked to 150 bombings, threats, kidnappings, and other events which resulted in the deaths of at least six Americans and the injury of many more between 1974 and 1983. It is not hard to understand why these commutations were strongly opposed by the U.S. attorney, the FBI, the pardon attorney at the Department of Justice, as well as the victims' families. What is hard to understand is why Eric Holder chose to ignore those opinions and instead facilitate clemency for these convicted terrorists.

New information discovered just before the hearing revealed that Eric Holder played an active role in securing these commutations. According to the L.A. Times, "Holder instructed his staff at Justice's Office of the Pardon Attorney to effectively replace the department's original report recommending against any commutations, which had been sent to the White House in 1996, with one that favored clemency for at least half the prisoners."

Unlike the Rich pardon, Holder has embraced his role in endorsing these commutations. He told Senator SESSIONS during our committee hearings that the decision was reasonable and has stood unapologetically by that statement, even when it was proven that he knew very little about the terrorists or their crimes at the time of the commutations.

Perhaps no one is as angry about Holder's role in this incident, or about his elevation to this distinguished office, as Joseph Connor, whose 33-year-old father was murdered when the FALN bombed the New York City restaurant where he was eating lunch. Mr. Connor was 9 years old. He has written numerous editorials and gave compelling testimony at our hearing about how devastating and indefensible these commutations were. I quote him:

> We Americans have to make clear that we will not tolerate officials who would put our

lives in jeopardy by releasing terrorists. It is a disrespectful affront to all Americans, particularly to those of us who have come face to face with their violence.

Mr. Connor's testimony struck a chord with me due to my own experiences with domestic terrorism. Having dealt with the shock and the aftermath of the Oklahoma City bombing, which happened prior to the FALN commutations, I can relate to the grief and anger felt by the family member of a victim murdered senselessly by terrorists. I have seen the devastation these acts of violence inflict on a community and especially on the families they most directly impact. I have heard from the many law enforcement officers who work the scene, gather the evidence, and tend to the victims. I have witnessed the long and difficult process of prosecution, conviction, and sentencing. I know that bringing perpetrators to justice is a crucial part for these families' healing process.

I cannot imagine how all those things would come undone if justice were undermined, as it was in the FALN case.

The danger of commuting the sentences of terrorists responsible for the murder of American citizens and intent on killing even more is obvious. I will not recount those concerns here, but to help give a voice to Joe Connor and to the many other surviving family members of terrorist victims, I ask that our colleagues consider the effect these decisions had on them. We are accountable to each and every one.

Eric Holder also raises another concern with me and that is his hostility to the second amendment. I heard our chairman speak earlier about how he said he would uphold the second amendment, but when queried directly and specifically about components of the second amendment, the answers were not forthcoming.

As Deputy Attorney General, he advocated restrictive gun control legislation, such as waiting periods, an age limit, that a soldier coming back from Iraq could not own a shotgun because he wasn't 21 yet, a registration for every gun in this country, the elimination for me to be able to give my shotgun to my grandson when it is time to teach him to go hunting. All those things he has espoused limiting the second amendment.

While he has advanced those restrictions as a member of the Clinton administration, working under Attorney General Janet Reno, he remained active in anti-gun advocacy after he entered the private sector. After the attacks of September 11, he authored an op-ed for the Washington Post, entitled ''Keeping Guns Away from Terrorists.''

I will not go through the details of that piece, but the details of what he purports to support would have a devastating impact on the second amendment in this country.

Perhaps the most telling and unsettling aspect of Mr. Holder's anti-gun record is the signing of an amicus brief in the Supreme Court's seminal second amendment case, in which he argued that the Constitution did not protect an individual's right to bear arms. I believe he actually believes that—that we don't have the right. He now tells us that is settled with the Heller case. But on further query, we get tremendously nervous about his support for the second amendment. The Supreme Court rejected his view on the second amendment unanimously.

His statement in our hearing that he respects Heller as the law of the land does not provide enough assurance on his commitment to defend the second amendment. It is neither controversial nor instructive to make such a statement. What matters are his views on specific proposals for gun control legislation and regulation.

At his hearing, I used the vast amount of my time in three rounds of questioning to try and extract opinions from Eric Holder on the second amendment. In his testimony, he advocated a permanent ban on so-called assault weapons, an age restriction on handgun possession—again, many of our troops returning home and out of the military after 2 years would not be able to have a handgun because they are not 21—and closing the gun show loophole. What that means is I cannot sell a gun to one of my neighbors without a background check on my neighbor. I cannot actually sell a piece of material I have to someone without going through a gun check, or I cannot even sell it to my brother.

He refused to commit to defending State right-to-carry laws. There are more than 40 States that have these laws. He was questioned over and over and would not answer affirmatively that he would use the power of the attorney to uphold the second amendment.

He repeatedly testified that gun regulation was not a priority for either he or the administration. Consistently, Mr. Holder has unapologetically embraced his anti-gun views. Yet at his confirmation hearing, he would not tell us what those views were.

He has been a vocal gun control advocate in the past, both in his official and individual capacities. He was not candid on the second amendment issue, an issue he has followed for years, as he was on interrogation techniques, an issue which he could not possibly have enough information to prejudge.

After an extensive review of his record and his testimony, I have concluded that Eric Holder as Attorney General will not defend—not adequately defend—the second amendment.

Finally, I have serious doubts as to whether Eric Holder is committed to defending the first amendment against threats such as the so-called fairness doctrine. This policy existed for decades before being abolished in 1987 and rightly so. Today, the concept has been revived and the threat of Government censorship over the airwaves is again a real possibility.

At our hearing, Eric Holder was asked about his thoughts on this proposal. Specifically, he was asked whether, as a matter of public policy, the fairness doctrine should be reinstated, to which he replied:

> [T]hat's a toughie. I've not given an awful lot of thought to [it].

It is hard to accept that Eric Holder, a former Deputy Attorney General, somehow missed the debate over this prominent issue in our society. It is even harder to accept his answer when reviewing his past statements about media bias.

This not-so-thinly-veiled attack targets the very media outlets that advocates of the fairness doctrine hope to cripple. While this may be an acceptable position for a private advocate, there is no room for this kind of bias in the Department of Justice. Unfortunately, Mr. Holder said nothing to ease concerns about his predisposition on this issue. In written responses to further questions from the committee he said this: If a law or regulation is enacted that seeks to implement some version of the fairness doctrine, I will work with other agencies in the new administration and in the Department's Office of Legal Counsel to reach a considered view about the constitutionality of the specific law or regulation under consideration.

Remarkably, although Mr. Holder was given an opportunity to distance himself from the inflammatory comments he made in the 2004 speech, the best he could offer was a commitment to give a ''considered view'' of any such legislation.

What I expected from a prospective Attorney General was, first and foremost, a clear and strong commitment to uphold and defend the first amendment. What Eric Holder said fell far short of my expectation.

The so-called ''Fairness Doctrine'' is not a ''toughie'' issue, as it was described by the presumptive Attorney General.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COBURN. I ask unanimous consent for 3 additional minutes.

Mr. SPECTER. Okay.

Mr. COBURN. As former FCC Chairman James Quello argued shortly after the policy was repealed,

> The fairness doctrine doesn't belong in a country that is dedicated to freedom of the press and freedom of speech.

I agree and am disturbed that our likely next Attorney General apparently does not.

In conclusion, after listening carefully to Eric Holder's testimony, especially regarding each of the issues I

raised today, I am forced to conclude that he lacks the judgment, independence, and candor necessary to be Attorney General. I did not reach this conclusion without careful consideration.

When I first came to the Senate, one of the first votes I had to make was on the nomination—to consent and advise—on Attorney General Alberto Gonzalez. I had a catch in my spirit on that nomination. I should not have cast a vote for him. I was the first Republican to suggest that he should resign because he did not display the independence, the candor, or the support for the rule of law. Although hindsight is always 20/20, I reserve my right to do the right thing on this nomination. There is no difference between the lack of independence that has been demonstrated by the testimony of Eric Holder and his past and what we saw in the lack of independence of previous Attorneys General.

Oftentimes, nominees come to the Senate with nearly a blank slate. This was not the case with Eric Holder. His time in public service, specifically his stint as Deputy Attorney General for President Clinton, served as an audition for this position. His role in the pardon and commutations is very troubling. I believe, in summary, independence is lacking, candor is lacking, and judgment is lacking. President Obama deserves some degree of deference in his choices, but no President is entitled to a Cabinet member who will neglect the Constitution and his own sound judgment to facilitate a bad political decision.

I regret I cannot, in good conscience, support his nomination.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I know we proposed going with two on the Republican side and with two on the Democratic side. We will next go with Senator BURRIS and then Senator DORGAN.

I would note in this debate—and I apologize for my voice; I am recovering from laryngitis—that, one, the Justice Department is not the Department that handles the fairness doctrine. Out of fairness to Mr. Holder, that is not a matter that comes before the Attorney General.

Secondly, I asked Mr. Holder specifically a question about his views on the Second Amendment—because we do not have in Vermont the restrictive gun laws that the people in Oklahoma have supported or the restrictive gun laws the people of Texas or Pennsylvania have supported. We have less restrictive gun laws than any State in the Union. I own many firearms myself. I asked Mr. Holder specifically if he would, in a State without restrictive gun laws, such as Vermont, seek to replace those State laws with more restrictive Federal gun laws similar to those of the many other States represented on the Judiciary Committee, and he said no.

Madam President, I yield 10 minutes to the Senator from Illinois.

Mr. SPECTER. Madam President, if I could have the attention of the chairman.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I wish to yield 20 minutes to Senator CORNYN at the conclusion, but do we have an idea as to how long, or when that will be?

Mr. LEAHY. Next will be Senator BURRIS and then Senator DORGAN. I ask the Senator from North Dakota, Madam President, approximately how much time he wants.

Mr. DORGAN. Ten minutes.

Mr. LEAHY. I would seek to yield 10 minutes to the Senator from Illinois and 10 minutes to the Senator from North Dakota, and then yield back time.

Mr. SPECTER. Then I would give 20 minutes to Senator CORNYN.

Mr. CORNYN. Madam President, I ask unanimous consent to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. BURRIS. Madam President, with humility for an honor neither sought nor expected, I rise for the first time as a U.S. Senator.

At a time of great consequence for our country's long march toward justice—and the moral compass we call the Constitution that guides our path—I rise to strongly support President Barack Obama's nominee for the office of U.S. Attorney General, Eric Holder.

As we look toward the future, I begin with a few words about the past. Back in the 1950s, there was a place in my hometown of Centralia, IL, called the pig wobble, and it wasn't hard to figure out why: Pig wobble was the place where the horses, the cows, and, yes, the pigs, from all nearby farms came to drink water. It was also the place where African-American children came to swim in the summertime.

My friends and I swam in the pig wobble until the summer of my 16th birthday, in 1953, when, after previous efforts to integrate the park swimming pool where only white children swam had failed. My dad finally had enough of his children swimming with the farm animals while the White children went off to the nice clean neighborhood pool. My dad and his minister, who ran the local chapter of the NAACP, determined that the time had come for Black children to swim in the community pool. They decided they would need an attorney to represent us. There were no Black lawyers in Centralia, so my father traveled to Chicago seeking legal assistance, but no lawyer was interested in representing us. He returned home, and the following day went to East St. Louis, IL, and retained a Black attorney to represent us.

When the pool opened on Memorial Day, my brother and I, along with three brothers from another family, swam and integrated the pool without incident. Later, we were home celebrating our accomplishments, but when my dad returned home he was very upset. We questioned why, and he explained that the lawyer he had hired did not show up. My father then said these words:

> If we as a race of people are going to get anywhere in our society, we need lawyers and elected officials who are responsible and responsive.

From that conversation with my father when I was 16, I set a goal for myself that I would try in my life and career to be responsible and responsive to the cause of justice.

When President Obama nominated Eric Holder to be Attorney General of the United States, my father's words came to mind. Eric Holder is the embodiment of what my father envisioned on that day. Mr. Holder has been responsible and responsive his entire career. He has been a leader in the long march toward justice, not just for African Americans but for all Americans who treasure our Nation's founding principles of freedom, equality, and personal liberty. Once confirmed, he will open the gates of justice once again to the public interest, not the special interests, and to those who are concerned not with the expansion of power but with the use of power for the common good.

The mission of the Department of Justice is to enforce the law, to ensure the public safety, to prevent crime, and to seek fair, impartial justice for all Americans. Sadly, for the past 8 years, the Department has not lived up to the promise of that sacred mission. Americans, particularly those of us in the legal community, have seen the Justice Department sink further into corruption, cronyism, and gross mismanagement.

I have watched with particular despair as the Federal initiatives to fight violent crimes against women, a program similar to the one I enacted as Attorney General in my State of Illinois, was underfunded, politicized, and largely abandoned. We have the chance today to turn the page by confirming Eric Holder.

At a time when the Department of Justice has lost dozens of competent, effective career attorneys, it is long past time for an Attorney General to put competence first. At a time when the Civil Rights Division, long known as the crown jewel of the Justice Department, has seen its mission undermined and misdirected, it is time for an Attorney General who will keep justice blind and put our Constitution first. At a time when our moral authority in the world is threatened by the

immoral acts that were sanctioned from the top, we need an Attorney General who will put civil liberties first. At a time when the threat of terrorism continues to haunt us, we need an Attorney General who will put public safety first. At a time when the crimes of a Wall Street few have spoiled an economy for the Main Street many, we need an Attorney General who will put people first.

We can be certain that Eric Holder will do these things because he has spent his entire career building and broadening a deep well of public trust.

After graduating from Columbia Law School, Eric came to the Justice Department in 1976 to serve in the Attorney General's Honors Program, where his focus was prosecuting corrupt officials at the local, State, and Federal levels. In 1988, he was appointed by President Reagan as an associate judge of the Superior Court of the District of Columbia, where he presided over countless trials of homicides and other violent crimes.

In 1993, President Clinton nominated Eric to become the U.S. Attorney for the District of Columbia, the first African American to hold that post. In that role, he created a domestic violence unit, went after perpetrators of crime with an unmatched intensity, and worked hand in hand with the community to give the people a voice in law enforcement. In 1997, President Clinton promoted Eric Holder to the position of Deputy Attorney General, where he went after crimes against children and cracked down on white-collar crimes.

At every step along the way, Eric Holder has proven there is no conflict between fighting crime and upholding civil liberties; that making America safe and more just must go hand in hand. That is exactly what he will do as U.S. Attorney General.

It is the honor of a lifetime to rise from the desk that previously belonged to our President Barack Obama, and before that to another legend from the land of Lincoln, Senator Paul Simon. As long as this desk is in my care, I will try to honor those who served before me and work to brighten the lives of every citizen of Illinois.

If you look back further through the years, this desk belonged to Senator Robert F. Kennedy, who as U.S. Attorney General breathed life into the flames of justice. I know Eric Holder will do the same in our time. I urge my colleagues to join me in supporting this outstanding nominee.

I thank the Presiding Officer and my colleagues for the opportunity to share my thoughts in supporting the nomination of Eric Holder for Attorney General of the United States of America.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I thank the Senator from Illinois for his excellent statement. I was touched by the fact that the Senator from Illinois mentioned he is at the desk once occupied by both Senator Paul Simon and Senator Barack Obama. I had the privilege of serving with both Senators from Illinois, both great people. I know it is safe to say that Senator Obama, now President Obama, will appreciate the statement made by Senator BURRIS today.

Having known Senator Paul Simon, I think it safe to say he also would have been proud of the statement. Somewhere he is looking down and seeing this.

Last, it was my privilege as a young law student to be recruited by then-Attorney General Robert Kennedy, who made it very clear that the Justice Department was for all Americans and nobody, not even his brother, the President, would be allowed to interfere with criminal or civil rights prosecutions. I knew he meant it. I know the Senator from Illinois shares my feelings in that.

I welcome him to this body, and I thank him for his statement.

I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, let me thank my colleague, the Senator from Vermont, the chairman of the committee, for his work on the Judiciary Committee. I do not serve on that committee, but I come to talk just a bit about the nomination of the new Attorney General and about the Department of Justice.

The reason I say I appreciate the Senator from Vermont is because he waged a relentless struggle at a time when the Justice Department was involved in the long shadow of scandal, at a time when words from the Justice Department, from the Attorney General at that point, seemed to suggest torture was OK. It was a time when the Department of Justice seemed to say that people could be detained on the streets of America and held incommunicado without a right to an attorney. These were things that I believed were far afield from what we expect as basic rights in our country and the Chairman of the Judiciary Committee waged a long and brave battle against them. And, I want to thank him for that.

But, let me talk about Eric Holder in the context of what I just described and why I think this nomination is so important. You have heard a lot about how highly qualified Eric Holder is—about his lifetime of impressive public service, about his history as an independent, tough-as-nails prosecutor, about the long list of organizations that support him as very qualified, and about the many prominent Democrats and Republicans that support him.

But, I want to talk about Eric Holder as a key part of restoring justice to the Department of Justice.

We have been through a long period of difficulty at the Justice Department. I am not talking now about the stewardship of Mr. Mukasey. I am talking about specifically a period when Attorney General Gonzales was in charge.

The Attorney General is the senior person in our country responsible for ensuring that justice is done. That means many things. It means, certainly, evenhandedness; it means justice under the law; it means occasionally saying no to those who want to do the wrong thing, no matter how powerful or important they might be. It means everyone, from the lowest to the highest, gets treated equally and fairly under the law in this country.

The Attorney General is the senior most Government official responsible for justice. That is the person who has to stand for, and stand up for, our country as a nation of laws. That is the person who needs to be the defender of human rights, who must believe in America as a beacon of hope in the world, a beacon that shines from America into the darkest places at the darkest times.

The Attorney General, as the head of the Justice Department, is the one who is involved in that kind of activity and sends that message from our country. An Attorney General should be someone who can say torture is un-American because it is. No splitting hairs, no fancy words, no legal distinctions—just these simple words: Torture is wrong.

Mr. Holder has said that to us in his nomination hearings. He said, "Torture is wrong" and "No one is above the law." Those are very simple and straightforward words from this nominee, but I think they are timeless principles, timeless truths that America has exhibited now for nearly 200 years.

Why is that important for us? The most powerful weapon in our country is what we stand for. That has always been the most powerful weapon in America.

We had a long struggle in the Cold War against the Soviet Union and totalitarianism. The Cold War occasionally flared up to a hot war with bombs and bullets. But, it was not the bombs and bullets that won the Cold War with the Soviet Union. It was American values that won that Cold War.

That is why we prevailed. We must never forget that American values were so strong that they shined the light of hope into the darkest cells of the gulag prisons in the outermost reaches of the Soviet Union. Many of those prisoners died in their cells, but some survived and talked about how inspired they were by the ideas and values of what was America. Our country gave them hope. The idea of America, as I said, reached to the farthest and darkest places on this Earth and offered hope to people—people struggling, people in grave difficulty.

There was a very clear and distinct difference between us and the Soviet Union during that Cold War, and everyone knew what it was. It wasn't our military might or the comparison of our military capabilities. It wasn't our bombs or bullets. It was what each country stood for. When the people of the Soviet Union and their client states finally had a choice, they chose democracy and freedom and liberty. That is how powerful the idea of America has become.

This moral ground has always been our country's strength. We must insist on keeping that high moral ground—not only because it is effective, but because it is right and because it is our birthright as Americans.

From the very beginning our country has held itself to a higher standard, as in the story of George Washington and the fight to found America. He led the Continental Army in the war for independence. It is a pretty interesting story, if you go back and read it.

Madam President, 5,000 were in the Continental Army that George Washington commanded, 5,000—but not trained soldiers. They were shopkeepers, farmers and tradesmen going up against a 50,000-man trained army of British soldiers. We know the result, but we don't always remember the battles along the way, military battles and, yes, battles over values and ideals.

There were many difficult periods during that war, and there were some very dark days. During one very difficult period, at a time when a large number of his troops were captured, Gen. Washington and his troops saw the Hessian mercenaries, who at that point were fighting along with the British, slaughtering unarmed prisoners. Washington, when he captured Hessian prisoners, refused to do the same. Washington insisted we were different; we were going to treat people the way they should be treated not the way they treated us.

That was George Washington's notion about who we are and why we are different. That has been America's birthright since the beginning of our country.

It is why this issue of torture is so important. It is why the discussions about detainee treatment and enemy combatants and habeas corpus are so important. These issues are about who we are as a country, as a people, and who we want to be.

I remember reading one day that a man was picked up at a New York City airport and then sent away, not to be heard from for a long while by his family or by anybody. It turns out he was sent to Syria where he was tortured for 8 to 9 months, kept underground in concrete cells in isolation. It turns out it was a huge mistake. This person was not who he was thought to be; he was not a terrorist.

Yet, on American soil, he was detained and then sent away to be tortured. He was a Canadian. The Government of Canada, by the way, has apologized to that citizen for that situation. But it describes why it is so important that the rule of law always be applied.

So this discussion about the Attorney General, about this nomination, about the Department of Justice, is about much more than just nominating someone for a Cabinet position. It is about what do we aspire to for our country and ourselves. What kind of Government do we want? What kind of Government will we allow? What kind of country do we want?

I go back again, as I said, to the long, dark shadow that was cast for a period of time over the Justice Department, when it was engaged in scandals and scandalous conduct. There were very important questions about what was happening at the Department of Justice. Frankly, there were grave questions of what was happening to justice at the Department of Justice.

The Senate Judiciary Committee was relentless in trying to understand it and hold hearings and get answers. Very few answers, frankly, were forthcoming. Thankfully, those days are over.

We now have the nomination of Eric Holder. The Judiciary Committee voted 17 to 2 to support his nomination. Like them, I believe Eric Holder represents an opportunity for our country to have someone at the Justice Department who does understand what the Department of Justice stands for and where it fits in our value system. I am pleased to come to the floor of the Senate today to say, when we discuss these issues we must discuss what are the values, the ideals, that this country stands for and how those whom we intend to put in very high places—how do they comport to those standards and values? How will they conduct the office for which they are nominated?

I believe strongly in the nomination of Eric Holder. As you have heard, he is highly qualified in experience, skills and temperament. As important, he understands the values of our country and the importance of justice. I have no doubt that Eric Holder will be an excellent Attorney General, will restore justice to the Department of Justice, and will uphold and further the historic values and ideals of our country, which will again be a bright shining light for justice and hope throughout the world.

I yield the floor.

Mr. GRASSLEY. Madam Chairman, I have decided to support Mr. Holder's nomination to be the next Attorney General of the United States. However, I want to make clear that just because I am voting to support Mr. Holder, this nominee does have a few issues that give me some concern.

For example, I am concerned about Mr. Holder's overly restrictive views of the second amendment. In last year's challenge to the District of Columbia's gun ban in the U.S. Supreme Court case District of Columbia v. Heller, Mr. Holder joined an amicus brief arguing that the second amendment does not provide an individual right for citizens to own firearms. However, a majority of the Supreme Court held that the second amendment does indeed guarantee an individual right to keep and bear arms. I am a strong supporter of the second amendment, so I am concerned that Mr. Holder's views may be too limited. I am also concerned about Mr. Holder's reluctance to expand programs that enforce current gun laws, such as ''Project Exile.'' This highly effective initiative started in the 1990s, but was only implemented in a few targeted cities. I don't understand why Mr. Holder is willing to consider the need for new gun laws and regulations, when we could be embracing a nationwide expansion of a proven, successful program enforcing existing gun laws. In my opinion, Mr. Holder should reconsider this position.

I find Mr. Holder's involvement with the FALN clemencies to be troubling. Mr. Holder played a pivotal role in obtaining clemencies for the FALN terrorists. He fired pardon attorney Margaret Love who had issued a report in 1996 against clemency, and instructed the new pardon attorney Roger Adams to issue an ''options'' memo keeping clemency on the table, even though the pardon attorney, U.S. prosecutors, Bureau of Prisons and FBI were all very much against clemency. Mr. Holder met with a number of groups and politicians who supported the clemencies, but never met with the victims. Mr. Holder testified that his recommendation to support the FALN clemencies was ''reasonable'' and ''appropriate.'' This is remarkable, especially since the FALN pardons were criticized by the public and condemned by Congress.

Mr. Holder's handling of the Marc Rich pardon is also problematic. He recommended Mr. Rich's pardon to President Clinton as ''neutral, leaning favorable,'' even though Mr. Rich was the biggest tax cheat in U.S. history, a fugitive of the law, and an individual who traded with the enemy. Mr. Holder did not provide the Judiciary Committee with a good explanation—legal, political or factual—for why he was ''neutral, leaning favorable'' on the pardon. Mr. Holder assisted Jack Quinn—President Clinton's former White House counsel—in bypassing the U.S. prosecutors and other DOJ officials who opposed the pardon, and advised Mr. Quinn on how to deal with the media and other logistics after the pardon was issued. Although Mr. Holder did acknowledge that he made a mistake with respect to the Rich pardon, I am troubled by Mr. Holder's deliberate maneuvering around the established Justice Department pardon processes. Also, I believe that Mr. Holder made

statements to the Senate Judiciary Committee about his involvement in the Rich pardon that appear to be at odds with the facts as recorded in documents written at the time and testimony provided by other witnesses. Mr. Holder has indicated that he will be responsive and candid with Judiciary Committee requests, and that he will respect DOJ internal processes and exercise better judgment with respect to DOJ matters. I am hopeful that Mr. Holder will meet that commitment.

The U.S. Constitution requires Senators to fully vet the qualifications and fitness of presidential nominees and to exercise their independent judgment when they decide whether to ultimately consent to them. This has been a difficult decision for me—particularly because of the concerns that I have just outlined. However, Mr. Holder is an experienced individual with extensive credentials. He has very good qualifications. Mr. Holder's a good lawyer. He has a lot of support in the law enforcement community. Moreover, Mr. Holder has acknowledged some of the mistakes he made—even though I believe he could have done a lot more. We had a productive meeting when he came in to talk about his nomination last year, and he seemed to be responsive to the issues that I raised with him. He has committed to work with me on a number of matters that are important to me, such as the False Claims Act. He has pledged to cooperate with my oversight efforts and to be responsive to my document requests. He has pledged to cooperate with Judiciary Committee investigations and requests for information. So I will support Mr. Holder's nomination. But I plan to hold Mr. Holder's feet to the fire to make sure that he leads the Justice Department in the right direction and keeps Americans safe from criminals and terrorists.

Ms. MIKULSKI. Madam President, today I wish to support the nomination of Eric Holder to be Attorney General of the United States. This is an historic nomination—Eric Holder is the first African-American to be nominated to serve as the country's chief law enforcement officer. This is a much needed nomination. The Department of Justice, DOJ, is on life support, plagued with politics and partisanship. Under the previous administration the Department of Justice authored torture memos, fired U.S. Attorneys for their political beliefs, funded pet projects, and spent taxpayer dollars on lavish conferences.

This country needs an Attorney General who will restore confidence and integrity to the Justice Department. We need an independent thinker who is not influenced by politics or fear and who is dedicated to rule of law—not rule of ideology. We need a leader to hold the Department accountable—one who will provide fiscal accountability and stewardship of taxpayer dollars and stand sentry against waste, fraud, and abuse. No more $5 Swedish meatballs.

I have three criteria for nominees to the executive branch: first, the nominee must possess competence; second, the nominee must have a commitment to the mission of the agency; and finally, the nominee must have the highest integrity. Eric Holder passes all of these tests with flying colors.

First, his competence cannot be questioned. He was the No. 2 at the Department of Justice under the Clinton administration; he was U.S. attorney for the District of Columbia; he was nominated by President Reagan and confirmed by the Senate to serve as a Superior Court judge for the District of Columbia; and he was a career prosecutor in DOJ's Public Integrity Section.

Second, he has shown an unwavering commitment to the Justice Department's mission to uphold the Constitution, fight corruption, prosecute criminals, and protect victims. He has fought throughout his career to make sure our Nation's laws are applied fairly and that everyone gets a fair shake.

Third, Eric Holder possesses strong integrity. He has a history of fighting to root out corruption and prosecute criminals. He is the son of immigrants and has worked hard to get to where he is.

As chairwoman of the Appropriations Subcommittee that funds the Justice Department, I want to make sure that the Department has what it needs to protect this country from predatory attacks by terrorists and predatory attacks in our neighborhood. I have fought to put dollars in the Federal checkbook to support the agency's efforts to combat terrorism and violent crime. I have fought to make sure that hard-working, dedicated individuals who are responsible for carrying out that mission have the resources they need.

The Justice Department needs an Attorney General who supports enforcing our country's laws, will protect the vulnerable, and will restore morale and confidence. I believe Eric Holder is just the right man for the job. For the past 8 years, the previous administration has ignored the Constitution, supported torture, denied basic access to courts for detainees, slashed funding for cops on the beat, and spied on innocent Americans. We need an Attorney General who will restore the rule of law and demand accountability for wrongdoing. We need an independent thinker—not a rubber stamp for the President.

Eric Holder is a heavyweight lawyer. He has vigorously prosecuted corrupt public officials from both parties. He put a mob boss behind bars for trying to bribe a juror. He is willing to take on the strong and powerful because he believes no one is above the law.

Yet the Department of Justice is not only responsible for upholding the Constitution. Part of its core mission is to protect the most vulnerable. As a social worker, I have seen firsthand the despicable crimes committed against children and know how important it is to hold these abusers accountable in order to keep our children safe. Now, new technology puts children at even greater risk. There are sophisticated cyber-predators posing as children on the Internet and are harder to catch. Eric Holder is a career prosecutor who has dedicated his life to protecting the public and getting criminals off the street. As the U.S. Attorney for D.C., Holder created the Domestic Violence Unit, which was a dedicated, one-stop shop for domestic violence survivors; he also spearheaded initiatives to protect children from abuse, sexual predators and cyber stalkers. I am confident that as Attorney General, the country's chief of police, he will protect our children and our neighborhoods from violent and heinous crimes.

Not only does the country need Holder, the Department of Justice does. A recent DOJ Inspector General report found one of the top ten management challenges at the Justice Department is to restore confidence at the Department. The mission of the Justice Department has been sidelined and politics—not evidence—has driven hiring and firing decisions. The prosecution of civil rights violations had dramatically dropped, while claims of workplace discrimination are on the rise. We need a leader to put the Department back on track and restore integrity and independent thinking. It is time to get back to doing business that is free from politics and ideology. Time to enforce our civil rights laws, prosecute financial corruption and cronyism, bolster local law enforcement to fight crime and protect the vulnerable. Eric Holder has served as the Deputy Attorney General at Justice and has experience managing and leading. He knows the challenges the Department faces. He will work with President Obama to restore the Department's reputation.

In conclusion, Eric Holder has spent his legal career protecting the public from dirty public officials, violent criminals and predators, scheming corporate greed. I know as Attorney General, Eric Holder will make sure the Justice Department is working for the American people—not some political agenda. This is why I will vote to confirm Eric Holder to be the next Attorney General of the United States.

Mr. GRAHAM. Madam President, I am pleased to support the nomination of Eric Holder as Attorney General. I am convinced that he understands the threat to our Nation posed by terrorism. In the Judiciary Committee's hearing on the nomination, Mr. Holder agreed with me that the United States is undoubtedly at war with a vicious

and shadowy enemy, and that the war began before the attacks of September 11, 2001. Further, Mr. Holder and I agreed that the battlefield in the war on terror is the entire globe—not only the combat zones of Afghanistan and Iraq but also the financial system through which terrorist networks are funded and the Internet through which terrorists communicate and spread their message of violence and hatred. Indeed, the tragic events of 9/11 proved that the battlefield even extends within our Nation's own borders. The question of how best to win the war on terror is the most profound issue facing the next Attorney General. Mr. Holder understands the nature of this enemy and this conflict.

There are some in this body who will argue that Mr. Holder's previous mistakes should bar him from serving as Attorney General. In expressing my support for Mr. Holder, I do not mean to minimize those misjudgments. Indeed, Mr. Holder faces his past mistakes fully—admitting them, learning from them, and promising to exercise better judgment in the future. While I understand concern with Mr. Holder's past errors, it would be a mistake in its own right to reject on that basis this qualified nominee who so comprehends the challenge our Nation faces in defeating terrorism.

I look forward to working with President Obama and Mr. Holder to fashion a system of detention for the war on terror involving all three branches of government and of which all Americans can be proud. Mr. Holder and I agree that in order to maintain the moral high ground in this war, which is critical, we must treat detainees fairly, with more process than they would necessarily provide us. We also agree that we must not release dangerous warriors back to the fight against our Nation. Criminalizing this war would be a terrible mistake, and Mr. Holder understands that.

Four years ago, President Obama, then Senator Obama, stated on the floor of this chamber that the test of a nominee for Attorney General is, "whether that person is ready to put the Constitution of the people before the political agenda of the President." I am confident that Eric Holder meets that test, and I ask my colleagues to support his nomination.

Mr. FEINGOLD. Madam President, this is a momentous day for the Senate. We are about to confirm a nominee for Attorney General of the United States who with two short declarative sentences uttered at his confirmation hearing—without caveats, without parsing words, without equivocation—signaled a new direction for the Department of Justice and a turning of the page in the constitutional history of this country.

"Waterboarding is torture."

"No one is above the law."

With these simple words, Eric Holder reassured the Nation that the Department of Justice will be run by someone who believes in the rule of law and in impartial justice. It is sad, of course, that this is something remarkable. But that is where the last 8 years have left us.

The election of 2008 had many consequences. But none is more important than a chance to restore the rule of law and repair the damage to the Department of Justice that has been done by the past administration. Eric Holder is well equipped to take on this important and difficult task for three reasons.

First, he has spent over 25 years pursuing justice in public service, as a trial attorney in the Public Integrity Section of the Department, as a DC Superior Court judge, as U.S. attorney for the District of Columbia, and as Deputy Attorney General. He knows the Department of Justice as well as any person alive, he respects its history, and he has the respect and support of career lawyers in the Department and former Attorneys General and Deputy Attorneys General from both parties.

Second, he appears to have the independence and strength of character needed to fulfill the special role that the Attorney General has in the President's Cabinet. He prosecuted powerful members of his own party when working in the Public Integrity Section and as U.S. attorney. He recommended expanding the scope of Ken Starr's investigation of President Clinton. This record indicates that Mr. Holder understands the difference between being the people's lawyer and being the President's lawyer.

Third, he understands the need to revitalize the traditional missions of the Department—fighting crime, protecting civil rights, preserving the environment, and ensuring the fairness of the marketplace—while at the same time devoting himself to protecting the American people from a terrorist attack. I am optimistic that he will fight for the resources and the policies needed to do justice. Similarly, he understands that security and liberty shouldn't be balanced or traded off against each other. They must be twin goals, both achievable, together, with hard work and dedication to our national values. I was struck by words from a speech Mr. Holder made in 2005, after he had left the Government:

> Those who tell us that we must engage in warrantless domestic surveillance, "enhanced interrogation" or "extraordinary rendition" or we cripple ourselves in combating terrorism offer a false choice. There is simply no tension between an effective fight against those who have sworn to harm us and a respect for our most honored civil liberties traditions.

I could not agree more. I am very pleased that a person who so strongly and unapologetically believes in the promise of our Constitution, now more than ever, will soon be the Attorney General of the United States.

Let me say just a word about the Marc Rich pardon controversy, which is one of the areas on which opponents of Mr. Holder's nomination have focused. I thought that pardon was a misuse of the President's power, and I said so at the time. Mr. Holder did not exercise his role in the pardon process with the care or diligence he should have, and I appreciate the concerns that have been expressed about his involvement in this matter. But it is significant that, starting shortly after the pardon and continuing to this day, Eric Holder actually stood up and admitted that he made mistakes.

We have seen far too little of that in the past 8 years from the leadership at the Department of Justice and from the Bush administration as a whole for that matter. Months and months of work on the Judiciary Committee was needed, essentially, because Attorney General Gonzales insisted that nothing he did in connection with the U.S. attorney firings was a mistake. Our country cannot afford leadership like that at the Department any more. The problems we face are too grave and too complicated for our leaders to insist on defending indefensible conduct or continuing with policies that aren't working simply because they don't want to admit they were wrong.

Madam President, just a little under 8 years ago, I voted for the nomination of John Ashcroft to be President Bush's first Attorney General. I did so because despite significant policy differences, and not insignificant criticism of some of his actions as a Senator, I believed that he was qualified for the job, and, most important, because I believed that a President is due great deference in filling his Cabinet. I still believe that today. I am pleased that many of my colleagues on the Republican side have decided to show that same deference to President Obama. Eric Holder is highly qualified for this position, his overall record and testimony suggest he will exercise his responsibilities with care and judgment, and he is the President's choice. He should be confirmed.

Mr. CHAMBLISS. Madam President, I rise to discuss my support for Eric Holder's nomination. When Mr. Holder was first nominated I had serious concerns—concerns about his stance on the second amendment, which is important to me and so many Georgians I represent, concerns about the potential prosecution of those who interrogated detainees in accordance with legal opinions issued by the Department of Justice's Office of Legal Counsel, and concerns about his role as Deputy Attorney General in some of President Clinton's pardons.

I had a long discussion with Mr. Holder last week and we talked extensively about the concerns that I had

and that I know many of my constituents have. After our conversation, I was convinced that he will competently serve as our next Attorney General, and will keep the best interests of the American people in mind.

With respect to the second amendment, Mr. Holder recognizes the decision of the U.S. Supreme Court in District of Columbia v. Heller, holding the second amendment to be an individual right, to be the law of the land. With respect to former interrogators, he recognized that it does not make sense to prosecute those clearly acting under the authority of the Office of Legal Counsel. Finally, with respect to his role in President Clinton's pardoning of Marc Rich, Mr. Holder fully recognized his mistakes and stated if he had to do it again, he would have done things differently. I believe he will take that learning experience with him into his role as Attorney General.

Finally, Mr. Holder has been unanimously confirmed by the U.S. Senate on three separate occasions. He was praised by a Georgian and former Attorney General, Griffin Bell, who recently passed away and for whom I had the utmost respect. President Obama deserves great deference in filling out his Cabinet positions, and because of the very candid conversation I had with Mr. Holder, and my belief that he is up for the task before him, I am pleased to support his nomination.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I understand the Senator from Texas has a request to make.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I understand under the previous order I have been recognized for the next 20 minutes on this side, but I have been asked on this side to ask unanimous consent that the following Republican Senators be recognized in this order during the remaining time, going back and forth, as the distinguished chairman knows: Following my remarks, Senator HATCH for 10 minutes, Senator BUNNING for 5 minutes, Senator SESSIONS for 5 minutes, Senator BOND for 10 minutes, and Senator HUTCHISON for 5 minutes. I ask Republican speakers be recognized in that order on this side.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Madam President, reserving the right to object, and I do not intend to object, but has the distinguished Senator from Texas left time for the ranking member if he wants it?

Mr. CORNYN. It is my understanding we have reserved sufficient time for the ranking member to close.

Mr. LEAHY. I see a nod of affirmation from the staff. Being one who understands that we Senators are merely constitutional necessities to the staff, Madam President, I have no objection to this with the understanding that we follow the usual comity of going from side to side.

The PRESIDING OFFICER. Without objection, it is so ordered. The request is agreed to. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I come to the floor more with regret than anything else to say I oppose the nomination and confirmation of Eric Holder to be the next United States Attorney General. I say this to my colleagues because I have approached this nomination with an open mind and actually a predisposition to vote for his confirmation. But, of course, we Senators have a constitutional duty—in providing advice and consent to the executive branch's executive nominations like this one—to ask hard questions and to get the answers to those questions so our advice and consent may be an informed consent.

While I approached this nomination with an open mind and a predisposition to vote for Mr. Holder's confirmation, I ultimately concluded that, as a result of the reasons I will detail momentarily, I could not vote for his confirmation in good conscience.

Mr. Holder's experience in many ways uniquely qualifies him for this promotion as Attorney General, but it is that very same experience when he served as Deputy Attorney General that calls into question his independence and judgment, particularly when the President of the United States at the time, President Bill Clinton, basically wanted something out of the Department of Justice. This had to do specifically with two clemency petitions, one for the FALN terrorists and the other for the notorious Marc Rich. These two actions—where President Clinton commuted the sentence of 16 Puerto Rican terrorists and the recommendation to pardon the billionaire fugitive, Marc Rich—raised serious questions about Mr. Holder's independence and judgment.

When Mr. Holder came to my office, I asked him: Is there any reason you would resign rather than carry out the orders of a President if you were Attorney General?

He quickly said: Of course. If the President asked me to do something illegal or unethical, then I would resign rather than carry out those instructions.

Well, no one is suggesting that what Mr. Holder did was illegal, given the fact that the President of the United States solely had the prerogative whether to grant these commutations, but I think any fairminded consideration of Mr. Holder's conduct under these commutations raises some serious questions whether he could hold himself to the very same standard that he articulated in my office.

Two other aspects of Mr. Holder's record concern me. One is his demonstrated lack of seriousness regarding the profound threat posed by radical Islamic terrorism; secondly, as some Senators on my side of the aisle have already pointed out, his apparent hostility to the second amendment, the right to keep and bear arms, under our Constitution.

In the Judiciary Committee, on which I am proud to serve, Mr. Holder failed to answer my questions and the questions of my colleagues in a way that alleviated these concerns. In fact, I found many of his responses to be simply evasive.

As I said earlier, I have four reasons for opposing this nomination: one, Mr. Holder's role in the FALN and Los Macheteros commutations, his role in the Marc Rich pardon, his misjudgments and shifting opinions on the war on terrorism, and his record of hostility to the individual right to keep and bear arms.

I think it is important to point out the facts of the commutations because they really are alarming, and many of our memories may have been dimmed because many of these events occurred long in the past.

In August 1999, President Clinton offered clemency to 16 members of two Puerto Rican separatist terrorist organizations, the FALN and Los Macheteros. Deputy Attorney General Eric Holder made the recommendation that he should do so.

The FALN, in case people do not recall, was a clandestine terrorist group devoted to bringing about the independence of Puerto Rico through violent means. Its members waged open war on America, with more than 150 bombings, arsons, kidnappings, prison escapes, and threats and intimidation, all of which resulted in the deaths of at least 6 people and injuries to many more between 1974 and 1983.

The most gruesome of these attacks occurred in 1975 at a bombing in Lower Manhattan. Timed to explode during lunchtime, the bomb decapitated 1 of the 4 people killed and injured another 60. It is hard for us to imagine what it would be like today if this were to occur, but that, in fact, is what the FALN was found guilty of.

In another attack in Puerto Rico, Los Macheteros terrorists opened fire on a bus full of U.S. sailors, killing two, wounding nine.

Fortunately, much of the leadership of these terrorist groups was captured and brought to justice in the 1970s and 1980s. But by the mid-1980s, thankfully, the worst of their reign of terror was over.

In the early 1990s, sympathetic activists petitioned for clemency on behalf of members of these groups. It was an easy call for the Pardon Attorney. That is the title of the individual whose responsibility it is to screen requests for clemency. These unrepentant terrorists had not even bothered to

petition for clemency themselves. So Pardon Attorney Margaret Love, who worked for then-Deputy Attorney General Jamie Gorelick, recommended against clemency for any of these prisoners, and her recommendation was transmitted to the President. But after Eric Holder became Deputy Attorney General, he rescinded that recommendation opposing clemency and he recommended that President Clinton grant clemency to these unrepentant terrorists.

Strangely, and really inexplicably, from my perspective, Mr. Holder now continues to stand by these recommendations as ''reasonable.'' But I do not think the reasons he gives are persuasive.

Mr. Holder, first of all, claims these individuals are not ''linked to violence.'' That is clearly false. These men were active members of terrorist groups that committed dozens of violent crimes, as I described a moment ago. It is true that they individually were not prosecuted for the worst of those crimes, but by that standard, anyone who conspires to commit violence and murder is not linked to violence, only those who actually execute the orders of the higher ups.

These commutations were, at the time, widely believed to be politically linked. Indeed, the Clinton White House discussed how the clemencies would affect then-Vice President Gore's aspirations for higher office, particularly among the Puerto Rican community. For this reason, I believe a full accounting of the individuals Mr. Holder met with, what they discussed, and what went into his decisions in recommending these commutations is in order.

But there is another reason these questions should be answered; that is, it is only fair and just that the victims of the violence of these two terrorist groups be provided answers.

I would encourage all of my colleagues before voting to review the testimony of Joseph Connor, whose father was killed in the bombing in Lower Manhattan. Mr. Connor testified that Mr. Holder did not consult with him, did not contact him or his family or other victims before recommending that the FALN terrorists go free. I cannot vote for Mr. Holder's nomination until I can explain my vote to Joseph Connor.

Less than 2 years after the controversial recommendation for commuting the sentences of these FALN terrorists and Los Macheteros terrorists, on the very last night of the Clinton administration, Mr. Holder made a very similar error in judgment when he recommended that President Clinton pardon the notorious fugitive Marc Rich. At the time, Mr. Rich was No. 6 on the FBI's Most Wanted list.

In 1983, then-U.S. attorney Rudy Giuliani got an indictment of international commodities trader Marc Rich and his business partner Pincus Green. The indictment charged 65 counts of tax evasion, racketeering, and trading with the enemy. Specific charges include illegally trading with the Ayatollah Khamenei's Iranian terrorist regime, in violation of U.S. energy laws and the trade embargo against Iran. Indeed, Mr. Rich made a fortune trading with the Ayatollah's regime at the same time that 52 American diplomats were being held hostage in Tehran. Mr. Rich profited by trading with Cuba, Libya, and South Africa during apartheid, all despite U.S. embargoes.

Rather than face the charges, Mr. Rich fled to Switzerland, where he remained a fugitive for 17 years. Law enforcement, including CIA, the NSA, and other Federal agencies, expended substantial resources in trying to apprehend Mr. Rich. These efforts included extradition requests and attempts by U.S. marshals to seize him abroad.

Mr. Rich refused to return to the United States despite an offer by prosecutors that they would actually drop the racketeering charges in exchange for his return. In a final effort to avoid extradition, Mr. Rich went so far as to renounce his U.S. citizenship. He tried to become a citizen of Bolivia.

It is hard for me to imagine anyone less deserving of clemency by the President of the United States than a fugitive from justice accused of trading with the enemy. Mr. Rich's own lawyer told him that he ''spit on the American flag'' by avoiding the jurisdiction of our courts.

On the last evening of the Clinton administration, White House Counsel called Mr. Holder to solicit his views on the Rich pardon. As Deputy Attorney General, Holder was effectively speaking for the entire Department during this crucial call. Strongly disregarding the views of the hundreds of DOJ prosecutors and FBI agents who had worked nearly two decades to bring Mr. Rich to justice, Holder told White House Counsel Beth Nolan that he was ''neutral, leaning favorable.'' With this recommendation from the Deputy Attorney General in hand, President Clinton granted the Rich pardon, in one of his last and most inexplicable actions.

Senator SPECTER, the distinguished ranking member from Pennsylvania, correctly recounted what former FBI Director Louis Freeh said about that pardon. He called it a ''corrupt act.'' Now, Mr. Holder has, during hearings, accepted fault and admitted that he made a mistake. I do not know how he can do any differently. But never in a full day of hearings and written questions did Mr. Holder offer a good reason for supporting the pardon in the first place. He defends himself by saying he was naive. He admits it was a mistake and promises he will not make the same mistake again. But this is difficult to square with the fact that 2 years earlier, Mr. Holder agreed that the FALN commutations were a reasonable act. It appears to be something of a trend here.

The other area I am very concerned about, as I mentioned earlier, is the questions I asked Mr. Holder about the war on terrorism. Of course, it is hard for us now to recount the horrors of 9/11 when al-Qaida commandeered airplanes and hit here in Washington, DC, and New York, killing 3,000 Americans. It was in the wake of that that, of course, the Congress authorized the use of military force against al-Qaida in Afghanistan and against the Taliban. It is in the wake of that that Congress passed the PATRIOT Act to provide enhanced tools to our law enforcement agencies and our intelligence agencies to try to make sure 9/11 never, ever happened again.

The Department of Justice, particularly in the Office of Legal Counsel, was struggling with new efforts to try to figure out how to protect Americans from future attacks. I believe they struggled in good faith to try to come up with legal guidance for our President, his administration, and the intelligence authorities to make sure they were operating within the limits of the law, which, of course, prohibits torture. But I want to recount what Mr. Holder said in January 2002, which is at stark odds with what he has said now in 2008. He said in January 2002 that captured al-Qaida terrorists ''are not, in fact, people entitled to the protection of the Geneva Conventions. They are not prisoners of war.'' He went on to endorse indefinite detention of terrorists at Guantanamo Bay and argued that such prisoners should not be afforded Geneva Convention protections so that they could be interrogated and provide actionable intelligence that could prevent future attacks. But more recently, taking perhaps a more political or ideological bent, he chastised the Bush administration for policies he now seems to believe defy the law.

I want to quote at length from an Associated Press article entitled ''Obama AG pick defended Guantanamo policy,'' dated November 22, 2008. According to this article, when asked whether terrorism suspects could be held forever, Holder responded:

> It seems to me you can think of these people as combatants and we are in the middle of a war.

Holder said in a CNN interview in January 2002:

> And it seems to me that you could probably say, looking at precedent, that you are going to detain these people until the war is over, if that is ultimately what we wanted to do.

Just weeks later, this article goes on to say, Holder told CNN he did not believe al-Qaida suspects qualified as

prisoners of war under the Geneva Conventions.

He said:

One of the things we clearly want to do with these prisoners is to have an ability to interrogate them and find out what their future plans might be, where other cells may be located. Under the Geneva Conventions, you are really limited in the amount of information that you can elicit from people.

Holder said it was important to treat detainees humanely, but he said they ''are not, in fact, people entitled to the protection of the Geneva Convention. They are not prisoners of war.''

In this article, he also downplayed criticism that these detainees were being mistreated. Now, these were essentially the same arguments being made by the Bush administration in the wake of 9/11. Since then, those arguments, as we all know, have been criticized by human rights groups, leading Democrats, and, surprisingly enough, Mr. Holder himself.

He gave a speech to the American Constitution Society in June of 2008 where he said, ''We must close our detention center at Guantanamo Bay.''

He said:

A great nation should not detain people, military or civilian, in dark places beyond the reach of law. Guantanamo Bay is an international embarrassment.

He added that he never thought he would see the day where ''The Supreme Court would have to order the President of the United States to treat detainees in accordance with the Geneva Convention.''

Those sharply contrasting positions from 2002 to 2008 make me wonder if this is the same person, the same Eric Holder. Moreover, it makes me wonder what it is he truly believes. In 2008, Mr. Holder, in a speech before the American Constitution Society, attacked many of the positions he once held as ''making a mockery of the rule of law.'' In that speech he called for ''a reckoning'' over the Bush administration's ''unlawful practices in the war on terror.'' He also accused the Bush administration of ''act[ing] in direct defiance of Federal law'' and railed against counterterrorism policies that he claimed ''violate international law and the United States Constitution.'' It is one thing to change your mind; it is another thing to change your mind and attack the very position you once held as one that could only be held in bad faith. It is cynical to characterize a position you once held later as ''making a mockery of the rule of law.''

The recent attacks in Mumbai have reminded Americans of the possibility of another attack, literally anywhere in the world by committed terrorists. On November 26, 2008, Mumbai was ravaged by a gang of terrorists. More than 170 people died as a result of bombings and gunfire, including 6 Americans. If an American city were targeted in the same manner as Mumbai, or worse—let's say these terrorists had a biological, chemical, or nuclear device—it is critical that our laws give law enforcement personnel, intelligence personnel, the President of the United States the very intelligence they need in order to detect and defeat those attacks. Our intelligence officials and those who act consistent with interpretations of the law from the Office of Legal Counsel at the Department of Justice need to know the law is not going to change after they act consistent with what they understand the law to be in order to protect American citizens from future attacks.

I worry about Mr. Holder's shifting opinions on what the law provides for and what it does not. I worry about the chilling effect it will have on future intelligence officials who may decide rather than risk prosecution by shifting opinions on what the law provides or does not, rather than risking everything I have worked a lifetime for, including what I have provided for my family, I am going to play it safe. From what we learned on 9/11, according to the 9/11 Commission, when we treat it safe, when we treat terrorism as a criminal act alone, we invite future attacks against our country.

For all these reasons, I oppose the nomination.

I ask unanimous consent that a letter from a number of hunting groups, anglers, landowners, and conservation groups in my State be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 2, 2009.

Hon. JOHN CORNYN,
Hart Senate Office Bldg.,
Washington, DC.
Hon. KAY BAILEY HUTCHISON,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS CORNYN AND HUTCHISON: The organizations listed above represent hunters, anglers, landowners, conservationists, natural resource professionals and many law abiding gun owners in Texas. These groups and individuals share a strong interest in sustaining and protecting our current and future conservation initiatives, our long standing hunting heritage, and ensuring our success to effectively manage Texas' fish and wildlife resources. The listed groups want to express their strong opposition to the approval of Eric Holder's nomination as Attorney General of the United States.

Mr. Holder has consistently demonstrated opposition to our Second Amendment Rights and has argued against the individual right to keep and bear arms, as determined by the U.S. Supreme Court in Washington, D.C. vs Heller. He has advocated for what we consider extreme gun restrictions. We believe that Mr. Holder, as a preeminent legal expert and outspoken advocate on stricter gun laws, would be in a particularly powerful position to implement bureaucratic measures and create procedural mischief that would erode gun ownership rights.

We are forced to logically contend that increased gun control will result in a direct reduction in sales of firearms and ammunition leading to a reduction in Federal Aid funds available through the Sport Fish and Wildlife Restoration Act. This will mean a reduction in funding to financially support state fish and game agencies across the nation and specifically the Texas Parks and Wildlife Department in Texas, thus reducing our ability to conserve our fish, wildlife and natural resources. This is a critical issue for the hunter, angler and conservation community.

While there seems to be a sense that President Obama is still in a ''honeymoon period'' with his appointments that are being reviewed by the Senate, this nomination clearly must be thoroughly vetted and Mr. Holder's positions clearly exposed and challenged. A lopsided vote without direct confrontation over these extreme gun control positions would send the wrong message and certainly erode progress that has been made on Second Amendment issues and the individual right to keep and bear arms.

Thank you in advance for at the least speaking out and highlighting these concerns during the upcoming vote. America must be on record that his actions and decisions will be closely monitored, and we encourage you to vote against the nomination of Mr. Holder to clearly showcase these concerns.

If you have any questions please contact Kirby Brown, Chairman of the Texas Outdoor Partners.

Sincerely,

Anglers Club of San Antonio; Dove Sportsmen's Society; Exotic Wildlife Association; Gulf Coast Chapter of SCI; Houston Safari Club; Kayak Anglers Society of America; National Wild Turkey Foundation—Texas Chapter; Quality Deer Management Association; Recreational Fishing Alliance—Texas; Rocky Mountain Elk Foundation, Texas Chapter.

San Antonio Metropolitan League of Bass Clubs; Safari Club International, Austin Chapter; Sensible Management of Aquatic Resources Team; Texas Association of Bass Clubs; Texas BASS Federation Nation; Texas Black Bass Unlimited; Texas Chapter of The Wildlife Society; Texas Deer Association; Texas Dog Hunters Association; Texas Gulf Coast Stewards.

TexasHuntFish.Com; Texas Organization of Wildlife Management Associations; Texas Outdoor Council; Texas Quail Unlimited Chapters; Texas Sportsman's Association; Texas State Rifle Association; Texas Trophy Hunters Association; Texas Wildlife Association; Wild Boar USA; Wildlife Habitat Federation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I know the distinguished senior Senator from Minnesota, the distinguished only Senator from Minnesota, seeks recognition, the newest member of the Judiciary Committee, an extraordinarily valued addition to the committee. We are especially happy whenever we have a former prosecutor come on the committee.

I yield to the Senator from Minnesota.

Ms. KLOBUCHAR. I thank the Senator from Vermont.

I rise today in support of Eric Holder to be the next Attorney General of the United States.

The next Attorney General will need to hit the ground running, from beefing up civil rights and antitrust enforcement to addressing white-collar crime and drug-related violence, to helping keep our country safe from terrorist attacks. As I told the Judiciary Committee last week when I voted in favor of his nomination, Eric Holder is the right man to do the job. He is the right man to lead the Department of Justice at this critical time. And most importantly, coming from a State that had our own share of problems with a political appointee put in place as U.S. Attorney, he is the right man to get the Department back on course, to put the law first, when it comes to the Department of Justice.

First, as I look at the reasons why I am supporting his confirmation, at a key time in our Nation's history, where we deal with terrorist acts not contemplated in simpler times—from cyber battlefields to sophisticated crimes, from market manipulation to financial fraud—Eric Holder has a clear command of the legal issues confronting our country. That was apparent in the discussions that took place during the nomination hearing. There were a number of Senators, particularly those on the other side of the aisle, who had some very good questions. When you listened to the discussion Eric Holder had with Senator KYL regarding some of the ongoing foreign intelligence issues, from multipoint wiretap authority to lone-wolf surveillance authority, it was obvious that Eric Holder knew what he was talking about. He was convincing to Senator KYL as they discussed this. The discussions he had with Senators HATCH and FEINGOLD regarding executive power and congressional authority and the important back and forth with Senators SESSIONS, GRAHAM, and FEINSTEIN regarding terrorism cases, regarding the unique nature of those cases, regarding the issues facing our agents and soldiers in the field and the prosecution of detainees, despite what we recently heard from my colleague from Texas, it is no surprise to me that after hearing Eric Holder's command of the law and the issues facing the country, the vote on the committee was overwhelming. The vote was 17 to 2. So many of my Republican colleagues who earlier had expressed concerns about Eric Holder ended up supporting him and voting for him and asking that he be the next Attorney General.

The second reason I am glad to support Eric Holder is he is committed to the bread-and-butter work of the Justice Department. As Chairman LEAHY noted, before I came to the Senate I was a prosecutor for 8 years. I ran an office of 400 people. I had some sense of the importance of going after not only the big crimes but also the little crimes. Eric Holder was a pioneer in this area when he was U.S. attorney and established a community prosecution initiative. It is built on the idea of community policing. It goes back to the basics. The idea is instead of a prosecutor sitting in the office looking at a bunch of files, none with any relation to the neighborhood we are supposed to protect, the prosecutor is assigned to a certain area to work with the same police, to work with the same neighborhood groups. While there may be some crimes committed in the government centers in this country, for the most part they are not. This idea of community prosecution connects what goes on in those four walls of the government centers, in those four squares of the centers to the neighborhoods out in the field, to the people out in the field. When we did this in Hennepin County by assigning prosecutors by geographic area to work directly with a set group of police and neighborhood groups, we got better results for liveability crimes. We got stronger sentences, and we saw a 120-percent reduction in crime. Again, Eric Holder, when he was U.S. Attorney in the District of Columbia, which involves not just doing U.S. attorney type prosecution but also the bread-and-butter work of prosecutions in the District because of its unique nature, he was one of the pioneers for community prosecution. It shows his command and explains why he has so much support from law enforcement.

I remember actually during this time we had a visit—this is way back, years ago—from a Presidential candidate to one of our suburban areas. I said to one of the police officers: Do you want to meet this person? He said: Well, not really. I want to know if Terry Froling is here. She was our community prosecutor we had assigned to that suburb of Bloomington, MN, whom he had gotten to know and respect. It brought home to me again how important this program was. You can see the faith that law enforcement has put on Eric Holder by the number of bipartisan endorsements he has received. You also see the endorsements of Republican-appointed prosecutors such as my law school classmate Jim Comey. That means a lot to me, and it should mean a lot to Members of the Senate.

Third, Eric Holder is a humble person who is willing to admit mistakes. From my brief 2 years here, we need a little bit more of that in Washington. As a former prosecutor, I am not a big fan of pardons. I told this to Mr. Holder. But anyone who has worked in the criminal justice system, whether as a police officer or prosecutor or a public defender or a judge, anyone who has worked in the system for any length of time knows that people make mistakes. For 8 years, when I managed our office, I saw the gut-wrenching decisions—and I had to make some myself—that the people have to make on the frontline. From the momentary decisions that police officers need to make at a fast-moving crime scene, whether to shoot, whether to knock down a door, to the decisions prosecutors need to make about whether to call a certain witness or whether to plea down a case when the case is falling apart and they know their only hope to get someone off the street they consider dangerous is to accept that plea—those are the tough decisions that may not make good television, but they are the true decisions that prosecutors need to make every day.

If you want someone with experience for this job, they are going to have made some decisions you don't like or that I don't like. There is absolutely no doubt about it. People who are in this field have to make literally dozens of decisions a day. They are going to make some decisions you don't like. They will have made some mistakes. I am glad they were discussed and brought up at the nomination hearing and glad that so many of my committee colleagues actually took the time to listen to the nominee. He explained that one thing was a mistake, that he wouldn't have made that decision if he had more information. He admitted that, and we were able to question him at length. He explained some things that he still supported that they didn't agree with or that the times had changed and they had more information and there is reason they didn't agree with it now. Those discussions were had and he was candid.

What we have learned from that committee hearing is that in the end, so many of my colleagues on both sides of the aisle looked at this man as a whole, and they decided that as a whole his experience, while there may have been flaws in his experience, led them to support him for this job, which leads to my last reason.

Eric Holder's background is, first, as a prosecutor in the field. But just as importantly, it is also as a sound, solid, competent manager who is guided by justice, someone who will lead quietly but firmly, someone who will work to build the morale of a department that has suffered for too long. As I mentioned, I saw it in my own State when one bad decision made up on high, when the Attorney General was Alberto Gonzales, putting an inexperienced political appointee into the top spot of a gem of a U.S. Attorney's Office in Minnesota, created absolute havoc in our State and in that office. I had worked with that office for years. I know the people who work there. I know how high quality they are. That one decision wreaked havoc in that office. Thanks to General Mukasey, that office is now steady. I appreciate how he consulted with me about the replacement for that job. I also appreciate how our State's acting U.S. Attorney Frank Magill has skillfully guided the office through a difficult

time and restored morale. But that experience with the U.S. Attorney's Office in my State has brought home to me the importance of having an Attorney General who puts the law and not politics at the helm of the Department of Justice. As former Attorney General Dick Thornburg said, Attorney General for Presidents Reagan and George H.W. Bush:

> The next Attorney General will need to restore the image of the Department of Justice as a nonpartisan organization dedicated to the rule of law.

I couldn't agree more. We need to put justice and the law at the helm. I support the Holder nomination to be Attorney General because I believe Eric Holder can steer this big ship and get it back on course and put justice at the helm.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Kentucky.

Mr. BUNNING. Mr. President, I need about 7 or 8 minutes.

Mr. LEAHY. Mr. President, point of inquiry. I certainly don't want to interfere with the Senator from Kentucky, but I think Senator CORNYN had locked in a specific amount of time for the Senator from Kentucky; am I correct?

The PRESIDING OFFICER. That is correct, 5 minutes.

Mr. BUNNING. All right. I will not argue with the Senator from Vermont.

I rise today to discuss the nomination of Eric Holder to be U.S. Attorney General. Unfortunately, I cannot support his nomination to this post.

While Mr. Holder certainly has the experience and credentials that one would want to see as head of the Department of Justice, his judgment is lacking. As a Deputy Attorney General in the Clinton administration, Mr. Holder approved several controversial pardons.

First, I wish to mention the case of Marc Rich. At the close of the Clinton administration, a pardon was issued for this infamous fugitive financier. Mr. Rich was charged in the early 1980s with 51 counts of tax fraud for evading more than $48 million in taxes.

He was also indicted for conducting illegal oil deals with the Iranian Government at the time Iran was holding 52 U.S. citizens hostage. Mr. Rich then fled the country and allegedly renounced his U.S. citizenship to avoid extradition. This was enough to land him on the FBI's "Ten Most Wanted List."

Mr. Holder's recommendation on this pardon of Mr. Rich was "neutral, leaning favorable." Accounts indicate he did this without consulting the prosecutors handling the Rich case in the Southern District of New York. His willingness to push this pardon ahead is troubling, to say the least.

The second questionable pardon involving Mr. Holder concerns 16 members of the terrorist group, the Armed Forces of National Liberation, better known as FALN. This radical group supports Puerto Rican independence and was labeled as a terrorist group by the FBI. Between 1974 and 1983, FALN claimed responsibility for more than 120 bombings in the United States. These bombings killed six people and injured many more.

Mr. Holder overturned previous denials of clemency for these terrorists. The pardons were also opposed by two U.S. attorneys who prosecuted FALN cases, and by the FBI. According to the Los Angeles Times, Mr. Holder even overruled the Office of the Pardon Attorney at the Department of Justice. In fact, Mr. Holder never reached out to opponents of this clemency or one family of the victims. The son of a man killed in a FALN bombing first learned about the pardons from reading the newspaper.

I am also very concerned about Mr. Holder's views on second amendment rights. During his confirmation hearing before the Senate Judiciary Committee, he was consistently vague and would not answer directly on questions regarding the second amendment.

I find this to be unsettling and unsatisfactory. However, past statements and actions indicate a nominee who has shown hostility toward the right of Americans to keep and bear arms. The Supreme Court decision last year in the Heller case reaffirmed that the second amendment is an individual right, and Mr. Holder opposes this decision. He seems to hold the view that gun possession is not a right, as the Heller case confirmed, but more a privilege or hobby that needs to be strictly regulated.

Mr. Holder is supportive of old ideas for gun control that have never proven to make people safer at the expense of taking away their rights. He has indicated he will favor licensing and registering all gun owners, a policy I do not think will sit well with Americans.

Lastly, the Attorney General of the United States is the Nation's top law enforcement official. He cannot pick and choose which of our rights he will defend and which ones he will overrun. His views on the second amendment make me very wary of his confirmation to this great position he is being considered to be confirmed to. Coupled with his handling of the Clinton era pardons, I think this nomination is very worrisome. It is unfortunate, but I cannot support this nominee. I will be voting against his confirmation, and I urge my colleagues to do the same.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, seeing the Senator from California on the floor, how much time would the Senator wish to have?

Mrs. FEINSTEIN. Mr. President, I do not believe I will use it, but if I might have 10 minutes.

Mr. LEAHY. Mr. President, I yield the distinguished senior Senator from California 10 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, I respectfully strongly disagree with the distinguished Senator.

In my 16 years on the Judiciary Committee, I have never seen a more qualified nominee. Mr. Holder has been a prosecutor in the Public Integrity Section of the Department of Justice; a Superior Court judge for the District of Columbia; the U.S. attorney for the District of Columbia; an attorney in private practice; and the Deputy Attorney General of the United States, the No. 2 position in the Department. I do not think you can beat these credentials.

Now, people find one or two decisions out of a multiplicity of decisions Mr. Holder has made with which they disagree—and they are welcome to disagree—but that does not destroy his value or his worth as Attorney General.

President Reagan first appointed Mr. Holder to be a Superior Court judge, and President Clinton then named him U.S. attorney and Deputy Attorney General. On all three occasions, he was unanimously confirmed by the Senate.

Today, his nomination is being broadly supported by Members of both parties. We have received letters from people such as the former FBI Director, Louis Freeh; former Deputy Attorneys General Jim Comey, Paul McNulty, and Larry Thompson; former Solicitor General and Republican Ted Olsen; and President George H.W. Bush's Attorney General, William Barr.

Virtually every single law enforcement agency in the country has come out to endorse him: the Fraternal Order of Police, the National Association of Attorneys General, the Attorneys General of over 30 States, the National Criminal Justice Association, and on and on.

He has unified support among the civil rights community: the NAACP, the Asian-American Justice Center, the Mexican-American Legal Defense and Educational Fund, and the Human Rights Campaign.

It is rare to see such bipartisan support for a candidate. In Mr. Holder's case, I believe it is very well deserved. He is a man of integrity, intelligence, humility, and heart.

I remember our prior Attorney General, Mr. Gonzales, making the statement that he wore two hats. At the time he said it, I did not realize what the implication was. He stated, and on the record, that he represented the

President of the United States and he represented the people of this Nation.

Well, we saw in spades what a double-hatted Attorney General can do. We saw the politicization of that Department. We saw the top people in the Department acting politically with appointments. We saw the diminution of the Civil Rights Division. We saw at least 9 U.S. attorneys terminated because the administration did not agree with the decision they either refused to make or made. That is not the way the Attorney General should run what is a very large Department.

This is a $25 billion agency. It has over 100,000 employees. It is charged with fighting terrorism, stopping violent crime, upholding our civil rights laws, and enforcing our civil liberties. As those of us on the Judiciary Committee know well, the Department is badly in need of repair.

In January of 2007—as a matter of fact, I remember it well—I came to the floor, and I said someone, a Republican, had called me and said that on a given day in December, seven U.S. attorneys had been fired. Well, I checked, and in fact that was correct. On December 7, seven U.S. attorneys had been fired. What he also told me: It was all for the wrong reasons. And he said: Look into it.

Under the leadership of the chairman of the committee, PAT LEAHY, we did look into it. What we found was a trend in the middle of the term to essentially take certain U.S. attorneys and terminate them for one reason or another: some, I believe, because they would not bring a certain prosecution and some, I believe to this day, because they did bring a certain prosecution.

Last year, Inspector General Glenn Fine released four separate reports documenting violations of civil service laws and politicized hiring throughout the Department. Well, there is a big job to do, and it is going to be Mr. Holder's duty to turn this Department around, to restore its credibility.

This is a proud Department, and I believe Mr. Holder gave every one of us on the committee confidence last month when he stated this:

> [T]he notion that the Justice Department would ever take into account a person's political affiliation or political beliefs in making [career] hiring decisions is antithetical to everything that the Department stands for.

Now, that is a substantial commitment, and those of us on the Judiciary Committee will be watching him carry it out. So I am delighted this new Attorney General—I believe will be confirmed at 6:15 tonight—will restore the integrity and the professionalism of this great Department.

In my view, despite differences on certain judgments, there is no one—no one—more qualified to become Attorney General of the United States than Eric Holder, and I will proudly cast my vote for him.

Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is remaining on the Republican side, and how much time is remaining on the Democratic side?

The PRESIDING OFFICER. The Democratic side has 31 minutes 40 seconds, and the Republican side has 31 minutes 5 seconds.

Mr. LEAHY. Mr. President, I thank the distinguished Presiding Officer. I do not see any Republicans in the Chamber, although it would be their turn to speak next on this confirmation. While we are waiting, I will mention a couple things, and do this on the Democratic time.

There has been a lot of criticism of pardons and clemencies that former President Clinton granted. I would note that it was not Eric Holder who granted any of these clemencies or pardons. It was President Clinton.

Now, I know for the last 8 years, certainly while the Republicans were in charge, we would have one hearing, one investigation after another about the Clinton years, and it seemed to be kind of on automatic pilot. I heard a lot of outrage on the Republican side about pardons granted by President Clinton, and I shared my disappointment in some of those. I have heard them say people should have spoken out immediately. Well, many of us did.

But I was not able to find a single one who spoke out showing any outrage a few months ago when Republican President Bush gave a pass to Scooter Libby, Vice President Dick Cheney's former Chief of Staff, who commuted his prison sentence a very short time before he was about to begin that sentence. That was an extraordinarily serious case that involved leaking the name of a covert CIA operative for a political purpose, and the decision to communicate that leak was made by President Bush, despite objections from the prosecutor, despite objections from the victim, and despite objections from the public. I do not recall any Republicans objecting to President Bush's decision.

Now, they say they are objecting to something President Clinton did. I do not want to suggest in any way that the objections are partisan, but they certainly are not consistent.

I know Republicans set the standard as to who should be Attorney General. They voted unanimously for Attorney General Alberto Gonzales. Afterwards, many quietly talked to the White House about getting rid of Attorney General Gonzales because he was not up to par, but they were not going to vote against him. Now we have somebody far more qualified, and the Republicans talk about voting against him.

On the subject of the FALN, I should not that we have already had many hearings on this issue. I, for one, was critical of the commutations made by President Clinton, but let's look at the record and let's look at the facts. As Deputy Attorney General, Mr. Holder had no final decision-making power to grant clemency or pardons. Mr. Holder's memo to the White House made no recommendation on clemency for the prisoners. It simply provided the analysis that is expected to be provided to the White House with multiple options for each prisoner. None of the FALN members offered clemency by President Clinton were present when individuals were killed or injured. The prisoners who were offered clemency were released under strict supervision by Federal probation authorities. None have caused any future harm. The only ones who were given clemency were those who announced their willingness to renounce violence and had already served from 17 to 19 years. This was not a get-out-of-jail free card.

The clemency provided by President Clinton was supported by various Members of Congress; numerous religious, human rights, labor, Hispanic, civic and community groups; as well as Archbishop Desmond Tutu, and other Nobel prize recipients. I would note that many of the law enforcement agencies and law enforcement officials who were critical of the FALN clemencies given by former President Clinton are the same prosecutors who had prosecuted those cases and who came forward and strongly and unequivocally endorsed Eric Holder to be Attorney General of the United States.

So we can talk and talk and talk and talk and talk and talk and set up double standards. The fact is, the people most knowledgeable about what happened argued in favor of Eric Holder as Attorney General.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I rise today to support the nomination of Eric Holder for the position of Attorney General of the United States.

The PRESIDING OFFICER. The Senator from Missouri is recognized under the previous order for 10 minutes.

Mr. BOND. I thank the Chair.

My decision to support Mr. Holder's nomination does not come easily. Certainly, Mr. Holder has an outstanding reputation as a career prosecutor and an effective litigator, and he has received strong support from prominent government and former government officials on both sides of the aisle. However, I have been concerned about a number of aspects of Mr. Holder's nomination.

First, I have been deeply troubled by Mr. Holder's poor decisionmaking in the case of the pardon of Mr. Rich and the FALN members. Also, I have been concerned about his past comments regarding the second amendment, even

after the Supreme Court rendered its pro-individual rights decision earlier this year. Most notably, I have been concerned about some of the comments related to intelligence activities that Mr. Holder made in past public speeches and during his recent confirmation hearing.

As vice chairman of the Intelligence Committee, I want to ensure that the intelligence community has the tools it needs to protect the country, and I want to make sure we will have an Attorney General in place who will help keep America safe.

In an effort to gain some clarity on Mr. Holder's current thinking on these issues and concerns, he met with me privately to discuss them. We discussed, for example, the President's Terrorist Surveillance Program, the FISA Amendments Act, the intelligence community's Detention and Interrogation Program, Guantanamo Bay, various interrogation legislative proposals, the applicability of the writ of habeas corpus to terrorists, renditions, and media leak investigations. A few days later we had a second meeting to discuss further the issues of great concern to me and my position on the Intelligence Committee, notably, the carrier liability provisions in the FISA Amendments Act and the propriety of investigating intelligence officials who acted in good faith and with proper authorization in the conduct of intelligence interrogations.

There have been some confusing press reports about my meetings with Mr. Holder as well as statements from Senators who were not in attendance at those meetings about it. So now is probably a good time to set the record straight.

First, it should go without saying that neither Mr. Holder nor I made any pledges or promises with respect to his nomination. We met, rather, so that we could share our perspectives on these very important issues. In those meetings, Mr. Holder provided me some additional insight that assures me he and the Department of Justice will be looking forward to keeping the Nation safe.

I invite my colleagues' attention to the following written assurance given by Mr. Holder to Senator KYL about a week ago concerning the investigation of intelligence officials conducting interrogation activities. He said:

> Prosecutorial and investigative judgments must depend on the facts and no one is above the law. But where it is clear that a government agent has acted in responsible and good faith reliance on Justice Department legal opinions' authoritatively permitting his conduct, I would find it difficult to justify commencing a full blown criminal investigation, let alone a prosecution.

During our meeting, Mr. Holder expanded on these remarks and explained why he had reached that conclusion—a conclusion with which I happen to agree.

While his public answer to Senator KYL and my main emphasis during our meetings focused on the intelligence officials who followed DOJ legal guidance and not on those who either wrote that legal advice or authorized the intelligence activities based upon such advice, I told him—and I believe he understood—that trying to prosecute these lawyers or political leaders would generate a political firestorm.

Besides interrogation, we focused during both meetings on the issue of carrier liability protection under the FISA Amendments Act. During Mr. Holder's confirmation hearing, Senator HATCH asked him whether he would honor the carrier liability certifications issued by Attorney General Mukasey. Mr. Holder answered that he believed he would honor those certifications unless circumstances changed.

I have asked Mr. Holder if he could explain the ''changed circumstances'' which would cause him to withdraw the existing certifications, noting that it would be difficult for circumstances to change since all this happened in the past, was considered by the Senate and the House, we wrote a bill, and under which the Attorney General made a judgment based on those circumstances. Mr. Holder didn't give any specific examples of changed circumstances, but he planned to review the certifications to which he has not had access if confirmed. Given that those certifications are based upon relatively simple, classified facts, I am certain he will reach the same legal conclusion as Attorney General Mukasey, and I am comfortable with his thinking on the matter as he described it to me.

I cannot stress enough to my colleagues and the American people the importance of the carrier liability protection provisions in the FISA Amendments Act. These provisions not only put an end to the frivolous lawsuits brought against the carriers alleged to have participated in the terrorist surveillance program, they also increase the likelihood of future cooperation with the intelligence community by the carriers as the community strives to keep us safe within the bounds of law. I also stressed the fact that Mr. Holder is not read-in—or given access—either to the terrorist surveillance program or the interrogation program, so it would not be advisable to make any definitive statements about either program without the pertinent facts, and he agreed with me on this point.

I enjoyed my meetings with Mr. Holder. While we did not agree on every issue, I appreciated his stated willingness to keep an open mind until he has had a chance to review the classified facts involved in most of these intelligence issues.

I found Mr. Holder to be a good listener, which is an important prerequisite for any good leader. I believe him when he says he is willing to take good ideas from wherever they come. As his predecessor, General Mukasey, he will, I believe, be an Attorney General more interested in justice than in politics.

Now, I understand a number of my colleagues will not support Mr. Holder's nomination. I respect their legitimate concerns about his unsatisfactory performance in the Rich and FALN pardons. I, too, have real problems in these matters. Pardoning Marc Rich—an international fugitive from justice—was certainly a stain on the Presidency and Mr. Holder's record. Mr. Holder told me, as he said publicly, that his role was a mistake he regrets. I believe he genuinely knows what he did was wrong and would not do such a thing again. Similarly, I suppressed my concerns to Mr. Holder regarding his role with the Puerto Rican FALN group. I disagree with him that granting clemency to such people even after the time they served could ever be appropriate, but he has told me that regardless of whether we agree that it was acceptable in a pre-9/11 world; he would not view similar future requests in the same manner in our post-9/11 world. In that respect, I believe Mr. Holder fully supports an aggressive stand against terrorists today. I am hopeful he has learned important lessons from these events.

When confirmed, Mr. Holder will be taking over the Department of Justice that is stacked with legal talent. I wish to take a moment to note that the Nation owes a great debt of gratitude to the Department of Justice. During the past several years, we have worked very closely with the Department on many important pieces of national security legislation, including the PATRIOT Act, the Intelligence Reform and Terrorism Prevention Act, the 9/11 Recommendations Implementation Act, the USA Patriot Improvement and Reauthorization Act, the Protect America Act, and of course, the FISA Amendments Act. I am very grateful for the dedicated efforts of the National Security Division, the Office of Legal Policy, the Office of Legal Counsel, and the FBI in assisting us with these various legislative matters. I also commend those on the frontline for their untiring service and efforts to keep us safe from the many and diverse threats against our national security while ensuring that our civil liberties are protected. I expect that Mr. Holder and the Department of Justice will continue this tradition, and I look forward to working with Mr. Holder closely on PATRIOT Act sunset issues and other important national security matters during this Congress to protect our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I thank the Chair, and I thank the distinguished vice chairman of the Intelligence Committee for his words. It is a

pleasure to work with him on the committee. I think we are both looking forward to a new relationship with the Department of Justice under a new Attorney General.

I see my friend and colleague, Senator SESSIONS, here waiting to speak, so I just wanted to make two quick points. The first is that this is a man of really exceptional experience. Our distinguished Presiding Officer—who I don't think can be seen on the television right now—is the distinguished Senator UDALL from New Mexico who was an Attorney General himself. He understands the value of experience in these jobs. This is a man who has been a U.S. attorney, who has been a Federal judge, who has been the Deputy Attorney General of the United States—the No. 2 position in this Department, and who, by all standards, has acquitted himself with remarkable distinction during the course of his tenure in those three positions.

It is also noteworthy that the Department of Justice has fallen on very hard times recently. People from both sides of the aisle from recent and distant administrations have come forward to try to be helpful to express their concern and their dismay about what was allowed to happen to this great Department. From all of my experience with the—I guess you could call them group of friends at the Department of Justice, people who served there and who have great affection for that Department, they view Eric Holder as a special person who has a unique capacity to fight for the principles the Department has long prided itself on: independence, talent, pure legal analysis, and courage. I think it is going to be very reassuring for the friends and family of the Department of Justice who have been so concerned about what has happened to it in the last few months to have this man now in charge. There will be a huge sigh of relief. I compliment my colleagues on the bipartisan way in which this has gone forward. Clearly, there were concerns early on and they were addressed fairly. This is a nomination that passed out of the Judiciary Committee 17 to 2, which, in a highly partisan environment in Washington, is as close to a perfect score as I think you are going to get. It continues to receive broad support from both sides of the aisle on the floor. I know many people who are significant in the history of the Department of Justice have spoken in support of Eric Holder, including former Attorneys General Barr and Jim Comer, two of the most distinguished people who have done so.

Without further ado, I will yield the floor so my friend, Senator SESSIONS, can speak. I think this is a great moment of opportunity for the country and the Department of Justice. I hope we can confirm Eric Holder to be Attorney General with a very strong number when we get to the vote.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, I ask to be notified when I have used 3 minutes.

The PRESIDING OFFICER. The Chair will do so.

Mr. SESSIONS. Mr. President, Senator WHITEHOUSE and I both served as U.S. attorneys. Eric Holder also served as a Federal judge supervising prosecutions and tried cases in the District of Columbia as a U.S. attorney. He served 4 years as Deputy Attorney General and did many good things during that time. He also made several serious errors, which I think and believe he has understood. He has committed not to make them again. He was influenced by the President, President Clinton, to do the pardons, and he should not have been influenced. I note that he moved away from that area of judge, prosecutor, and was active in the Kerry and Obama presidential campaigns. I have talked to him, and I believe he will be a responsible legal officer and not a politician as the Attorney General. I intend to support him.

I want to take a minute to express a growing concern I have about my beloved Department of Justice, where I spent 15 years as a prosecutor. It is something I respect highly. We do need to eliminate politics from that office. Some of the nominees coming up disturb me, and the pattern of them is disturbing. One is Elena Kagan, nominated for the Solicitor General. While dean of the Harvard Law School, she barred the U.S. military from coming on campus as long as she could successfully get away with it. She actually filed a brief in the Supreme Court when the Congress got so fed up with the idea that American universities would not allow the U.S. military to come on campus to ask students if they would like to be a part of the American military. She led the fight with an appeal all the way to the Supreme Court to reverse the Solomon amendment, which would require colleges and universities to either allow the military on campus or get no Federal funds. She led that battle. It was voted down in the Supreme Court 8 to 0, as well it should have been.

The PRESIDING OFFICER. The Chair advises the Senator that 3 minutes has elapsed.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. On the Republican time?

Mr. SESSIONS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Dawn Johnsen, nominated to be assistant Attorney General for the Office of Legal Counsel, was the legal director for NARAL, the National Abortion Rights Action League, one of the most aggressive—probably the most aggressive—pro-abortion group in the country.

David Ogden, nominated for Deputy Attorney General, represented the murder defendants in Roper v. Simmons, which led to the unprincipled decision about defendants and the death penalty.

Thomas Perrelli, who represented Michael Schiavo in the Terry Schiavo case, is nominated for Associate Attorney General, third in command.

D. Anthony West, who is nominated for Assistant Attorney General for Civil Division, represented John Walker Lindh, the American Taliban who has been prosecuted and convicted.

We are heading into problems on some other nominations. We do not need the Department of Justice to become a liberal bastion. It needs to be the cornerstone of defending Americans and our safety.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. ISAKSON. Mr. President, I ask to be recognized for up to 2 minutes of the Republican time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ISAKSON. Mr. President, I will vote today for Eric Holder. I want to tell this body why. When he was first nominated, I had concerns—second amendment concerns and Guantanamo interrogation concerns, and about some of the releases that had taken place while he was a deputy U.S. attorney. There are three main reasons I am going to support this nomination. One, when I called him, he was the most forthright, most candid of all the people who have been appointed by the President, and I appreciate very much the time he took.

On the second amendment, he may have had interpretations more strict than mine, but he interpreted the Supreme Court to be the law of the land, and he would enforce the Supreme Court, which has clearly determined that the second amendment is an individual right.

Secondly, on Guantanamo, he acknowledged that those who had done interrogations had done so under the authority of the Department of Justice, and the Department of Justice could not undo what it had done. I respected that.

Third, a great U.S. attorney general from Georgia by the name of Griffin Bell, who died 2 weeks ago, under Jimmy Carter, sang Eric Holder's praises. Also, Larry Thompson of Georgia, deputy U.S. attorney under John Ashcroft—when I called him to ask about Holder, he said he was as good a lawyer and as fine and forthright a man as he knew. With those endorsements and his candid answers to my

questions, I will vote for his confirmation in the Senate.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Georgia, and I appreciate his support. I understood there were going to be other Senators from this side coming to speak. I note that the time is running, and they will lose their time if they do not come to speak soon. I also add, while we are waiting, that I have had a special and significant interest in the Department of Justice from the time I was a law student. I watched so many attorneys general who have served at the Justice Department, some have been very good, but many have not. There is nobody—certainly, since I have been old enough to vote—who has been Attorney General with the potential to be as great an Attorney General as Eric Holder.

Like others in the Senate, I supported him when President Reagan nominated him for a judgeship, and he was unanimously confirmed. With many others in the Senate, I supported him when he was nominated to be a U.S. Attorney. He was unanimously confirmed. I also supported him when he was nominated to be Deputy Attorney General and for weeks he was held up on the floor by an anonymous hold. For some reason, there was an anonymous hold against Eric Holder. When that hold was finally lifted, lo and behold, nobody voted against him. He was again unanimously confirmed.

I see the distinguished Senator from Maryland, one of the most valuable members of the Judiciary Committee, on the floor of the Senate. How much time would the Senator like?

Mr. CARDIN. About 5 minutes.

Mr. LEAHY. I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, first, I thank the Senator from Vermont, the chairman of the Judiciary Committee, for his work regarding the Eric Holder nomination. I think the confirmation process has been very fair. I must point out that when then-President-elect Obama indicated that his choice for Attorney General would be Eric Holder, I was very excited and supportive of his selection.

The confirmation process of the chairman of the Judiciary Committee has been conducted in a very fair and open manner. It has only made my support for Eric Holder more strong. The documents made available to the committee and the letters we have received from interested parties—many from those who have served in the Department of Justice under Republican administrations—have all strongly endorsed Eric Holder to be the next Attorney General of the United States.

I am convinced he is the right person at the right time for many reasons. First, his experience; he brings a wealth of experience to the position of Attorney General. He was a former judge and a former U.S. attorney. He has been in the Office of the Attorney General in the Department of Justice, and he has been a private attorney. He brings a sense of independence that we need in the Office of the Attorney General. He must be the Attorney General for the people of this country. He doesn't serve one person or just the President; he serves all Americans. We need an Attorney General who is going to be independent and willing to stand for what is right; stand up to a Cabinet Secretary or even the President with independent advice as to what the law states.

We are a nation of laws. The rule of law is extremely important. Eric Holder, throughout his career, has demonstrated that independence. I will give you one example. When Ken Starr, who was investigating former President Bill Clinton, wanted to expand his investigation of the President, it was up to Eric Holder to make that recommendation, and he made that recommendation in favor of the Independent Counsel. So he has shown his ability to do what is right, even if it is not popular to the person who appointed him, the President.

Secondly, I believe Eric Holder will restore the right priorities for the good of justice. When asked about torture, without any equivocation he said torture is illegal and cannot be accepted under any situation. He didn't equivocate. We know when we need to restore the strength of the Civil Rights Division in the Department of Justice, he said he would do that. He clearly will restore to the Department of Justice the priorities that are most important for the Department of Justice.

Let me point out, in short, Eric Holder will restore the reputation of the Department of Justice, and he will retain and recruit the very best legal minds to represent the interests of all of the people of our Nation. I strongly endorse his confirmation and urge my colleagues to do that. With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Mr. President, I rise to speak on the nomination of Eric Holder for the position of Attorney General of the United States. We place enormous trust in the nominee for this position to not only enforce the laws of our land but also to advise the President on legal and constitutional matters. One of the important freedoms that we have in the Constitution is the right to keep and bear arms, guaranteed to us in the second amendment of the Constitution. Many jurisdictions around our country do not have the ability to own a gun, and there are restrictions in jurisdictions all over our country for the use of a gun. Nowhere is it more strict than in Washington, DC.

In 1976, in Washington, DC, the City Council passed the toughest gun control laws in the Nation, banning handguns and requiring rifles and shotguns to be registered, stored unloaded, and either locked or disassembled. These were the most restrictive laws in our Nation regarding gun ownership. I thought they were not only incomprehensible but certainly unconstitutional.

I introduced a bill with a number of my colleagues to repeal these prohibitive measures.

This prohibition, however, was challenged in court before my bill could get through Congress, and the DC Circuit Court of Appeals agreed that the District's ban was unconstitutional.

When the District appealed to the Supreme Court, I filed an amicus brief with our colleague JON TESTER that was supported by 53 Senators and 250 Members of the House of Representatives. This was on the interpretation of the second amendment as preserving an individual right to keep and bear firearms. Our brief contained the most congressional signatures on any amicus brief ever in the history of our country.

In another amicus brief in this same district court opinion that was appealed to the Supreme Court, the nominee before us, Mr. Holder, along with 12 other former Justice Department officials, argued in favor of the gun ban in Washington, DC. His brief stated:

> The second amendment does not protect firearms possession or use that is unrelated to participation in a well-regulated militia.

Fortunately, on June 2, 2008, the Supreme Court affirmed the intent of the Founders: that the right to bear arms is an individual right protected by the Constitution. This was a major ruling on the second amendment because local governments that seek gun control measures have made the argument that Mr. Holder made in his brief. That is the basis for gun control ordinances and laws around our country.

The ruling in the DC case was a victory for the rights of all Americans to protect themselves and their families. The Supreme Court sent a clear message that the law of the land, the individual right to keep and bear arms, cannot be unreasonably infringed.

The Founding Fathers knew what they were doing when they put the right to keep and bear arms in the Constitution. They knew from their experience in the Revolutionary War that a free people must have the right to possess and bear arms. In 1775, the American Revolution started because ordinary farmers decided to fight back against foreign tyranny. Many in George Washington's regiments used their own guns.

I was alarmed to learn that while serving as Deputy Attorney General in the Clinton administration, Mr. Holder said in an appearance on ABC's "This Week" that the second amendment "talks about bearing guns in a well-regulated militia. And I don't think anywhere it talks about an individual."

This interpretation, while interesting in academic circles, is not mainstream, nor is it reflective of public opinion. Indeed, in our brief that we filed, we cited every congressional action that has happened throughout the history of our country that affirmed that Congress believes the second amendment is an individual right.

Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, I have no objection, but it will have to come from the Republican side, of course.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the Framers did not intend for this right to be collective. If that was their purpose, it would have been satisfied with article I, section 8 of the Constitution, which gives Congress the power "to provide for calling forth the Militia to execute the Laws of the Union, suppress insurrections and repel Invasions."

The Framers went further than that. They wanted to ensure that gun ownership was recognized by posterity as an individual right. They put it in the Bill of Rights for that purpose. It is a compilation of individual rights of free speech, freedom of religion, a fair trial, and the right to keep and bear arms.

The Framers looked at the governments of Europe. James Madison said:

> The governments of Europe are afraid to trust the people with arms. If they did, the people would surely shake off the yoke of tyranny, as America did.

Later on, President Madison explained:

> The Constitution preserves the advantage of being armed, which Americans possess over the people of almost every other nation where the governments are afraid to trust the people with arms.

The right to bear arms should not be an issue in the United States. The Constitution is clear, and the Supreme Court has spoken. Our Second Amendment right ensures that our people have the ability to secure all of our rights and defend them, if necessary, from government suppression. It is this right that a government of the people, by the people, and for the people must never extinguish.

I believe that Eric Holder, from everything I have read, is an intelligent, experienced, and thoughtful candidate to be the U.S. Attorney General. But after examination of Mr. Holder's public statements and positions on gun rights, I cannot in good conscience support his nomination for the office of Attorney General, and I, therefore, will vote no.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I support the nominee. I have known him for a long time. We differ on many issues, but he is a qualified person, and he is a good man. He has the necessary professional qualifications to do this job. I personally believe we ought to support the President and his choice of Cabinet officials if there are no other disqualifying factors, such as ethics or criminal activity or something serious. I have a friendship with the nominee.

In fulfilling my responsibility in the confirmation process, I try to apply the right standard to the whole record about a nominee. The right standard comes from the Constitution, which gives the appointment power to the President, not to the Senate.

Elections have consequences, and Presidents must be given significant latitude when choosing members of their own Cabinet. Differences on issues or whether I would have nominated the individual are not alone enough to overcome that latitude. I have always argued for this standard no matter which party controlled either the Senate or the executive branch. The Senate checks the President's appointment power, but it may not highjack it.

I realize that my friends on the other side of the aisle have at times applied a different standard, a much more partisan standard, when a Republican was in the White House. They got in the habit of putting partisan politics before the process principles the Constitution requires. I am not going to do that. I am going to apply the same standard to President Obama's nominees that I argued should have been applied to President Bush's nominees. In doing that, I believe the right standard must be applied to the whole record.

The record includes the fact that Mr. Holder has been nominated three times before, by both Republican and Democratic Presidents, and he has been confirmed three times before, by both Republican and Democratic Senates. Those confirmations were by voice vote, by unanimous consent, and by a rollcall vote of 100 to 0. Not one member of this body voted against Mr. Holder as he was appointed to be a judge on District of Columbia Superior Court, U.S. Attorney for the District, and Deputy Attorney General.

I think it also matters that the Judiciary Committee last week voted 17 to 2 to approve Mr. Holder's current nomination.

Another part of the record is the breadth of support Mr. Holder has received. This includes the entire law enforcement community. The cops on the beat and the chiefs of police, the troopers and the sheriffs, the district attorneys, the Federal prosecutors, and the State attorneys general, all of these and more support Mr. Holder. Advocates for crime victims also support Mr. Holder. These include my friend John Walsh, Mothers Against Drunk Driving, the National Center for Missing & Exploited Children, and the National Association for Victims of Crime. This really matters to me.

These organizations examined Mr. Holder's qualifications, his record of public service, and concluded that he would make a good Attorney General. Does that mean we should, therefore, set aside our own review and automatically support him? Of course not, but it is part of the whole record and, I believe, an important part.

I have served in this body and on the Judiciary Committee for more than 32 years and do not remember when the law enforcement and victims communities have been this united in support of an Attorney General nominee.

And the record also includes support for Mr. Holder from many legal experts and past Justice Department officials with high standing in conservative and Republican circles.

Former Solicitor General Ted Olson says that Mr. Holder will be a strong, courageous leader who is both a good manager and a good listener.

Former Acting Attorney General Stuart Gerson and Former Deputy Attorney General George Terwilliger write that Mr. Holder is an extraordinary lawyer and an even better person.

Former Deputy Attorney General Larry Thompson says that Mr. Holder will be principled, pragmatic, fair, and tough.

Former Congressman and Federal prosecutor Asa Hatchinson writes that Mr. Holder will be the kind of Attorney General who puts the law first and political considerations second.

And recent Assistant Attorney General Kenneth Wainstein, who headed the Justice Department's National Security Division, says that Mr. Holder is a man of integrity, a strong proponent of law and order, and more concerned with justice than with politics.

That is high praise from very good company.

This does not mean that I have no concerns about Mr. Holder or do not intend to be vigilant about what the Justice Department will be doing in the months and years ahead. I hope, for example, that Mr. Holder will continue some critical initiatives begun in the

last several years, such as the protection of religious liberty and the prosecution of human trafficking. These initiatives were part of the work of the Civil Rights Division, which was led at the end of the Bush administration by Grace Chung Becker, who earlier served on my Judiciary Committee staff.

Religious liberty is the first freedom protected by the first amendment. Human trafficking is, to put it bluntly, modern-day slavery. Upholding human dignity and freedom requires both protecting the one and prosecuting the other.

I also am concerned that enforcement of Federal laws regarding child pornography and adult obscenity will suffer and the exploitation and corrosion that this material causes for individuals, families, and communities will worsen. This is a completely nonpartisan issue for me. I was no fan of the Bush administration's enforcement of the obscenity laws and said so in both confirmation and oversight hearings.

The record of the Clinton administration, in which Mr. Holder served, was even worse. On November 4, 1993, this body voted 100 to 0 to condemn the Justice Department's attempt to adopt a novel, weak interpretation of the Federal child pornography statute. The Justice Department had used this distortion of the law to ask the U.S. Court of Appeals to overturn a child pornographer's conviction. This body rarely votes 100 to 0 on anything, but we voted to condemn the Justice Department's action.

I know that was in the first Clinton term, and Mr. Holder did not serve as Deputy Attorney General until the second term. But that is the record of the Justice Department in which he previously served, and I hope that the record of the Justice Department he will now lead will be much different.

Another significant issue which I raised at Hr. Holder's confirmation hearing is the right to keep and bear arms, guaranteed by the second amendment to the Constitution. It continues to baffle me how people can claim to see unwritten rights in our written Constitution but refuse to fully acknowledge those that are right there in plain sight. Mr. Holder has argued that the second amendment protects only a collective right related to service in an organized militia rather than an individual right of citizens. He took this position as Deputy Attorney General during the Clinton administration and since then as a private citizen, most recently before the Supreme Court in the case titled District of Columbia v. Heller.

I believe Mr. Holder is wrong and the Supreme Court rejected Mr. Holder's position in Heller, ruling definitively that the second amendment protects an individual right.

Mr. Holder has also in the past advocated some restrictive gun control proposals that I oppose and which I believe would likely be unconstitutional under Heller.

I asked Mr. Holder about the second amendment and gun control during his hearing and in follow-up written questions. He acknowledged his duty to enforce the Constitution as interpreted in Heller. He said he would respect the right to keep and bear arms as articulated by the Supreme Court in Heller, that is, as an individual constitutional right.

I note that the Senate voted 100 to 0 in July 1997 to allow Mr. Holder to serve as deputy to an Attorney General who was no friend of the second amendment. That was before the Supreme Court ruled that the right to keep and bear arms is an individual right, a ruling Mr. Holder has a duty to follow.

If confirmed, Mr. Holder will take an oath before God to support and defend the Constitution. So while I disagree with his past positions on the second amendment and gun control, I believe and expect that he will take his duty and his oath seriously.

I am also troubled by Mr. Holder's role, while he served as Deputy Attorney General, in the process resulting in President Clinton's clemency for Puerto Rican terrorists and his pardon for international fugitive Marc Rich. In 1999, I joined 94 other Senators in voting to deplore the clemency for the FALN terrorists. Needless to say, I disagree with Mr. Holder's statement at his hearing that he still believes his support of that clemency was reasonable.

I agree with former FBI Director Louis Freeh who said at Mr. Holder's confirmation hearing on January 16 that the pardon of Marc Rich, which happened after avoiding the Justice Department's evaluation process altogether, was a corrupt act. Mr. Holder, however, made neither of those decisions. President Clinton did.

Mr. Holder has acknowledged mistakes and said he has learned from them.

I believe that his actions and decisions in the process leading to those decisions reflect bad judgment but not corrupt character. This confirmation process has certainly focused even more attention on those past mistakes and, I hope, will make Mr. Holder even more diligent in his duties ahead.

I know Eric Holder. My own experience and knowledge of his record and the testimony of so many others whose judgment I respect confirms that he is a man of ability, experience, and integrity.

The issues and concerns I have raised, while not enough to overcome the deference the Constitution requires, do identify areas for work in the future and I hope, when confirmed, Mr. Holder will work with both Republicans and Democrats on these important issues.

Applying the right standard to the whole record leads me to support Eric Holder to become the next Attorney General of the United States.

I reserve the remainder of our time.

The PRESIDING OFFICER (Mr. WARNER). Who yields time? If no side yields time, the time will be charged equally to both sides.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I was withholding saying anything because I thought there were other Republicans coming to speak. I see none.

During the three different times I have been chairman of the Senate Judiciary Committee, I have presided over the confirmations of three Attorneys General. In my 35 years in the Senate, I have voted on many more. No nomination for Attorney General has filled me with greater pride than this one, and it is time for the Senate to complete its consideration of President Obama's historic nomination of Eric Holder to be Attorney General of the United States.

In an article I co-authored with the Judiciary Committee ranking member, Senator SPECTER, before last November's election, we wrote—and we were writing to whomever would be President:

> The Attorney General's duty is to uphold the Constitution and the rule of law, not to circumvent them.

We wrote further:

> The President and the American people are best served by an Attorney General who gives sound advice and takes responsible action, rather than one who develops legalistic loopholes to serve the partisan ends of a particular administration.

We could not have made that job description better for anyone than Eric Holder. That is what kind of an Attorney General he will be.

It was seven score and four years ago that this Nation answered the fundamental question President Lincoln posed in his Gettysburg Address, and the world learned that liberty, equality, and democracy could serve as the foundation for this great and united Nation.

The American people have had cause and occasion to reflect during the past several weeks about our great country. The inauguration of our new President was two weeks ago tomorrow, and two weeks ago today was the holiday our country has set aside to celebrate and rededicate ourselves to the cause of freedom and equality.

Three and a half weeks ago, the day of Mr. Holder's hearing, was the 80th anniversary of the birthday of the extraordinary man for whom that holiday is named. With this confirmation, we take another step up the path toward the time Dr. King foresaw when people are judged by the content of

their character. Eric Holder has the character to serve as the Attorney General of the United States. He passes any fair confirmation standard.

America's diversity when drawn together is the source of our Nation's strength and resilience. Americans have to be able to trust their Justice Department. That trust must not be squandered or taken for granted. We need leaders who are prepared to take up the laboring oars of a Justice Department whose dedicated law enforcement professionals have been misused and even demoralized. Eric Holder is such a leader.

With this confirmation, we mark the distance from when an Attorney General of the United States did not believe that the Constitution of the United States allowed an African American to be considered a citizen of the United States to an Attorney General who knows that the Constitution is our country's great charter of freedom and equality for all people.

It was former Attorney General, Roger Taney, who wrote the Supreme Court's *Dred Scott* decision denying the humanity of slaves, former slaves, and free people. It is perhaps the worst legal opinion ever rendered in this country. That is not what the Constitution said, and it is not the promise of America.

Today, each one of us, acting pursuant to our constitutional responsibilities as U.S. Senators, can, by our votes and by the overwhelming endorsement of this institution for this nomination, demonstrate how far we have come as a nation.

The election of Barack Obama and JOE BIDEN and the President's nomination of Eric Holder to be Attorney General of the United States provide an historic opportunity for the country to move beyond the partisanship of the past decades. We can make a real difference if we come together to solve the Nation's problems, protect against serious threats, and meet the challenge of our time.

Let us honor the wishes of the American people who in November broke through debilitating divisions to join together in record numbers. Let us acknowledge that our inspirational new President has moved forward promptly to assemble an extraordinarily well-qualified and diverse group of Cabinet officers and advisers. And let us move away from petty partisanship in order to serve the greater good.

Of course, any Senator is free to oppose a nomination and vote against confirmation. In this instance, I think they will be on the wrong side of history. I believe that when we take a step back and look at the big picture and the best interests of the country, Eric Holder is someone who deserves our support and merits our votes. In order to serve effectively as Attorney General he will also need our help. The challenges are too great not to join together to confirm Mr. Holder and proceed promptly to consider the entire Justice Department leadership team that President Obama has selected.

I urge all Senators to join together to do what is right and approve this extraordinary public servant to the critical post for which President Obama has nominated him. Go on the right side of history and vote for Eric H. Holder, Jr. to be the 82nd Attorney General of the United States.

Mr. President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are due to vote at 6:15. I believe everybody has spoken for Mr. Holder who chooses, so I ask unanimous consent to be permitted to use the remaining time to talk about the stimulus package.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, reserving the right to object, the Senator wants to use the rest of the Republican time; is that what you meant?

Mr. SPECTER. Well, unless—

Mr. LEAHY. How much time remains on both sides, Mr. President?

The PRESIDING OFFICER. The minority has 1 minute 45 seconds; the majority has 8 minutes 25 seconds.

Mr. LEAHY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

STIMULUS PACKAGE

Mr. SPECTER. Mr. President, later this evening, we are going to be moving ahead to discuss the stimulus package, and I want to use a few moments now to express my views on the subject. There is no doubt about the need for stimulating the U.S. economy. January figures show 7.2 percent unemployed, 2.8 million jobs lost last year, more layoffs all the time, and more foreclosures. It is my hope that there will be a very strong stimulus package which is directed at putting people to work.

The proposals which have come from the House bill are laudable and in many respects are measures which I have long supported. But on analysis, it seems to me they belong more directly in a budget program where we have targets for spending—discretionary spending—making an evaluation of priorities and moving in that direction. But when the American people are being asked to support a stimulus program of more than $800 billion, which is deficit financing, the programs ought to be directed at job opportunities.

Mr. President, I ask my distinguished colleague, the chairman, if nobody wants his time, if I might use 5 minutes of it.

Mr. LEAHY. I intend to use the rest of my time. If you want another minute or two, I will give you two minutes of my time, but then I intend to use the rest of it.

Mr. SPECTER. I yield the floor.

Mr. LEAHY. How much time remains, Mr. President?

The PRESIDING OFFICER. Eight minutes.

Mr. LEAHY. How much time remains for the Republicans?

The PRESIDING OFFICER. That time has expired.

Mr. LEAHY. Would the Senator like 2 minutes of my remaining time?

Mr. SPECTER. Mr. President, 2 minutes won't do me any good. The chairman wants his time; he has it.

Mr. LEAHY. Mr. President, I have a feeling we are all going to be spending hours talking about the stimulus package. Right now, I am more concerned to talk about the Holder nomination.

I have heard a great deal about the second amendment. I couldn't help but think during the hearing, when he was asked about the second amendment and how he would support the rights of those who are gun owners, and I looked down at some of those asking from the different States. I looked at the States that are represented on the Senate Judiciary Committee—Wisconsin, California, New York, Illinois, Maryland, Rhode Island, Oregon, Minnesota, Delaware, Pennsylvania, Utah, Iowa, Arizona, Alabama, South Carolina, Texas, and Oklahoma, as well as the State of Vermont. There is only one of those States that does not have restrictive gun laws—the State of Vermont. We do not have any gun laws in effect, except during hunting season. We limit the number of rounds you might have in your semiautomatic during deer season. It is supposed to give the deer a chance. Anyone who wanted to carry a loaded concealed weapon without a permit in the State of Vermont, the distinguished Senator from Virginia or anyone else, could.

I mention that only because several of the Senators who have come from States with very restrictive gun laws went after Eric Holder on gun laws. So I asked him: "Would you, as Attorney General, support legislation that would require Vermont to change its gun laws?" And thus make Vermont as restrictive as these Senators who were giving him grief on his support of the second amendment. He said: Absolutely not. I asked him if there was any question whether he would steadfastly protect the second amendment rights of law-abiding Americans to purchase, transport, and use guns. He said he would. I asked if he would follow the law, including the Supreme Court decision in the recent case in the District of Columbia versus Heller. He said, of course he would follow the law.

I mention that because I put into the RECORD already 130 or more organizations. Every single law enforcement organization of any significance in this

country is supporting Eric Holder. Civil rights groups are supporting Eric Holder. Past prosecutors, including those of the Bush and Reagan administrations, have supported Eric Holder. Current prosecutors, the members of the immediate past President, President Bush's administration, have endorsed him.

I say this because I think we are seeing straw men put up here—straw men who are saying they do not want Eric Holder as Attorney General; yet these same people voted unanimously for Alberto Gonzalez, an Attorney General who left in disgrace.

This man restores the lustre of the Department of Justice. This man will be as independent as the Attorney General I talked with in his office when I was a young law student and we were talking about what it would be like to come to the Department of Justice. I asked that Attorney General if he would allow anybody in the White House, up to and including the President, to interfere with any criminal prosecution or civil rights prosecution. He said absolutely not, and I have told the President that. That Attorney General I was talking with was Robert F. Kennedy. He was talking about his brother John F. Kennedy. And when it came time to prosecute a man who had been critical to his brother's election as President of the United States, Robert Kennedy prosecuted him.

I left as a young law student, tempted to stay in Washington, but my wife Marcelle and I went back to Vermont, where we were both born and where we wanted to be. But I have never forgotten that discussion with Attorney General Kennedy. That has been the touchstone for me. I don't want another Attorney General who sits in the room while others in our government approve secretly wiretapping Americans in violation of our law, or engaging in torture. I want an attorney who stands up for the rule of law and our long cherished American values.

That is the kind of Attorney General Eric Holder would be. Come on the right side of history. Come on the right side of history. Reject what we saw in the past. Vote for Eric Holder.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Eric H. Holder, Jr., of the District of Columbia, to be Attorney General? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. BEGICH) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Florida (Mr. MARTINEZ).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 32 Ex.]

YEAS—75

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Baucus	Grassley	Murkowski
Bayh	Gregg	Murray
Bennet	Hagan	Nelson (NE)
Bennett	Harkin	Nelson (FL)
Bingaman	Hatch	Pryor
Bond	Inouye	Reed
Boxer	Isakson	Reid
Brown	Johnson	Rockefeller
Burris	Kaufman	Sanders
Byrd	Kerry	Schumer
Cantwell	Klobuchar	Sessions
Cardin	Kohl	Shaheen
Carper	Kyl	Snowe
Casey	Landrieu	Specter
Chambliss	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	Levin	Udall (CO)
Corker	Lieberman	Udall (NM)
Dodd	Lincoln	Voinovich
Dorgan	Lugar	Warner
Durbin	McCain	Webb
Feingold	McCaskill	Whitehouse
Feinstein	Menendez	Wyden

NAYS—21

Barrasso	Crapo	McConnell
Brownback	DeMint	Risch
Bunning	Ensign	Roberts
Burr	Enzi	Shelby
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Cornyn	Johanns	Wicker

NOT VOTING—3

Begich	Kennedy	Martinez

The nomination was confirmed.

Mr. LEAHY. I thank all my colleagues who took part in this debate over the past several weeks. It is a historic nomination. And of the last four—I have to check back—the last four attorneys general, Eric Holder had the largest ''aye'' vote of any of them.

I think it is a good sign for the country. It is a good sign for the Department of Justice. And this former prosecutor is very happy.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and tabled. The President shall be notified of the Senate's action and the Senate will return to legislative session.

THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—Resumed

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we are on the economic stimulus package. We are going to start on that early in the morning, 10 o'clock. The first amendment we are going to offer, I have already told the Republican leader, is going to be an amendment offered by Senators MURRAY, FEINSTEIN, and others dealing with infrastructure.

We look forward to the next amendment. If the Republicans are ready, then they should be ready to offer their amendment. We will try to move through the process as quickly and as fairly as we can.

This is an extremely important piece of legislation. The problems we have economically in the country today are not the problems of Democrats or Republicans, they are problems that American people have. We together have to try to work through this bill. I hope we can have cooperation. There are many things that people have different responsibilities for. We have had a longstanding partial-day conference we are going to have, but we are going to have opportunities during the time we are there listening to Secretary Chu and Secretary Salazar and others to offer amendments here.

There will be a significant number of votes. We hope if the amendments are offered tomorrow and Wednesday, we will have a number of votes all day tomorrow. Starting about 3 o'clock Wednesday afternoon we can do the amendments that have been offered that day. So we have lots of work to do, and it is important we do it as quickly, I repeat, and as fairly as we can.

I ask unanimous consent the following be recognized for the time specified: UDALL of New Mexico, 15 minutes; BROWNBACK, 10 minutes; CASEY, 15 minutes; SNOWE, 20 minutes, KAUFMAN, 15 minutes. This request is for these Senators to speak this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, as I rise to give this maiden speech in our Chamber, we all know we are living in very difficult times. Our current economic crisis has only accelerated problems that have been growing for years. America's manufacturing sector was declining before this crisis, and when this crisis has passed, we will still need a blueprint for creating high-paying jobs and growing the middle class.

Meanwhile, our energy policies pose a threat to the economic, environmental, and national security of our Nation and the world. I believe these two problems, our economic stagnation and our energy irresponsibility, demand a common solution. We must put Americans

to work building the energy economy of the future, and we must do so now.

I often say our energy policies have produced a perfect storm, a combination of three extraordinary challenges that collectively threaten our future. First, America's dependence on fossil fuels threatens our economy. As natural gas provides a growing share of America's electricity, the price of gas has more than tripled since 1995, and growing demand promises to make matters worse.

Second, America's energy policies threaten our security. America has 3 percent of the world's natural gas reserves, but we consume 25 percent of the world's supply. That increasingly means sending American dollars to Russia and Iran, two countries that sit on more than 43 percent of the world's gas reserves and two countries that have shown their willingness to use energy as an instrument of coercion.

Finally, humans have managed to overwhelm the Earth's carbon cycle. The balance that sustained life on Earth for millennia has been radically altered. In New Mexico, this means fewer farms and more forest fires, more thirst and less water, the end of a unique and treasured way of life.

Some people say the world's demand for fossil fuels has not yet begun to outstrip supply, or that the climate is not changing back that quickly. I look at it this way. We are driving toward the cliff. I do not want to spend a lot of time arguing about how far off the cliff is. I want to stop accelerating.

So what do we do? In the short term, we need to do it all. We need to drill responsibly for domestic energy, we should promote conservation, and nuclear power has to be part of the mix.

But we also need reforms to prepare us for the future. When I was in the other body, I fought for and we passed a renewable electricity standard, an RES. This plan would demand that large utilities generate a portion of their energy from renewable sources and conservation. Thanks in large part to my colleague who is on the floor today, the senior Senator from New Mexico, Mr. BINGAMAN, the Senate has passed this proposal three times. Similar policies have succeeded at the State level. In fact, 28 States have renewable standards, including my home State of New Mexico. But a national RES has never become the law of the land. It is time for Congress to make it so.

There are many reasons to support this plan. To start, it is good for consumers. With a 20-percent standard, utility customers could save $31.8 billion. It will strengthen rural communities and provide new income for farmers and ranchers. This plan will make America safer. The billions of dollars it would generate are dollars that will stay in America and cannot be used to hold our foreign policy hostage. But most importantly, a national renewable standard will create hundreds of thousands of high-paying jobs, jobs that cannot be outsourced. Study after study shows that shifting capital to renewable energy increases job creation.

Not only will this plan stimulate job creation today, it will put us on a path toward dominance in the industries of the future. These benefits will come from the actions of private businesses making the RES a distinctly American solution to a global problem. That is why it will succeed. As one writer has put it, the only thing stronger than Mother Nature is "father profit."

Because it works with the private sector, an RES is more than a government program. It is an appeal to the spirit of innovation. I know we have enough of that innovative spirit to tackle any challenge we face. I see it in the people of New Mexico. I see it in the scientists chasing new ideas, in entrepreneurs betting their time and capital on the hope of a better world, in engineers searching blueprint sketches for the submerged outline of a revolution. My constituents are eager to tackle the problems that face our country. I know yours are too. But these citizens have been poorly served by their Government. Just last month, a renewable energy company from my State was forced to lay off most of its workforce. After investing in a new technology, the company could not afford to begin manufacturing. As a result, the progress of their innovations has been delayed, and the dreams of their workers have been deferred.

It did not have to be this way. Countries that have done more to shape their energy markets have created driving green energy industries. With a population roughly a quarter as large as America's, Germany has twice as many workers developing wind energy technologies. Spain has almost 5 times as many workers in the solar thermal industry as America, and China has more than 300 times.

Today our markets do not accurately price the social cost of burning fossil fuels. As a result, the private sector is effectively being told to send American dollars overseas, to ignore the coming decline in fossil fuel supplies, and to radically alter the world's climate. It is a credit to America's energy companies that so many of them have invested in alternative fuels and conservation. But individual acts of responsibility cannot compensate for a market that encourages irresponsibility. If we are going to make the changes we need, conservation cannot be an act of personal virtue, and renewable fuels cannot be luxury alternatives. An RES would structure the marketplace so those decisions that are best for the American people are also the best for the bottom line. This approach will make the market a powerful force for progress because Government cannot tackle this problem alone.

New Mexico contains two of America's preeminent national labs. We know these public institutions have an incredible innovative capacity, but we also know Government needs private sector partners to achieve its goals. From 1970 to 1996, Los Alamos National Lab, the institution that harnessed the power of the atom and launched America's national lab system, developed a technique for cleanly and efficiently using the Earth's heat to generate energy. Estimates indicated that the technique could eventually power the Earth for hundreds of years. But without market incentives to encourage continued development, progress stagnated.

Only recently have American businesses rediscovered the geothermal technologies this country pioneered. Because our markets do not appropriately value renewable energy, we lost more than a decade while the world raced ahead. America cannot afford to let another country become the world's green energy leader. Someday soon, green energy will no longer be an alternative; it will be the standard. The CEO of GE Energy recently testified before Congress that wind and solar energy are likely to be among the largest sources of new manufacturing jobs worldwide during the 21st century. The question is whether these jobs will be in America. That is what I want, and that is what we need to do.

America has always succeeded by being one step ahead. We mass produced the car, and American manufacturing built the middle class. We sparked the IT revolution, and our high-tech industry fueled American prosperity for years. Today being one step ahead means developing the green energy economy of the future before anybody else does. The challenge is huge but so is the payoff if we succeed—a stronger economy, a more secure future, and a chance to reclaim the mantle of world leadership by the force of our example and the unmatched capacity of our people. It is clear these are difficult times. I devoted this speech to a proposal I believe will allow us to meet these difficulties head on and to emerge a safer, stronger, more prosperous Nation. I believe the American people are ready for change, and they are ready for the change this plan represents. It is up to us to rise to the challenge.

Should we do so—and I am confident we will—we will remember today as a time when America again turned a global threat into a national opportunity. We will remember the day when our Government set free the power of American industry to tackle one of the world's toughest problems, and we will celebrate the time when American businesses and American workers rose and together rebuilt a newer world, a clean energy world.

I also wish to thank today a number of my colleagues and friends: My cousin, MARK UDALL, from the great State of Colorado; Senator BINGAMAN, whom I mentioned, who has been a leader on these renewable technologies and has gotten this proposal that I talked about today through the Senate three times. I see JEANNE SHAHEEN, who is also in my class; JEFF MERKLEY, DEBBIE STABENOW, SHERROD BROWN, BOB CASEY, many Members who are here. I am grateful.

I yield the floor.

The PRESIDING OFFICER. Under a previous order, the Senator from Kansas is recognized for 10 minutes.

Mr. BROWNBACK. I welcome my colleague from New Mexico, Senator UDALL, a great name in U.S. politics. I am sure he will do a great job in this body, and I appreciate his comments talking about green expansion and what we can do to create jobs and opportunities. We certainly need to do that, and I welcome him.

I rise to speak on the stimulus bill in front of us. Our economy is certainly in great difficulty. The American people are suffering. Look at the numbers. They don't tell what is in people's hearts or what is happening to their pocketbooks, but it does paint a bleak picture. Real gross domestic product declined 3.8 percent in the fourth quarter this past year. Consumer spending, which is nearly 70 percent of the economy, was down 3.5 percent. We had weak consumer spending, weak exports, weak investment. That translates into a bad job market. I don't think anybody questions but that we are in difficult economic times.

For the past 12 months, the economy has lost nearly 2.6 million payroll jobs. From Friday's forecast, the estimates ahead are looking at another 500,000-plus jobs lost during the month of January. Ouch. That is bad. It is hard. It is difficult. The economy is in very difficult shape, and people are suffering.

I wish to see President Obama succeed in helping to move the economy forward. I wish to see Congress be a constructive part of the process. I believe we can do both. If we could slow down a little bit and work together, we could come up with an economic stimulus package that could get 80 votes out of this body. Unfortunately, the bill in front of us is neither prudent nor responsible. I don't think it is going to get us out of the hole we are in. It just digs the hole deeper. There is an old saying that if you are in a hole, stop digging. Unfortunately, the bill we are considering resembles too much the one that passed the House of Representatives, ignores that advice, and supplies bigger shovels to dig the hole deeper and faster. That is not the way we should go.

My hope and prayer for this week is that we will work as a body; if we can't work as a body and work together to fashion something on a bipartisan basis that actually stimulates the economy, that we simply send this back to the committee to start over again. I am on the Appropriations Committee. We got the bill on our side 24 hours ahead of voting on it in committee. The committee held no hearings on this bill whatsoever. We voted within 1 hour 40 minutes to appropriate and spend $350 billion, basically creating another fiscal year between 2009 and 2010 and then pouring a wad of money into a number of different segments without rhyme or reason for how it would stimulate the economy. That is what gets everybody so upset about this bill. It is spending a lot of money, and it is not going to stimulate the economy.

This notion about what we want to do is just get a lot of money out the door or maybe use a crisis to spend money in places that people wanted to do for some time may be more of what is at stake. The White House Chief of Staff, Rahm Emanuel, stated:

> You never want a serious crisis to go to waste. What I mean by that is an opportunity to do things that you think you could not do before.

Unfortunately, what I think is in this package is too much of that idea, that we have a crisis, let's use this crisis to put a lot of money into different places that we wanted to all along to get it out the door and get it passed. You can do it that way, but that doesn't stimulate the economy. That stimulates the Government and Government spending and expands the Government to the point that some economists are looking at the Federal Government becoming 30 percent of the economy, where normally we run at about 20 percent of the economy. You are looking at doing that on a permanent basis. We cannot afford that. We particularly cannot afford that, given the first wave of the baby boomers who retire in large measure by 2012. Three years from now, you start hitting that big pool of retirees getting Medicare and Social Security instead of paying into it. At the same time, you have ratcheted up your size of Government under this crisis mode to the point that you could get a mammoth sized Federal Government that cannot be sustained on the backs of taxpayers, under the idea of you don't want to waste a good crisis, you want to use it to spend in areas that you wish you could have all along.

What these packages deliver, unfortunately, is an increasing amount of debt and a plethora of big Government spending increases masquerading as a fiscal stimulus. It is a grab bag of different spending programs with the hope that it would somehow chase the recession away. Instead, it adds to the debt. This bill will cost American taxpayers close to $900 billion. That is on top of an already projected deficit of $1.2 trillion.

It is also interesting that when President Clinton came into office, he put forward an economic stimulus package that was defeated as being too big and too costly and that one was priced at $16 billion. We are looking at $900 billion. That was $16 billion. It was too much and too expensive. It added to the debt too much at a time that we had a difficult economy as well.

Here, it appears, billions of dollars are being spent on all kinds of programs that should be addressed in the normal appropriations process. We have a process, and we can use that, but now we are putting in money, and people have heard this litany: $400 million for the prevention of sexually transmitted diseases, $6 billion for clean water revolving funds, $6 billion to convert Federal buildings to ''green buildings,'' $1 billion for the 2010 census, $400 million to replace the Social Security Administration's National Computer Center. Now, all this may be fine—$600 million for new vehicles for the Government, $50 million for the National Endowment for the Arts—all of it may be fine, but that is not a stimulus package. That is a spending package. That is an appropriations bill that should go through in the normal process.

Economists and members of the President's economic team have stressed the need for funds to be targeted, timely, and temporary. However, over $250 billion of the spending in this bill is for income-transfer payments that will put the Federal Government on the hook for long-term spending as far as the eye can see—and just when the baby boomers start to retire in 2012 in large numbers. That is not wise.

We will also hear some rhetoric about how spending is a more effective means of stimulating the economy than tax reductions. I do not agree with that. I do not believe that. I do not think economic theory nor the practice of what we have seen in the past supports it.

Research by the President's own Chairman of the Council of Economic Advisors suggests $3 of economic activity per $1 reduction in taxes. The economy needs some gas in the tank, not sugar. We should focus on creating an environment and incentives for businesses and individuals to invest and create real jobs, not illusory jobs created by a big Government handout that will not be permanent in a competitive global economy and will load too much burden on future generations by debt and taxes. We should provide real and permanent tax reduction accompanied by truly timely, targeted, and temporary spending. I could support an expansion for roads and bridges because we need the roads and bridges. That is not what is in this grab bag.

I would like to list another example of a tax cut that we could do that could put as much and would probably put as

much as $545 billion into the U.S. economy—$545 billion. This is from an article written by Alan Sinai last week. It is something we have done in the past, where we have lowered the taxes on repatriation of foreign-earned dollars. The last time we did that, we reduced the corporate tax rate of 5.25 percent for 1 year. We brought back into the United States nearly $360 billion of money.

That is money that is earned by companies such as Hill's pet food in Topeka, KS, which has pet food plants in Europe and Asia. They make money there, but they cannot bring it home because they are subject to this 5.25 corporate tax rate. So they leave it there. But for a 1-year time period, you could take that down to 1 percent, or a low number, and they will say: I am going to bring it home. Then it puts gas in the tank and not sugar in the tank. That is a tax cut that will help us. This is capital our economy needs and needs badly. I cannot see a single rational reason why we would not take action to encourage American companies to bring capital home.

Let me close by saying there are a number of worthwhile spending programs that need to be addressed but not under the guise of fiscal stimulus. We do need to address infrastructure issues, and I could support a substantial amount of infrastructure spending, but the lag time on these is difficult and it is long. On the other hand, there is defense spending that could take place even now and the pipeline is not as long and, importantly, that is money we are already scheduled to spend. It simply would be advancing the timetable, not expanding the amount.

My point is, as I started off, if we would spend a little more time here and in committee and work together, we could get 80 votes for this bill. If this bill is forced through this week and we end up with the size of Government of 30 percent of GDP, then this will be mostly on a partisan-line vote. That is not the way we should start. It is not the way we should go.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for 15 minutes.

Mr. CASEY. Thank you, Mr. President.

Mr. President, I rise tonight to speak as well on the challenge we have ahead of us with regard to the legislation we are debating this week. We will be considering a lot of amendments to that legislation; that is, the Economic Recovery and Reinvestment Act.

I want to speak, first of all, in a broad way about the challenge ahead of us. I sent a letter toward the end of last year to both our majority leader Senator REID, as well as to Senator MCCONNELL, outlining priorities, as I saw them, from the vantage point of Pennsylvania's challenges as well as the country's.

I used a phrase that we have heard often, the last word of which might be a little different than we have heard. We have heard summaries of this strategy where the priorities of any kind of recovery bill should be focused on being timely, targeted, and transformative. I believe all three are essential: Timely, meaning we cannot sit on this for too long; we have to act. I think that is essential; targeted, in the sense we cannot have broad spending. We have to make sure we target the dollars to strategies that work; transformative, in the sense that as we are making investments in infrastructure or in people to get them through the recession, and also to generate spending, we also have a chance to be transformative, to change our economy for the better and to transform people's lives.

In Pennsylvania—and it is true of virtually any State in the country; we just saw the data that unemployment went up in every single State in the month of December, and I know the Presiding Officer understands this from his work as a Governor and now as a Senator—in a State like ours in Pennsylvania—whether it is the Commonwealth of Pennsylvania or the Commonwealth of Virginia—we are seeing challenges all around. We have had record job loss. Even foreclosure rates, which have been a lot lower than the rest of the country, are now spiking up. Families have been hit with a kind of economic trauma we have not seen in more than a generation. The same is true of businesses. Their bottom lines have been decimated by the downturn in this economy, principally because businesses and families have not had access to credit to borrow money for a small business or to borrow money for student loans or for the purchase of an automobile or something that a family wants to spend money on but cannot do it without credit.

So we know the trauma that has been visited upon the American people. We also know that just as that has been happening, there has also been a real crisis of confidence, some of this emanating from the way the Troubled Asset Relief Program, the so-called TARP, was implemented by the Treasury Department in the prior administration.

One of the obligations we have in the Senate in this debate, but even beyond this debate, is to do everything we can to restore that confidence. You could express it as confidence, you could express it as trust. However you describe it, a good bit of that—too much of that—was lost in the last couple months. As people were feeling the trauma of this economy on their own lives or on their own families or on their own communities, there was also a loss of trust and confidence in what the Federal Government did or did not do and what the Federal Government can do going forward. So as we consider this legislation, this is not just about a program and dollars and whether the strategy will work. This will be a test of the Senate, a test of the Congress and the administration, in terms of our ability to restore some of that confidence and literally to restore trust in our Government.

One of the ways we can begin to repair that relationship between the American people and the Congress, between the people who pay the taxes and the Government that spends those dollars, is to work on a couple of areas of oversight. It is not the whole answer, but it goes a long way to helping. So I have two amendments I will be offering this week on oversight.

The first amendment will allow for a comprehensive assessment through the creation of a joint select committee on economic recovery oversight. This oversight committee will be made up of Members of the House and the Senate and will be required to submit reports to every Member of the House and the Senate but, more importantly, to the American people every 3 months. The reports will focus on, first, the success of this act in creating jobs and the details behind that; and, no. 2, any instances of waste, fraud, and abuse in programs funded by this act.

Membership on the panel will break down as follows: 10 Members of the Senate, including the chairmen and ranking members of the Committees on Finance and Appropriations, 4 Members appointed from the majority party by the majority leader of the Senate, and 2 Members from the minority party appointed by the minority party itself; secondly, 10 Members of the House, including the chairmen and ranking members of the Committee on Ways and Means and the Committee on Appropriations; and it goes on from there in the same way as the Senate.

While I recognize the administration has pushed for and the bill before us includes a new Recovery Act Accountability and Transparency Board, I want to make sure the legislative branch is in a position to carry out our oversight responsibilities. Congress has not always done a good job on that, and we have to ensure that a good job is done in this instance for this kind of oversight.

The second amendment I have would direct the Government Accountability Office, known by the acronym GAO, to compile reports of the Offices of the Inspectors General in each of the Federal Departments or agencies that expend or obligate funds under the Recovery Act. The GAO would in turn submit reports to Congress that would contain the following: No. 1, a summary of oversight activities of the Offices of Inspectors General relating to expenditure of recovery funds; and, No. 2, an

evaluation of the effectiveness of this act. So you have the GAO, an independent entity, reviewing what has been happening under this legislation.

The aim of these GAO reports would be to assess which provisions of the act have been effective at creating jobs. The whole intent of this legislation is to create jobs. We better make sure that happens. The reports would be submitted no later than 120 days from enactment of the act, with followup reports submitted at 180 days after enactment as well as 240 days, again, after enactment.

Both of these amendments are focused on oversight. That is the language we use to make sure the bill and to make sure the Government is doing its job to carry out the purposes of this recovery and reinvestment act.

But we have to do more than that. This effort with the two amendments is a way to very specifically begin to rebuild the confidence the American people must have in what the Congress does and to recover and reinvigorate some of that trust we should have in our Government, especially at this time. No piece of legislation can do that on its own. No Senator or Member of the House can do that on his or her own. But we have to try collectively to do all we can to rebuild confidence because if we do not have that kind of confidence going forward for the effectiveness of this legislation, then we cannot expect the American people to support this legislation and the programs infused with capital by this legislation over a long period of time. So we have much work to do to strengthen oversight, and by doing that to begin to increase the confidence the American people have in our Government and in this legislation.

Mr. President, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Maine is recognized for 20 minutes.

Ms. SNOWE. Mr. President, I rise today, at this most consequential of times, and as a member of the Senate Committee on Finance, to speak to the issue of the economic stimulus we have begun to consider here in the U.S. Senate.

We are deliberating on this legislation because the gravity of our economic circumstances is the most dire we have witnessed since the Great Depression, and in just three months, this recession will officially become the longest and quite possibly the deepest since the 1930s. We lost 2.6 million jobs last year, the most since 1945. The U.S. Department of Labor has reported the number of Americans receiving unemployment benefits has reached 4.8 million, an all-time high since recordkeeping began in 1967—and that doesn't include the nearly 1.7 million getting benefits through an extension last summer.

Mark Zandi—chief economist for Moody's Economy.com, who has advised both Senator MCCAIN and President Obama—has stated, ''without stimulus, unemployment will rise well into the double digits by this time next year.'' And then we learned last Friday that the economy shrank at its fastest pace in nearly 27 years in the fourth quarter of 2008. Our gross national product dropped at a 3.8-percent annual rate, worst since 1982.

So, indisputably, the grave nature of the current landscape dictates the urgency of passing a substantial and comprehensive economic stimulus package. I want to support a stimulus package. But I cannot support just any package. This Chamber cannot support just any package.

We have a responsibility—an obligation—to apply a rigorous standard to determine whether this approach will help extricate our Nation from this crisis.

And yet, even the best economic minds are not in agreement or accord on what is the optimal stimulus to pursue—and what it would achieve. Business Week, in its January 28 issue, asks ''how much does boosting government spending or cutting taxes help the private sector? Can massive fiscal stimulus . . . create jobs and increase economic output?''

David Leonhardt, economics columnist for The New York Times, stipulated in an article on January 29, 2009, that such a ''bill should help the economy in both the near term and the long term. But the government doesn't go out and spend about $800 billion every day. The details matter.'' He is absolutely right—the details do matter—and that is why this amendment process is so fundamental. Current CBO Director Douglas Elmendorf testified before the House Budget Committee on January 27, 2009, and said, ''stimulative policies, if well designed, could hasten the economy's recovery and reduce the overall loss of output during the recession.'' That is precisely the test of how effective a fiscal stimulus is—does it help bring us out of recession?

In that light, we must not confuse stimulus with omnibus. For those who say we cannot burden this bill with provisions that are not within the strictures of economic stimulus, I couldn't agree more. And to do otherwise would only compromise the credibility of any package that may ultimately be enacted.

This is a multidimensional crisis that requires a multidimensional approach, and it is critical we get this right. Already Congress passed the Troubled Asset Relief Program, which as we all know has had its own significant problems. Already the Federal Reserve has essentially exhausted its options to improve the economy through monetary policy, having reduced interest rates to zero—something else that hasn't happened since the 1930s—and lent more than $1 trillion to stabilize the financial and credit markets. So as I said during the mark-up of the Senate Finance Committee's portion of this package, we ought to remember that for us, in crafting fiscal policy to meet this historic challenge, there are no ''do-overs.'' We only have so many arrows in our fiscal quiver.

And so this debate shouldn't be about how much we label as ''tax relief'' and how much we label as ''spending.'' We must not retreat into our ideological corners or comfort zones. Rather, it should be about the merits of the individual measures in this legislation and whether the totality of the package can—in the timely, temporary, and targeted fashion we have employed on stimulus measures in the past—deliver job creation and assistance to people in need—who also will spend funds quickly, further bolstering economic recovery. We must ask, does this package fit the times—because in the words of an editorial in the Lewiston Sun-Journal in my home State of Maine: ''right now, there's a country, an economy and a basic way of life that needs rescuing. Most of all, though, the country needs a program that works . . .''

I ask unanimous consent the entire editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATORS, BRING SENSE TO STIMULUS

In economic stimulus, numbers have ceased to matter. The current package before Congress is $819 billion, but it could be a quadrillion, for all it matters. What's been proposed is stimulus at any cost, because continued lagging of American economic output is a failure beyond comfortable calculation.

Sens. OLYMPIA SNOWE and SUSAN COLLINS are center stage this debate, by virtue of their center-right leanings. Their lobbies are filled with lobbyists and their ears are filled with pleas, suggestions and threats, perhaps, of what their vote on the stimulus means, either way.

Stakes are high. So are the costs. But Maine's senators must ignore both of those, we think, in favor of the simplest approach, to evaluating the merits of the stimulus: Prove to us it is going to work, they should say, and soon. Shortcomings or delays need not apply.

Praise and damnation for the stimulus from the right and left are both steeped in truth. The country does need targeted programs to strengthen safety nets, help states stem red ink and put people to work through infrastructure and other investments,

But it doesn't need a wish list, the rush to fulfill an ideological agenda that's been stewing for eight years under the former administration. There's time for that later.

Right now, there's a country, an economy and a basic way of life that needs rescuing.

Most of all, though, the country needs a program that works. Fast. This is where SNOWE and COLLINS can hold sway, by bringing common sense to the stimulus legislation through the application of basic, pragmatic principles.

The country has already spent in haste. The 2007 stimulus cut checks to every American, which felt great, but flopped. The 2008 rescue for banks on their eves of destruction is looking like the money was thrown into a gaping maw, never to be seen again.

That Congress is now pressuring banks to lend their bailout funds, instead of hoarding them, is testimony to the contradictory nature of that bailout/rescue/stimulus. The $700 billion was meant to stabilize the economy, not those institutions that acted so recklessly to destroy it.

So here we are, as Americans, burned twice by major spending packages that haven't spurred the desired effect—staunching our economic bleeding and injecting fiscal penicillin to kill the diseases spreading through our markets. Two strikes. We can't afford a third.

President Barack Obama has presented the most thoughtful package to date. There's little question that expertise and intellect replaced emotion and paranoia as the sentiments driving its creation. The questions that remain are basic: Does it work, and how soon?

These are what Senators COLLINS and SNOWE should have answered to their satisfaction before deciding which way to vote. The numbers and stakes are high, obviously.

What matters is that this stimulus package makes sense, and that it works. Quickly.

Ms. SNOWE. Moreover, we must calibrate even more carefully the imperative for speed against the ironclad necessity of getting this legislation right—given this bill in its current form would add nearly $900 billion to our national debt—and that is before any interest payments—on top of the $10.6 trillion debt that exists. And that means, we cannot open the door to permanent spending that exceeds the life and purpose of what is before us today.

In fact, Alice Rivlin, former Director of the Office of Management and Budget in the Clinton administration, offered the following fiscal reality-check in her testimony before the House Budget Committee last week, ''because we're doing this outside the budget process, it means no one has to talk about what the long-term effects of any of this might be.'' Well, let us talk about the long term effects here and now.

As my colleagues are well aware, CBO has projected a staggering $3.1 trillion budget deficit over the next 10 years, and that's before we pass this bill that will add $900 billion to that total. And as we all know, CBO assumes that any additional funding levels added for Federal spending will be added to the budget baseline and extended in perpetuity with an inflation adjustment. In other words, this bill may exist entirely outside the normal budget process, but it will now be in CBO's baseline—meaning any future reductions will be considered by some to be ''cuts.''

Therefore, we must ensure that programs that may well be great policy but not economic stimulus are not considered in this package and instead are vetted through the regular budget and legislative process. And that spending authorized in this bill ends when its emergency, stimulative function ends—with any continuation again only considered in the future through the normal process. As the Concord Coalition among others has called for, we must have an exit strategy to ensure that we don't create unintended consequences down the road that will cause additional economic hardship and harm.

On that note, I believe that we deserve from the proponents of this bill a breakdown in each of the different titles of this legislation such as what are the job-creation expectations for each, or how precisely will they assist those displaced by the current recession and will that assistance itself also bolster our economy in the near term? Further, I am working on an amendment that will require the new Recovery Accountability and Transparency Board created in this legislation to include, in its quarterly reports, a specific listing of the numbers of jobs being created by each title in this act. But most critically, the amendment will direct the Board to recommend for rescission the unobligated balances of any program in the Act that are not currently creating—or cannot be reasonably expected to create—jobs or help those displaced by the current recession. These provisions will hopefully shine a spotlight on the efficacy of the new law in creating badly needed jobs.

Again, the bottom line question for us must not be exclusively whether a particular proposal in this package is a good idea. The bottom line question is, as I conveyed to Vice President BIDEN in a conversation between us recently, will this package work in terms of jump-starting the economy?

Columnist Robert Samuelson spoke directly to that challenge when he wrote in The Washington Post today, ''...the immediate need is for the stimulus package to stimulate—now. It needs to be frontloaded.'' I do think it is positive that the legislation contains some measures to move money out quickly and effectively, such as shortening the normal deadline for Federal agencies to commit funds, and setting deadlines on Federal awarding of formula grants, among others, so States, communities, or agencies are not sitting on the money. They will be required to expend it within a given period of time in order to impact the economy.

In addition, as we heard last year from CBO, extending unemployment benefits is a preeminent stimulus tool, as it concluded its cost-effectiveness is ''large'' . . . the length of time for impact is ''short'' . . . and the uncertainty about the policy's effects is ''small.'' Now we have Moody's Economy.com estimating that every dollar spent on unemployment benefits generates $1.63 in near term GDP. So I am pleased the finance package I supported in committee included about $39 billion to extend unemployment insurance. And I thank the Finance Committee Chair BAUCUS for including my measure to exclude the first $2,400 of unemployment benefits from taxation, to further maximize the provision's stimulative effect.

On the tax side, the Finance package also includes a payroll tax credit, known as the making work pay tax credit for more than 95 percent of working families in the United States—which Mark Zandi has said will be ''particularly effective, as the benefit will go to lower income households...that are much more likely to spend any tax benefit they receive.''

I am also pleased that Senator GRASSLEY was able to insert an absolutely vital provision to middle-income taxpayers in America that addresses the alternative minimum tax, which is an egregious and onerous tax on so many millions of taxpayers across this country, and, if left applied, would make the tax credit of $500 and $1,000 less effective. I am very pleased that was included to add another $70 billion worth of tax relief to middle-income America.

The finance portion also includes increasing eligibility for the refundable portion of the child tax credit that Senator LINCOLN and I have advocated and championed over the years. We have included this child tax credit going back to 2001 in the Economic Growth and Tax Relief Reconciliation Act. This incentive would reach low-income families earning between $6,000 and $12,667 a year.

I have heard arguments before about refundability, and people will say we should not provide funding to those families who don't have a Federal income tax liability. I would point out that although these people may not earn enough to have a Federal income tax liability, they do work and contribute to local taxes and payroll taxes and, the refundable child credit will get additional money into the pockets of those most likely to spend it.

After all, I don't think that anybody would deny that low-income families earning between $6,000 and $12,667 on an annual basis should have some benefits under this legislation. I don't think anybody can deny that they will not be spending that money and that it will not be stimulative in the final analysis. I do believe they deserve to be part of this stimulus plan.

I also believe that preserving and creating jobs over the short term that will also endure for the long term are not

mutually exclusive goals. To the contrary. As ranking member of the Small Business Committee, I am very pleased the Finance Committee package included tax provisions to assist small businesses to sustain operations and employees. In particular, we extend small business expensing to $250,000 to promote investment. After all, small businesses are going to be the lifeline to job creation, as they have been in the past. In fact, small businesses create two-thirds of all net new jobs in America. They will be the lifeblood of this economic recovery. It is important to extend the expensing provision of $250,000, as well as provide a 5-year net operating loss carryback to firms, giving them an immediate tax refund they can use to sustain operations and hire new employees, among other priorities.

But above all—and I underscore this point—those receiving Federal money under the rescue plan under TARP will not have access or be allowed to take advantage of these additional taxpayer resources.

In addition, we must neither neglect nor forget our Nation's distressed and rural communities. Our bill recognizes that imperative by including an additional $1.5 billion in 2008 and 2009 allocation authority for the New Markets Tax Credit. I am told that the community development financial institutions fund, which administers the incentive, can allocate this 2008 credit authority within 60 days, which will create 11,000 permanent jobs and 35,000 construction jobs.

Since the only thing we don't want to be temporary in this package is the jobs it creates, this legislation will place Americans on the vanguard of the jobs of the future with the extension of the renewable energy tax credit to promote green technology, which will be absolutely crucial as nations compete to emerge from this global economic downturn. In fact, if we had not dithered last year and opted to pass the extension of the renewable tax credits at the beginning of 2008, we would have already been on the road to creating 100,000 new jobs.

I have heard a lot of arguments against renewable energy tax credits, saying they are not stimulative. We are in the midst of a global downturn, and every country on Earth is going to be competing for jobs in the 21st century. Determining what is the best path to creating those jobs and investments in green technology is on the forefront of job creation. I want to be sure this country is in the vanguard when it comes to creating jobs of the future.

Certainly making investments in renewable energy sources is going to be so critical and so essential to job creation and to competing with other nations as they attempt to emerge as well from this global downturn.

In fact, these renewable tax credits will create more than 89,000 more jobs by giving certainty to companies that can start now on projects and count on these important incentives to take risks and grow. In fact, there are a number of projects in my own State of Maine that have been postponed and placed on hold because they cannot receive the benefits from the tax credits or financial institutions have suspended their loans and their lending opportunities. That has prevented these companies from moving forward on projects that they have wanted to pursue over the last few months. These are major projects that will create thousands of jobs in my State, and the same is true in so many States across the country. That is why this investment in renewables is going to be essential to job creation.

Considering the entirety of the stimulus package, both tax and spending, and its ability to have an immediate impact, CBO has now reported that of the current $884 billion size of the bill, $694 billion, or 78 percent, spends out in 2009 and 2010. That is a significant portion of this stimulus plan. Yet on the purely appropriations side, the spendout over the next 2 years is only 49 percent, and I believe we can and must do better.

Furthermore, I must say that there are allocations that simply do not belong in the stimulus package. Do we need to include $575 million for renovation and research at the National Institute of Standards and Technology in this legislation? Or $2 billion for advanced battery manufacturing? Or $135 million for the management of lands and resources?

Again, there are many more examples in this legislation that certainly should be identified as ones that should go through the normal budgetary process.

There are other provisions that are unequivocally worthy of strong support. But again, we have to identify them as to whether this is the appropriate vehicle for their consideration, and I would say not.

I am hopeful in the final analysis that we can further address this pivotal matter of nonstimulative provisions through the amendment process over the coming days. As the New York Times columnist David Brooks recently wrote, the package, as currently constituted, "is part temporary and part permanent, part timely and part untimely, part targeted and part untargeted." And he also deftly pointed out, "leadership involves prioritizing." I think we will have to work in the days ahead on both sides of the political aisle to offer amendments to bring accountability to this process, to bring both sides together, and to develop the kind of consensus that is going to restore the integrity and confidence in the package we ultimately pass.

Mr. President, finally, as ranking member of the Senate Committee on Small Business, I am pleased that the Senate Appropriations Committee also included multiple small business lending provisions that I think are critical to the overall objective of this legislation which, of course, is to create jobs.

Let me also address one provision that I think is critical and that has been part of the finance package—and that is expanding the Medicaid Program to assist States all across this country. I have heard that many have suggested that somehow this is not stimulative, and that it is not appropriate to include additional funding for Medicaid assistance to the States.

There are 45 States that are facing significant budget shortfalls with a combined budgetary gap of $350 billion. Are we suggesting it would not have a profound impact on our national economy if all 45 States, which are going to have to make some drastic decisions under any circumstances, had to make even more difficult choices if we did not provide the $87 billion that is included in the Finance Committee package to assist them?

In fact, I think it is going to be critically important that we do so because otherwise they will have to raise taxes and cut spending dramatically, which obviously will have a tremendous and consequential impact on the state of the economy, leading to more job losses and a more severe downturn.

As we know, States are required by their constitutions to balance their budgets. So, obviously, they will have to resort to raising taxes or reducing spending. I think we have an obligation to be a strong Federal partner and provide assistance when it comes to Medicaid because, after all, not only are States having difficulty with their existing caseloads and increases in cost, but they are also facing a burgeoning caseload due to job losses. In fact, for every 1 percent increase in unemployment, an additional 1 million Americans will qualify for Medicaid or the children's health insurance program under the current enrollment criteria.

All that said, I also think we should impose some conditions on the States. First, they should not be able to expand their current benefits. They should maintain their existing benefits coverage. Second, we should require prompt payment, so that states cannot sit on payments, but rather within a timely fashion of 30 days have to reimburse providers for care because delays in payments to providers ultimately threaten their operations, limit their ability to make investments to take care of their patients, or put them at risk of ultimately having to cut back substantially, which will have a tremendous impact on the overall economy.

Time is of the essence and so is the obligation to get this right to the best of our ability. Hopefully, we can achieve a bipartisan bill, one that is

going to achieve the legitimate objectives of job creation, of stimulus and assisting those who have been displaced as a result of the downturn in this economy. These goals are not mutually exclusive. In fact, I think they are ones that could easily be accomplished as we go through this process, if we all agree in the final analysis that we need to move forward with a package that will meet the times and to accommodate the enormity of the challenge we are facing in this country today.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I am fortunate to have heard the remarks of the Senator from Maine. They are excellent, and I find so much of it I agree with.

I am a brand new Senator, but I have been around the Senate for 36 years. I think in those 36 years, this is truly one of the historic moments in all the years I have been following the Senate. We are about to embark on a task that will test this institution, as we begin the debate on the response to the profound economic crisis we face.

Last Monday, as my first full week as a U.S. Senator began, thousands of American workers lost their jobs. In a single day, tens of thousands of families lost their breadwinners, men and women lost the dignity that comes with work, and States and cities across the country lost the productive labor and the tax revenues those workers have provided.

This was just a single bad day. But over the last couple years, the news from our economy has been increasingly disturbing. American payrolls shrank by over 2.5 million jobs last year, including 524,000 in December alone, touching every corner of this country. The accelerating pace of unemployment tells us there is more bad news to come. Along with laid-off workers, we have unused productivity capacity. Thirty percent of our manufacturing strength is idle.

It is no wonder that Americans are cautious about spending. But their caution, as we know, is reinforcing the slowdown.

With that decline in consumer spending, our retailers are shutting their doors, laying off sales staff and management. With declining sales, manufacturers are laying off workers and shutting down assembly lines. Responses that are perfectly rational for individuals making their own decisions only add to our problems, making us all worse off.

Our jobs, our savings, our homes, our credit—all are under siege. Left alone, we know things will only get worse. We have to break that vicious cycle.

I remind my colleagues of these troubling trends because as bad as things are, they can get worse. Because we have failed to revive employment, consumer spending—the key to today's economy—and consumer confidence—the key to tomorrow's economy—remain in a slump. Because we failed to restore stability in home prices, foreclosures continue to spread. Because we have failed so far to clean up our banking system, lending and borrowing are drying up.

That is the real urgency behind the task of building an effective economic recovery plan because if we fail to act, we can be sure that we will lose more jobs, lose more homes, and reduce the value of our economy.

Because so much has gone wrong, our recovery plan must tackle many different problems at the same time. Because so much of our economic value has been lost, the scale of our response must be equal to that challenge. Because of the risk of further decline, our response must be rapid.

That is why the Senate is beginning debate today on a historic economic recovery investment program for America. We must do something dramatic to turn our economy around. At the same time, the American people will rightly judge whether we have used this moment wisely, whether we have invested these hundreds of billions of dollars of their hard-earned dollars in ways that will improve their lives.

Job creation and job preservation must be our goal. Jobs, jobs, jobs. Every job lost is another blow to our economy, losing productive work, spending power, and the revenue that supports the education, health care, roads, water, police, and fire protection provided by our State and local governments. Every job lost is truly a human tragedy, for the man and woman who loses the dignity of work, and the families thrown into turmoil.

One important way to create jobs is make more investments that will make our economy more productive—clearly, roads, bridges, clean water. A smart power grid, as we discussed with former Vice President Al Gore last week in the Senate Committee on Foreign Relations, could become to our economy what the railroads were in the 19th century, what the highways were to postwar America, and what the Internet has meant to our digital age. And as we discussed last week in the Judiciary Committee, we can revolutionize health care records and at the same time save billions of dollars while digitizing paper records, making sure we have appropriate privacy safeguards. We can improve health care, save money, help protect our patients, and create jobs. We will need to install new computers, routers, and software and educate and train the people with the skills to make the system work.

Listen, as jobs are created, consumers will be able to spend, homeowners will be able to keep up with their mortgages, families will be able to keep their kids in college. That is what economic recovery means, and that is what we have to do.

Finally, just as important as the jobs we create will be jobs preserved by keeping State and local governments able to provide the schools, the health care, the police and fire protection that we cannot do without. They will need teachers, nurses, firemen, policemen, and health inspectors on the job. Just today our congressional delegation from Delaware met with the Governor of Delaware. This crisis, just in Delaware alone, has slashed our revenue projections by $.5 billion in just 6 months. We face a $600 million deficit, which will require shutting down services and laying off workers. This will add to the economic slowdown and reduce the services on which our citizens depend.

Support directly to State and local governments will get out to where it is needed. We know that because we know those governments are now forced to cut back in the face of declining economic activity and revenues. They need the money and they will use it. We have to get it to them.

This crisis has knocked a big hole in our economy, and it is essential we fill it quickly. Because of the size and speed of this task, we must also have extraordinary oversight and transparency to assure Americans that we are doing this right and that we are doing it openly. We must have additional resources and people dedicated to the sole purpose of auditing and investigating economic recovery spending. We must have transparency. We must make public all of the grants, contracts, and the oversight activities themselves. This is a historic undertaking, and we must have a historic level of transparency and oversight.

During my years of experience with the Senate, I have developed a deep respect for this very unique institution. I have seen it tested in war and peace, in good times and bad. The debate on our economic recovery plan this week is precisely the task for which this body, the Senate, was created. This is a moment that will test this institution. We must deliberate, we must debate, we must decide. There are no easy choices this week. There will be no easy votes. But I am convinced the Senate will meet this test, just as I am convinced our country will meet the test of these extraordinary times.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. KAUFMAN. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO GRAYSON COUNTY DECA

Mr. McCONNELL. Mr. President, I rise today to pay tribute to the accomplishments of the Grayson County DECA from my home State of Kentucky and their efforts of promoting entrepreneurship through education and community awareness.

DECA is a high school association of marketing students which promotes the development of professionalism especially with regards to entrepreneurship and is the high school equivalent to the college association of Delta Epsilon Chi.

The Grayson County chapter works under the advisement of Cynthia Smith and Diane Horne, and comprised of dedicated young men and women, including two juniors from Grayson County High School, Tyler Lewis and Alex Henderson, who recently participated in the Entrepreneurship Promotion Project for organization.

The project has integrated its ideals into the local Grayson County schools with ventures such as developing different business ideas and creating sales presentations. They have reached out to the community with public service announcements on the radio and editorials in the local newspaper.

The Entrepreneurship Promotion Project earned the group a sixth place honors in their category at the spring 2008 International DECA competition.

In addition to the promotion of entrepreneurship, DECA requires that its members participate in many hours of community service.

Recently, DECA has organized a job shadowing program for the senior advanced marketing class at Grayson County High School. The program allows students to explore a career of their choice and gain professional experience by pairing them with local businesspeople.

The students explored careers at the Grayson County News Gazette, the Grayson County Sheriff's Department, the Leitchfield Police Department, the County Courthouse, CPA firms, law offices and the Chamber of Commerce.

The members of DECA have worked to raise awareness and have successfully obtained a proclamation from Grayson County Judge Executive Gary Logsdon and Governor Steve Beshear designating the last week in February as Entrepreneurship Week in the Commonwealth of Kentucky and in Grayson County. The group was also honored with a citation from the Kentucky House of Representatives.

DECA is a wonderful example of students striving for excellence both in education and community. Mr. President, I ask my colleagues to join with me in recognizing Grayson County DECA's hard work and dedication to education, community, and Kentucky.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO LARRY TREMBLAY

• Mr. KENNEDY. Mr. President, today I am pleased to introduce a resolution acknowledging the outstanding achievement of an extraordinary high school athletic coach. On January 21 this year, Larry Tremblay achieved his 500th career victory as coach of the wrestling team at Winchester High School in Winchester, MA. After 29 years of success, Coach Tremblay's outstanding career reached that milestone, with his victory over Carver High School.

Mr. Tremblay is one of only three Massachusetts coaches who have ever accomplished this feat. Coming off two back-to-back State championship years, and his induction to the National High School Wrestling Coaches Hall of Fame, the Winchester High Wrestling team is riding high under the remarkable leadership of Coach Tremblay. Appropriately the nickname of the school's beloved coach is ''Larry legend'' for his latest incredible milestone, and I commend Coach Tremblay for his skill and dedication and hard work throughout his years as Winchester High Wrestling Coach. A recent article will be of interest to all my colleagues in the Senate, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

''LARRY LEGEND'' LIVES ON

[From the Winchester Star, Jan. 22, 2009]

Winchester, MA—Winchester High wrestling Coach Larry Tremblay entered Wednesday night's home match against Carver with 499 career victories.

Sachem alumni, fans and friends packed the gym to witness Tremblay achieve a feat only two other Massachusetts high school wrestling coaches have accomplished—500.

His 2008-09 squad made sure he left with the elusive, impressive and historic number.

With five scheduled matches remaining on the night, Sachem 152-pound grappler Mike Greco pinned Carver's Mike Babbin in the second period. That win sealed up not only a convincing 53-6 victory for the Sachems, but it also gave Tremblay the milestone.

''You don't get into to coaching to win 500 matches or games,'' said Tremblay. ''But one day I looked up and I had 100 wins, and then I looked up another day and it was 300. I've had a lot of fun coaching here.''

Despite being undermanned, Tremblay credited Carver—a program that won the New England championship in 1994—with wrestling a strong match.

''My hat goes off to them,'' said the coach. ''They made the long trip up here, and they wrestled hard.''

The 160-pound, 171, 112 and heavyweight classes were all ruled ''no contests.''

Tremblay began coaching wrestling at North Reading 29 years ago. He spent one season there before moving on to Winchester, where he has been ever since.

''When I started coaching I had curly brown hair,'' joked Tremblay. ''Now look at me. They call me the 'silver fox.' ''

Tremblay's passion and knowledge of the sport of wrestling, as well as coaching in general, makes him stand out and places him into an elite group.

''He has such a love for the sport,'' said Tremblay's son Travis, who grappled for his father for four years before graduating in 2005. ''It's all he talks about. He loves it.''

The night began at 103, where, despite putting up a big fight, Nick Cashion was pinned by Carver's Paul Walsh.

Although it would have been hard for anyone to steal Tremblay's thunder on this night, Sachem 119-pound grappler Connor Gregory managed to receive some well-deserved recognition as well. Gregory earned a 14-3 major over Carver's Matt Walsh, giving him 100 career victories.

Mike Barber (125) pinned Carver's Steve Mayne; Winchester's Fernando Monroy (130) pinned James Blankship.

Ryan Connolly (135) earned a first-period pin over Carver's Brandon English, and Winchester grappler Dan O'Connell (140) earned a 14-4 major decision by defeating Steve Scampoli.

Sachem John Williams (145) pinned Carver's Mike Cabral in the second period, and at 189, Winchester's Greg Kelley pinned Corey Ellis at 1:06 of the first period.

The match officially concluded when Andrew Moranian pinned Carver's Sean Mahoney in 1:31.

''These are special kids, and considering what the previous two teams did there is a lot of pressure on them,'' said Tremblay. ''They're trying to build their own niche. They wrestle to the best of their ability. Not only have they done a good job on the mat, but they've done a good job representing the town of Winchester.''

After the match, Tremblay received recognition for his accomplishment on the place he knows best—the wrestling mat.

''This really isn't a glamorous sport, but the whole wrestling community is like a family,'' said Tremblay. It's a special thing. Tonight, when I saw all the parents and the alumni in the stands, I got a little emotional. This has been a great ride.''•

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

As a small business owner, the price of gas is close to putting me out of work. The economy is a little slow right now but only because of the price of fuel. If fuel prices were to drop a buck a gallon, the country would see a huge increase in spending. At this moment, I am unsure if I will be able to even pay my bills this month to keep my business open or a roof over my head. The burden of fuel prices and the lack of work for me have begun to put a huge stress on my relationship at home. She will now have to cover my share of the bills and will leave us both to figure out how to feed the kids, pay bills and buy fuel.

I am 41 years old and have been in the same profession for over 17 years. The thought of having to start over and train for a new job is very tough. I have looked for part-time work in hopes something will be done about fuel prices allowing me to save my business. There is very little work out there, and the work that is there pays so little it would cost more in fuel to get to work then you would make at work. This country is in need of something to be done about fuel prices, if they continue to rise we are going to see a lot of people homeless, stealing, or worse to just get by. It is time for this government to take charge and save its people before it is too late.

KEN, *Kuna*.

I work at the border of Idaho and Canada. Eastport, Idaho to be exact. This is 33 miles from Bonners Ferry. Many of us work here, at Customs and at the brokerages as well as a hand full of other businesses. Some of us carpool when we can.

I want to ask you to help us get public transportation in this northernmost area of Idaho. We need it. It will help all of us through this crippling gas price debacle as well as create a needed resource for everyone in Boundary and Bonner County. If I take time to write out a plan, will you seriously look at it and help us with grants and resources if feasible? The plan would be an idea of course, as I am not a grant writer, but I am banking on you to have that kind of resource.

I think it is feasible and needs to be. We should all have a focus on the future instead of cowering in fear because we do not know how to move ahead, simply because we cannot afford to live as we did, driving the biggest most powerful cars and trucks, without regard to the future, instead of conserving and investing in alternatives. It is not too late.

First things first. We all need to get to work and I think public transportation would be something people would pay taxes for in these parts.

I am including an email sent to me about alternative ''air'' cars. It seems other countries have found solutions in alternative means for transportation public and private. Why is it that our country does not ''approve'' these vehicles that run on ''air''? It does not make any sense, other than the government is protecting the profits of corporations.

AMAZING AIR CAR

The Compressed Air Car developed by Motor Development International (MDI) Founder Guy Negre might be the best thing to have happened to the motor engine in years.

The $12,700 CityCAT, one of the planned Air Car models, can hit 68 mph and has a range of 125 miles. It will take only a few minutes for the CityCAT to refuel at gas stations equipped with custom air compressor units. MDI says it should cost only around $2 to fill the car up with 340 liters of air.

The Air Car will be starting production relatively soon, thanks to India's TATA Motors. Forget corn! There is fuel, there is renewable fuel, and then there is user-renewable fuel! What can be better than air?

I am not sure, I would like to think our government had what is good for all, not just the rich.

I would buy one of these ''air'' cars in a minute. I commute 33 miles each way to the Idaho/Canadian border everyday. It is a struggle as I am a single mom and every penny is spent to keep body and soul together in my family. Nothing is left as it is; it just galls me to see my local gas stations (seems like) daily gas price hike. One gas station even got an digital sign, I assume because he had to go out there so often to change the numbers; now he just presses buttons from his office to make the price go up.

I am afraid of what is to come, if our government does not really focus on alternatives. Why go after oil reserves in our country when that is not a long-term solution? Why not really hit hard and support alternatives that are sustainable? I get no security out of new oil finds. It is a short-term solution. I would think we should think about future generations, our own children, and their children. What will they do? We need to solve it now, not put off the inevitable.

LEAH.

How this Idaho family deals with high energy prices:

We drive less and slower. We have changed out incandescent bulbs for compact florescent bulbs, and turn them off when not in the room. We focused on increasing the energy efficiency of our house this winter.

Nothing this Congress, or any Congress since the 70s has done or appears to be planning helps us with the costs of energy. Quit promoting legislation helping big oil. Poking a few more holes in obscure, sensitive or scenic areas will not provide immediate or long term relief. Pandering to the automobile lobby will not improve automobile fuel efficiency needed by the average person. Get in front of the quickly forming parade of common people advocating real solutions.

As usual, if I get any reply to this, it will be a form letter that completely ignores the fact that there are opinions in Idaho that do not match yours.

MICHAEL.

First, I would like to express my thanks for your seeking comments on the energy mess. These are my thoughts:

There should be a windfall tax on oil that is produced from older domestic wells. These wells have been producing—say over 10 years and the cost of production has been recouped. I own stock in several oil companies; yet, I feel it is important that the profits from these wells are put to better use than dividends to me. The windfall profit should go to help fund alternative fuels, hydrogen infrastructure, and public transportation. You are correct when you say that people in the west will suffer more from the high cost of gasoline because of distance and the need to drive more.

I am new to the nuclear industry and my personal experience has opened my eyes to this untapped resource. I believe congress should support nuclear and help educate the public to how much energy is produced by nuclear, the safety record of the industry, and the progress in managing the waste. Power plants that use natural gas and other hydrocarbon based fuels should be the first to be replaced with nuclear. Politically, it would be wise to incorporate wind and solar with the nuclear effort to help offset some to the negative press. The negative press needs to be offset with an educational program to help change the paradigms of the public when it comes to nuclear power.

Reinstate the rebates on hybrid vehicles.

Allow tax incentives for renewable forms of energy.

As for me, my expenditures for fuel have gone from $200 a month to $400 a month. Combine this with increased food costs, increases in my housing expenses, and other oil-related costs and my personal life style has changed dramatically. Fortunately, I live in a community that is very close to the recreational activities that I enjoy.

STEVEN.

It became apparent to me on vacation this year that many of the world's hard-to-reach locations (i.e. most islands such as Hawaii) are diesel-powered. The thought of powering an entire island or island chain on diesel power alone is sickening, and this is just one of the many hydrocarbon dependent locations. My recommendation is to get nuclear power off the cutting room floor and get the U.S. government to build an infrastructure of power-supplying plants across the nation. With a large nuclear energy source we would be able to implement electromagnetic ''bullet trains'' between major U.S. cities cutting down on highway and sky-way travel making business commutes shorter and less carbon dependent.

This endeavor would be 1,000 times larger and more expensive than the U.S. interstate program but it is important to streamline this country rather than go down the path that we have been going for years.

I have many more ideas but would like to keep things short. Thanks for your time and for asking for citizen input.

REESE.

Please get us off of oil dependency. That is what alternative energy is all about. How stupid can we be to only have 1–2% alternative energy?

GARY.

Everyone is affected by the high prices of fuel; even people that do not drive cars are affected by this. Costs for shipping, because of fuel prices, have risen dramatically and that cost is passed to the consumer.

The short-term solution to our oil dependence is to drill here, offshore and ANWR, until a long-term alternative is provided.

ANGIE.

Thank you very much for taking the time to seek input from Idaho citizens on the current energy crisis.

I live with my wife and three children in Meridian but work at the Air Force Base in Mountain Home. Even though I drive a fuel-efficient car, my weekly commute cost has risen by over $100 a month. With the associated rise in grocery costs, it has become necessary for me to take a second job just to afford transportation to work and put food on my family's table. I know that this has become a serious quality of life issue, not just for my family but for many Idahoans.

I realize that even if drilling were begun immediately it would not have that great of

an effect on current prices and that it could take several years for an impact to be felt in homes across America, but it makes much more sense than waiting even longer. Oil is not an infinite resource but by expanding drilling we can help to give ourselves a buffer to make the transition to other energy sources easier and more economical.

Again, thank you for your efforts on our behalf.

JAMES, *Meridian*.

I do not even know how to begin with what this has done to our family. I will start by letting you know that we are a single income family. My husband works a commission-based job at RC Willey, and I stay home and raise our two children, ages 7 and 4. Since the prices of gas and groceries have gone up, people have reduced their spending considerably. The last thing anyone is going to do is go into RC Willey and spend money on home furnishings or electronics. Since my husband installs home theater systems, and services furniture repairs, this directly affects him, and with him being commission, our paychecks has shrunk considerably. We went from being able to pay all of our bills, and have a couple of extra hundred dollars left over to now wondering how we are going to pay the house payment on the first, much less any of the other bills. We have to decide what is more important to pay. The stimulus package was spent on paying our bills, to keep us afloat. It did not go back into the economy.

One possibility we are looking at is for me to go back to work. Two problems with that, we are not okay with someone else raising our kids and we should not have to be forced into that, and second we would probably spend more on gas than I would make in an income so now it is not worth it. Now we look at the possibility of my husband taking a second job, which now means even less time with his family. Forget about the financial suffering this is bringing on most people, but let us take a look at what it is doing to the family unit. It is hurting most families emotionally, and time wise, which means the kids suffer. Why should my children or anyone else's suffer because the oil companies want to get richer.

Oil company's report record profits, and are giving their retiring CEOs outrageous severance packages (Lee Raymond chairman of Exxon given $400 million), while the rest of us suffer horrible at their hands. Please explain to me why someone needs that kind of money to retire on and my kids face the possibility of losing their home? And to add insult to injury, they have the nerve to make the statement that they are only making pennies on every dollar. It is not just the gas either, because it is affecting everyone (other than the super rich) now other companies are forced to raise their prices just to maintain a minimal profit, which further hurts the general public, and now everything has become unaffordable, not just gas.

We try to do our best at buying cheap, and we buy the off-brands, and we shop sales ads, and we limit how much we drive. But again you run into problems there. When you buy cheap you get exactly that—cheap. Stuff breaks, groceries are going bad quicker (we bought a head of lettuce on Friday, and by Monday it was rotted, along with the onions we bought, and the bagels. The cheap brand of ziplock baggies we bought did not even close, so we have had to use a whole box of baggies that did not zip close.), and over all the quality is just poor. Prices keep going up, but the quality keeps going down, which in the end costs you even more money. I stay home 90 percent of the time, and when I do go out I drive my car which is a Chevy Malibu Maxx, and it still costs me $50 to $60 to fill up. My husband drives his motorcycle every single day to work to save on gas, and we are still sinking financially, and we do not have a lot of bills. Where is the fairness in the super rich getting even richer at the detriment of the middle class, to poor class families? That is not the America I was raised and taught about.

If the powers to be that are supposed to be running this country would do their job, we would not be in this position. Stop ignoring the United States Constitution. It was put in place for a reason, and I am sick and tired of it being violated. The Constitution is the foundation of this country, and anyone with common sense will tell you, that when you chip away at the very foundation of something, then the entire structure will crumble. That is what is happing to the USA. Stop letting the environmentalist run and control everything. If it were not for them, and the idiots running this country we would have already drilled in ANWR Alaska. Or better yet our own, gulf instead of China/Cuba/India. By the way, these are two suggestions for you to use.

Let us make this country back into what it was meant to be, a great place to live, and raise your children in. Stop selling out the United States of America.

NICK and KASEY, *Boise*.

I hope you do not mind, but I am an avid Glenn Beck listener, and I heard on his show yesterday that one of Senator Orrin Hatch's secretaries or spokespeople told one of his constituents that he would not support offshore drilling. The constituent was calling because he wanted to tell Senator Hatch that he supported it.

I am glad to see you asking directly for people's opinion and actually using some of the stories on your site.

Let me just say that right now my wife, our baby, and I do not have a car. Well, not one in working condition. See, I have a '94 Geo Metro, but it threw a rod earlier in the year and we just do not have the money to get a new car. I did find an engine for my Geo, though, so everything should work out once we get our economic stimulus check, except for the whole skyrocketing gas prices thing.

Right now we have to borrow my parents' truck if we need a car, which is very frequently. We are trying to get my wife into school to become a paramedic, but without transportation, we cannot do anything. Back when gas prices were cheaper, I had less of a problem borrowing people's vehicles, but these days I cannot stand to borrow somebody's car because a lot of the time I do not have the cash to put gas back into it.

Luckily I live really close to where I work, so I walk every day. My wife mostly just stays home with our baby, and both sets of our parents live close by. The only thing is, just the short distances that our parents have to drive to pick us up or take us to the store or whatever they do is too much. Even having smaller vehicles, like my Geo, does not seem to help that much. Before the thing broke down I was putting $40–50 in to fill the thing, and it only has an 8-gallon tank.

Let me be frank. I like that you have asked people's opinions on this subject. High gas prices affect everything, as you can probably see. Food prices are going up because of the money it takes to transport. Anything that is made with petroleum (which is something that people rarely think about) like paint products and plastics are going up. Everything is going up because everybody uses gas to get from point A to B, so businesses let customers make up the difference by raising prices.

It is a pretty simple economic concept, but something that should be even simpler is supply and demand. I do not know why anybody at this point is against offshore drilling. And, I do not know why anybody is against nuclear energy. Sure, plenty of environmentalists are all bonkers about nuclear meltdowns and all that, but how many times in history has that ever happened? Nuclear waste from reactors is even becoming less of a factor.

The long and short of it is really that I support Senators that listen to the people. I think that you should try to get on the news yourself and let people know that you want their opinion.

PHIL, *Boise*.

ADDITIONAL STATEMENTS

140TH ANNIVERSARY OF ST. MARK'S A.M.E. CHURCH

• Mr. KOHL. Mr. President, I wish to honor St. Mark's A.M.E. Church, which has been a part of Milwaukee's faith community for 140 years and serves as a shining example for the entire State of Wisconsin.

In 1869, eight eager Christian men and women envisioned a ''Church of Allen.'' This church would uphold the ideals of Richard Allen, a freed slave who became the first free African to be ordained in the Methodist Church. The church's eight founders were led by Ezekiel Gillespie, a prominent figure involved in the Underground Railroad and the fight for suffrage for African-Americans in Wisconsin. The founding members became an official congregation on April 5, 1869, but the church was still missing a building to call home.

Within 2 months, a plot of land was purchased and the church embraced its new house of worship. Unfortunately, expenses mounted for nearly a decade and the founders were forced to sell a portion of their land in order to cover the debt. After a city condemnation required the razing of St. Mark's original church, both the clergy and laity insisted that a new edifice be erected in its place. In 1887, they began construction of a church which would last into the 20th century.

As the city of Milwaukee continued to grow and thrive, so too did the membership of St. Mark's. The increase in size prompted the creation of new churches in 1914 and again in 1953. After the Milwaukee Redevelopment Program of the 1960s, the construction of a highway ushered in the demolition of their 1953 structure. The congregation grew only stronger and its current church truly represents its lasting success.

Given the moniker, ''The Friendly Church,'' St. Mark's has continually

proven both its friendliness and its faith within Milwaukee. St. Mark's A.M.E. Church holds a special place in our State's history as Wisconsin's oldest African-American chartered church. St. Mark's leaders and parishioners have stalwartly defended their home and shared their devotion with our Milwaukee community, and this historic church will continue to thrive in the future. On this occasion of St. Mark's 140th anniversary, I want to offer my heartfelt congratulations.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 363. A bill to make determinations by the United States Trade Representative under title III of the Trade Act of 1974 reviewable by the Court of International Trade and to ensure that the United States Trade Representative considers petitions to enforce United States trade rights, and for other purposes; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 132

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 132, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 322

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 333

At the request of Ms. MIKULSKI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 333, a bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles.

S. 354

At the request of Mr. WEBB, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 363. A bill to make determinations by the United States Trade Representative under title III of the Trade Act of 1974 reviewable by the Court of International Trade and to ensure that the United States Trade Representative considers petitions to enforce United States trade rights, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, the devastating job losses we are currently seeing across our economy have reaffirmed my conviction that Congress must redirect U.S. international trade policy toward preserving American jobs through stringent enforcement of U.S. trade rights, rather than endlessly pursuing new free trade agreements. Shifting the focus of U.S. trade strategy to job preservation is particularly essential in the manufacturing sector, which since 1994—the year NAFTA came into effect—has lost over 4.2 million jobs. The economic downturn over the past year has further decimated U.S. manufacturers, which have shed over 600,000 jobs in 2008 alone.

It is no coincidence that this withering of our country's once-unparalleled manufacturing base took place during a decade-and-a-half of record trade liberalization and increases in imports from large, often poorly regulated low-cost producers like China and India. In Maine, my constituents have seen this down-side of trade, with over 20,000 manufacturing jobs lost since 2000, mainly in paper and wood-working industries that have suffered from unfair competition from Asian imports.

To stem the outflow of American manufacturing jobs due to trade competition with countries that manipulate their currencies, exploit their workers or wantonly degrade their environment, it is essential that we decisively enforce the trade agreements we already have in place. Yet our Government has often failed to take this basic but crucial step when confronted with egregiously unfair trade practices. While foreign governments engage in market-distorting currency manipulation, refuse to protect intellectual property rights and turn a blind eye to labor exploitation—each a violation of trade obligations to the United States—ours all too frequently demurs with communiqués and consultations, rather than formal enforcement action. What makes this abdication of duty to defend the U.S. economy from unfair foreign practices especially troubling is that the tools to do so already exist in the dispute resolution provisions of various trade agreements.

The distressing reality is that U.S. industry and labor groups are often rebuffed in attempts to petition the United States Trade Representative to initiate a formal investigation or bring a dispute resolution action under the relevant multilateral or bilateral trade agreement, as there seems to be considerable institutional momentum among senior officials at USTR and elsewhere in the bureaucracy against bringing formal enforcement action against key trade partners. Indeed, it is a troubling fact that every single one of the petitions brought by business or labor groups in the last 8 years under Section 301 of the Trade Act of 1974—the statute setting forth the process by which members of the public can request that the government enforce U.S. trade rights—has been rejected by USTR, in some instances on the same day they were filed!

It is to prevent further disregard for U.S. businesses and workers seeking a fair and consequential hearing of their concerns with foreign trade practices that Senators ROCKEFELLER and CONRAD and I today introduce the Trade Complaint and Litigation Accountability Improvement Measures Act, or the Trade CLAIM Act.

The Trade CLAIM Act would amend the Section 301 process to require the United States Trade Representative to act upon an interested party's petition to take formal action in cases where a U.S. trade right has been violated, except in instances where: the matter has already been addressed by the relevant trade dispute settlement body; the foreign country is taking imminent steps to end or ameliorate the effects of the practice; taking action would do more harm than good to the U.S. economy; or taking action would cause serious harm to the national security of the United States.

The bill would also grant the U.S. Court of International Trade jurisdiction to review de novo USTR's denials of Section 301 industry petitions to investigate and take enforcement action against unfair foreign trade laws or practices. Such jurisdiction would include the ability to review USTR determinations that U.S. trade rights have not been violated as alleged in industry petitions, and the sufficiency of formal actions taken by USTR in response to foreign trade laws or practices determined to violate U.S. trade rights.

The Trade CLAIM Act would thus give U.S. businesses and workers a greater say in whether, when and how U.S. trade rights should be enforced. As Ranking Member of the Committee on Small Business and Entrepreneurship, I believe this bill would also be particularly beneficial to small businesses, which—like other petitioners in Section 301 cases—currently have no avenue to formally challenge the merits of USTR's decisions, and are often drowned out by large business interests in industry-wide Section 301 actions initiated by USTR.

By providing for judicial review of USTR decisions not to enforce U.S. trade rights, the bill provides for impartial third party oversight by a specialty court not subject to political and diplomatic pressures. In de-linking discreet trade disputes from the mercurial machinations of USTR's trade liberalization agenda, this Act would end the sacrifice of individual industries on the negotiating table, and allow trade enforcement claims to be decided on their merits. We owe no less to the millions of American workers whose jobs depend on the level international playing field that can only be guaranteed by their Government consistently standing up for them against unfair foreign trade practices.

AMENDMENTS SUBMITTED AND PROPOSED

SA 99. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 100. Mr. CASEY (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 101. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 102. Ms. LANDRIEU (for herself, Mr. GRASSLEY, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 103. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 104. Ms. MIKULSKI (for herself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 105. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 99. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. JOINT SELECT COMMITTEE ON ECONOMIC RECOVERY.

(a) ESTABLISHMENT AND COMPOSITION.—

(1) IN GENERAL.—There is established a Joint Select Committee on Economic Recovery (referred to in this section as the "joint committee") to be composed of 20 members as follows:

(A) 10 Members of the House of Representatives, including the Chairman and Ranking Member of the Committee on Ways and Means and the Committee on Appropriations, or their designee, 4 members appointed from the majority party by the Speaker of the House, and 2 members from the minority party to be appointed by the minority leader.

(B) 10 Members of the Senate, including the Chairman and Ranking Member of the Committee on Finance and the Committee on Appropriations, or their designee, 4 members appointed from the majority party by the majority leader of the Senate, and 2 members from the minority party to be appointed by the minority leader.

(2) VACANCY.—A vacancy in the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection.

(3) LEGISLATIVE AUTHORITY.—The joint committee shall not have any legislative authority.

(b) OVERSIGHT.—

(1) IN GENERAL.—The joint committee shall conduct continuing oversight over the implementations of this Act with a particular focus on—

(A) the success of this Act in creating jobs; and

(B) any instances of waste, fraud, and abuse in programs funded by this Act.

(2) REPORTS.—The joint committee shall submit reports to the committees of jurisdiction, the Senate and House of Representatives, and the general public not less than every 3 months after the date of enactment of this Act.

(c) RESOURCES AND DISSOLUTION.—

(1) RESOURCES.—The joint committee may utilize the resources of the House of Representatives and Senate.

(2) DISSOLUTION.—The joint committee shall cease to exist 30 days after September 30, 2010.

SA 100. Mr. CASEY (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

SEC. ____. ASSISTANCE FOR COSTS OF DISTRIBUTING BONUS COMMODITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to encourage States and food assistance agencies to accept commodities acquired by the Secretary of Agriculture for farm support and surplus removal activities; and

(2) to offset the costs of the States and food assistance agencies for the intrastate transportation, storage, and distribution of the commodities.

(b) COSTS OF DISTRIBUTING BONUS COMMODITIES.—Section 202 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7502) is amended by inserting after subsection (a) the following:

"(b) COSTS OF DISTRIBUTING BONUS COMMODITIES.—

"(1) IN GENERAL.—The Secretary shall use funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to provide funding described in paragraph (2) to eligible recipient agencies to offset the costs of the agencies for intrastate transportation, storage, and distribution of commodities described in subsection (a).

"(2) FUNDING.—The Secretary shall provide funding described in paragraph (1) to an eligible recipient agency at a rate equal to the lower of $0.05 per pound or $0.05 per dollar value of commodities described in subsection (a) that are made available under this Act to, and accepted by, the eligible recipient agency.".

SA 101. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, line 10, strike "$2,700,000,000" and insert "$9,200,000,000".

On page 129, line 11, strike "$1,350,000,000" and insert "$7,850,000,000".

SA 102. Ms. LANDRIEU (for herself, Mr. GRASSLEY, and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 251, lines 13 and 14, strike "housing:" and insert the following: "housing: *Provided further*, That funding used for section 2301(c)(3)(E) of the Act shall also be available to redevelop demolished, blighted, or vacant properties, including those damaged or destroyed in areas subject to a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.):"

SA 103. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and

creation, infrastrucutre investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, beginning on line 22, strike ''$637,875,000'' and all that follows through ''equipment):'' on line 13 and insert: ''$757,875,000, to remain available until September 30, 2013, of which $84,100,000 shall be for child development centers; $481,000,000 shall be for warrior transition complexes; $42,400,000 shall be for health and dental clinics (including acquisition, construction, installation, and equipment); and $120,000,000 shall be for the Secretary of the Army to carry out at least three pilot projects to use the private sector for the acquisition or construction of military unaccompanied housing for all ranks and locations in the United States:''.

SA 104. Ms. MIKULSKI (for herself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was order to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. ABOVE-THE-LINE DEDUCTION FOR INTEREST ON INDEBTEDNESS WITH RESPECT TO THE PURCHASE OF CERTAIN MOTOR VEHICLES.

(a) IN GENERAL.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(G) any qualified motor vehicle interest (within the meaning of paragraph (5)).''.

(b) QUALIFIED MOTOR VEHICLE INTEREST.—Section 163(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) QUALIFIED MOTOR VEHICLE INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified motor vehicle interest' means any interest which is paid or accrued during the taxable year on any indebtedness which—

''(i) is incurred after November 12, 2008, and before January 1, 2010, in acquiring any qualified motor vehicle of the taxpayer, and

''(ii) is secured by such qualified motor vehicle.

Such term also includes any indebtedness secured by such qualified motor vehicle resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

''(B) DOLLAR LIMITATION.—The aggregate amount of indebtedness treated as described in subparagraph (A) for any period shall not exceed $49,500 ($24,750 in the case of a separate return by a married individual).

''(C) INCOME LIMITATION.—The amount otherwise treated as interest under subparagraph (A) for any taxable year (after the application of subparagraph (B)) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so treated as—

''(i) the excess (if any) of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $125,000 ($250,000 in the case of a joint return), bears to

''(ii) $10,000.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(D) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means a passenger automobile (within the meaning of section 30B(h)(3)) or a light truck (within the meaning of such section)—

''(i) which is acquired for use by the taxpayer and not for resale after November 12, 2008, and before January 1, 2010,

''(ii) the original use of which commences with the taxpayer, and

''(iii) which has a gross vehicle weight rating of not more than 8,500 pounds.''.

(c) DEDUCTION ALLOWED ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (21) the following new paragraph:

''(22) QUALIFIED MOTOR VEHICLE INTEREST.—The deduction allowed under section 163 by reason of subsection (h)(2)(G) thereof.''.

(d) REPORTING OF QUALIFIED MOTOR VEHICLE INTEREST.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6050X. RETURNS RELATING TO QUALIFIED MOTOR VEHICLE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

''(a) QUALIFIED MOTOR VEHICLE INTEREST.—Any person—

''(1) who is engaged in a trade or business, and

''(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on any indebtedness secured by a qualified motor vehicle (as defined in section 163(h)(5)(D)),

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

''(B) the amount of such interest received for the calendar year, and

''(C) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

''(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

''(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

''(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

''(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).''.

(2) AMENDMENTS RELATING TO PENALTIES.—

(A) Section 6721(e)(2)(A) of such Code is amended by striking ''or 6050L'' and inserting ''6050L, or 6050X''.

(B) Section 6722(c)(1)(A) of such Code is amended by striking ''or 6050L(c)'' and inserting ''6050L(c), or 6050X(d)''.

(C) Subparagraph (B) of section 6724(d)(1) of such Code is amended by redesignating clauses (xvi) through (xxii) as clauses (xvii) through (xxiii), respectively, and by inserting after clause (xii) the following new clause:

''(xvi) section 6050X (relating to returns relating to qualified motor vehicle interest received in trade or business from individuals),''.

(D) Paragraph (2) of section 6724(d) of such Code is amended by striking the period at the end of subparagraph (DD) and inserting '', or'' and by inserting after subparagraph (DD) the following new subparagraph:

''(EE) section 6050X(d) (relating to returns relating to qualified motor vehicle interest received in trade or business from individuals).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050W the following new item:

''Sec. 6050X. Returns relating to qualified motor vehicle interest received in trade or business from individuals.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. —. ABOVE-THE-LINE DEDUCTION FOR STATE SALES TAX AND EXCISE TAX ON THE PURCHASE OF CERTAIN MOTOR VEHICLES.

(a) IN GENERAL.—Subsection (a) of section 164 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (5) the following new paragraph:

''(6) Qualified motor vehicle taxes.''.

(b) QUALIFIED MOTOR VEHICLE TAXES.—Subsection (b) of section 164 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) QUALIFIED MOTOR VEHICLE TAXES.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified motor vehicle taxes' means any State or local sales or excise tax imposed on the purchase of a qualified motor vehicle (as defined in section 163(h)(5)(D)).

''(B) DOLLAR LIMITATION.—The amount taken into account under subparagraph (A) for any taxable year shall not exceed $49,500 ($24,750 in the case of a separate return by a married individual).

''(C) INCOME LIMITATION.—The amount otherwise taken into account under subparagraph (A) (after the application of subparagraph (B)) for any taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so treated as—

''(i) the excess (if any) of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $125,000 ($250,000 in the case of a joint return), bears to

''(ii) $10,000.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

''(D) QUALIFIED MOTOR VEHICLE TAXES NOT INCLUDED IN COST OF ACQUIRED PROPERTY.—The last sentence of subsection (a) shall not apply to any qualified motor vehicle taxes.

''(E) COORDINATION WITH GENERAL SALES TAX.—This paragraph shall not apply in the case of a taxpayer who makes an election under paragraph (5) for the taxable year.''.

(c) CONFORMING AMENDMENTS.—Paragraph (5) of section 163(h) of the Internal Revenue Code of 1986, as added by section 1, is amended—

(1) by adding at the end the following new subparagraph:

''(E) EXCLUSION.—If the indebtedness described in subparagraph (A) includes the amounts of any State or local sales or excise taxes paid or accrued by the taxpayer in connection with the acquisition of a qualified motor vehicle, the aggregate amount of such indebtedness taken into account under such subparagraph shall be reduced, but not below zero, by the amount of any such taxes for which a deduction is allowed under section 164(a) by reason of paragraph (6) thereof.'', and

(2) by inserting '', after the application of subparagraph (E),'' after ''for any period'' in subparagraph (B).

(d) DEDUCTION ALLOWED ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986, as amended by section 1, is amended by inserting after paragraph (22) the following new paragraph:

''(23) QUALIFIED MOTOR VEHICLE TAXES.—The deduction allowed under section 164 by reason of subsection (a)(6) thereof.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 105. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Reports by the Government Accountability Office

SEC. 1551. REPORTS BY THE GOVERNMENT ACCOUNTABILITY OFFICE.

(a) REPORTS BY INSPECTORS GENERAL.—The inspector general of each agency that receives funds appropriated under this Act, shall submit reports on the oversight activities of that inspector general with respect to such funds to the Government Accountability Office in a form, containing such information, and at such times as the Comptroller General of the United States may determine to enable the Comptroller General to submit the reports required under subsection (b).

(b) REPORTS BY THE GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit 3 reports to Congress that contain—

(A) a summary of the oversight activities of the offices of inspectors general described under subsection (a) relating to funds appropriated under this Act; and

(B) an evaluation of the effectiveness of this Act.

(2) SUBMISSION DATES.—The reports under this subsection shall be submitted not later than—

(A) 120 days after the date of enactment of this Act;

(B) 180 days after that date of enactment; and

(C) 240 days after that date of enactment.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows, detailees, and interns of the Finance Committee be allowed floor privileges during the consideration of the America Recovery and Reinvestment Act: Mary Baker, Randy Debastiani, Pete Harvey, Laura Hoffmeister, Matt Kazan, Michael London, Bridget Mallon, Vincent Mascia, Toni Miles, Aris Prosetiyo, Leslee Soudrette, Dan Stein, and Kelly Whitener.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that legislative fellows in the office of Senator KENNEDY, Lauren Gilchrist, Craig Martinez, Stephanie Hammonds, Taryn Morrissey, Joe Hutter, and Elisabeth Jacobs be granted floor privileges during the consideration of H.R. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

USERRA REGULATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that a communication to Senator BYRD from the Office of Compliance related to the USERRA regulations be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICE OF COMPLIANCE,
Washington, DC, January 26, 2009.

Re USERRA regulations.

Hon. ROBERT C. BYRD,
President pro tempore, U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR BYRD: Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), requires that, with regard to substantive regulations under the CAA, after the Board has published a general notice of proposed rulemaking as required by subsection (b)(1), and received comments as required by subsection (b)(2), ''the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.''

The Board of Directors of the Office of Compliance has adopted the proposed regulations in the Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval which accompany this transmittal letter. The Board requests that the accompanying Notice, ''S'' and ''C'' versions of the Adopted Regulations, and the Numbering Index be published in the Senate version of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. The Board also requests that Congress approve the proposed Regulations, as further specified in the accompanying Notice.

Any inquiries regarding the accompanying Notice should be addressed to Tamara E. Chrisler, Executive Director of the Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9250, TDD 202–426–1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.

Text of USERRA Regulations

"S " Version

When approved by the Senate for the Senate, these regulations will have the prefix "S."

Subpart A: Introduction to the Regulations

§ 1002.1 What is the purpose of this part?

This part implements certain provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA" or "the Act"), as applied by the Congressional Accountability Act ("CAA"). 2 U.S.C. 1316. USERRA is a law that establishes certain rights and benefits for employees, and duties for employers. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services. There are five subparts to these regulations. Subpart A gives an introduction to the USERRA regulations. Subpart B describes USERRA's anti-discrimination and anti-retaliation provisions. Subpart C explains the steps that must be taken by a uniformed service member who wants to return to his or her previous civilian employment. Subpart D describes the rights, benefits, and obligations of persons absent from employment due to service in the uniformed services, including rights and obligations related to health plan coverage. Subpart E describes the rights, benefits, and obligations of the returning veteran or service member. Subpart F explains the role of the Office of Compliance in administering USERRA as applied by the CAA.

§ 1002.2 Is USERRA a new law?

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized USERRA's continuity with the VRRA and its intention to clarify and strengthen that law. Congress also emphasized that Federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA. USERRA authorized the Department of Labor to publish regulations implementing the Act for State, local government, and private employers. USERRA also authorized the Office of Personnel Management to issue regulations implementing the Act for Federal executive agencies, with the exception of certain Federal intelligence agencies. For those Federal intelligence agencies, USERRA established a separate program for employees. Section 206 of the CAA requires the Board of Directors of the Office of Compliance to issue regulations to implement the statutory provisions relating to employment and reemployment rights of members of the uniformed services. The regulations are required to be the same as substantive regulations promulgated by the Secretary of Labor, except where a modification of such regulations would be more effective for the implementation of the rights and protections of the Act. The Department of Labor issued its regulations, effective January 18, 2006. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated for the legislative branch, for the implementation of the USERRA provisions of the CAA. All references to USERRA in these regulations, means USERRA, as applied by the CAA.

§ 1002.3 When did USERRA become effective?
USERRA, as applied by the CAA, became effective for employing offices of the legislative branch on January 23, 1996. These regulations will become effective upon approval by Congress.

§ 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
(a) As applied by the CAA, the Executive Director of the Office of Compliance is responsible for providing education and information to any covered employing office or employee with respect to their rights, benefits, and obligations under the USERRA provisions of the CAA.
(b) The Office of Compliance, under the direction of the Executive Director, is responsible for the processing of claims filed pursuant to these regulations. More information about the Office of Compliance's role is contained in Subpart F.

§ 1002.5 What definitions apply to these USERRA regulations?
(a) **Act or USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as applied by the CAA.
(b) **Benefit, benefit of employment, or rights and benefits** means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of an employment contract, employment agreement, or employing office policy, plan, or practice. The term includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and, where applicable, the opportunity to select work hours or the location of employment.
(c) **Board** means Board of Directors of the Office of Compliance.
(d) **CAA** means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).
(e) **Covered employee** means any employee, including an applicant for employment and a former employee, of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Government Accountability Office; (9) the Library of Congress; and (10) the Office of Compliance.
(f) **Eligible employee** means a covered employee performing service in the uniformed services, as defined in 1002.5 (t) of this subpart, whose service has not been terminated upon occurrence of any of the events enumerated in section 1002.135 of these regulations. For the purpose of defining who is covered under the discrimination section of these regulations, "performing service" means an eligible employee who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the uniformed services.
(g) **Employee of the Office of the Architect of the Capitol** includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.
(h) **Employee of the Capitol Police** includes any member or officer of the Capitol Police.
(i) **Employee of the House of Representatives** includes an individual occupying a position for which the pay is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not

any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(j) **Employee of the Senate** includes an individual occupying a position for which the pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(k) **Employing office** means (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the House of Representatives and the Senate; (3) any other office headed by a person with the final authority to appoint, or be directed by a Member of Congress to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(l) **Health plan** means an insurance policy, insurance contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(m) **Notice**, when the eligible employee is required to give advance notice of service, means any written or oral notification of an obligation or intention to perform service in the uniformed services provided to an employing office by the employee who will perform such service, or by the uniformed service in which the service is to be performed.

(n) **Office** means the Office of Compliance.

(o) **Qualified**, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(p) **Reasonable efforts**, in the case of actions required of an employing office, means actions, including training provided by an employing office that do not place an undue hardship on the employing office.

(q) **Seniority** means longevity in employment together with any benefits of employment that accrue with, or are determined by, longevity in employment.

(r) **Service in the uniformed services** means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. Service in the uniformed services includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty as authorized by law (10 U.S.C. 12503 or 32 U.S.C. 115). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107– 188, provides that service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized training program is deemed "service in the uniformed services." 42 U.S.C. 300hh– 11(d)(3).

(s) **Undue hardship**, in the case of actions taken by an employing office, means an action requiring significant difficulty or expense, when considered in light of—

(1) The nature and cost of the action needed under USERRA and these regulations; (2) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) The overall financial resources of the employing office; the overall size of the business of an employing office with respect to the number of its employees; the number, type, and location of its facilities; and, (4) The type of operation or operations of the employing office, including the composition, structure, and functions of the work force of such employing office; the geographic

separateness, administrative, or fiscal relationship of the State, District, or satellite office in question to the employing office.
(t) **Uniformed services** means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. For purposes of USERRA coverage only, service as an intermittent disaster response appointee of the National Disaster Medical System (NDMS) when federally activated or attending authorized training in support of their Federal mission is deemed "service in the uniformed services," although such appointee is not a member of the "uniformed services" as defined by USERRA.

§ 1002.6 What types of service in the uniformed services are covered by USERRA?
The definition of "service in the uniformed services" covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.

§ 1002.7 How does USERRA, as applied by the Congressional Accountability Act, relate to other laws, public and private contracts, and employing office practices?
(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employing office may provide greater rights and benefits than USERRA requires, but no employing office can refuse to provide any right or benefit guaranteed by USERRA, as applied by the CAA.
(b) USERRA supersedes any contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit. For example, an office policy that determines seniority based only on actual days of work in the place of employment would be superseded by USERRA, which requires that seniority credit be given for periods of absence from work due to service in the uniformed services.
(c) USERRA does not supersede, nullify or diminish any Federal law, contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit provided under the Act. For example, although USERRA does not require an employing office to pay an eligible employee for time away from work performing service, an employing office policy, plan, or practice that provides such a benefit is permissible under USERRA.
(d) If an employing office provides a benefit that exceeds USERRA's requirements in one area, it cannot reduce or limit other rights or benefits provided by USERRA. For example, even though USERRA does not require it, an employing office may provide a fixed number of days of paid military leave per year to employees who are members of the National Guard or Reserve. The fact that it provides such a benefit, however, does not permit an employing office to refuse to provide an unpaid leave of absence to an employee to perform service in the uniformed services in excess of the number of days of paid military leave.

Subpart B: Anti-Discrimination and Anti-Retaliation

PROTECTION FROM EMPLOYER DISCRIMINATION AND RETALIATION

§ 1002.18 What status or activity is protected from employer discrimination by USERRA?
An employing office must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

§ 1002.19 What activity is protected from employer retaliation by USERRA?
An employing office must not retaliate against an eligible employee by taking any adverse employment action against him or her because the eligible employee has taken an action to enforce a protection afforded any person under USERRA; testified or otherwise made a statement in or in connection with a proceeding under USERRA; assisted or participated in a USERRA investigation; or exercised a right provided for by USERRA.

§ 1002.20 Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions?
Under USERRA, as applied by the CAA, the prohibitions against discrimination and retaliation apply to eligible employees in all positions within covered employing offices, including those that are for a brief, nonrecurrent period, and for which there is no reasonable expectation that the employment position will continue indefinitely or for a significant period. However, USERRA's reemployment rights and benefits do not apply to such brief, non-recurrent positions of employment

§ 1002.21 Does USERRA protect a covered employee who has not actually performed service in the uniformed services?
USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation only against eligible employees. Section 207(a) of the CAA, however, prohibits retaliation against all covered employees because the employee has opposed any practice made unlawful under the CAA, including a violation of USERRA's provisions, as applied by the CAA; or testified; assisted; or participated in any manner in a hearing or proceeding under the CAA.

Subpart C – Eligibility for Reemployment

GENERAL ELIGIBILITY FOR REEMPLOYMENT

§ 1002.32 What criteria must an employee meet to be eligible under USERRA for reemployment after service in the uniformed services?
(a) In general, if an eligible employee has been absent from a position of employment in an employing office by reason of service in the uniformed services, he or she will be eligible for reemployment in that same employing office, if that employing office continues to exist at such time, by meeting the following criteria:
(1) The employing office had advance notice of the eligible employee's service; (2) The eligible employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employing office; (3) The eligible employee timely returns to work or applies for reemployment; and, (4) The eligible employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.
(b) These general eligibility requirements have important qualifications and exceptions, which are described in detail in §§ 1002.73 through 1002.138. If the employee meets these eligibility criteria, then he or she is eligible for reemployment unless the employing office establishes one of the defenses described in § 1002.139. The employment position to which the eligible employee is entitled is described in §§ 1002.191 through 1002.199.

§ 1002.33 Does the eligible employee have to prove that the employing office discriminated against him or her in order to be eligible for reemployment?
No. The eligible employee is not required to prove that the employing office discriminated against him or her because of the employee's uniformed service in order to be eligible for reemployment

COVERAGE OF EMPLOYERS AND POSITIONS

§ 1002.34 Which employing offices are covered by these regulations?
(a) USERRA applies to all covered employing offices of the legislative branch as defined in 2 U.S.C. § 1301(9) and 2 U.S.C.§ 1316(a)(2)(C).

§ 1002.40 Does USERRA protect against discrimination in initial hiring decisions?
Yes. The definition of employer in the USERRA provision as applied by the CAA includes an employing office that has denied initial employment to an individual in violation of USERRA's anti-discrimination provisions. An employing office need not actually employ an individual to be liable under the Act, if it has denied initial employment on the basis of the individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Similarly, the employing office would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. For example, if the individual has been denied initial employment because of his or her obligations as a member of the National Guard or Reserves, the employing office denying employment is liable under USERRA. Similarly, if an employing office withdraws an offer of employment because the individual is called upon to fulfill an

obligation in the uniformed services, the employing office withdrawing the employment offer is also liable under USERRA.

§ 1002.41 Does an eligible employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?
USERRA rights are not diminished because an eligible employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employing office is not required to reemploy an eligible employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employing office bears the burden of proving this affirmative defense.

§ 1002.42 What rights does an eligible employee have under USERRA if he or she is on layoff or on a leave of absence?
(a) If an eligible employee is laid off with recall rights, or on a leave of absence, he or she is protected under USERRA. If the eligible employee is on layoff and begins service in the uniformed services, or is laid off while performing service, he or she may be entitled to reemployment on return if the employing office would have recalled the employee to employment during the period of service. Similar principles apply if the eligible employee is on a leave of absence from work when he or she begins a period of service in the uniformed services.
(b) If the eligible employee is sent a recall notice during a period of service in the uniformed services and cannot resume the position of employment because of the service, he or she still remains an eligible employee for purposes of the Act. Therefore, if the employee is otherwise eligible, he or she is entitled to reemployment following the conclusion of the period of service, even if he or she did not respond to the recall notice.
(c) If the eligible employee is laid off before or during service in the uniformed services, and the employing office would not have recalled him or her during that period of service, the employee is not entitled to reemployment following the period of service simply because he or she is an eligible employee. Reemployment rights under USERRA cannot put the eligible employee in a better position than if he or she had remained in the civilian employment position.

§ 1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?
Yes. USERRA applies to all eligible employees. There is no exclusion for executive, managerial, or professional employees.

§ 1002.44 Does USERRA cover an independent contractor?
No. USERRA, as applied by the CAA, does not provide protections for an independent contractor.

COVERAGE OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.54 Are all military fitness examinations considered "service in the uniformed services?"
Yes. USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from a position of employment for the purpose of an examination to determine his or her fitness to perform duty in the uniformed services. Military fitness examinations can address more than physical or medical fitness, and include evaluations for

mental, educational, and other types of fitness. Any examination to determine an eligible employee's fitness for service is covered, whether it is an initial or recurring examination. For example, a periodic medical examination required of a Reserve component member to determine fitness for continued service is covered.

§ 1002.55 Is all funeral honors duty considered "service in the uniformed services?"

(a) USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from employment for the purpose of performing authorized funer honors duty under 10 U.S.C. 12503 (members of Reserve ordered to perform funeral honors duty) or 32 U.S.C. 115 (Member of Air or Army National Guard ordered to perform funeral honors duty).

(b) Funeral honors duty performed by persons who are not members of the uniformed service such as members of veterans' service organizations, is not "service in the uniformed services."

§ 1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"

Under a provision of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 300hh 11(d)(3), "service in the uniformed services" includes service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System or participation in an authorized training program, even if the eligible employee is not a member of the uniformed services.

§ 1002.57 Is all service as a member of the National Guard considered "service in the uniformed services?"

No. Only Federal National Guard Service is considered "service in the uniformed services." The National Guard has a dual status. It is a Reserve component of the Army, or, in the case of the Air National Guard, of the Air Force. Simultaneously, it is a State military force subject to call-u by the State Governor for duty not subject to Federal control, such as emergency duty in cases of floods or riots. National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA.

(a) National Guard service under Federal authority is protected by USERRA. Service under Federal authority includes active duty performed under Title 10 of the United States Code. Service under Federal authority also includes duty under Title 32 of the United States Code, su as active duty for training, inactive duty training, or full-time National Guard duty.

(b) National Guard service under authority of State law is not protected by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Enforcement of those State laws is not covered by USERRA or these regulations.

§ 1002.58 Is service in the commissioned corps of the Public Health Service considered "service in the uniformed services?"

Yes. Service in the commissioned corps of the Public Health Service (PHS) is "service in the uniformed services" under USERRA.

§ 1002.59 Are there any circumstances in which special categories of persons are considered to perform "service in the uniformed services?"
Yes. In time of war or national emergency, the President has authority to designate any category of persons as a "uniformed service" for purposes of USERRA. If the President exercises this authority, service as a member of that category of persons would be "service in the uniformed services" under USERRA.

§ 1002.60 Does USERRA cover an individual attending a military service academy?
Yes. Attending a military service academy is considered uniformed service for purposes of USERRA. There are four service academies: The United States Military Academy (West Point, New York), the United States Naval Academy (Annapolis, Maryland), the United States Air Force Academy (Colorado Springs, Colorado), and the United States Coast Guard Academy (New London, Connecticut).

§ 1002.61 Does USERRA cover a member of the Reserve Officers Training Corps?
Yes, under certain conditions:
(a) Membership in the Reserve Officers Training Corps (ROTC) or the Junior ROTC is not "service in the uniformed services." However, some Reserve and National Guard enlisted members use a college ROTC program as a means of qualifying for commissioned officer status. National Guard and Reserve members in an ROTC program may at times, while participating in that program, be receiving active duty and inactive duty training service credit with their unit. In these cases, participating in ROTC training sessions is considered "service in the uniformed services," and qualifies a person for protection under USERRA's reemployment and anti-discrimination provisions.
(b) Typically, an individual in a College ROTC program enters into an agreement with a particular military service that obligates such individual to either complete the ROTC program and accept a commission or, in case he or she does not successfully complete the ROTC program, to serve as an enlisted member. Although an individual does not qualify for reemployment protection, except as specified in (a) above, he or she is protected under USERRA's anti-discrimination provisions because, as a result of the agreement, he or she has applied to become a member of the uniformed services and has incurred an obligation to perform future service.

§ 1002.62 Does USERRA cover a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the Civil Air Patrol, or the Coast Guard Auxiliary?
No. Although the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) is a "uniformed service" for some purposes, it is not included in USERRA's definition of this term. Service in the Civil Air Patrol and the Coast Guard Auxiliary similarly is not considered "service in the uniformed services" for purposes of USERRA. Consequently, service performed in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), the Civil Air Patrol, and the Coast Guard Auxiliary is not protected by USERRA.

ABSENCE FROM A POSITION OF EMPLOYMENT NECESSITATED BY REASON OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.73 Does service in the uniformed services have to be an eligible employee's sole reason for leaving an employment position in order to have USERRA reemployment rights?

No. If absence from a position of employment is necessitated by service in the uniformed services, and the employee otherwise meets the Act's eligibility requirements, he or she has reemployment rights under USERRA, even if the eligible employee uses the absence for other purposes as well. An eligible employee is not required to leave the employment position for the sole purpose of performing service in the uniformed services, although such uniformed service must be the main reason for departure from employment. For example, if the eligible employee is required to report to an out of state location for military training and he or she spends off-duty time during that assignment moonlighting as a security guard or visiting relatives who live in that State, the eligible employee will not lose reemployment rights simply because he or she used some of the time away from the job to do something other than attend the military training. Also, if an eligible employee receives advance notification of a mobilization order, and leaves his or her employment position in order to prepare for duty, but the mobilization is cancelled, the employee will not lose any reemployment rights.

§ 1002.74 Must the eligible employee begin service in the uniformed services immediately after leaving his or her employment position in order to have USERRA reemployment rights?

No. At a minimum, an eligible employee must have enough time after leaving the employment position to travel safely to the uniformed service site and arrive fit to perform the service. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service, additional time to rest, or to arrange affairs and report to duty, may be necessitated by reason of service in the uniformed services. The following examples help to explain the issue of the period of time between leaving civilian employment and beginning service in the uniformed services:

(a) If the eligible employee performs a full overnight shift for the civilian employer and travels directly from the work site to perform a full day of uniformed service, the eligible employee would not be considered fit to perform the uniformed service. An absence from that work shift is necessitated so that the eligible employee can report for uniformed service fit for duty.

(b) If the eligible employee is ordered to perform an extended period of service in the uniformed services, he or she may require a reasonable period of time off from the civilian job to put his or her personal affairs in order, before beginning the service. Taking such time off is also necessitated by the uniformed service.

(c) If the eligible employee leaves a position of employment in order to enlist or otherwise perform service in the uniformed services and, through no fault of his or her own, the beginning date of the service is delayed, this delay does not terminate any reemployment rights.

§ 1002.85 Must the eligible employee give advance notice to the employing office of his or her service in the uniformed services?

(a) Yes. The eligible employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify the employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below. In cases in which an eligible employee is employed by more than one employing office, the employee, or an appropriate officer of the uniformed service in which

his or her service is to be performed, must notify each employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below.

(b) The Department of Defense USERRA regulations at 32 CFR 104.3 provide that an "appropriate officer" can give notice on the eligible employee's behalf. An "appropriate officer" is a commissioned, warrant, or non-commissioned officer authorized to give such notice by the military service concerned.

(c) The eligible employee's notice to the employing office may be either oral or written. The notice may be informal and does not need to follow any particular format.

(d) Although USERRA does not specify how far in advance notice must be given to the employing office, an eligible employee should provide notice as far in advance as is reasonable under the circumstances. In regulations promulgated by the Department of Defense under USERRA, 32 CFR 104.6(a)(2)(i)(B), the Defense Department "strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so."

§ 1002.86 When is the eligible employee excused from giving advance notice of service in the uniformed services?

The eligible employee is required to give advance notice of pending service unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.

(a) Only a designated authority can make a determination of "military necessity," and such a determination is not subject to judicial review. Guidelines for defining "military necessity" appear in regulations issued by the Department of Defense at 32 CFR 104.3. In general, these regulations cover situations where a mission, operation, exercise or requirement is classified, or could be compromised or otherwise adversely affected by public knowledge. In certain cases, the Secretary of Homeland Security, in consultation with the Secretary of Defense, can make a determination that giving of notice by intermittent disaster-response appointees of the National Disaster Medical System is precluded by "military necessity." See 42 U.S.C300hh–11(d)(3)(B).

(b) It may be impossible or unreasonable to give advance notice under certain circumstances. Such circumstances may include the unavailability of the eligible employee's employing office or the employing office's representative, or a requirement that the eligible employee report for uniformed service in an extremely short period of time.

§ 1002.87 Is the eligible employee required to get permission from his or her employing office before leaving to perform service in the uniformed services?

No. The eligible employee is not required to ask for or get the employing office's permission to leave to perform service in the uniformed services. The eligible employee is only required to give the employing office notice of pending service.

§ 1002.88 Is the eligible employee required to tell the employing office that he or she intends to seek reemployment after completing uniformed service before the employee leaves to perform service in the uniformed services?

No. When the eligible employee leaves the employment position to begin a period of service, he or she is not required to tell the employing office that he or she intends to seek reemployment after completing uniformed service. Even if the eligible employee tells the employing office before entering or completing uniformed service that he or she does not intend to seek

reemployment after completing the uniformed service, the employee does not forfeit the right to reemployment after completing service. The eligible employee is not required to decide in advance of leaving the position with the employing office, whether he or she will seek reemployment after completing uniformed service.

PERIOD OF SERVICE

§ 1002.99 Is there a limit on the total amount of service in the uniformed services that an eligible employee may perform and still retain reemployment rights with the employing office?

Yes. In general, the eligible employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the employing office. The exceptions to this rule are described below.

§ 1002.100 Does the five-year service limit include all absences from an employment position that are related to service in the uniformed services?

No. The five-year period includes only the time the eligible employee spends actually performing service in the uniformed services. A period of absence from employment before or after performing service in the uniformed services does not count against the five-year limit. For example, after the eligible employee completes a period of service in the uniformed services, he or she is provided a certain amount of time, depending upon the length of service, to report back to work or submit an application for reemployment. The period between completing the uniformed service and reporting back to work or seeking reemployment does not count against the five-year limit.

§ 1002.101 Does the five-year service limit include periods of service that the eligible employee performed when he or she worked for a previous employing office?

No. An eligible employee is entitled to a leave of absence for uniformed service for up to five years with each employing office for whom he or she works or has worked. When the eligible employee takes a position with a new employing office, the five-year period begins again regardless of how much service he or she performed while working in any previous employment relationship. If an eligible employee is employed by more than one employing office, a separate five-year period runs as to each employing office independently, even if those employing offices share or co-determine the employee's terms and conditions of employment. For example, an eligible employee of the legislative branch may work part-time for two employing offices. In this case, a separate five-year period would run as to the eligible employee's employment with each respective employing office.

§ 1002.102 Does the five-year service limit include periods of service that the eligible employee performed before USERRA was enacted?

It depends. Under the CAA, USERRA provides reemployment rights to which an eligible employee may become entitled beginning on or after January 23, 1996, but any uniformed service performed before January 23, 1996, that was counted against the service limitations of the previous law (the Veterans Reemployment Rights Act), also counts against USERRA's five-year limit.

§ 1002.103 Are there any types of service in the uniformed services that an eligible employee can perform that do not count against USERRA's five-year service limit?

(a) USERRA creates the following exceptions to the five-year limit on service in the uniformed services:

(1) Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the eligible employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;

(2) If the eligible employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;

(3)(i) Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and, (ii) Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the eligible employee's professional development, or to complete skill training or retraining;

(4) Service performed in a uniformed service if he or she was ordered to or retained on active duty under:

(i) 10 U.S.C. 688 (involuntary active duty by a military retiree);

(ii) 10 U.S.C. 12301(a) (involuntary active duty in wartime);

(iii) 10 U.S.C. 12301(g) (retention on active duty while in captive status);

(iv) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);

(v) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);

(vi) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);

(vii) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);

(viii) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);

(ix) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);

(x) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);

(xi) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); and

(xii) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

(5) Service performed in a uniformed service if the eligible employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(6) Service performed in a uniformed service if the eligible employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;

(7) Service performed in a uniformed service if the eligible employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,

(8) Service performed as a member of the National Guard if the eligible employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.

(b) Service performed in a uniformed service to mitigate economic harm where the eligible employee's employing office is in violation of its employment or reemployment obligations to him or her.

§ 1002.104 Is the eligible employee required to accommodate his or her employing office's needs as to the timing, frequency or duration of service?
No. The eligible employee is not required to accommodate his or her employing office's interests or concerns regarding the timing, frequency, or duration of uniformed service. The employing office cannot refuse to reemploy the eligible employee because it believes that the timing, frequency or duration of the service is unreasonable. However, the employing office is permitted to bring its concerns over the timing, frequency, or duration of the eligible employee's service to the attention of the appropriate military authority. Regulations issued by the Department of Defense at 32 CFR 104.4 direct military authorities to provide assistance to an employer in addressing these types of employment issues. The military authorities are required to consider requests from employers of National Guard and Reserve members to adjust scheduled absences from civilian employment to perform service.

APPLICATION FOR EMPLOYMENT

§ 1002.115 Is the eligible employee required to report to or submit a timely application for reemployment to his or her pre-service employing office upon completing the period of service in the uniformed services?
Yes. Upon completing service in the uniformed services, the eligible employee must notify the pre-service employing office of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the eligible employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:
(a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the eligible employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the eligible employee must report back to the employing office not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the eligible employee's residence. For example, if the eligible employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the employing office until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the eligible employee to report within such time period through no fault of his or her own, he or she must report to the employing office as soon as possible after the expiration of the eight-hour period.
(b) Period of service more than 30 days but less than 181 days. If the eligible employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or oral) with the employing office not later than 14 days after completing service. If it is impossible or unreasonable for the eligible

employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.
(c) Period of service more than 180 days. If the eligible employee's period of service in the uniformed services was for more than 180 days, he or she must submit an application for reemployment (written or oral) not later than 90 days after completing service.

§1002.116 Is the time period for reporting back to an employing office extended if the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service?
Yes. If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he or she must report to or submit an application for reemployment to the employing office at the end of the period necessary for recovering from the illness or injury. This period may not exceed two years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the eligible employee's control that make reporting within the period impossible or unreasonable. This period for recuperation and recovery extends the time period for reporting to or submitting an application for reemployment to the employing office, and is not applicable following reemployment.

§ 1002.117 Are there any consequences if the eligible employee fails to report for or submit a timely application for reemployment?
(a) If the eligible employee fails to timely report for or apply for reemployment, he or she does not automatically forfeit entitlement to USERRA's reemployment and other rights and benefits. However, the eligible employee does become subject to any conduct rules, established policy, and general practices of the employing office pertaining to an absence from scheduled work.
(b) If reporting or submitting an employment application to the employing office is impossible or unreasonable through no fault of the eligible employee, he or she may report to the employing office as soon as possible (in the case of a period of service less than 31 days) or submit an application for reemployment to the employing office by the next full calendar day after it becomes possible to do so (in the case of a period of service from 31 to 180 days), and the eligible employee will be considered to have timely reported or applied for reemployment.

§ 1002.118 Is an application for reemployment required to be in any particular form?
An application for reemployment need not follow any particular format. The eligible employee may apply orally or in writing. The application should indicate that the employee is a former employee returning from service in the uniformed services and that he or she seeks reemployment with the pre-service employing office. The eligible employee is permitted but not required to identify a particular reemployment position in which he or she is interested.

§ 1002.119 To whom must the eligible employee submit the application for reemployment?
The application must be submitted to the pre-service employing office or to an agent or representative of the employing office who has apparent responsibility for receiving employment applications. Depending upon the circumstances, such a person could be a personnel or human resources officer, or a first-line supervisor.

§ 1002.120 If the eligible employee seeks or obtains employment with an employer other than the pre-service employing office before the end of the period within which a reemployment application must be filed, will that jeopardize reemployment rights with the pre-service employing office?

No. The eligible employee has reemployment rights with the pre-service employing office provided that he or she makes a timely reemployment application to that employing office. The eligible employee may seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. However, such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. For instance, if the employing office forbids outside employment, violation of such a policy may constitute a cause for discipline or even termination.

§ 1002.121 Is the eligible employee required to submit documentation to the employing office in connection with the application for reemployment?

Yes, if the period of service exceeded 30 days and if requested by the employing office to do so. If the eligible employee submits an application for reemployment after a period of service of more than 30 days, he or she must, upon the request of the employing office, provide documentation to establish that:

(a) The reemployment application is timely;

(b) The eligible employee has not exceeded the five-year limit on the duration of service (subject to the exceptions listed at § 1002.103); and,

(c) The eligible employee's separation or dismissal from service was not disqualifying.

§ 1002.122 Is the employing office required to reemploy the eligible employee if documentation establishing the employee's eligibility does not exist or is not readily available?

Yes. The employing office is not permitted to delay or deny reemployment by demanding documentation that does not exist or is not readily available. The eligible employee is not liable for administrative delays in the issuance of military documentation. If the eligible employee is re-employed after an absence from employment for more than 90 days, the employing office may require that he or she submit the documentation establishing entitlement to reemployment before treating the employee as not having had a break in service for pension purposes. If the documentation is received after reemployment and it shows that the eligible employee is not entitled to reemployment, the employing office may terminate employment and any rights or benefits that the employee may have been granted.

§ 1002.123 What documents satisfy the requirement that the employee establish eligibility for reemployment after a period of service of more than thirty days?

(a) Documents that satisfy the requirements of USERRA include the following:

(1) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty;

(2) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;

(3) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;

(4) Certificate of completion from military training school;

(5) Discharge certificate showing character of service; and,
(6) Copy of extracts from payroll documents showing periods of service;
(7) Letter from NDMS Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
(b) The types of documents that are necessary to establish eligibility for reemployment will vary from case to case. Not all of these documents are available or necessary in every instance to establish reemployment eligibility.

CHARACTER OF SERVICE

§ 1002.134 What type of discharge or separation from service is required for an eligible employee to be entitled to reemployment under USERRA?
USERRA does not require any particular form of discharge or separation from service. However, even if the employee is otherwise eligible for reemployment, he or she will be disqualified if the characterization of service falls within one of four categories. USERRA requires that the employee not have received one of these types of discharge.

§ 1002.135 What types of discharge or separation from uniformed service will make the employee ineligible for reemployment under USERRA?
Reemployment rights are terminated if the employee is:
(a) Separated from uniformed service with a dishonorable or bad conduct discharge;
(b) Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
(c) A commissioned officer dismissed as permitted under 10 U.S.C. 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
(d) A commissioned officer dropped from the rolls under 10 U.S.C. 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

§ 1002.136 Who determines the characterization of service?
The branch of service in which the employee performs the tour of duty determines the characterization of service.

§ 1002.137 If the employee receives a disqualifying discharge or release from uniformed service and it is later upgraded, will reemployment rights be restored?
Yes. A military review board has the authority to prospectively or retroactively upgrade a disqualifying discharge or release. A retroactive upgrade would restore reemployment rights providing the employee otherwise meets the Act's eligibility criteria.

§ 1002.138 If the employee receives a retroactive upgrade in the characterization of service, will that entitle him or her to claim back wages and benefits lost as of the date of separation from service?
No. A retroactive upgrade allows the employee to obtain reinstatement with the former employing office, provided the employee otherwise meets the Act's eligibility criteria. Back pay and other benefits such as pension plan credits attributable to the time period between

discharge and the retroactive upgrade are not required to be restored by the employing office in this situation.

EMPLOYER STATUTORY DEFENSES

§ 1002.139 Are there any circumstances in which the pre-service employing office is excused from its obligation to reemploy the eligible employee following a period of uniformed service? What statutory defenses are available to the employing office in an action or proceeding for reemployment benefits?

(a) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if the employing office establishes that its circumstances have so changed as to make reemployment impossible or unreasonable. For example, an employing office may be excused from re-employing the eligible employee where there has been an intervening reduction in force that would have included that employee. The employing office may not, however, refuse to reemploy the eligible employee on the basis that another employee was hired to fill the reemployment position during the employee's absence, even if reemployment might require the termination of that replacement employee;

(b) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that assisting the eligible employee in becoming qualified for reemployment would impose an undue hardship, as defined in § 1002.5(s) and discussed in § 1002.198, on the employing office; or,

(c) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that the employment position vacated by the eligible employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

(d) The employing office defenses included in this section are affirmative ones, and the employing office carries the burden to prove by a preponderance of the evidence that any one or more of these defenses is applicable.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

FURLOUGH AND LEAVE OF ABSENCE

§ 1002.149 What is the eligible employee's status with the employing office while performing service in the uniformed services?

During a period of service in the uniformed services, the eligible employee is deemed to be on leave of absence from the employing office. In this status, the eligible employee is entitled to the non-seniority rights and benefits generally provided by the employing office to other employees with similar seniority, status, and pay that are on leave of absence. Entitlement to these non-seniority rights and benefits is not dependent on how the employing office characterizes the eligible employee's status during a period of service. For example, if the employing office characterizes the employee as "terminated" during the period of uniformed service, this characterization cannot be used to avoid USERRA's requirement that the employee be deemed on leave of absence, and therefore, entitled to the non-seniority rights and benefits generally provided to employees on leave of absence.

§ 1002.150 Which non-seniority rights and benefits is the eligible employee entitled to during a period of service?

(a) The non-seniority rights and benefits to which an eligible employee is entitled during a period of service are those that the employing office provides to similarly situated employees by an agreement, policy, practice, or plan in effect at the employee's workplace. These rights and benefits include those in effect at the beginning of the eligible employee's employment and those established after employment began. They also include those rights and benefits that become effective during the eligible employee's period of service and that are provided to similarly situated employees on leave of absence.

(b) If the non-seniority benefits to which employees on leave of absence are entitled vary according to the type of leave, the eligible employee must be given the most favorable treatment accorded to any comparable form of leave when he or she performs service in the uniformed services. In order to determine whether any two types of leave are comparable, the duration of the leave may be the most significant factor to compare. For instance, a two-day funeral leave will not be "comparable" to an extended leave for service in the uniformed service. In addition to comparing the duration of the absences, other factors such as the purpose of the leave and the ability of the employee to choose when to take the leave should also be considered.

(c) As a general matter, accrual of vacation leave is considered to be a non-seniority benefit that must be provided by an employing office to an eligible employee on a military leave of absence only if the employing office provides that benefit to similarly situated employees on comparable leaves of absence.

(d) Nothing in this section gives the eligible employee rights or benefits to which the employee otherwise would not be entitled if the employee had remained continuously employed with the employing office.

§ 1002.151 If the employing office provides full or partial pay to the eligible employee while he or she is on military leave, is the employing office required to also provide the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?

Yes. If the employing office provides additional benefits such as full or partial pay when the eligible employee performs service, the employing office is not excused from providing other rights and benefits to which the employee is entitled under the Act.

§ 1002.152 If employment is interrupted by a period of service in the uniformed services, are there any circumstances under which the eligible employee is not entitled to the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?

If employment is interrupted by a period of service in the uniformed services and the eligible employee knowingly provides written notice of intent not to return to the position of employment after service in the uniformed services, he or she is not entitled to those non-seniority rights and benefits. The eligible employee's written notice does not waive entitlement to any other rights to which he or she is entitled under the Act, including the right to reemployment after service.

§ 1002.153 If employment is interrupted by a period of service in the uniformed services, is the eligible employee permitted upon request to use accrued vacation, annual or similar leave with pay during the service? Can the employing office require the eligible employee to use accrued leave during a period of service?

(a) If employment is interrupted by a period of service, the eligible employee must be permitted upon request to use any accrued vacation, annual, or similar leave with pay during the period of service, in order to continue his or her civilian pay. However, the eligible employee is not entitled to use sick leave that accrued with the employing office during a period of service in the uniformed services, unless the employing office allows employees to use sick leave for any reason, or allows other similarly situated employees on comparable furlough or leave of absence to use accrued paid sick leave. Sick leave is usually not comparable to annual or vacation leave; it is generally intended to provide income when the employee or a family member is ill and the employee is unable to work.

(b) The employing office may not require the eligible employee to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

HEALTH PLAN COVERAGE

§ 1002.163 What types of health plans are covered by USERRA?

(a) USERRA defines a health plan to include an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or arrangement under which the employee's health services are provided or the expenses of those services are paid.

(b) USERRA covers group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. 1191b(a). USERRA applies to group health plans that are subject to ERISA, and plans that are not subject to ERISA, such as those sponsored by the Federal Government.

(c) USERRA covers multi-employer plans maintained pursuant to one or more collective bargaining agreements between employers and employee organizations. USERRA applies to

multi-employer plans as they are defined in ERISA at 29 U.S.C. 1002(37). USERRA contains provisions that apply specifically to multi-employer plans in certain situations.

§ 1002.164 What health plan coverage must the employing office provide for the eligible employee under USERRA?

If the eligible employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the eligible employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the eligible employee to elect to continue coverage for a period of time that is the lesser of:

(1) The 24-month period beginning on the date on which the eligible employee's absence for the purpose of performing service begins; or,

(2) The period beginning on the date on which the eligible employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115–123 of these regulations.

(b) USERRA does not require the employing office to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employing office to permit the eligible employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§ 1002.165 How does the eligible employee elect continuing health plan coverage?

USERRA does not specify requirements for electing continuing coverage. Health plan administrators may develop reasonable requirements addressing how continuing coverage may be elected, consistent with the terms of the plan and the Act's exceptions to the requirement that the employee give advance notice of service in the uniformed services. For example, the eligible employee cannot be precluded from electing continuing health plan coverage under circumstances where it is impossible or unreasonable for him or her to make a timely election of coverage.

§ 1002.166 How much must the eligible employee pay in order to continue health plan coverage?

(a) If the eligible employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the eligible employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employing office's share plus the employee's share, plus 2% for administrative costs.

(c)USERRA does not specify requirements for methods of paying for continuing coverage. Health plan administrators may develop reasonable procedures for payment, consistent with the terms of the plan.

§ 1002.167 What actions may a plan administrator take if the eligible employee does not elect or pay for continuing coverage in a timely manner?

The actions a plan administrator may take regarding the provision or cancellation of an eligible employee's continuing coverage depend on whether the employee is excused from the requirement to give advance notice, whether the plan has established reasonable rules for election of continuation coverage, and whether the plan has established reasonable rules for the payment for continuation coverage.

(a) No notice of service and no election of continuation coverage:

If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service without giving advance notice of service, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service. However, in cases in which an eligible employee's failure to give advance notice of service was excused under the statute because it was impossible, unreasonable, or precluded by military necessity, the plan administrator must reinstate the employee's health coverage retroactively upon his or her election to continue coverage and payment of all unpaid amounts due, and the employee must incur no administrative reinstatement costs. In order to qualify for an exception to the requirement of timely election of continuing health care, an eligible employee must first be excused from giving notice of service under the statute.

(b) Notice of service but no election of continuing coverage:

Plan administrators may develop reasonable requirements addressing how continuing coverage may be elected. Where health plans are also covered under the Consolidated Omnibus Budget Reconciliation Act of 1985, 26 U.S.C. 4980B (COBRA), it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding election of continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule. If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service for a period of service in excess of 30 days after having given advance notice of service but without making an election regarding continuing coverage, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service, but must reinstate coverage without the imposition of administrative reinstatement costs under the following conditions:

(1) Plan administrators who have developed reasonable rules regarding the period within which an employee may elect continuing coverage must permit retroactive reinstatement of uninterrupted coverage to the date of departure if the eligible employee elects continuing coverage and pays all unpaid amounts due within the periods established by the plan; (2) In cases in which plan administrators have not developed rules regarding the period within which an employee may elect continuing coverage, the plan must permit retroactive reinstatement of uninterrupted coverage to the date of departure upon the eligible employee's election and payment of all unpaid amounts at any time during the period established in section 1002.164(a).

(c) Election of continuation coverage without timely payment:

Health plan administrators may adopt reasonable rules allowing cancellation of coverage if timely payment is not made. Where health plans are covered under COBRA, it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding payment for continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule.

§ 1002.168 If the eligible employee's coverage was terminated at the beginning of or during service, does his or her coverage have to be reinstated upon reemployment?

(a) If health plan coverage for the eligible employee or a dependent was terminated by reason of service in the uniformed services, that coverage must be reinstated upon reemployment. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment, if an exclusion or waiting period would not have been imposed had coverage not been terminated by reason of such service.

(b) USERRA permits a health plan to impose an exclusion or waiting period as to illnesses or injuries determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services. The determination that the employee's illness or injury was incurred in, or aggravated during, the performance of service may only be made by the Secretary of Veterans Affairs or his or her representative. Other coverage, for injuries or illnesses that are not service-related (or for the employee's dependents, if he or she has dependent coverage), must be reinstated subject to paragraph (a) of this section.

§ 1002.169 Can the eligible employee elect to delay reinstatement of health plan coverage until a date after the date he or she is reemployed?

USERRA requires the employing office to reinstate or direct the reinstatement of health plan coverage upon request at reemployment. USERRA permits but does not require the employing office to allow the employee to delay reinstatement of health plan coverage until a date that is later than the date of reemployment.

§ 1002.170 In a multi-employer health plan, how is liability allocated for employer contributions and benefits arising under USERRA's health plan provisions?

Liability under a multi-employer plan for employer contributions and benefits in connection with USERRA's health plan provisions must be allocated either as the plan sponsor provides, or, if the sponsor does not provide, to the eligible employee's last employer before his or her service. If the last employer is no longer functional, liability for continuing coverage is allocated to the health plan.

§ 1002.171 How does the continuation of health plan benefits apply to a multi-employer plan that provides health plan coverage through a health benefits account system?

(a) Some employees receive health plan benefits provided pursuant to a multi-employer plan that utilizes a health benefits account system in which an employee accumulates prospective health benefit eligibility, also commonly referred to as "dollar bank," "credit bank," and "hour bank" plans. In such cases, where an employee with a positive health benefits account balance elects to continue the coverage, the employee may further elect either option below:

(1) The eligible employee may expend his or her health account balance during an absence from employment due to service in the uniformed services in lieu of paying for the continuation of coverage as set out in § 1002.166. If an eligible employee's health account balance becomes depleted during the applicable period provided for in § 1002.164(a), the employee must be permitted, at his or her option, to continue coverage pursuant to § 1002.166. Upon reemployment, the plan must provide for immediate reinstatement of the eligible employee as required by § 1002.168, but may require the employee to pay the cost of the coverage until the employee earns the credits necessary to sustain continued coverage in the plan.

(2) The eligible employee may pay for continuation coverage as set out in § 1002.166, in order to maintain intact his or her account balance as of the beginning date of the absence from employment due to service in the uniformed services. This option permits the eligible employee to resume usage of the account balance upon reemployment.

(b) Employers or plan administrators providing such plans should counsel employees of their options set out in this subsection.

Subpart E—Reemployment Rights and Benefits

PROMPT REEMPLOYMENT

§ 1002.180 When is an eligible employee entitled to be reemployed by the employing office?
The employing office must promptly reemploy the employee when he or she returns from a period of service if the employee meets the Act's eligibility criteria as described in Subpart C of these regulations.

§ 1002.181 How is "prompt reemployment" defined?
"Prompt reemployment" means as soon as practicable under the circumstances of each case. Absent unusual circumstances, reemployment must occur within two weeks of the eligible employee's application for reemployment. For example, prompt reinstatement after a weekend National Guard duty generally means the next regularly scheduled working day. On the other hand, prompt reinstatement following several years of active duty may require more time, because the employing office may have to reassign or give notice to another employee who occupied the returning employee's position.

REEMPLOYMENT POSITION

§ 1002.191 What position is the eligible employee entitled to upon reemployment?
As a general rule, the eligible employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the eligible employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events. The escalator principle requires that the eligible employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. Depending upon the specific circumstances, the employing office may have the option, or be required, to reemploy the eligible employee in a position other than the escalator position.

§ 1002.192 How is the specific reemployment position determined?
In all cases, the starting point for determining the proper reemployment position is the escalator position, which is the job position that the eligible employee would have attained if his or her continuous employment had not been interrupted due to uniformed service. Once this position is determined, the employing office may have to consider several factors before determining the appropriate reemployment position in any particular case. Such factors may include the eligible employee's length of service, qualifications, and disability, if any. The actual reemployment position may be either the escalator position; the pre-service position; a position comparable to the escalator or pre-service position; or, the nearest approximation to one of these positions.

§ 1002.193 Does the reemployment position include elements such as seniority, status, and rate of pay?
(a) Yes. The reemployment position includes the seniority, status, and rate of pay that an eligible employee would ordinarily have attained in that position given his or her job history, including

prospects for future earnings and advancement. The employing office must determine the seniority rights, status, and rate of pay as though the eligible employee had been continuously employed during the period of service. The seniority rights, status, and pay of an employment position include those established (or changed) by a collective bargaining agreement, employer policy, or employment practice. The sources of seniority rights, status, and pay include agreements, policies, and practices in effect at the beginning of the eligible employee's service, and any changes that may have occurred during the period of service. In particular, the eligible employee's status in the reemployment position could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility, and geographical location.

(b) If an opportunity for promotion, or eligibility for promotion, that the eligible employee missed during service is based on a skills test or examination, then the employing office should give him or her a reasonable amount of time to adjust to the employment position and then give a skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. If the eligible employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had employment not been interrupted by uniformed service.

§ 1002.194 Can the application of the escalator principle result in adverse consequences when the eligible employee is reemployed?

Yes. The Act does not prohibit lawful adverse job consequences that result from the eligible employee's restoration on the seniority ladder. Depending on the circumstances, the escalator principle may cause an eligible employee to be reemployed in a higher or lower position, laid off, or even terminated. For example, if an eligible employee's seniority or job classification would have resulted in the employee being laid off during the period of service, and the layoff continued after the date of reemployment, reemployment would reinstate the employee to layoff status. Similarly, the status of the reemployment position requires the employing office to assess what would have happened to such factors as the eligible employee's opportunities for advancement, working conditions, job location, shift assignment, rank, responsibility, and geographical location, if he or she had remained continuously employed. The reemployment position may involve transfer to another shift or location, more or less strenuous working conditions, or changed opportunities for advancement, depending upon the application of the escalator principle.

§ 1002.195 What other factors can determine the reemployment position?

Once the eligible employee's escalator position is determined, other factors may allow, or require, the employing office to reemploy the employee in a position other than the escalator position. These factors, which are explained in §§ 1002.196 through 1002.199, are:

(a) The length of the eligible employee's most recent period of uniformed service;
(b) The eligible employee's qualifications; and,
(c) Whether the eligible employee has a disability incurred or aggravated during uniformed service.

§ 1002.196 What is the eligible employee's reemployment position if the period of service was less than 91 days?

Following a period of service in the uniformed services of less than 91 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position or the pre-service position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.197 What is the reemployment position if the eligible employee's period of service in the uniformed services was more than 90 days?

Following a period of service of more than 90 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position or a position of like seniority, status, and pay. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position or a like position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began or in a position of like seniority, status, and pay. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position, the pre-service position, or a like position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.198 What efforts must the employing office make to help the eligible employee become qualified for the reemployment position?

The eligible employee must be qualified for the reemployment position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(a)(1) "Qualified" means that the employee has the ability to perform the essential tasks of the position. The employee's inability to perform one or more non-essential tasks of a position does not make him or her unqualified.

(2) Whether a task is essential depends on several factors, and these factors include but are not limited to:

(i) The employing office's judgment as to which functions are essential;

(ii) Written job descriptions developed before the hiring process begins;

(iii) The amount of time on the job spent performing the function;

(iv) The consequences of not requiring the individual to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(b) Only after the employing office makes reasonable efforts, as defined in § 1002.5(p), may it determine that the otherwise eligible employee is not qualified for the reemployment position. These reasonable efforts must be made at no cost to the employee.

§ 1002.199 What priority must the employing office follow if two or more returning employees are entitled to reemployment in the same position?

If two or more eligible employees are entitled to reemployment in the same position and more than one employee has reported or applied for employment in that position, the employee who first left the position for uniformed service has the first priority on reemployment in that position. The remaining employee (or employees) is entitled to be reemployed in a position similar to that in which the employee would have been re-employed according to the rules that normally determine a reemployment position, as set out in §§ 1002.196 and 1002.197.

SENIORITY RIGHTS AND BENEFITS

§ 1002.210 What seniority rights does an eligible employee have when reemployed following a period of uniformed service?

The eligible employee is entitled to the seniority and seniority-based rights and benefits that he or she had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if he or she had remained continuously employed. The eligible employee is not entitled to any benefits to which he or she would not have been entitled had the employee been continuously employed with the employing office. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employing office and those required by statute. For example, under USERRA, a reemployed service member would be eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601–2654 (FMLA), if the number of

months and the number of hours of work for which the service member was employed by the employing office, together with the number of months and the number of hours of work for which the service member would have been employed by the employing office during the period of uniformed service, meet FMLA's eligibility requirements. In the event that a service member is denied FMLA leave for failing to satisfy the FMLA's hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under the FMLA.

§ 1002.211 Does USERRA require the employing office to use a seniority system?
No. USERRA does not require the employing office to adopt a formal seniority system. USERRA defines seniority as longevity in employment together with any employment benefits that accrue with, or are determined by, longevity in employment. In the absence of a formal seniority system, such as one established through collective bargaining, USERRA looks to the custom and practice in the place of employment to determine the eligible employee's entitlement to any employment benefits that accrue with, or are determined by, longevity in employment.

§ 1002.212 How does a person know whether a particular right or benefit is a seniority-based right or benefit?
A seniority-based right or benefit is one that accrues with, or is determined by, longevity in employment. Generally, whether a right or benefit is seniority-based depends on three factors:
(a) Whether the right or benefit is a reward for length of service rather than a form of short-term compensation for work performed;
(b) Whether it is reasonably certain that the eligible employee would have received the right or benefit if he or she had remained continuously employed during the period of service; and,
(c) Whether it is the employing office's actual custom or practice to provide or withhold the right or benefit as a reward for length of service. Provisions of an employment contract or policies in the employee handbook are not controlling if the employing office's actual custom or practice is different from what is written in the contract or handbook.

§ 1002.213 How can the eligible employee demonstrate a reasonable certainty that he or she would have received the seniority right or benefit if he or she had remained continuously employed during the period of service?
A reasonable certainty is a high probability that the eligible employee would have received the seniority or seniority-based right or benefit if he or she had been continuously employed. The eligible employee does not have to establish that he or she would have received the benefit as an absolute certainty. The eligible employee can demonstrate a reasonable certainty that he or she would have received the seniority right or benefit by showing that other employees with seniority similar to that which the employee would have had if he or she had remained continuously employed received the right or benefit. The employing office cannot withhold the right or benefit based on an assumption that a series of unlikely events could have prevented the eligible employee from gaining the right or benefit.

DISABLED EMPLOYEES

§ 1002.225 Is the eligible employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?
Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the eligible employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employing office must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the eligible employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employing office to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employing office must make reasonable efforts to accommodate the eligible employee's disability and to help him or her to become qualified to perform the duties of one of these positions:
(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,
(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the eligible employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226 If the eligible employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employing office make to help him or her become qualified for the reemployment position?
(a) USERRA requires that the eligible employee be qualified for the reemployment position regardless of any disability. The employing office must make reasonable efforts to help the eligible employee to become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.
(b) "Qualified" has the same meaning here as in § 1002.198.

RATE OF PAY

§ 1002.236 How is the eligible employee's rate of pay determined when he or she returns from a period of service?
The eligible employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:
(a) If the eligible employee is reemployed in the escalator position, the employing office must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employing office may examine the returning eligible employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position. For example, if the eligible employee missed a merit

pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the eligible employee missed during service is based on a skills test or examination, then the employing office should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the eligible employee's employment not been interrupted by uniformed service.
(b) If the eligible employee is reemployed in the pre-service position or another position, the employing office must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

PROTECTION AGAINST DISCHARGE

§ 1002.247 Does USERRA provide the eligible employee with protection against discharge?
Yes. If the eligible employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause –
(a) For 180 days after the eligible employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,
(b) For one year after the date of reemployment if the eligible employee's most recent period of uniformed service was more than 180 days.

§ 1002.248 What constitutes cause for discharge under USERRA?
The eligible employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.
(a) In a discharge action based on conduct, the employing office bears the burden of proving that it is reasonable to discharge the eligible employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.
(b) If, based on the application of other legitimate nondiscriminatory reasons, the eligible employee's job position is eliminated, or the eligible employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employing office bears the burden of proving that the eligible employee's job would have been eliminated or that he or she would have been laid off.

PENSION PLAN BENEFITS

§ 1002.259 How does USERRA protect an eligible employee's pension benefits?

On reemployment, the eligible employee is treated as not having a break in service with the employing office for purposes of participation, vesting and accrual of benefits in a pension plan, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.

(a) Depending on the length of the eligible employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employing office for purposes of determining participation, vesting and accrual of pension benefits under the plan.

(b) If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the eligible employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employing office for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

§ 1002.260 What pension benefit plans are covered under USERRA?

(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by the Federal Government.

(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

§ 1002.261 Who is responsible for funding any plan obligation to provide the eligible employee with pension benefits?

With the exception of multi-employer plans, which have separate rules discussed below, the employing office is required to ensure the funding of any obligation of the plan to provide benefits that are attributable to the eligible employee's period of service. In the case of a defined contribution plan, once the eligible employee is reemployed, the employing office must ensure that the amount of the make-up contribution for the employee, if any; the employee's make-up contributions, if any; and the employee's elective deferrals, if any; in the same manner and to the same extent that the amounts are allocated for other employees during the period of service. In the case of a defined benefit plan, the eligible employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

§ 1002.262 When must the plan contribution that is attributable to the employee's period of uniformed service be made?

(a) Employer contributions are not required until the eligible employee is reemployed. For employer contributions to a plan in which the eligible employee is not required or permitted to

contribute, the contribution attributable to the employee's period of service must be made no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the contribution to be made within this time period, the contribution must be made as soon as practicable.
(b) If the eligible employee is enrolled in a contributory plan, he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions, or elective deferrals, must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the eligible employee's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employing office.
(c) If the eligible employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution. This is true because employer contributions are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employer contributions that are contingent on or attributable to the eligible employee's make-up contributions or elective deferrals must be made according to the plan's requirements for employer matching contributions.
(d) The eligible employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the eligible employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.
(e) Any vested accrued benefit in the pension plan that the eligible employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.
(f) An adjustment will be made to the amount of employee contributions or elective deferrals that the eligible employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

§ 1002.263 Does the eligible employee pay interest when he or she makes up missed contributions or elective deferrals?

No. The eligible employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

§ 1002.264 Is the eligible employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?

Yes, provided the plan is a defined benefit plan. If the eligible employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the eligible employee must repay includes any interest that would have accrued had the monies not been withdrawn. The eligible employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length

of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employing office and the employee), provided the employee is employed with the post-service employing office during this period.

§ 1002.265 If the eligible employee is reemployed with his or her pre-service employing office, is the employee's pension benefit the same as if he or she had remained continuously employed?

The amount of the eligible employee's pension benefit depends on the type of pension plan.
(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the eligible employee's benefit will be the same as though he or she had remained continuously employed during the period of service.
(b) In a contributory defined benefit plan, the eligible employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.
(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employer make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

§ 1002.266 What are the obligations of a multi-employer pension benefit plan under USERRA?

A multi-employer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multi-employer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multi-employer plans, as follows:
(a) The last employer that employed the eligible employee before the period of service is responsible for making the employer contribution to the multi-employer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the eligible employee.
(b) An employer that contributes to a multi-employer plan and that reemploys the eligible employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within which the reemploying employer must provide written notice to the multi-employer plan pursuant to this subsection does not begin until the employer has knowledge that the eligible employee was re-employed pursuant to USERRA.
(c) The eligible employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multi-employer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

§ 1002.267 How is compensation during the period of service calculated in order to determine the eligible employee's pension benefits, if benefits are based on compensation?

In many pension benefit plans, the eligible employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the eligible employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b) (1) Where the rate of pay the eligible employee would have received is not reasonably certain, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the eligible employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

Subpart F—Compliance Assistance, Enforcement and Remedies

COMPLIANCE ASSISTANCE

§ 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?

The Office of Compliance provides assistance to any person or entity who is covered by the CAA with respect to employment and reemployment rights and benefits under USERRA as applied by the CAA. This assistance includes responding to inquiries, and providing a program of education and information on matters relating to USERRA.

INVESTIGATION AND REFERRAL

§ 1002.288 How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?

(a) If an eligible employee is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employing office has failed or refused, or is about to fail or refuse, to comply with the Act, the eligible employee may file a complaint with the Office of Compliance, after a required period of counseling and mediation.

(b) To commence a proceeding, an eligible employee alleging a violation of the rights and protections of USERRA must request counseling by the Office of Compliance no later than 180 days after the date of the alleged violation. If an eligible employee misses this deadline, the claim may be time barred under the CAA.

(c) The following procedures are available under subchapter IV of the CAA for eligible employees who believe their rights under USERRA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either -

(A) a formal complaint filed with the Office of Compliance (which must meet the requirements as set forth in the Office of Compliance Procedural Rules, Section 5.01(c)), and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(d) Regulations of the Office of Compliance describing and governing these procedures can be found at 141 Cong. Rec. H15645-H15655 (daily ed. December 30, 1995) and 141 Cong. Rec. S19239-19249 (daily ed. December 22, 1995), 143 Cong. Rec. H8316-H8317 (daily ed. October 2, 1997)(as amended, applying USERRA to the Government Accountability Office and the Library of Congress).

ENFORCEMENT OF RIGHTS AND BENEFITS AGAINST AN EMPLOYING OFFICE

§ 1002.303 Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?

Yes. All eligible employees who file claims under Section 206 of the CAA, are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance

§ 1002.308 Who has legal standing to bring a USERRA claim under the CAA?
An action under Section 206 of the CAA may be brought by an eligible employee, as defined by Section 1002.5 (f) of Subpart A of these regulations. An action under 207(a) of the CAA may be brought by a covered employee, as defined by section 1002.5 (e) of Subpart A of these regulations. An employing office, prospective employing office or other similar entity may not bring an action under the Act.

§ 1002.309 Who is a necessary party in an action under USERRA?
In an action under USERRA, only the covered employing office or a potential covered employing office, as the case may be, is a necessary party respondent. Under the Office of Compliance Procedural Rules, a hearing officer has authority to require the filing of briefs, memoranda of law, and the presentation of oral argument. A hearing officer also may order the production of evidence and the appearance of witnesses.

§ 1002.310 How are fees and court costs awarded in an action under USERRA?
If an eligible employee is a prevailing party with respect to any claim under USERRA, the hearing officer, Board, or court may award reasonable attorney fees, expert witness fees, and other litigation expenses.

§ 1002.311 Is there a statute of limitations in an action under USERRA?
USERRA does not have a statute of limitations. However, Section 402 of the CAA requires a covered employee to bring a request for counseling alleging a violation of the CAA no later than 180 days after the date of the alleged violation. A claim by an eligible employee alleging a USERRA violation as applied by the CAA would follow this requirement .

§ 1002.312 What remedies may be awarded for a violation of USERRA?
In any action or proceeding the following relief may be awarded:
(a) The court and/or hearing officer may require the employing office to comply with the provisions of the Act;
(b) The court and/or hearing officer may require the employing office to compensate the eligible employee for any loss of wages or benefits suffered by reason of the employing office's failure to comply with the Act;
(c) The court and/or hearing officer may require the employing office to pay the eligible employee an amount equal to the amount of lost wages and benefits as liquidated damages, if the court and/or hearing officer determines that the employing office's failure to comply with the Act was willful. A violation shall be considered to be willful if the employing office either knew or showed reckless disregard for whether its conduct was prohibited by the Act.
(d) Any wages, benefits, or liquidated damages awarded under paragraphs (b) and (c) of this section are in addition to, and must not diminish, any of the other rights and benefits provided by USERRA (such as, for example, the right to be employed or reemployed by the employing office).

DOL SECTIONS	OOC SECTIONS
Subpart A	Subpart A
Sec. 1002.1 What is the purpose of this subpart?	**Sec. 1002.1** What is the purpose of this part?
Sec. 1002.2 Is USERRA new law?	**Sec. 1002.2** Is USERRA new law?
Sec. 1002.3 When did USERRA become effective?	**Sec. 1002.3** When did USERRA become effective?
Sec. 1002.4 What is the role of the Secretary of Labor under USERRA?	**Sec. 1002.4** What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
Sec. 1002.5 What definitions apply to USERRA?	**Sec. 1002.5** What definitions apply to these USERRA regulations?
Sec. 1002.6 What types of service in the uniformed services are covered by USERRA?	**Sec. 1002.6** What types of service in the uniformed services are covered by USERRA?
Sec. 1002.7 How does USERRA relate to other laws, public and private contracts, and employer practices?	**Sec. 1002.7** How does USERRA as applied by the CAA relate to other laws, public and private contracts, and employer practices?
Subpart B	Subpart B
Sec. 1002.18 What status or activity is protected from employer discrimination by USERRA?	**Sec. 1002.18** What status or activity is protected from employer discrimination by USERRA?
Sec. 1002.19 What activity is protected from employer retaliation by USERRA?	**Sec. 1002.19** What activity is protected from employer retaliation by USERRA?
Sec. 1002.20 Does USERRA protect an individual who does not actually perform service in the uniformed services?	**Sec. 1002.20** Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions?
Sec. 1002.21 Do the Act's prohibitions against discrimination and retaliation apply to all employment positions?	**Sec. 1002.21** Does USERRA protect a covered employee who has not actually performed service in the uniformed services?
Sec. 1002.22 Who has the burden of proving discrimination or retaliation in violation of USERRA?	**Sections 1002.22-23** are deleted from OOC regulations.
Sec. 1002.23 What must the individual show to carry the burden of proving that the employer discriminated or retaliated against him or her?	

DOL SECTIONS

Subpart C
Sections 1002.32-34 and 1002.40-139 are the same in DOL and OOC regulations.

Subpart D
Sections 1002.149-171 are the same in DOL and OOC regulations.

Subpart E
Sections 1002.180-267 are the same in DOL and OOC regulations.

Subpart F
Section 1002.277 What assistance does the Department of Labor provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?
Section 1002.288 How does an individual file a USERRA complaint?
Section 1002.289 How will VETS investigate a USERRA complaint?
Section 1002.290 Does VETS have the authority to order compliance with USERRA?
Section 1002.291 What actions may an individual take if the complaint is not resolved by VETS?
Section 1002.292 What can the Attorney General do about the complaint?
Section 1002.303 Is an individual required to file his or her complaint with VETS?
Section 1002.304 If an individual files a complaint with VETS and VETS' efforts do not resolve the complaint, can the individual pursue the claim on his or her own?
Section 1002.305 What court has jurisdiction in an action against a State or private employer?
Section 1002.306 Is a National Guard civilian technician considered a State or Federal employee for purposes of USERRA?
Section 1002.307 What is the proper venue in an action against a State or Private employer?

OOC SECTIONS

Subpart C
Sections 1002.32-34 and 1002.40-139 are the same in DOL and OOC regulations.
Sections 1002.35-39 are deleted from OOC regulations.

Subpart D
Sections 1002.149-171 are the same in DOL and OOC regulations.

Subpart E
Sections 1002.180-267 are the same in DOL and OOC regulations.

Subpart F
Section 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?
Section 1002.288 How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?

Sections 1002.289-292 are deleted from OOC regulations.

Section 1002.303 Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?

Sections 1002.304-307 are deleted from OOC regulations.

OFFICE OF COMPLIANCE: NOTICE OF ADOPTION OF SUBSTANTIVE REGULATIONS, AND SUBMISSION FOR CONGRESSIONAL APPROVAL

Adoption of the Office of Compliance Regulations Implementing Certain Substantive Employment Rights and Protections for Veterans, as Required by 2 U.S.C. 1316, the Congressional Accountability Act of 1995, as Amended

Procedural Summary:

Issuance of the Board's Initial Notice of Proposed Rulemaking:

On April 21, 2008 and May 8, 2008, the Office of Compliance published a Notice of Proposed Rulemaking ("NPR") in the Congressional Record (154 Cong. Rec. S3188 (daily ed. April 21, 2008) H3338 (daily ed. May 8, 2008))

Why did the Board propose these new Regulations?

Section 206 of the Congressional Accountability Act ("CAA"), 2 U.S.C. §1316, applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits. Subsection 1316(c) requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may only modify the Department of Labor regulations if it can establish good cause as to why a modification would be more effective for the application of the protections to the legislative branch. In addition, Section 1384 provides procedures for the rulemaking process in general.

What procedure followed the Board's April 16 Notice of Proposed Rulemaking?

The May 8, 2008 Notice of Proposed Rulemaking included a thirty day comment period, which began on May 9, 2008. A number of comments to the proposed substantive regulations were received by the Office of Compliance from interested parties. The Board of Directors has reviewed the comments from interested parties, made a number of changes to the proposed substantive regulations in response to comments, and on December 3, 2008 adopted the amended regulations.

What is the effect of the Board's "adoption" of these proposed substantive regulations?
Adoption of these substantive regulations by the Board of Directors does not complete the promulgation process. Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that:

(1) the Board of Directors issue proposed substantive regulations and publish a general notice of proposed rulemaking in the *Congressional Record*;

(2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; and

(3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the *Congressional Record.*

This **Notice of Adoption of Substantive Regulations and Submission for Congressional Approval** completes the third step described above.

What are the next steps in the process of promulgation of these regulations?
Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the House of Representatives adopt the "H" version of the regulations by resolution; that the Senate adopt the "S" version of the regulations by resolution; and that the House and Senate adopt the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

Which employment and reemployment protections are applied to eligible employees in 2 U.S.C. 1316?
USERRA was enacted in December 1994, and the Department of Labor final regulations for the executive branch became effective in 2006. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in military service. USERRA provides certain reemployment rights; protection from discrimination based on military service, denial of an employment benefit as a result of military service; and protection from retaliation for enforcing USERRA protections.

The selected statutory provisions which Congress incorporated into the CAA and determined "shall apply" to eligible employees in the legislative branch include nine sections: sections 4303(13), 4304, 4311(a)(b), 4312, 4313, 4316, 4317, 4318, and paragraphs (1), (2)(A), and (3) of 4323(c)[1] of title 38.

The first section, section 4303(13), provides a definition for "service in the uniformed services."

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[1] As written in Section 206 of the CAA, reference is made to application of paragraphs (1), (2)(A), and (3) of section 4323(c) (Venue). However, in USERRA, section 4323(c) is not comprised of paragraphs (1), (2)(A), and (3) - - section 4323(d) (Remedies) is comprised of those paragraphs. Because of this apparent typographical error, where the CAA references paragraphs (1), (2)(A), and (3) of section 4323(c), the Board refers to section 4323(d).

This is the only definition in USERRA that Congress made applicable to the legislative branch. Section 4303(13) references Section 4304, which describes the "character of service" and illustrates situations which would terminate eligible employees' rights to USERRA benefits.

Congress applied section 4311 to the legislative branch in order to provide discrimination and retaliation protections, respectively to eligible and covered employees. Interestingly, although Congress adopted these protections, it did not adopt the legal standard by which to establish a violation of this section of the regulations.

Sections 4312 and 4313 outline the reemployment rights that are provided to eligible employees. These rights are automatic under the statute, and if an employee meets the eligibility requirements, he or she is entitled to the rights provided therein.

Sections 4316, 4317, and 4318 provide language on the benefits given to eligible employees.

Are there veterans' employment regulations already in force under the CAA?
No. The Board has issued to the Speaker of the House and the President Pro Tempore of the Senate its Notice of Adoption of Substantive Regulations and Transmittal for Congressional Approval for Veterans Employment Opportunities Act (VEOA). The Board is awaiting Congressional approval of those regulations.

Why are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?
As the Board of Directors has identified "good cause" to modify the executive branch regulations to implement more effectively the rights and protections for veterans, there are some differences in other parts of the proposed regulations applicable to the Senate, the House of Representatives, and the other employing offices. Therefore, the Board is submitting three separate sets of regulations: an "H" version, an "S" version, and a "C" version, each denoting those provisions in the regulations that are applicable to the House, Senate, and other employing offices, respectively.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives?
Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), these regulations have also been recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

Are these proposed CAA regulations available to persons with disabilities in an alternate format?
This Notice of Adoption of Substantive Regulations, and Submission for Congressional Approval is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Annie Leftwood, Executive Assistant, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9250; TDD:

202-426-1912; FAX: 202-426-1913.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

The Board's Responses to Comments

SUMMARY OF MAJOR COMMENTS

General Comments

The Board noted in the Notice of Proposed Regulations (NPR) that it had not identified any "good cause" for issuing three separate sets of regulations and that if the regulations were approved as proposed, there would be one text applicable to all employing offices and covered employees. During the notice and comment period, the Board received comments from the Committee on House Administration ("CHA"), Senate Employment Counsel ("Counsel"), and the United States Capitol Police ("Capitol Police"). All of the commenters noted, in different places throughout the regulations, the need for modifications that would apply specifically to the House, Senate or other employing offices. Although the Board has not found "good cause" to vary the Department of Labor (DOL) regulations in all instances where requested, there are a number of places where such variances are warranted. In light of that and the comment by the CHA that the Congressional Accountability Act (CAA) requires the publication of separate regulations for the Senate, House and other covered employees and employing offices, the Board has made that change and put forward three separate sets of regulations, an "H" version, an "S" version, and a "C" version, each denoting the provisions that are included in the regulations that are applicable to the House, Senate, and other employing offices, respectively.

Eligible Employees

In its comments, CHA maintains that the definition of "eligible employee" in the regulations is overly broad. Pointing to Section 206(a)(2)(A) of the CAA, which defines an "eligible employee" as "a covered employee performing service in the uniformed service, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38," the CHA notes that the definition references only the present tense of the verb "performing" and makes no mention of the past tense. CHA also notes the Section 206 does not define eligible employee to include an individual who was previously a member of the uniformed services or one who applies or has applied to perform service in the uniformed services. CHA acknowledges that this "stands in marked contrast to the general USERRA statute's protection of individuals who currently serve as well as to those who have previously served, to those who have an obligation to serve, and to those who have applied to serve in the uniformed services (regardless of whether they actually served)." CHA further recognizes "that USERRA's intent is to provide broad protections for those who serve and have served in the uniformed services..." CHA comments that the regulations are inappropriately broad, notwithstanding language in Section 206(a)(2)(A) that strongly suggests inclusion of an individual who has been honorably discharged and is therefore not currently serving, but who has served in the past.

The Board acknowledges the tension in the language in Section 206(a)(2)(A), but does not agree with the conclusions reached by the CHA, that, absent a statutory amendment revising the

definition in Section 206(a)(2)(A), the proposed regulations should be revised to reflect that, "as applied by the CAA, USERRA only protects employees who are currently 'performing service in the uniformed services.'"

The Board's authority to promulgate substantive regulations is found in Section 206 of the CAA, 2 U.S.C. §1316, which applies certain provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Title 38, Chapter 43 of the United States Code. Section 1316 of the CAA provides protections to eligible employees in the uniformed services from discrimination, denial of reemployment rights, and denial of employee benefits.

Subsection 1316(c) of the CAA requires the Board not only to issue regulations to implement these protections, but to issue regulations which are "the same as the most relevant substantive regulations promulgated by the Secretary of Labor . . ." This section provides that the Board may modify the Department of Labor regulations only if it can establish good cause as to why a modification would be more effective for application of the protections to the legislative branch. The Board chooses to apply a broad definition of "eligible employee".

The Board does not read the "performing service" language in Section 206(a)(2)(A) as limiting the discrimination protection of USERRA to only those employees who are currently serving in the uniformed services. Rather, we interpret the phrase "performing service" in this context to refer to covered employees who have some form of military status (i.e., those who have performed service or who have applied or have an obligation to perform military service, as well as those who are currently members of or who are serving in the uniformed services) as distinguished from covered employees who do not have this military status.

This application of the phrase "performing service" is supported by several indicia of Congressional intent. First, Section 206(a)(2)(A) prohibits discrimination against eligible employees "within the meaning of" subsection (a) of section 4311 of Title 38, which states: "A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation." Most, if not all, of these protections would be lost if the phrase "performing service" were applied to exclude covered employees who are not currently performing service at the moment of the alleged violation. It would vitiate the reemployment rights under USERRA because employees would lose their statutory rights at the moment of discharge, whether honorable or not. Similarly, had Congress intended to so limit the coverage of USERRA, it could have said that "any" discharge was a disqualifying condition, not those that are other than honorable.

Congressional intent is also reflected in the USERRA statute itself, passed in 1994, which states, "It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter." 38 USC 4301(b). A narrow application of the phrase "performing service" would be directly contrary to this statement of the sense of Congress.

Finally, we note that after the CAA was enacted, Congress enacted the Veteran Employment Opportunities Act and thereby granted certain preferences in hiring and retention during layoffs to *all* covered employees who are "veterans" as defined in 5 U.S.C. § 2108, or any superseding legislation. We conclude that Congress intended a broad application of the phrase "performing service" so that covered employees who will or have performed service are also protected against discrimination and the improper denial of reemployment or benefits.

In light of the above, the Board has found "good cause" to modify the Department of Labor's definition of "eligible employee". Further, in order to avoid any confusion as to the application of the regulations to "eligible" employees, the Board has made the appropriate editorial changes throughout the adopted regulations.

Other Definitions

Section 1002.5 contains the definitions used in the regulations. Several commenters have recommended that some of the definitions in this section be edited to be consistent with the CAA. Where appropriate, the Board has made those changes.[2]

Section 1002.5(i) defines an employee of the House of Representatives. The Committee on House Administration noted that because there may be some joint employees of the House and Senate, the definition of an employee of the House of Representatives should also include individuals employed by the Senate. We agree and have made the necessary revisions.

Section 1002.5(k) defines employing office. CHA commented that the definition in 1002.5(k)(4) was broader than the definition of "employing office" in Section 101(9) of the CAA. We note that during the rulemaking procedures for the Veterans Equal Opportunities Act (VEOA), the Board determined that in view of the selection process for certain Senate employees, the words "or directed" would be added to the definition of "covered employee" to include any employee who is hired at the direction of a Senator, but whose appointment form is signed by an officer of either House of Congress. Although we included such language in the proposed rules on USERRA, it appears that this language would be overreaching for the House and other employing offices. As the House has different methods of making appointments and selections, this language is unnecessary and may create confusion given the practices of the House. Accordingly, the Board has deleted this provision from the House and other employing offices version, but will include it in the Senate version.

Section 1002.5(l) defines health plan. The Capitol Police has recommended that the language in the definition of health care plans be limited to the FEHB program. As discussed more fully below, the Board is mandated to follow, as closely as possible, the regulations applied to the executive branch. In view of the fact that the DOL regulations apply to federal employees in the executive branch who are also only covered under the Federal Employees Health Benefits (FEHB) program, the Board finds that there is no good cause to limit the definition.

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[2] On October 20, 2008, Congress passed the Capitol Visitor Center Act (PL 110-437) amending Sections 101(3)(C) and 101(9)(D) of CAA to substitute "the Office of Congressional Accessibility Services" for both "the Capitol Guide Service" and "the Capitol Guide Board". The Board has modified its regulations to reflect this change in §1002.5(e)(3) in all versions and in §1002.5(k)(1) in the "C" version.

Section 1002.5(q) defines seniority. The Capitol Police has also recommended that this definition of seniority be deleted because of potential conflict with definitions of seniority in various collective bargaining agreements. The Board has determined that there is no good cause for such a change. The definition in the adopted regulations are not limiting and are consistent with §4316 of USERRA. Further, as DOL indicated in its notice to the final USERRA regulations, section 4316(a) of USERRA is not a statutory mandate to impose seniority systems on employers. Rather, USERRA requires only that those employers who provide benefits based on seniority restore the returning service member to his or her proper place on the seniority ladder. Because each employing office defines and determines how seniority is to be applied, the definition of seniority in the adopted regulations should not conflict with collective bargaining agreements.

Section 1002.5(s) defines undue hardship. The CHA has noted that in setting out the standards for considering when an action might require significant difficulty or expense, the proposed regulations did not include the language from §1002.5(n)(2) of the DOL's regulations. In the DOL's regulations, §1002.5(n)(2) provides that an action may be considered to be an undue hardship if it requires significant difficulty or expense when considered in light of: the overall financial resources of the *facility or facilities* involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility. Section 1002.5(s)(2) of the proposed regulations similarly referred to the overall financial resources of the *employing office*. However, in view of the fact that employing offices also may have multiple facilities, the Board agrees with the CHA comments and finds that there is no "good cause" to delete what was §1002.5(n)(2) of the DOL regulations. Therefore, what was §1002.5(n)(2) of the DOL regulations has been included in the adopted regulations as §1002.5(s)(2) and subsequent sections have been renumbered accordingly.

The Relationship Between USERRA and Other Laws, Contracts and Practices

Section 1002.7 states that USERRA supersedes any state and local law, contract, or policy that reduces or limits any rights or benefits provided by USERRA, but does not supersede those provisions that are more beneficial. Senate Employment Counsel has commented that reference to the fact that USERRA supersedes any state and local laws is superfluous and does not apply to legislative offices. Further, Counsel has recommended that the section referring to the fact that USERRA does not supersede more beneficial state or local laws be omitted. The Board acknowledges that state and local laws do not apply to federal employees or the employing offices covered under the CAA. Therefore, in order to avoid any confusion, the Board has made the appropriate changes.

Anti-Discrimination and Anti-Retaliation Provisions

As a general comment, the Capitol Police has raised questions about the Board's reference in the notice to *Britton v. Office of the Architect of the Capitol.* The Capitol Police maintains that *Britton* is not applicable to §4311(a) or (b) and that the USERRA regulations should not be changed to include substantive regulations under section 207 of the CAA. The Board notes that

the reference to the *Britton* case and retaliation under Section 207 of the CAA is merely explanatory and not a part of the substantive regulations. In the NPR, there is a typographical error and the correct statement is that the Board does not propose a particular standard for claims of discrimination or retaliation brought by eligible employees under section 206. Any discussion referring to Section 207 retaliation was for explicative purposes only. Accordingly, it should be noted that in these regulations, the Board is not discussing claims of retaliation under Section 207 and that references to Section 207 have been omitted from the adopted regulations.

Section 1002.20, as set out in the proposed regulations, discussed the extent of the coverage of USERRA's prohibitions against discrimination and retaliation. Several commenters noted that §1002.20 and §1002.21 were confusing and did not clearly differentiate discrimination and retaliation protections as applied by §206 and §207 of the CAA. The Board agrees and has modified section 1002.20 and replaced section 1002.21 with a new section to reflect that USERRA protects eligible employees in all positions with covered employing offices. Thus, because Section 206 of the CAA only covers "eligible employees" as defined in §1002.5(f), "covered employees" would only be protected by the anti-retaliation provisions under Section 207 of the CAA.

Additionally, in its comments, the Capitol Police asks why the numbering of §1002.20 and §1002.21 was reversed and why §1002.22 covering the burden of proving discrimination or retaliation was excluded. The Board notes that it had good cause to delete §1002.22 as Congress specifically did not adopt the "but for" test (38 U.S.C 4311 (c) (1) and (2)) and therefore it was confusing and unnecessary to include this provision. In view of the revisions to sections 1002.20 and 1002.21 noted above, the Board has kept the order as it was in the proposed regulations to be more consistent with these edits.

Eligibility for Reemployment

As a general comment, the CHA notes that with respect to employees in the House, the statement in the NPR that "it is not permitted for an employee to work for a Member office and a Committee at the same time" is incorrect. Although this statement is not part of the substantive regulations, where there are variations in the employment requirements of different employing offices, the Board has made the necessary changes to each of the versions of the adopted regulations.

Section 1002.32 sets out the criteria that an employee must meet to be eligible under USERRA for reemployment after service in the uniformed services. The CHA has recommended that this section be changed to be consistent with the definition of eligible employee in section 206(a)(2)(A) of the CAA, and for clarity as applied to individual employing offices which may cease to exist while an eligible employee is performing service. The Board agrees and has changed the House and Senate versions to reflect that generally, if an eligible employee is absent from a position in an employing office by reason of service in the uniformed services, he or she will be eligible for employment in the same employing office if that employing office continues to exist at such time.

Section 1002.34 of the proposed regulations established that USERRA applies to all covered employing offices of the legislative branch as defined in Subpart A, section 1002.5(e). Both the Capitol Police and Senate Employment Counsel commented that the definition of "employing office" should be changed to track the CAA, rather than the definition in the proposed regulations. Thus, Counsel notes that any regulation the Office of Compliance issues for an "employing office" should track 2 U.S.C. §1301(9), and include the General Accounting Office and Library of Congress, as required under 2 U.S.C. §1316(a)(2)(C). The Board agrees and has changed the definition to more closely follow the CAA.

Section 1002.40 states that in protecting against discrimination in initial hiring decisions, an employing office need not actually employ an individual to be his or her employer. The CHA commented that it is not correct to say that "[a]n employing office need not actually employ an individual to be his or her 'employer'." The CHA notes that while the result is the same-- an applicant who is otherwise an eligible employee cannot be discriminated against in initial employment based on his or her performing service in the uniformed service, to say that the employing office is his or her employer is incorrect. The Board agrees and has made the change to reflect that while an employing office may not technically be the "employer" of an applicant, the result is the same -- the employing office is *liable* under the Act if it engages in discrimination against an applicant based on his or her performing service in the uniformed service.

Section 1002.120 allows an employee to seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. The proposed regulations stated that such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. The CHA has noted that because employees of the House are "at-will", reference to termination and/or discipline for "cause" in this section is inapplicable and could be confusing. While the Board recognizes that employees of the House are "at-will", the same issues raised by the CHA can apply to many executive branch and private sector employees, as well. In view of the fact that the DOL regulations contain the same provision, notwithstanding the different employment arrangements in the private sector and executive branch agencies, the Board finds no good cause to make the change.

Health and Pension Plan Coverage

USERRA ensures that eligible employees are provided with health and pension plan coverage on a continuing basis in certain circumstances and reinstatement of coverage upon reemployment. All of the commenters have raised concerns over the inclusion of provisions concerning health and pension plan benefits and ask that these provisions be withdrawn or limited specifically to the specific health and pension plans covering federal employees. For example, the CHA notes that House employing offices do not provide health or retirement benefits to their employees and do not pay or administer contributions and/or premiums for such plans. Similarly, Senate Employment Counsel explains that while employees of Senate employing offices are entitled to health plan coverage and pension benefits under the FEHB and Civil Service Retirement System

(CSRS) or the Federal Employment Retirement System (FERS), their respective employing offices do not provide the "employer contribution" for such coverage and do not determine when such coverage starts or is reinstated or any terms or conditions of the coverage. Moreover, while the Senate appropriates monies for any agency contribution to such plans, these contributions do not come from the monies appropriated to individual employing offices.

The Board recognizes that the role of the Senate and House employing offices, in administering health and pension plans is somewhat attenuated. With the caveat in mind that it is the U.S. Office of Personnel Management that controls not only federal employee health plans, but pension plans as well, the Board nonetheless does not find good cause to exclude these provisions from the adopted regulations. In support of this, the Board notes that the DOL regulations cover federal employees in the executive branch who are also covered under the FEHB, CSRS and FERS. Moreover, USERRA itself states in Section 4318 that a right provided under any Federal or State law governing pension benefits for governmental employees (except for benefits under the Thrift Savings Plan) is covered. The Board is not aware of every employment relationship in the legislative branch and there is always the possibility that there may be situations where employees are not covered under the FEHB or CSRS/FERS, or may be covered under craft union or multi-employer plans. The Board further notes that to the extent that an employing office does not control nor is responsible for assuring that eligible employees are properly covered under health and pension plans, these provisions would not apply. Although employing offices may not have direct control over health and pension plans, they are responsible for ensuring that eligible employees are covered by facilitating or requesting that the necessary contribution or funding is made. Rather than deleting sections of the regulations, the Board has revised the regulations to reflect the responsibility of the employing offices and where appropriate, has made changes to reflect that while employing agencies may not have control over the plans, they do have some responsibility in assuring that eligible employees are covered as required under USERRA.

Protection Against Discharge

Section 1002.247 protects an employee against discharge. Rather than state that a discharge except for cause is prohibited if an employee's most recent period of service was for more than 30 days, the proposed regulations stated that, because legislative employees are at will, a discharge without cause could create a rebuttable presumption of a violation. In its comments, the CHA notes that in modifying this section, the explanation regarding the discharge of a returning employee was unclear. The Board agrees that there is no "good cause" for making the revisions originally contained in the proposed regulations and has changed this section to be consistent with DOL regulations.

Enforcement of Rights and Benefits Against an Employing Office

Section 102.303 requires that employees who file claims under USERRA are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance. The proposed regulations contained language that provided for "covered" rather than "eligible" employees to bring claims under USERRA to the Office of Compliance. The CHA commented that to be consistent with Section 206(a)(2)(A) of the CAA, this provision

should be modified to make clear that only "eligible employees" may bring claims under Section 206. The Board agrees and because only eligible employees are covered under Section 206 discrimination and retaliation provisions, this section has been modified.

Section 1002.312 provides for the various remedies that may be awarded for violations of USERRA, including liquidated damages. The CHA comments that because of a technical error in the CAA, there is no statutory authority to provide for liquidated damages remedies under USERRA. In its notice of rulemaking, the Board noted the same error. Thus, as written in Section 206 of the CAA, reference is made to the application of paragraphs (1), (2)(A), and (3) of section 4323(c). However, in USERRA, section 4323(c), which refers to venue, is not comprised of paragraphs (1), (2)(A), and (3). Rather, section 4323(d), which does address remedies, is comprised of those paragraphs. Because of this apparent typographical error, the Board noted that where the CAA references paragraphs (1), (2)(A), and (3) of section 4323(c), it would read it as referring to section 4323(d). The Board disagrees with CHA's position that because of this technical error, the liquidated damages remedy section of USERRA is not incorporated into the CAA. There is no question from the context and the express language of §206(b) which specifically provides that the remedy for a violation of §206(a) of the CAA shall be the same as remedies awarded under USERRA, that there has been a waiver of sovereign immunity sufficient to provide for all the remedies covered in paragraphs (1), (2)(A), and (3) of section 4323(d). Contrary to the CHA's observations, it does not require a court to look beyond the express language of the statute to understand Congress's intent that the liquidated damages provision of USERRA be applied under the CAA.

Under sections 1002.310 and 1002.314 of the proposed regulations, respectively, fees and court costs may not be <u>charged against</u> individuals claiming rights under the CAA and courts and/or hearing officers may use their equity powers in actions or proceedings under the Act. The CHA commented that because § 1002.314 and the first sentence of § 1002.310 are based on sections of USERRA that are not incorporated by the CAA (§4323(e) and §4323(h) respectively), these provisions should be deleted from the adopted regulations. The Board has reviewed these comments and while we would find that, notwithstanding any "technical" error, the CAA does incorporate the remedies set out in §1002.314 (a)-(c), we agree that the CAA does not include the remedies articulated in §4323(e) and §4323(h) of USERRA. As the first sentence in §1002.310 of the proposed regulations does appear to mirror §4323(h) of USERRA and §1002.314 of the proposed regulations similarly mirrors §4323(e), in order to avoid any confusion, the Board has found good cause to delete these provisions. The Board has retained the part of §1002.310 pertaining to the <u>awarding of</u> fees and costs. As discussed in the NPR, the Board found that the DOL regulations permitting an award of fees and court costs for an individual who has obtained counsel and prevailed in his or her claim against the employer was consistent with Section 225(a) of the CAA, permitting a prevailing covered employee to be awarded reasonable fees and costs. To be more fully consistent with the CAA, the Board has kept its modification of the language removing the requirement that the individual retain private counsel as a condition of such an award.

Text of USERRA Regulations

"C" Version

When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix "C."

Subpart A: Introduction to the Regulations

§ 1002.1 What is the purpose of this part?

This part implements certain provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA" or "the Act"), as applied by the Congressional Accountability Act ("CAA"). 2 U.S.C. 1316. USERRA is a law that establishes certain rights and benefits for employees, and duties for employers. USERRA affects employment, reemployment, and retention in employment, when employees serve or have served in the uniformed services. There are five subparts to these regulations. Subpart A gives an introduction to the USERRA regulations. Subpart B describes USERRA's anti-discrimination and anti-retaliation provisions. Subpart C explains the steps that must be taken by a uniformed service member who wants to return to his or her previous civilian employment. Subpart D describes the rights, benefits, and obligations of persons absent from employment due to service in the uniformed services, including rights and obligations related to health plan coverage. Subpart E describes the rights, benefits, and obligations of the returning veteran or service member. Subpart F explains the role of the Office of Compliance in administering USERRA as applied by the CAA.

§ 1002.2 Is USERRA a new law?

USERRA is the latest in a series of laws protecting veterans' employment and reemployment rights going back to the Selective Training and Service Act of 1940. USERRA's immediate predecessor was commonly referred to as the Veterans' Reemployment Rights Act ("VRRA"), which was enacted as section 404 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. In enacting USERRA, Congress emphasized USERRA's continuity with the VRRA and its intention to clarify and strengthen that law. Congress also emphasized that Federal laws protecting veterans' employment and reemployment rights for the past fifty years had been successful and that the large body of case law that had developed under those statutes remained in full force and effect, to the extent it is consistent with USERRA. USERRA authorized the Department of Labor to publish regulations implementing the Act for State, local government, and private employers. USERRA also authorized the Office of Personnel Management to issue regulations implementing the Act for Federal executive agencies, with the exception of certain Federal intelligence agencies. For those Federal intelligence agencies, USERRA established a separate program for employees. Section 206 of the CAA requires the Board of Directors of the Office of Compliance to issue regulations to implement the statutory provisions relating to employment and reemployment rights of members of the uniformed services. The regulations are required to be the same as substantive regulations promulgated by the Secretary of Labor, except where a modification of such regulations would be more effective for the implementation of the rights and protections of the Act. The Department of Labor issued its regulations, effective January 18, 2006. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated for the legislative branch, for the implementation of the USERRA provisions of the CAA. All references to USERRA in these regulations, means USERRA, as applied by the CAA.

§ 1002.3 When did USERRA become effective?
USERRA, as applied by the CAA, became effective for employing offices of the legislative branch on January 23, 1996. These regulations will become effective upon approval by Congress.

§ 1002.4 What is the role of the Executive Director of the Office of Compliance under the USERRA provisions of the CAA?
(a) As applied by the CAA, the Executive Director of the Office of Compliance is responsible for providing education and information to any covered employing office or employee with respect to their rights, benefits, and obligations under the USERRA provisions of the CAA.
(b) The Office of Compliance, under the direction of the Executive Director, is responsible for the processing of claims filed pursuant to these regulations. More information about the Office of Compliance's role is contained in Subpart F.

§ 1002.5 What definitions apply to these USERRA regulations?
(a) **Act or USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as applied by the CAA.
(b) **Benefit, benefit of employment, or rights and benefits** means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues to the employee because of an employment contract, employment agreement, or employing office policy, plan, or practice. The term includes rights and benefits under a pension plan, health plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and, where applicable, the opportunity to select work hours or the location of employment.
(c) **Board** means Board of Directors of the Office of Compliance.
(d) **CAA** means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).
(e) **Covered employee** means any employee, including an applicant for employment and a former employee, of (1) the House of Representatives; (2) the Senate; (3) the Office of Congressional Accessibility Services; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Government Accountability Office; (9) the Library of Congress; and (10) the Office of Compliance.
(f) **Eligible employee** means a covered employee performing service in the uniformed services, as defined in 1002.5 (t) of this subpart, whose service has not been terminated upon occurrence of any of the events enumerated in section 1002.135 of these regulations. For the purpose of defining who is covered under the discrimination section of these regulations, "performing service" means an eligible employee who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the uniformed services.
(g) **Employee of the Office of the Architect of the Capitol** includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.
(h) **Employee of the Capitol Police** includes any member or officer of the Capitol Police.
(i) **Employee of the House of Representatives** includes an individual occupying a position for which the pay is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not

any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(j) **Employee of the Senate** includes an individual occupying a position for which the pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (10) of paragraph (e) above.

(k) **Employing office** means (1) the Office of Congressional Accessibility Services; (2) the Capitol Police Board; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Government Accountability Office; (7) the Library of Congress; or (8) the Office of Compliance.

(l) **Health plan** means an insurance policy, insurance contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(m) **Notice**, when the eligible employee is required to give advance notice of service, means any written or oral notification of an obligation or intention to perform service in the uniformed services provided to an employing office by the employee who will perform such service, or by the uniformed service in which the service is to be performed.

(n) **Office** means the Office of Compliance.

(o) **Qualified**, with respect to an employment position, means having the ability to perform the essential tasks of the position.

(p) **Reasonable efforts**, in the case of actions required of an employing office, means actions, including training provided by an employing office that do not place an undue hardship on the employing office.

(q) **Seniority** means longevity in employment together with any benefits of employment that accrue with, or are determined by, longevity in employment.

(r) **Service in the uniformed services** means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. Service in the uniformed services includes active duty, active and inactive duty for training, National Guard duty under Federal statute, and a period for which a person is absent from a position of employment for an examination to determine the fitness of the person to perform such duty. The term also includes a period for which a person is absent from employment to perform funeral honors duty as authorized by law (10 U.S.C. 12503 or 32 U.S.C. 115). The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. 107– 188, provides that service as an intermittent disaster-response appointee upon activation of the National Disaster Medical System (NDMS) or as a participant in an authorized training program is deemed "service in the uniformed services." 42 U.S.C. 300hh– 11(d)(3).

(s) **Undue hardship**, in the case of actions taken by an employing office, means an action requiring significant difficulty or expense, when considered in light of—

(1) The nature and cost of the action needed under USERRA and these regulations; (2) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) The overall financial resources of the employing office; the overall size of the business of an employing office with respect to the number of its employees; the number, type, and location of its facilities; and, (4) The type of operation or operations of the employing office, including the composition, structure, and functions of the work force of such employing office; the geographic separateness, administrative, or fiscal relationship of the State, District, or satellite office in question to the employing office.

(t) **Uniformed services** means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency. For purposes of USERRA coverage only, service as an intermittent disaster response appointee of the National Disaster Medical System (NDMS) when federally activated or attending authorized training in support of their Federal mission is deemed "service in the uniformed services," although such appointee is not a member of the "uniformed services" as defined by USERRA.

§ 1002.6 What types of service in the uniformed services are covered by USERRA?
The definition of "service in the uniformed services" covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA.

§ 1002.7 How does USERRA, as applied by the Congressional Accountability Act, relate to other laws, public and private contracts, and employing office practices?
(a) USERRA establishes a floor, not a ceiling, for the employment and reemployment rights and benefits of those it protects. In other words, an employing office may provide greater rights and benefits than USERRA requires, but no employing office can refuse to provide any right or benefit guaranteed by USERRA, as applied by the CAA.
(b) USERRA supersedes any contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by USERRA, including the establishment of additional prerequisites to the exercise of any USERRA right or the receipt of any USERRA benefit. For example, an office policy that determines seniority based only on actual days of work in the place of employment would be superseded by USERRA, which requires that seniority credit be given for periods of absence from work due to service in the uniformed services.
(c) USERRA does not supersede, nullify or diminish any Federal law, contract, agreement, policy, plan, practice, or other matter that establishes an employment right or benefit that is more beneficial than, or is in addition to, a right or benefit provided under the Act. For example, although USERRA does not require an employing office to pay an eligible employee for time away from work performing service, an employing office policy, plan, or practice that provides such a benefit is permissible under USERRA.
(d) If an employing office provides a benefit that exceeds USERRA's requirements in one area, it cannot reduce or limit other rights or benefits provided by USERRA. For example, even though USERRA does not require it, an employing office may provide a fixed number of days of paid military leave per year to employees who are members of the National Guard or Reserve. The fact that it provides such a benefit, however, does not permit an employing office to refuse to provide an unpaid leave of absence to an employee to perform service in the uniformed services in excess of the number of days of paid military leave.

Subpart B: Anti-Discrimination and Anti-Retaliation

PROTECTION FROM EMPLOYER DISCRIMINATION AND RETALIATION

§ 1002.18 What status or activity is protected from employer discrimination by USERRA?
An employing office must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or her membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

§ 1002.19 What activity is protected from employer retaliation by USERRA?
An employing office must not retaliate against an eligible employee by taking any adverse employment action against him or her because the eligible employee has taken an action to enforce a protection afforded any person under USERRA; testified or otherwise made a statement in or in connection with a proceeding under USERRA; assisted or participated in a USERRA investigation; or exercised a right provided for by USERRA.

§ 1002.20 Does USERRA's prohibitions against discrimination and retaliation apply to all employment positions?
Under USERRA, as applied by the CAA, the prohibitions against discrimination and retaliation apply to eligible employees in all positions within covered employing offices, including those that are for a brief, nonrecurrent period, and for which there is no reasonable expectation that the employment position will continue indefinitely or for a significant period. However, USERRA's reemployment rights and benefits do not apply to such brief, non-recurrent positions of employment

§ 1002.21 Does USERRA protect a covered employee who has not actually performed service in the uniformed services?
USERRA's provisions, as applied by Section 206 of the CAA, prohibit discrimination and retaliation only against eligible employees. Section 207(a) of the CAA, however, prohibits retaliation against all covered employees because the employee has opposed any practice made unlawful under the CAA, including a violation of USERRA's provisions, as applied by the CAA; or testified; assisted; or participated in any manner in a hearing or proceeding under the CAA.

Subpart C – Eligibility for Reemployment

GENERAL ELIGIBILITY FOR REEMPLOYMENT

§ 1002.32 What criteria must an employee meet to be eligible under USERRA for reemployment after service in the uniformed services?

(a) In general, if an eligible employee has been absent from a position of employment in an employing office by reason of service in the uniformed services, he or she will be eligible for reemployment in that same employing office by meeting the following criteria:
(1) The employing office had advance notice of the eligible employee's service; (2) The eligible employee has five years or less of cumulative service in the uniformed services in his or her employment relationship with a particular employing office; (3) The eligible employee timely returns to work or applies for reemployment; and, (4) The eligible employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.
(b) These general eligibility requirements have important qualifications and exceptions, which are described in detail in §§ 1002.73 through 1002.138. If the employee meets these eligibility criteria, then he or she is eligible for reemployment unless the employing office establishes one of the defenses described in § 1002.139. The employment position to which the eligible employee is entitled is described in §§ 1002.191 through 1002.199.

§ 1002.33 Does the eligible employee have to prove that the employing office discriminated against him or her in order to be eligible for reemployment?

No. The eligible employee is not required to prove that the employing office discriminated against him or her because of the employee's uniformed service in order to be eligible for reemployment

COVERAGE OF EMPLOYERS AND POSITIONS

§ 1002.34 Which employing offices are covered by these regulations?

(a) USERRA applies to all covered employing offices of the legislative branch as defined in 2 U.S.C. § 1301(9) and 2 U.S.C.§ 1316(a)(2)(C).

§ 1002.40 Does USERRA protect against discrimination in initial hiring decisions?

Yes. The definition of employer in the USERRA provision as applied by the CAA includes an employing office that has denied initial employment to an individual in violation of USERRA's anti-discrimination provisions. An employing office need not actually employ an individual to be liable under the Act, if it has denied initial employment on the basis of the individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. Similarly, the employing office would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. For example, if the individual has been denied initial employment because of his or her obligations as a member of the National Guard or Reserves, the employing office denying employment is liable under USERRA. Similarly, if an employing office withdraws an offer of employment because the individual is called upon to fulfill an

obligation in the uniformed services, the employing office withdrawing the employment offer is also liable under USERRA.

§ 1002.41 Does an eligible employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?

USERRA rights are not diminished because an eligible employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employing office is not required to reemploy an eligible employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employing office bears the burden of proving this affirmative defense.

§ 1002.42 What rights does an eligible employee have under USERRA if he or she is on layoff or on a leave of absence?

(a) If an eligible employee is laid off with recall rights, or on a leave of absence, he or she is protected under USERRA. If the eligible employee is on layoff and begins service in the uniformed services, or is laid off while performing service, he or she may be entitled to reemployment on return if the employing office would have recalled the employee to employment during the period of service. Similar principles apply if the eligible employee is on a leave of absence from work when he or she begins a period of service in the uniformed services.

(b) If the eligible employee is sent a recall notice during a period of service in the uniformed services and cannot resume the position of employment because of the service, he or she still remains an eligible employee for purposes of the Act. Therefore, if the employee is otherwise eligible, he or she is entitled to reemployment following the conclusion of the period of service, even if he or she did not respond to the recall notice.

(c) If the eligible employee is laid off before or during service in the uniformed services, and the employing office would not have recalled him or her during that period of service, the employee is not entitled to reemployment following the period of service simply because he or she is an eligible employee. Reemployment rights under USERRA cannot put the eligible employee in a better position than if he or she had remained in the civilian employment position.

§ 1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?

Yes. USERRA applies to all eligible employees. There is no exclusion for executive, managerial, or professional employees.

§ 1002.44 Does USERRA cover an independent contractor?

No. USERRA, as applied by the CAA, does not provide protections for an independent contractor.

COVERAGE OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.54 Are all military fitness examinations considered "service in the uniformed services?"

Yes. USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from a position of employment for the purpose of an examination to determine his or her fitness to perform duty in the uniformed services. Military fitness examinations can address more than physical or medical fitness, and include evaluations for

mental, educational, and other types of fitness. Any examination to determine an eligible employee's fitness for service is covered, whether it is an initial or recurring examination. For example, a periodic medical examination required of a Reserve component member to determine fitness for continued service is covered.

§ 1002.55 Is all funeral honors duty considered "service in the uniformed services?"

(a) USERRA's definition of "service in the uniformed services" includes a period for which an eligible employee is absent from employment for the purpose of performing authorized funeral honors duty under 10 U.S.C. 12503 (members of Reserve ordered to perform funeral honors duty) or 32 U.S.C. 115 (Member of Air or Army National Guard ordered to perform funeral honors duty).

(b) Funeral honors duty performed by persons who are not members of the uniformed services, such as members of veterans' service organizations, is not "service in the uniformed services."

§ 1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"

Under a provision of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 U.S.C. 300hh 11(d)(3), "service in the uniformed services" includes service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System or participation in an authorized training program, even if the eligible employee is not a member of the uniformed services.

§ 1002.57 Is all service as a member of the National Guard considered "service in the uniformed services?"

No. Only Federal National Guard Service is considered "service in the uniformed services." The National Guard has a dual status. It is a Reserve component of the Army, or, in the case of the Air National Guard, of the Air Force. Simultaneously, it is a State military force subject to call-up by the State Governor for duty not subject to Federal control, such as emergency duty in cases of floods or riots. National Guard members may perform service under either Federal or State authority, but only Federal National Guard service is covered by USERRA.

(a) National Guard service under Federal authority is protected by USERRA. Service under Federal authority includes active duty performed under Title 10 of the United States Code. Service under Federal authority also includes duty under Title 32 of the United States Code, such as active duty for training, inactive duty training, or full-time National Guard duty.

(b) National Guard service under authority of State law is not protected by USERRA. However, many States have laws protecting the civilian job rights of National Guard members who serve under State orders. Enforcement of those State laws is not covered by USERRA or these regulations.

§ 1002.58 Is service in the commissioned corps of the Public Health Service considered "service in the uniformed services?"

Yes. Service in the commissioned corps of the Public Health Service (PHS) is "service in the uniformed services" under USERRA.

§ 1002.59 Are there any circumstances in which special categories of persons are considered to perform "service in the uniformed services?"
Yes. In time of war or national emergency, the President has authority to designate any category of persons as a "uniformed service" for purposes of USERRA. If the President exercises this authority, service as a member of that category of persons would be "service in the uniformed services" under USERRA.

§ 1002.60 Does USERRA cover an individual attending a military service academy?
Yes. Attending a military service academy is considered uniformed service for purposes of USERRA. There are four service academies: The United States Military Academy (West Point, New York), the United States Naval Academy (Annapolis, Maryland), the United States Air Force Academy (Colorado Springs, Colorado), and the United States Coast Guard Academy (New London, Connecticut).

§ 1002.61 Does USERRA cover a member of the Reserve Officers Training Corps?
Yes, under certain conditions:
(a) Membership in the Reserve Officers Training Corps (ROTC) or the Junior ROTC is not "service in the uniformed services." However, some Reserve and National Guard enlisted members use a college ROTC program as a means of qualifying for commissioned officer status. National Guard and Reserve members in an ROTC program may at times, while participating in that program, be receiving active duty and inactive duty training service credit with their unit. In these cases, participating in ROTC training sessions is considered "service in the uniformed services," and qualifies a person for protection under USERRA's reemployment and anti-discrimination provisions.
(b) Typically, an individual in a College ROTC program enters into an agreement with a particular military service that obligates such individual to either complete the ROTC program and accept a commission or, in case he or she does not successfully complete the ROTC program, to serve as an enlisted member. Although an individual does not qualify for reemployment protection, except as specified in (a) above, he or she is protected under USERRA's anti-discrimination provisions because, as a result of the agreement, he or she has applied to become a member of the uniformed services and has incurred an obligation to perform future service.

§ 1002.62 Does USERRA cover a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the Civil Air Patrol, or the Coast Guard Auxiliary?
No. Although the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) is a "uniformed service" for some purposes, it is not included in USERRA's definition of this term. Service in the Civil Air Patrol and the Coast Guard Auxiliary similarly is not considered "service in the uniformed services" for purposes of USERRA. Consequently, service performed in the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), the Civil Air Patrol, and the Coast Guard Auxiliary is not protected by USERRA.

ABSENCE FROM A POSITION OF EMPLOYMENT NECESSITATED BY REASON OF SERVICE IN THE UNIFORMED SERVICES

§ 1002.73 Does service in the uniformed services have to be an eligible employee's sole reason for leaving an employment position in order to have USERRA reemployment rights?
No. If absence from a position of employment is necessitated by service in the uniformed services, and the employee otherwise meets the Act's eligibility requirements, he or she has reemployment rights under USERRA, even if the eligible employee uses the absence for other purposes as well. An eligible employee is not required to leave the employment position for the sole purpose of performing service in the uniformed services, although such uniformed service must be the main reason for departure from employment. For example, if the eligible employee is required to report to an out of state location for military training and he or she spends off-duty time during that assignment moonlighting as a security guard or visiting relatives who live in that State, the eligible employee will not lose reemployment rights simply because he or she used some of the time away from the job to do something other than attend the military training. Also, if an eligible employee receives advance notification of a mobilization order, and leaves his or her employment position in order to prepare for duty, but the mobilization is cancelled, the employee will not lose any reemployment rights.

§ 1002.74 Must the eligible employee begin service in the uniformed services immediately after leaving his or her employment position in order to have USERRA reemployment rights?
No. At a minimum, an eligible employee must have enough time after leaving the employment position to travel safely to the uniformed service site and arrive fit to perform the service. Depending on the specific circumstances, including the duration of service, the amount of notice received, and the location of the service, additional time to rest, or to arrange affairs and report to duty, may be necessitated by reason of service in the uniformed services. The following examples help to explain the issue of the period of time between leaving civilian employment and beginning service in the uniformed services:
(a) If the eligible employee performs a full overnight shift for the civilian employer and travels directly from the work site to perform a full day of uniformed service, the eligible employee would not be considered fit to perform the uniformed service. An absence from that work shift is necessitated so that the eligible employee can report for uniformed service fit for duty.
(b) If the eligible employee is ordered to perform an extended period of service in the uniformed services, he or she may require a reasonable period of time off from the civilian job to put his or her personal affairs in order, before beginning the service. Taking such time off is also necessitated by the uniformed service.
(c) If the eligible employee leaves a position of employment in order to enlist or otherwise perform service in the uniformed services and, through no fault of his or her own, the beginning date of the service is delayed, this delay does not terminate any reemployment rights.

§ 1002.85 Must the eligible employee give advance notice to the employing office of his or her service in the uniformed services?
(a) Yes. The eligible employee, or an appropriate officer of the uniformed service in which his or her service is to be performed, must notify the employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below. In cases in which an eligible employee is employed by more than one employing office, the employee, or an appropriate officer of the uniformed service in which

his or her service is to be performed, must notify each employing office that the employee intends to leave the employment position to perform service in the uniformed services, with certain exceptions described below.
(b) The Department of Defense USERRA regulations at 32 CFR 104.3 provide that an "appropriate officer" can give notice on the eligible employee's behalf. An "appropriate officer" is a commissioned, warrant, or non-commissioned officer authorized to give such notice by the military service concerned.
(c) The eligible employee's notice to the employing office may be either oral or written. The notice may be informal and does not need to follow any particular format.
(d) Although USERRA does not specify how far in advance notice must be given to the employing office, an eligible employee should provide notice as far in advance as is reasonable under the circumstances. In regulations promulgated by the Department of Defense under USERRA, 32 CFR 104.6(a)(2)(i)(B), the Defense Department "strongly recommends that advance notice to civilian employers be provided at least 30 days prior to departure for uniformed service when it is feasible to do so."

§ 1002.86 When is the eligible employee excused from giving advance notice of service in the uniformed services?
The eligible employee is required to give advance notice of pending service unless giving such notice is prevented by military necessity, or is otherwise impossible or unreasonable under all the circumstances.
(a) Only a designated authority can make a determination of "military necessity," and such a determination is not subject to judicial review. Guidelines for defining "military necessity" appear in regulations issued by the Department of Defense at 32 CFR 104.3. In general, these regulations cover situations where a mission, operation, exercise or requirement is classified, or could be compromised or otherwise adversely affected by public knowledge. In certain cases, the Secretary of Homeland Security, in consultation with the Secretary of Defense, can make a determination that giving of notice by intermittent disaster-response appointees of the National Disaster Medical System is precluded by "military necessity." See 42 U.S.C300hh–11(d)(3)(B).
(b) It may be impossible or unreasonable to give advance notice under certain circumstances. Such circumstances may include the unavailability of the eligible employee's employing office or the employing office's representative, or a requirement that the eligible employee report for uniformed service in an extremely short period of time.

§ 1002.87 Is the eligible employee required to get permission from his or her employing office before leaving to perform service in the uniformed services?
No. The eligible employee is not required to ask for or get the employing office's permission to leave to perform service in the uniformed services. The eligible employee is only required to give the employing office notice of pending service.

§ 1002.88 Is the eligible employee required to tell the employing office that he or she intends to seek reemployment after completing uniformed service before the employee leaves to perform service in the uniformed services?
No. When the eligible employee leaves the employment position to begin a period of service, he or she is not required to tell the employing office that he or she intends to seek reemployment after completing uniformed service. Even if the eligible employee tells the employing office before entering or completing uniformed service that he or she does not intend to seek

reemployment after completing the uniformed service, the employee does not forfeit the right to reemployment after completing service. The eligible employee is not required to decide in advance of leaving the position with the employing office, whether he or she will seek reemployment after completing uniformed service.

PERIOD OF SERVICE

§ 1002.99 Is there a limit on the total amount of service in the uniformed services that an eligible employee may perform and still retain reemployment rights with the employing office?

Yes. In general, the eligible employee may perform service in the uniformed services for a cumulative period of up to five (5) years and retain reemployment rights with the employing office. The exceptions to this rule are described below.

§ 1002.100 Does the five-year service limit include all absences from an employment position that are related to service in the uniformed services?

No. The five-year period includes only the time the eligible employee spends actually performing service in the uniformed services. A period of absence from employment before or after performing service in the uniformed services does not count against the five-year limit. For example, after the eligible employee completes a period of service in the uniformed services, he or she is provided a certain amount of time, depending upon the length of service, to report back to work or submit an application for reemployment. The period between completing the uniformed service and reporting back to work or seeking reemployment does not count against the five-year limit.

§ 1002.101 Does the five-year service limit include periods of service that the eligible employee performed when he or she worked for a previous employing office?

No. An eligible employee is entitled to a leave of absence for uniformed service for up to five years with each employing office for whom he or she works or has worked. When the eligible employee takes a position with a new employing office, the five-year period begins again regardless of how much service he or she performed while working in any previous employment relationship. If an eligible employee is employed by more than one employing office, a separate five-year period runs as to each employing office independently, even if those employing offices share or co-determine the employee's terms and conditions of employment. For example, an eligible employee of the legislative branch may work part-time for two employing offices. In this case, a separate five-year period would run as to the eligible employee's employment with each respective employing office.

§ 1002.102 Does the five-year service limit include periods of service that the eligible employee performed before USERRA was enacted?

It depends. Under the CAA, USERRA provides reemployment rights to which an eligible employee may become entitled beginning on or after January 23, 1996, but any uniformed service performed before January 23, 1996, that was counted against the service limitations of the previous law (the Veterans Reemployment Rights Act), also counts against USERRA's five-year limit.

§ 1002.103 Are there any types of service in the uniformed services that an eligible employee can perform that do not count against USERRA's five-year service limit?

(a) USERRA creates the following exceptions to the five-year limit on service in the uniformed services:

(1) Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the eligible employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;

(2) If the eligible employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;

(3)(i) Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and, (ii) Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the eligible employee's professional development, or to complete skill training or retraining;

(4) Service performed in a uniformed service if he or she was ordered to or retained on active duty under:

(i) 10 U.S.C. 688 (involuntary active duty by a military retiree);

(ii) 10 U.S.C. 12301(a) (involuntary active duty in wartime);

(iii) 10 U.S.C. 12301(g) (retention on active duty while in captive status);

(iv) 10 U.S.C. 12302 (involuntary active duty during a national emergency for up to 24 months);

(v) 10 U.S.C. 12304 (involuntary active duty for an operational mission for up to 270 days);

(vi) 10 U.S.C. 12305 (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);

(vii) 14 U.S.C. 331 (involuntary active duty by retired Coast Guard officer);

(viii) 14 U.S.C. 332 (voluntary active duty by retired Coast Guard officer);

(ix) 14 U.S.C. 359 (involuntary active duty by retired Coast Guard enlisted member);

(x) 14 U.S.C. 360 (voluntary active duty by retired Coast Guard enlisted member);

(xi) 14 U.S.C. 367 (involuntary retention of Coast Guard enlisted member on active duty); and

(xii) 14 U.S.C. 712 (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

(5) Service performed in a uniformed service if the eligible employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(6) Service performed in a uniformed service if the eligible employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;

(7) Service performed in a uniformed service if the eligible employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,

(8) Service performed as a member of the National Guard if the eligible employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.

(b) Service performed in a uniformed service to mitigate economic harm where the eligible employee's employing office is in violation of its employment or reemployment obligations to him or her.

§ 1002.104 Is the eligible employee required to accommodate his or her employing office's needs as to the timing, frequency or duration of service?
No. The eligible employee is not required to accommodate his or her employing office's interests or concerns regarding the timing, frequency, or duration of uniformed service. The employing office cannot refuse to reemploy the eligible employee because it believes that the timing, frequency or duration of the service is unreasonable. However, the employing office is permitted to bring its concerns over the timing, frequency, or duration of the eligible employee's service to the attention of the appropriate military authority. Regulations issued by the Department of Defense at 32 CFR 104.4 direct military authorities to provide assistance to an employer in addressing these types of employment issues. The military authorities are required to consider requests from employers of National Guard and Reserve members to adjust scheduled absences from civilian employment to perform service.

APPLICATION FOR EMPLOYMENT

§ 1002.115 Is the eligible employee required to report to or submit a timely application for reemployment to his or her pre-service employing office upon completing the period of service in the uniformed services?
Yes. Upon completing service in the uniformed services, the eligible employee must notify the pre-service employing office of his or her intent to return to the employment position by either reporting to work or submitting a timely application for reemployment. Whether the eligible employee is required to report to work or submit a timely application for reemployment depends upon the length of service, as follows:
(a) Period of service less than 31 days or for a period of any length for the purpose of a fitness examination. If the period of service in the uniformed services was less than 31 days, or the eligible employee was absent from a position of employment for a period of any length for the purpose of an examination to determine his or her fitness to perform service, the eligible employee must report back to the employing office not later than the beginning of the first full regularly-scheduled work period on the first full calendar day following the completion of the period of service, and the expiration of eight hours after a period allowing for safe transportation from the place of that service to the eligible employee's residence. For example, if the eligible employee completes a period of service and travel home, arriving at ten o'clock in the evening, he or she cannot be required to report to the employing office until the beginning of the next full regularly-scheduled work period that begins at least eight hours after arriving home, i.e., no earlier than six o'clock the next morning. If it is impossible or unreasonable for the eligible employee to report within such time period through no fault of his or her own, he or she must report to the employing office as soon as possible after the expiration of the eight-hour period.
(b) Period of service more than 30 days but less than 181 days. If the eligible employee's period of service in the uniformed services was for more than 30 days but less than 181 days, he or she must submit an application for reemployment (written or oral) with the employing office not later than 14 days after completing service. If it is impossible or unreasonable for the eligible

employee to apply within 14 days through no fault of his or her own, he or she must submit the application not later than the next full calendar day after it becomes possible to do so.
(c) Period of service more than 180 days. If the eligible employee's period of service in the uniformed services was for more than 180 days, he or she must submit an application for reemployment (written or oral) not later than 90 days after completing service.

§1002.116 Is the time period for reporting back to an employing office extended if the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service?
Yes. If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, he or she must report to or submit an application for reemployment to the employing office at the end of the period necessary for recovering from the illness or injury. This period may not exceed two years from the date of the completion of service, except that it must be extended by the minimum time necessary to accommodate circumstances beyond the eligible employee's control that make reporting within the period impossible or unreasonable. This period for recuperation and recovery extends the time period for reporting to or submitting an application for reemployment to the employing office, and is not applicable following reemployment.

§ 1002.117 Are there any consequences if the eligible employee fails to report for or submit a timely application for reemployment?
(a) If the eligible employee fails to timely report for or apply for reemployment, he or she does not automatically forfeit entitlement to USERRA's reemployment and other rights and benefits. However, the eligible employee does become subject to any conduct rules, established policy, and general practices of the employing office pertaining to an absence from scheduled work.
(b) If reporting or submitting an employment application to the employing office is impossible or unreasonable through no fault of the eligible employee, he or she may report to the employing office as soon as possible (in the case of a period of service less than 31 days) or submit an application for reemployment to the employing office by the next full calendar day after it becomes possible to do so (in the case of a period of service from 31 to 180 days), and the eligible employee will be considered to have timely reported or applied for reemployment.

§ 1002.118 Is an application for reemployment required to be in any particular form?
An application for reemployment need not follow any particular format. The eligible employee may apply orally or in writing. The application should indicate that the employee is a former employee returning from service in the uniformed services and that he or she seeks reemployment with the pre-service employing office. The eligible employee is permitted but not required to identify a particular reemployment position in which he or she is interested.

§ 1002.119 To whom must the eligible employee submit the application for reemployment?
The application must be submitted to the pre-service employing office or to an agent or representative of the employing office who has apparent responsibility for receiving employment applications. Depending upon the circumstances, such a person could be a personnel or human resources officer, or a first-line supervisor.

§ 1002.120 If the eligible employee seeks or obtains employment with an employer other than the pre-service employing office before the end of the period within which a reemployment

application must be filed, will that jeopardize reemployment rights with the pre-service employing office?
No. The eligible employee has reemployment rights with the pre-service employing office provided that he or she makes a timely reemployment application to that employing office. The eligible employee may seek or obtain employment with an employer other than the pre-service employing office during the period of time within which a reemployment application must be made, without giving up reemployment rights with the pre-service employing office. However, such alternative employment during the application period should not be of a type that would constitute a cause for the employing office to discipline or terminate the employee following reemployment. For instance, if the employing office forbids outside employment, violation of such a policy may constitute a cause for discipline or even termination.

§ 1002.121 Is the eligible employee required to submit documentation to the employing office in connection with the application for reemployment?
Yes, if the period of service exceeded 30 days and if requested by the employing office to do so. If the eligible employee submits an application for reemployment after a period of service of more than 30 days, he or she must, upon the request of the employing office, provide documentation to establish that:
(a) The reemployment application is timely;
(b) The eligible employee has not exceeded the five-year limit on the duration of service (subject to the exceptions listed at § 1002.103); and,
(c) The eligible employee's separation or dismissal from service was not disqualifying.

§ 1002.122 Is the employing office required to reemploy the eligible employee if documentation establishing the employee's eligibility does not exist or is not readily available?
Yes. The employing office is not permitted to delay or deny reemployment by demanding documentation that does not exist or is not readily available. The eligible employee is not liable for administrative delays in the issuance of military documentation. If the eligible employee is re-employed after an absence from employment for more than 90 days, the employing office may require that he or she submit the documentation establishing entitlement to reemployment before treating the employee as not having had a break in service for pension purposes. If the documentation is received after reemployment and it shows that the eligible employee is not entitled to reemployment, the employing office may terminate employment and any rights or benefits that the employee may have been granted.

§ 1002.123 What documents satisfy the requirement that the employee establish eligibility for reemployment after a period of service of more than thirty days?
(a) Documents that satisfy the requirements of USERRA include the following:
(1) DD (Department of Defense) 214 Certificate of Release or Discharge from Active Duty;
(2) Copy of duty orders prepared by the facility where the orders were fulfilled carrying an endorsement indicating completion of the described service;
(3) Letter from the commanding officer of a Personnel Support Activity or someone of comparable authority;
(4) Certificate of completion from military training school;
(5) Discharge certificate showing character of service; and,
(6) Copy of extracts from payroll documents showing periods of service;

(7) Letter from NDMS Team Leader or Administrative Officer verifying dates and times of NDMS training or Federal activation.
(b) The types of documents that are necessary to establish eligibility for reemployment will vary from case to case. Not all of these documents are available or necessary in every instance to establish reemployment eligibility.

CHARACTER OF SERVICE

§ 1002.134 What type of discharge or separation from service is required for an eligible employee to be entitled to reemployment under USERRA?
USERRA does not require any particular form of discharge or separation from service. However, even if the employee is otherwise eligible for reemployment, he or she will be disqualified if the characterization of service falls within one of four categories. USERRA requires that the employee not have received one of these types of discharge.

§ 1002.135 What types of discharge or separation from uniformed service will make the employee ineligible for reemployment under USERRA?
Reemployment rights are terminated if the employee is:
(a) Separated from uniformed service with a dishonorable or bad conduct discharge;
(b) Separated from uniformed service under other than honorable conditions, as characterized by regulations of the uniformed service;
(c) A commissioned officer dismissed as permitted under 10 U.S.C. 1161(a) by sentence of a general court-martial; in commutation of a sentence of a general court-martial; or, in time of war, by order of the President; or,
(d) A commissioned officer dropped from the rolls under 10 U.S.C. 1161(b) due to absence without authority for at least three months; separation by reason of a sentence to confinement adjudged by a court-martial; or, a sentence to confinement in a Federal or State penitentiary or correctional institution.

§ 1002.136 Who determines the characterization of service?
The branch of service in which the employee performs the tour of duty determines the characterization of service.

§ 1002.137 If the employee receives a disqualifying discharge or release from uniformed service and it is later upgraded, will reemployment rights be restored?
Yes. A military review board has the authority to prospectively or retroactively upgrade a disqualifying discharge or release. A retroactive upgrade would restore reemployment rights providing the employee otherwise meets the Act's eligibility criteria.

§ 1002.138 If the employee receives a retroactive upgrade in the characterization of service, will that entitle him or her to claim back wages and benefits lost as of the date of separation from service?
No. A retroactive upgrade allows the employee to obtain reinstatement with the former employing office, provided the employee otherwise meets the Act's eligibility criteria. Back pay and other benefits such as pension plan credits attributable to the time period between discharge and the retroactive upgrade are not required to be restored by the employing office in this situation.

EMPLOYER STATUTORY DEFENSES

§ 1002.139 Are there any circumstances in which the pre-service employing office is excused from its obligation to reemploy the eligible employee following a period of uniformed service? What statutory defenses are available to the employing office in an action or proceeding for reemployment benefits?

(a) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if the employing office establishes that its circumstances have so changed as to make reemployment impossible or unreasonable. For example, an employing office may be excused from re-employing the eligible employee where there has been an intervening reduction in force that would have included that employee. The employing office may not, however, refuse to reemploy the eligible employee on the basis that another employee was hired to fill the reemployment position during the employee's absence, even if reemployment might require the termination of that replacement employee;

(b) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that assisting the eligible employee in becoming qualified for reemployment would impose an undue hardship, as defined in § 1002.5(s) and discussed in § 1002.198, on the employing office; or,

(c) Even if the employee is otherwise eligible for reemployment benefits, the employing office is not required to reemploy him or her if it establishes that the employment position vacated by the eligible employee in order to perform service in the uniformed services was for a brief, nonrecurrent period and there was no reasonable expectation that the employment would continue indefinitely or for a significant period.

(d) The employing office defenses included in this section are affirmative ones, and the employing office carries the burden to prove by a preponderance of the evidence that any one or more of these defenses is applicable.

Subpart D—Rights, Benefits, and Obligations of Persons Absent from Employment Due to Service in the Uniformed Services

FURLOUGH AND LEAVE OF ABSENCE

§ 1002.149 What is the eligible employee's status with the employing office while performing service in the uniformed services?

During a period of service in the uniformed services, the eligible employee is deemed to be on leave of absence from the employing office. In this status, the eligible employee is entitled to the non-seniority rights and benefits generally provided by the employing office to other employees with similar seniority, status, and pay that are on leave of absence. Entitlement to these non-seniority rights and benefits is not dependent on how the employing office characterizes the eligible employee's status during a period of service. For example, if the employing office characterizes the employee as "terminated" during the period of uniformed service, this characterization cannot be used to avoid USERRA's requirement that the employee be deemed on leave of absence, and therefore, entitled to the non-seniority rights and benefits generally provided to employees on leave of absence.

§ 1002.150 Which non-seniority rights and benefits is the eligible employee entitled to during a period of service?

(a) The non-seniority rights and benefits to which an eligible employee is entitled during a period of service are those that the employing office provides to similarly situated employees by an agreement, policy, practice, or plan in effect at the employee's workplace. These rights and benefits include those in effect at the beginning of the eligible employee's employment and those established after employment began. They also include those rights and benefits that become effective during the eligible employee's period of service and that are provided to similarly situated employees on leave of absence.

(b) If the non-seniority benefits to which employees on leave of absence are entitled vary according to the type of leave, the eligible employee must be given the most favorable treatment accorded to any comparable form of leave when he or she performs service in the uniformed services. In order to determine whether any two types of leave are comparable, the duration of the leave may be the most significant factor to compare. For instance, a two-day funeral leave will not be "comparable" to an extended leave for service in the uniformed service. In addition to comparing the duration of the absences, other factors such as the purpose of the leave and the ability of the employee to choose when to take the leave should also be considered.

(c) As a general matter, accrual of vacation leave is considered to be a non-seniority benefit that must be provided by an employing office to an eligible employee on a military leave of absence only if the employing office provides that benefit to similarly situated employees on comparable leaves of absence.

(d) Nothing in this section gives the eligible employee rights or benefits to which the employee otherwise would not be entitled if the employee had remained continuously employed with the employing office.

§ 1002.151 If the employing office provides full or partial pay to the eligible employee while he or she is on military leave, is the employing office required to also provide the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
Yes. If the employing office provides additional benefits such as full or partial pay when the eligible employee performs service, the employing office is not excused from providing other rights and benefits to which the employee is entitled under the Act.

§ 1002.152 If employment is interrupted by a period of service in the uniformed services, are there any circumstances under which the eligible employee is not entitled to the non-seniority rights and benefits ordinarily granted to similarly situated employees on furlough or leave of absence?
If employment is interrupted by a period of service in the uniformed services and the eligible employee knowingly provides written notice of intent not to return to the position of employment after service in the uniformed services, he or she is not entitled to those non-seniority rights and benefits. The eligible employee's written notice does not waive entitlement to any other rights to which he or she is entitled under the Act, including the right to reemployment after service.

§ 1002.153 If employment is interrupted by a period of service in the uniformed services, is the eligible employee permitted upon request to use accrued vacation, annual or similar leave with pay during the service? Can the employing office require the eligible employee to use accrued leave during a period of service?
(a) If employment is interrupted by a period of service, the eligible employee must be permitted upon request to use any accrued vacation, annual, or similar leave with pay during the period of service, in order to continue his or her civilian pay. However, the eligible employee is not entitled to use sick leave that accrued with the employing office during a period of service in the uniformed services, unless the employing office allows employees to use sick leave for any reason, or allows other similarly situated employees on comparable furlough or leave of absence to use accrued paid sick leave. Sick leave is usually not comparable to annual or vacation leave; it is generally intended to provide income when the employee or a family member is ill and the employee is unable to work.
(b) The employing office may not require the eligible employee to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

HEALTH PLAN COVERAGE

§ 1002.163 What types of health plans are covered by USERRA?
(a) USERRA defines a health plan to include an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or arrangement under which the employee's health services are provided or the expenses of those services are paid.
(b) USERRA covers group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. 1191b(a). USERRA applies to group health plans that are subject to ERISA, and plans that are not subject to ERISA, such as those sponsored by the Federal Government.
(c) USERRA covers multi-employer plans maintained pursuant to one or more collective bargaining agreements between employers and employee organizations. USERRA applies to

multi-employer plans as they are defined in ERISA at 29 U.S.C. 1002(37). USERRA contains provisions that apply specifically to multi-employer plans in certain situations.

§ 1002.164 What health plan coverage must the employing office provide for the eligible employee under USERRA?

If the eligible employee has coverage under a health plan in connection with his or her employment, the plan must permit the employee to elect to continue the coverage for a certain period of time as described below:

(a) When the eligible employee is performing service in the uniformed services, he or she is entitled to continuing coverage for himself or herself (and dependents if the plan offers dependent coverage) under a health plan provided in connection with the employment. The plan must allow the eligible employee to elect to continue coverage for a period of time that is the lesser of:

(1) The 24-month period beginning on the date on which the eligible employee's absence for the purpose of performing service begins; or,

(2) The period beginning on the date on which the eligible employee's absence for the purpose of performing service begins, and ending on the date on which he or she fails to return from service or apply for a position of employment as provided under sections 1002.115–123 of these regulations.

(b) USERRA does not require the employing office to establish a health plan if there is no health plan coverage in connection with the employment, or, where there is a plan, to provide any particular type of coverage.

(c) USERRA does not require the employing office to permit the eligible employee to initiate new health plan coverage at the beginning of a period of service if he or she did not previously have such coverage.

§ 1002.165 How does the eligible employee elect continuing health plan coverage?

USERRA does not specify requirements for electing continuing coverage. Health plan administrators may develop reasonable requirements addressing how continuing coverage may be elected, consistent with the terms of the plan and the Act's exceptions to the requirement that the employee give advance notice of service in the uniformed services. For example, the eligible employee cannot be precluded from electing continuing health plan coverage under circumstances where it is impossible or unreasonable for him or her to make a timely election of coverage.

§ 1002.166 How much must the eligible employee pay in order to continue health plan coverage?

(a) If the eligible employee performs service in the uniformed service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health plan coverage.

(b) If the eligible employee performs service in the uniformed service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employing office's share plus the employee's share, plus 2% for administrative costs.

(c)USERRA does not specify requirements for methods of paying for continuing coverage. Health plan administrators may develop reasonable procedures for payment, consistent with the terms of the plan.

§ 1002.167 What actions may a plan administrator take if the eligible employee does not elect or pay for continuing coverage in a timely manner?

The actions a plan administrator may take regarding the provision or cancellation of an eligible employee's continuing coverage depend on whether the employee is excused from the requirement to give advance notice, whether the plan has established reasonable rules for election of continuation coverage, and whether the plan has established reasonable rules for the payment for continuation coverage.

(a) No notice of service and no election of continuation coverage:

If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service without giving advance notice of service, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service. However, in cases in which an eligible employee's failure to give advance notice of service was excused under the statute because it was impossible, unreasonable, or precluded by military necessity, the plan administrator must reinstate the employee's health coverage retroactively upon his or her election to continue coverage and payment of all unpaid amounts due, and the employee must incur no administrative reinstatement costs. In order to qualify for an exception to the requirement of timely election of continuing health care, an eligible employee must first be excused from giving notice of service under the statute.

(b) Notice of service but no election of continuing coverage:

Plan administrators may develop reasonable requirements addressing how continuing coverage may be elected. Where health plans are also covered under the Consolidated Omnibus Budget Reconciliation Act of 1985, 26 U.S.C. 4980B (COBRA), it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding election of continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule. If an employing office provides employment-based health coverage to an eligible employee who leaves employment for uniformed service for a period of service in excess of 30 days after having given advance notice of service but without making an election regarding continuing coverage, the plan administrator may cancel the employee's health plan coverage upon the employee's departure from employment for uniformed service, but must reinstate coverage without the imposition of administrative reinstatement costs under the following conditions:

(1) Plan administrators who have developed reasonable rules regarding the period within which an employee may elect continuing coverage must permit retroactive reinstatement of uninterrupted coverage to the date of departure if the eligible employee elects continuing coverage and pays all unpaid amounts due within the periods established by the plan; (2) In cases in which plan administrators have not developed rules regarding the period within which an employee may elect continuing coverage, the plan must permit retroactive reinstatement of uninterrupted coverage to the date of departure upon the eligible employee's election and payment of all unpaid amounts at any time during the period established in section 1002.164(a).

(c) Election of continuation coverage without timely payment:

Health plan administrators may adopt reasonable rules allowing cancellation of coverage if timely payment is not made. Where health plans are covered under COBRA, it may be reasonable for a health plan administrator to adopt COBRA-compliant rules regarding payment for continuing coverage, as long as those rules do not conflict with any provision of USERRA or this rule.

§ 1002.168 If the eligible employee's coverage was terminated at the beginning of or during service, does his or her coverage have to be reinstated upon reemployment?

(a) If health plan coverage for the eligible employee or a dependent was terminated by reason of service in the uniformed services, that coverage must be reinstated upon reemployment. An exclusion or waiting period may not be imposed in connection with the reinstatement of coverage upon reemployment, if an exclusion or waiting period would not have been imposed had coverage not been terminated by reason of such service.

(b) USERRA permits a health plan to impose an exclusion or waiting period as to illnesses or injuries determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services. The determination that the employee's illness or injury was incurred in, or aggravated during, the performance of service may only be made by the Secretary of Veterans Affairs or his or her representative. Other coverage, for injuries or illnesses that are not service-related (or for the employee's dependents, if he or she has dependent coverage), must be reinstated subject to paragraph (a) of this section.

§ 1002.169 Can the eligible employee elect to delay reinstatement of health plan coverage until a date after the date he or she is reemployed?

USERRA requires the employing office to reinstate or direct the reinstatement of health plan coverage upon request at reemployment. USERRA permits but does not require the employing office to allow the employee to delay reinstatement of health plan coverage until a date that is later than the date of reemployment.

§ 1002.170 In a multi-employer health plan, how is liability allocated for employer contributions and benefits arising under USERRA's health plan provisions?

Liability under a multi-employer plan for employer contributions and benefits in connection with USERRA's health plan provisions must be allocated either as the plan sponsor provides, or, if the sponsor does not provide, to the eligible employee's last employer before his or her service. If the last employer is no longer functional, liability for continuing coverage is allocated to the health plan.

§ 1002.171 How does the continuation of health plan benefits apply to a multi-employer plan that provides health plan coverage through a health benefits account system?

(a) Some employees receive health plan benefits provided pursuant to a multi-employer plan that utilizes a health benefits account system in which an employee accumulates prospective health benefit eligibility, also commonly referred to as "dollar bank," "credit bank," and "hour bank" plans. In such cases, where an employee with a positive health benefits account balance elects to continue the coverage, the employee may further elect either option below:

(1) The eligible employee may expend his or her health account balance during an absence from employment due to service in the uniformed services in lieu of paying for the continuation of coverage as set out in § 1002.166. If an eligible employee's health account balance becomes depleted during the applicable period provided for in § 1002.164(a), the employee must be permitted, at his or her option, to continue coverage pursuant to § 1002.166. Upon reemployment, the plan must provide for immediate reinstatement of the eligible employee as required by § 1002.168, but may require the employee to pay the cost of the coverage until the employee earns the credits necessary to sustain continued coverage in the plan.

(2) The eligible employee may pay for continuation coverage as set out in § 1002.166, in order to maintain intact his or her account balance as of the beginning date of the absence from employment due to service in the uniformed services. This option permits the eligible employee to resume usage of the account balance upon reemployment.

(b) Employers or plan administrators providing such plans should counsel employees of their options set out in this subsection.

Subpart E—Reemployment Rights and Benefits

PROMPT REEMPLOYMENT

§ 1002.180 When is an eligible employee entitled to be reemployed by the employing office?
The employing office must promptly reemploy the employee when he or she returns from a period of service if the employee meets the Act's eligibility criteria as described in Subpart C of these regulations.

§ 1002.181 How is "prompt reemployment" defined?
"Prompt reemployment" means as soon as practicable under the circumstances of each case. Absent unusual circumstances, reemployment must occur within two weeks of the eligible employee's application for reemployment. For example, prompt reinstatement after a weekend National Guard duty generally means the next regularly scheduled working day. On the other hand, prompt reinstatement following several years of active duty may require more time, because the employing office may have to reassign or give notice to another employee who occupied the returning employee's position.

REEMPLOYMENT POSITION

§ 1002.191 What position is the eligible employee entitled to upon reemployment?
As a general rule, the eligible employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the eligible employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events. The escalator principle requires that the eligible employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. Depending upon the specific circumstances, the employing office may have the option, or be required, to reemploy the eligible employee in a position other than the escalator position.

§ 1002.192 How is the specific reemployment position determined?
In all cases, the starting point for determining the proper reemployment position is the escalator position, which is the job position that the eligible employee would have attained if his or her continuous employment had not been interrupted due to uniformed service. Once this position is determined, the employing office may have to consider several factors before determining the appropriate reemployment position in any particular case. Such factors may include the eligible employee's length of service, qualifications, and disability, if any. The actual reemployment position may be either the escalator position; the pre-service position; a position comparable to the escalator or pre-service position; or, the nearest approximation to one of these positions.

§ 1002.193 Does the reemployment position include elements such as seniority, status, and rate of pay?
(a) Yes. The reemployment position includes the seniority, status, and rate of pay that an eligible employee would ordinarily have attained in that position given his or her job history, including

prospects for future earnings and advancement. The employing office must determine the seniority rights, status, and rate of pay as though the eligible employee had been continuously employed during the period of service. The seniority rights, status, and pay of an employment position include those established (or changed) by a collective bargaining agreement, employer policy, or employment practice. The sources of seniority rights, status, and pay include agreements, policies, and practices in effect at the beginning of the eligible employee's service, and any changes that may have occurred during the period of service. In particular, the eligible employee's status in the reemployment position could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility, and geographical location.

(b) If an opportunity for promotion, or eligibility for promotion, that the eligible employee missed during service is based on a skills test or examination, then the employing office should give him or her a reasonable amount of time to adjust to the employment position and then give a skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. If the eligible employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had employment not been interrupted by uniformed service.

§ 1002.194 Can the application of the escalator principle result in adverse consequences when the eligible employee is reemployed?

Yes. The Act does not prohibit lawful adverse job consequences that result from the eligible employee's restoration on the seniority ladder. Depending on the circumstances, the escalator principle may cause an eligible employee to be reemployed in a higher or lower position, laid off, or even terminated. For example, if an eligible employee's seniority or job classification would have resulted in the employee being laid off during the period of service, and the layoff continued after the date of reemployment, reemployment would reinstate the employee to layoff status. Similarly, the status of the reemployment position requires the employing office to assess what would have happened to such factors as the eligible employee's opportunities for advancement, working conditions, job location, shift assignment, rank, responsibility, and geographical location, if he or she had remained continuously employed. The reemployment position may involve transfer to another shift or location, more or less strenuous working conditions, or changed opportunities for advancement, depending upon the application of the escalator principle.

§ 1002.195 What other factors can determine the reemployment position?

Once the eligible employee's escalator position is determined, other factors may allow, or require, the employing office to reemploy the employee in a position other than the escalator position. These factors, which are explained in §§ 1002.196 through 1002.199, are:

(a) The length of the eligible employee's most recent period of uniformed service;
(b) The eligible employee's qualifications; and,
(c) Whether the eligible employee has a disability incurred or aggravated during uniformed service.

§ 1002.196 What is the eligible employee's reemployment position if the period of service was less than 91 days?

Following a period of service in the uniformed services of less than 91 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position or the pre-service position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.197 What is the reemployment position if the eligible employee's period of service in the uniformed services was more than 90 days?

Following a period of service of more than 90 days, the eligible employee must be reemployed according to the following priority:
(a) The eligible employee must be reemployed in the escalator position or a position of like seniority, status, and pay. He or she must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(b) If the eligible employee is not qualified to perform the duties of the escalator position or a like position after reasonable efforts by the employing office, the employee must be reemployed in the position in which he or she was employed on the date that the period of service began or in a position of like seniority, status, and pay. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.
(c) If the eligible employee is not qualified to perform the duties of the escalator position, the pre-service position, or a like position, after reasonable efforts by the employing office, he or she must be reemployed in any other position that is the nearest approximation first to the escalator position and then to the pre-service position. The eligible employee must be qualified to perform the duties of this position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position.

§ 1002.198 What efforts must the employing office make to help the eligible employee become qualified for the reemployment position?

The eligible employee must be qualified for the reemployment position. The employing office must make reasonable efforts to help the eligible employee become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.

(a)(1) "Qualified" means that the employee has the ability to perform the essential tasks of the position. The employee's inability to perform one or more non-essential tasks of a position does not make him or her unqualified.

(2) Whether a task is essential depends on several factors, and these factors include but are not limited to:

(i) The employing office's judgment as to which functions are essential;

(ii) Written job descriptions developed before the hiring process begins;

(iii) The amount of time on the job spent performing the function;

(iv) The consequences of not requiring the individual to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(b) Only after the employing office makes reasonable efforts, as defined in § 1002.5(p), may it determine that the otherwise eligible employee is not qualified for the reemployment position. These reasonable efforts must be made at no cost to the employee.

§ 1002.199 What priority must the employing office follow if two or more returning employees are entitled to reemployment in the same position?

If two or more eligible employees are entitled to reemployment in the same position and more than one employee has reported or applied for employment in that position, the employee who first left the position for uniformed service has the first priority on reemployment in that position. The remaining employee (or employees) is entitled to be reemployed in a position similar to that in which the employee would have been re-employed according to the rules that normally determine a reemployment position, as set out in §§ 1002.196 and 1002.197.

SENIORITY RIGHTS AND BENEFITS

§ 1002.210 What seniority rights does an eligible employee have when reemployed following a period of uniformed service?

The eligible employee is entitled to the seniority and seniority-based rights and benefits that he or she had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if he or she had remained continuously employed. The eligible employee is not entitled to any benefits to which he or she would not have been entitled had the employee been continuously employed with the employing office. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employing office and those required by statute. For example, under USERRA, a reemployed service member would be eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601–2654 (FMLA), if the number of

months and the number of hours of work for which the service member was employed by the employing office, together with the number of months and the number of hours of work for which the service member would have been employed by the employing office during the period of uniformed service, meet FMLA's eligibility requirements. In the event that a service member is denied FMLA leave for failing to satisfy the FMLA's hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under the FMLA.

§ 1002.211 Does USERRA require the employing office to use a seniority system?
No. USERRA does not require the employing office to adopt a formal seniority system. USERRA defines seniority as longevity in employment together with any employment benefits that accrue with, or are determined by, longevity in employment. In the absence of a formal seniority system, such as one established through collective bargaining, USERRA looks to the custom and practice in the place of employment to determine the eligible employee's entitlement to any employment benefits that accrue with, or are determined by, longevity in employment.

§ 1002.212 How does a person know whether a particular right or benefit is a seniority-based right or benefit?
A seniority-based right or benefit is one that accrues with, or is determined by, longevity in employment. Generally, whether a right or benefit is seniority-based depends on three factors:
(a) Whether the right or benefit is a reward for length of service rather than a form of short-term compensation for work performed;
(b) Whether it is reasonably certain that the eligible employee would have received the right or benefit if he or she had remained continuously employed during the period of service; and,
(c) Whether it is the employing office's actual custom or practice to provide or withhold the right or benefit as a reward for length of service. Provisions of an employment contract or policies in the employee handbook are not controlling if the employing office's actual custom or practice is different from what is written in the contract or handbook.

§ 1002.213 How can the eligible employee demonstrate a reasonable certainty that he or she would have received the seniority right or benefit if he or she had remained continuously employed during the period of service?
A reasonable certainty is a high probability that the eligible employee would have received the seniority or seniority-based right or benefit if he or she had been continuously employed. The eligible employee does not have to establish that he or she would have received the benefit as an absolute certainty. The eligible employee can demonstrate a reasonable certainty that he or she would have received the seniority right or benefit by showing that other employees with seniority similar to that which the employee would have had if he or she had remained continuously employed received the right or benefit. The employing office cannot withhold the right or benefit based on an assumption that a series of unlikely events could have prevented the eligible employee from gaining the right or benefit.

DISABLED EMPLOYEES

§ 1002.225 Is the eligible employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?
Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the eligible employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employing office must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the eligible employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employing office to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employing office must make reasonable efforts to accommodate the eligible employee's disability and to help him or her to become qualified to perform the duties of one of these positions:
(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,
(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the eligible employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

§ 1002.226 If the eligible employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employing office make to help him or her become qualified for the reemployment position?
(a) USERRA requires that the eligible employee be qualified for the reemployment position regardless of any disability. The employing office must make reasonable efforts to help the eligible employee to become qualified to perform the duties of this position. The employing office is not required to reemploy the eligible employee on his or her return from service if he or she cannot, after reasonable efforts by the employing office, qualify for the appropriate reemployment position.
(b) "Qualified" has the same meaning here as in § 1002.198.

RATE OF PAY

§ 1002.236 How is the eligible employee's rate of pay determined when he or she returns from a period of service?
The eligible employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:
(a) If the eligible employee is reemployed in the escalator position, the employing office must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employing office may examine the returning eligible employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position. For example, if the eligible employee missed a merit

pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the eligible employee missed during service is based on a skills test or examination, then the employing office should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an eligible employee to adjust to reemployment before scheduling a makeup test or examination, an employing office may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the eligible employee's employment not been interrupted by uniformed service.
(b) If the eligible employee is reemployed in the pre-service position or another position, the employing office must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the eligible employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

Protection Against Discharge

§ 1002.247 Does USERRA provide the eligible employee with protection against discharge?
Yes. If the eligible employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause –
(a) For 180 days after the eligible employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,
(b) For one year after the date of reemployment if the eligible employee's most recent period of uniformed service was more than 180 days.

§ 1002.248 What constitutes cause for discharge under USERRA?
The eligible employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.
(a) In a discharge action based on conduct, the employing office bears the burden of proving that it is reasonable to discharge the eligible employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.
(b) If, based on the application of other legitimate nondiscriminatory reasons, the eligible employee's job position is eliminated, or the eligible employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employing office bears the burden of proving that the eligible employee's job would have been eliminated or that he or she would have been laid off.

PENSION PLAN BENEFITS

§ 1002.259 How does USERRA protect an eligible employee's pension benefits?
On reemployment, the eligible employee is treated as not having a break in service with the employing office for purposes of participation, vesting and accrual of benefits in a pension plan, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.
(a) Depending on the length of the eligible employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employing office for purposes of determining participation, vesting and accrual of pension benefits under the plan.
(b) If the eligible employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the eligible employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employing office for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

§ 1002.260 What pension benefit plans are covered under USERRA?
(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by the Federal Government.
(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

§ 1002.261 Who is responsible for funding any plan obligation to provide the eligible employee with pension benefits?
With the exception of multi-employer plans, which have separate rules discussed below, the employing office is required to ensure the funding of any obligation of the plan to provide benefits that are attributable to the eligible employee's period of service. In the case of a defined contribution plan, once the eligible employee is reemployed, the employing office must ensure that the amount of the make-up contribution for the employee, if any; the employee's make-up contributions, if any; and the employee's elective deferrals, if any; in the same manner and to the same extent that the amounts are allocated for other employees during the period of service. In the case of a defined benefit plan, the eligible employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

§ 1002.262 When must the plan contribution that is attributable to the employee's period of uniformed service be made?
(a) Employer contributions are not required until the eligible employee is reemployed. For employer contributions to a plan in which the eligible employee is not required or permitted to

contribute, the contribution attributable to the employee's period of service must be made no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the contribution to be made within this time period, the contribution must be made as soon as practicable.

(b) If the eligible employee is enrolled in a contributory plan, he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions, or elective deferrals, must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the eligible employee's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employing office.

(c) If the eligible employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution. This is true because employer contributions are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employer contributions that are contingent on or attributable to the eligible employee's make-up contributions or elective deferrals must be made according to the plan's requirements for employer matching contributions.

(d) The eligible employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the eligible employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.

(e) Any vested accrued benefit in the pension plan that the eligible employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.

(f) An adjustment will be made to the amount of employee contributions or elective deferrals that the eligible employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

§ 1002.263 Does the eligible employee pay interest when he or she makes up missed contributions or elective deferrals?

No. The eligible employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

§ 1002.264 Is the eligible employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?

Yes, provided the plan is a defined benefit plan. If the eligible employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the eligible employee must repay includes any interest that would have accrued had the monies not been withdrawn. The eligible employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length

of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employing office and the employee), provided the employee is employed with the post-service employing office during this period.

§ 1002.265 If the eligible employee is reemployed with his or her pre-service employing office, is the employee's pension benefit the same as if he or she had remained continuously employed?
The amount of the eligible employee's pension benefit depends on the type of pension plan.
(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the eligible employee's benefit will be the same as though he or she had remained continuously employed during the period of service.
(b) In a contributory defined benefit plan, the eligible employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.
(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employer make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

§ 1002.266 What are the obligations of a multi-employer pension benefit plan under USERRA?
A multi-employer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multi-employer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multi-employer plans, as follows:
(a) The last employer that employed the eligible employee before the period of service is responsible for making the employer contribution to the multi-employer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the eligible employee.
(b) An employer that contributes to a multi-employer plan and that reemploys the eligible employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within which the reemploying employer must provide written notice to the multi-employer plan pursuant to this subsection does not begin until the employer has knowledge that the eligible employee was re-employed pursuant to USERRA.
(c) The eligible employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multi-employer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

§ 1002.267 How is compensation during the period of service calculated in order to determine the eligible employee's pension benefits, if benefits are based on compensation?

In many pension benefit plans, the eligible employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the eligible employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b) (1) Where the rate of pay the eligible employee would have received is not reasonably certain, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the eligible employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

Subpart F—Compliance Assistance, Enforcement and Remedies

COMPLIANCE ASSISTANCE

§ 1002.277 What assistance does the Office of Compliance provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?

The Office of Compliance provides assistance to any person or entity who is covered by the CAA with respect to employment and reemployment rights and benefits under USERRA as applied by the CAA. This assistance includes responding to inquiries, and providing a program of education and information on matters relating to USERRA.

INVESTIGATION AND REFERRAL

§ 1002.288 How does an eligible employee initiate a claim alleging a violation of USERRA under the CAA?

(a) If an eligible employee is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employing office has failed or refused, or is about to fail or refuse, to comply with the Act, the eligible employee may file a complaint with the Office of Compliance, after a required period of counseling and mediation.

(b) To commence a proceeding, an eligible employee alleging a violation of the rights and protections of USERRA must request counseling by the Office of Compliance no later than 180 days after the date of the alleged violation. If an eligible employee misses this deadline, the claim may be time barred under the CAA.

(c) The following procedures are available under subchapter IV of the CAA for eligible employees who believe their rights under USERRA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either -

(A) a formal complaint filed with the Office of Compliance (which must meet the requirements as set forth in the Office of Compliance Procedural Rules, Section 5.01(c)), and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(d) Regulations of the Office of Compliance describing and governing these procedures can be found at 141 Cong. Rec. H15645-H15655 (daily ed. December 30, 1995) and 141 Cong. Rec. S19239-19249 (daily ed. December 22, 1995), 143 Cong. Rec. H8316-H8317(daily ed. October 2, 1997)(as amended, applying USERRA to the Government Accountability Office and the Library of Congress).

ENFORCEMENT OF RIGHTS AND BENEFITS AGAINST AN EMPLOYING OFFICE

§ 1002.303 Is an eligible employee required to bring his or her USERRA claim to the Office of Compliance?

Yes. All eligible employees who file claims under Section 206 of the CAA, are required to go through counseling and mediation before electing to file a civil action or a complaint with the Office of Compliance

§ 1002.308 Who has legal standing to bring a USERRA claim under the CAA?
An action under Section 206 of the CAA may be brought by an eligible employee, as defined by Section 1002.5 (f) of Subpart A of these regulations. An action under 207(a) of the CAA may be brought by a covered employee, as defined by section 1002.5 (e) of Subpart A of these regulations. An employing office, prospective employing office or other similar entity may not bring an action under the Act.

§ 1002.309 Who is a necessary party in an action under USERRA?
In an action under USERRA, only the covered employing office or a potential covered employing office, as the case may be, is a necessary party respondent. Under the Office of Compliance Procedural Rules, a hearing officer has authority to require the filing of briefs, memoranda of law, and the presentation of oral argument. A hearing officer also may order the production of evidence and the appearance of witnesses.

§ 1002.310 How are fees and court costs awarded in an action under USERRA?
If an eligible employee is a prevailing party with respect to any claim under USERRA, the hearing officer, Board, or court may award reasonable attorney fees, expert witness fees, and other litigation expenses.

§ 1002.311 Is there a statute of limitations in an action under USERRA?
USERRA does not have a statute of limitations. However, Section 402 of the CAA requires a covered employee to bring a request for counseling alleging a violation of the CAA no later than 180 days after the date of the alleged violation. A claim by an eligible employee alleging a USERRA violation as applied by the CAA would follow this requirement .

§ 1002.312 What remedies may be awarded for a violation of USERRA?
In any action or proceeding the following relief may be awarded:
(a) The court and/or hearing officer may require the employing office to comply with the provisions of the Act;
(b) The court and/or hearing officer may require the employing office to compensate the eligible employee for any loss of wages or benefits suffered by reason of the employing office's failure to comply with the Act;
(c) The court and/or hearing officer may require the employing office to pay the eligible employee an amount equal to the amount of lost wages and benefits as liquidated damages, if the court and/or hearing officer determines that the employing office's failure to comply with the Act was willful. A violation shall be considered to be willful if the employing office either knew or showed reckless disregard for whether its conduct was prohibited by the Act.
(d) Any wages, benefits, or liquidated damages awarded under paragraphs (b) and (c) of this section are in addition to, and must not diminish, any of the other rights and benefits provided by USERRA (such as, for example, the right to be employed or reemployed by the employing office).

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 105–83, announces the appointment of the following individual to serve as a member of the National Council of the Arts: The Honorable ROBERT BENNETT of Utah.

ORDERS FOR TUESDAY, FEBRUARY 3, 2009

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. Tuesday, February 3; that following the prayer and the pledge the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act; further, that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. KAUFMAN. Mr. President, Senators should be prepared for a long day tomorrow, with votes on numerous amendments throughout the day.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KAUFMAN. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:07 p.m., adjourned until Tuesday, February 3, 2009, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate Monday, February 2, 2009:

DEPARTMENT OF JUSTICE

ERIC H. HOLDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

IN HONOR OF JEAN BOOTH MITCHELL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. FARR. Madam Speaker, I rise today to honor the memory of Jean Booth Mitchell of Carmel, California. Jean was a remarkable woman who enlivened everybody and everything she touched. Jean passed away on January 19, 2009 at age 91, leaving the world a brighter and better place.

Jean was born in 1917 in Oakland, California, and was raised in nearby Piedmont. She received her education at the prestigious UC Berkeley, where she was a member of the sorority Delta Gamma. The university is also where she met William F. Mitchell, who she married in the Piedmont Community Church garden in 1940.

Jean had the greenest of green-thumbs. She was a member of the Piedmont Garden Club, Piedmont Beautification Foundation, and Garden Club of America. Jean was also a founder of the Carmel-by-the-Sea Garden Club and its first president. She found great fulfillment in the Club's campaign to "save" Carmel's Piccadilly Park, home to a host of rare and unique plant species. Jean's personal garden was also one of the earliest featured on the Garden Club of America website at the Smithsonian.

Though gardening was her passion, Jean also involved herself in high-end real estate. She and her family established a real-estate firm in Carmel known as The Mitchell Group. In real estate sales, Jean was described as "dynamic, convincing, and indefatigable." Before being sold to Sotheby's International Realty in 2005, the company had expanded to five offices and 140 agents.

Madam Speaker, Jean Booth Mitchell planted seeds not only in soil, but in the hearts of everybody who had the good fortune of knowing her. I am certain that I speak for the entire House in extending our heartfelt sympathies towards Jean's three children, three granddaughters, and six great grandchildren, including Bill and Vicki Mitchell of Pebble Beach, Sheri Mitchell of San Francisco, Shelly and Dan Lynch of Carmel, John and Karen Mitchell of St. Helena, Sarah and Chris Hansen of Napa, and Hallie Mitchell Dow and Brad Dow of Carmel.

INTRODUCTION OF THE GEORGES BANK PRESERVATION ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. MARKEY. Madam Speaker, today I am reintroducing the Georges Bank Preservation Act in the 111th Congress because Georges Bank, America's most valuable fishery and one of our nation's most important marine areas, remains in the crosshairs of the oil and gas industry. Last year, as a result of opposition from the Bush Administration, the long-standing protections against drilling off the east and west coasts expired. As a result, the American people could now begin to see drill rigs as close as three miles to our beaches and in fragile ecosystems like Georges Bank. Allowing oil and gas drilling in Georges Bank would forever destroy this fragile ecosystem and our nation's most important fishery.

In its final days in office, the Bush Administration issued a draft proposal to conduct offshore oil and gas leasing in the entire North Atlantic Planning area in 2013. This area comprises all federal waters off the coast of New England, including Georges Bank. We know that Georges Bank remains a top target of the oil industry and that is why we must take action to restore the longstanding protections for this special place.

The Georges Bank Preservation Act would prohibit the federal government from allowing exploration, development, or production of oil or natural gas in Georges Bank. Protecting Georges Bank from drilling would affect less than 2 percent of federal land on the outer Continental Shelf. The legislation would also protect any areas designated as marine national monuments or national marine sanctuaries, such as the Gerry E. Studds Stellwagen Bank National Marine Sanctuary off the coast of Massachusetts. The language in the Georges Bank Preservation Act has already passed the House last year in an overwhelming, bipartisan vote of 236–189 as part of H.R. 6899.

Georges Bank is the heart of the New England fishery and a key economic engine for the region. The Northeast fishery landings are valued at approximately $800 million annually and Georges Bank is the key to the region. New Bedford, Massachusetts is by far the most productive fishing port in the United States, in terms of value of catch, and has held that distinction for the last eight years. Its $268 million catch in 2007 was almost as much as catches from the second and third most valuable ports combined. New Bedford has been the number one fishing port for eight straight years.

We must not let Big Oil claim one of New England's most important economic and environmental treasures. The Georges Bank Preservation Act will prevent the oil and gas industry from destroying this special habitat that is the heart of America's most precious fishery and a uniquely vital marine habitat.

CERVICAL CANCER AWARENESS MONTH

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Ms. DELAURO. Madam Speaker, I rise today to recognize January as Cervical Cancer Awareness Month. According to the National Cancer Institute, approximately 11,000 women are diagnosed with cervical cancer each year in the U.S., resulting in nearly 3,900 deaths. At a time when proven prevention tools are available, it is especially tragic that any woman should die from this disease, yet cervical cancer is the second most common cancer in women worldwide. Even for women who survive this disease, it often causes a significant emotional burden and can lead to early menopause and loss of fertility among women in their child-bearing years. And it affects women of all ages: While the majority of cervical cancers are detected in women between 35 and 64, more than 30 percent of cases are diagnosed in women younger than 34 and women over 65.

Despite these sobering statistics, we have made significant progress in this country in reducing the burden of cervical cancer. Since the mid-20th century, deaths from cervical cancer have declined by an estimated 70 percent, due to the Papanicolaou (Pap) screening test. In 1990, Congress created the National Breast and Cervical Cancer Early Detection Program to improve timely access to screening and diagnostic services for low-income, uninsured, and underserved women. According to the Centers for Disease Control, since 1991 NBCCEDP-funded programs have diagnosed 2,161 invasive cervical cancers and 114,390 precursor cervical lesions, of which 42 percent were high-grade. More recently, researchers have identified HPV as the main cause of cervical cancer, and an HPV vaccine and screening test have been developed.

The simple fact is that cervical cancer is almost completely preventable through vaccinations, Pap testing, and testing for the human papillomavirus (HPV). Yet, as with so many other diseases, cervical cancer often strikes those who are least able to take advantage of these tools: Those who have either never had a screening test (either a Pap test alone, or in combination with an HPV test), or have gone many years without one, are the most likely to be diagnosed with cervical cancer. Unfortunately, in both the U.S. and around the world, this means that poor women, and those who face barriers to obtaining quality health care,

are disproportionately affected by cervical cancer. And the disparities are huge: Hispanic women are twice as likely as white women to be diagnosed with cervical cancer, and African-American women are twice as likely as white women to die of the disease. Asian-Americans, Native Americans, and women in certain areas of the U.S. are also at increased risk. Cervical cancer is an even greater burden outside of this country, with about 500,000 women diagnosed with cervical cancer every year, more than half of whom will die from this preventable disease.

Let us redouble our commitment to ensuring that all women are educated about cervical cancer and have access to proven screening and diagnostic tools so that one January, we can look back and say that we have won the fight against cervical cancer.

IN HONOR OF BILL MELDRUM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. PALLONE. Madam Speaker, I rise today to honor the life of Bill Meldrum, 53, captain of the trawler Lydia J, who tragically passed away on the morning of January 27 in a deck accident. Captain Meldrum, the secretary of the Board of Directors of the Point Pleasant Fisherman's Dock Cooperative, had been a fisherman in New Jersey for over 30 years—20 years out of the Belford Seafood Co-Op in my district, and 10 years out of Point Pleasant. He is described by the Fisherman's Dock Cooperative as "having a heart of gold" and "one of their best." Captain Meldrum is survived by his wife, Isabel, whom he wed in August of 2008.

Captain Meldrum purchased the Lydia J in 1989 with his friend Gary Traczyk. Already an experienced seaman, the purchase of the Lydia J allowed Captain Meldrum to continue sweeping the New Jersey coast for summer flounder, scallops, black flounder, whiting, and squid. The Lydia J was his pride and joy, and Captain Meldrum was known to stand tall and proud whenever he approached the 65 foot dragger.

Recreational and commercial fishing is not only essential to the economy of New Jersey's sixth district, but is a way of life for many of its residents. A fisherman through and through, Captain Meldrum exemplified the blue-collar strength of New Jersey's coastal community. Not only was he able to live his dream and fish for a living, he was constantly giving back to his community. Captain Meldrum donated toys to children every Christmas and always took special care of his fellow fishermen.

Madam Speaker, I sincerely hope that my colleagues will join me in remembering the late Captain Meldrum. Everyday fishermen risk their lives on the open water to put food on our tables, and on Tuesday morning they lost one of their best in Bill Meldrum.

"ON THE RECORD INAUGURAL SPEECH CONTEST"

HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. SARBANES. Madam Speaker, I rise today to share the award winning entry from the Meritalk "On the Record Inaugural Speech Contest." Meritalk is an online community that seeks to promote civic discussion and serve as the crossroads for IT and public policy. This contest challenged American authors to write a speech highlighting what they would like to hear from the President-elect on Inauguration day. This a wonderful example of how the Internet can help Americans become more aware of and involved in government. I would like to congratulate the winner, Ms. Katherine Grayson, on writing a very eloquent speech and I hope she remains engaged in the important issues facing our country. I'd also like to share her contest entry with you today.

"My fellow citizens of the world. I cannot greet you today using the phrase "My fellow Americans," for though, assuredly, America is facing its greatest challenges in half a century, we now are part of a much vaster order with challenges that put even our own, here at home, into proper perspective.

We stand at the precipice of a New Age; an age in which we clearheadedly acknowledge that the world has become a network as intricately intertwined as a web. In ways too numerous to count, we now are connected to one another across this land, across the seas, across the airwaves, across cyberspace. The era of rattling sabers at one another or constructing foreign policy as though we dwell inside fortresses, is long over. Our world today is indeed a complex and inexorably interwoven network of threads, and to survive and flourish within it, no successful international policy will ever again be identified as "foreign." Once we only dreamt of such connectedness with the world; now we truly are a global network of nations, states, citizens, and the children everywhere who are our hope for the future.

Yet by clinging to attitudes of the past, we have been slashing away at this fragile new mesh of mankind and weakening it, the world at large, and our own position in that world. Shall we continue to allow this planet to become a more and more dangerous place, with aggression, resentment, and even silence between countries expanding as rapidly as their arsenals do? Or shall we at last—and with the determination of what has long been the greatest nation on this Earth—seek to strengthen the ties between the world's nations, and help to construct, finally, a lasting fabric of world peace and understanding?

All of you who hear me today, wherever you may be, must be partners in this quest to make the world a refuge for all. We are now inextricably tied to one another, wherever we are, and rather than curse the condition of our connectedness, we must protect that connectedness at all cost.

Now we are partners in the mission to end the scourge of terrorism and the outrageous inequities of life that feed it: poverty, powerlessness, the daily struggle to survive. It is just too easy for us to think of ourselves as separate "constituencies" of the world, nameless people lost in faceless masses hoping to be served by their leadership. From today, henceforth, we are partners in the mandate to make the world a much less dangerous place; to bring a New Age of peace and understanding to our fellow men and women, wherever they may reside on our planet. We are partners in the challenge to bring the peoples of the world together, rather than shut them out through our fear and our ignorance.

These are no small challenges. But neither are they dreams.

How shall we set about to change the world as it must change, if we are to endure in the decades and centuries to come?

First, by re-forging and strengthening the fabric of our lives here at home. To put it plainly, right now we are no example for the other nations of the world. Through a long series of misjudgments and missteps, wrong-headed international decisions and self-interested actions here at home, our nation has come to forfeit that position and that privilege. We must face the fact that we have lost our way; that in the cycles of history, we have suffered a downward turn.

Clearly, our economy—once the envy of the world—is in trouble. We must confront this truth head-on. And while quick fixes and mammoth infusions of capital are bandaids designed to temporarily stabilize floundering financial vessels like Fannie Mae and AIG, as in most critical financial downturns we need to look to the core of these very serious problems and re-examine, re-tool, and rebuild the fundamentals of our economic structure, if necessary. And I strongly believe it is necessary.

Yet what are the fundamentals of that system? They are capitalistic, to be sure. But that term, capitalism—which once had the sweet ring of democracy to it—has come to take on a sour taste indeed.

Since when do the tenets of capitalism dictate that company CEOs can become robber barons? Where is it written that employees can lose their pensions to the senior management of the corporations they have dutifully served for decades? Which principles decreed that hardworking, law-abiding folks should lose their homes and life savings because the mortgages they took out were based upon Wall Street hocus-pocus of which they could have no knowledge or understanding whatsoever? Why does capitalism preclude a government's ability to ensure that all citizens are provided adequate health care and social security so that they neither succumb to illness nor die homeless on the street? And which founding father (who had himself fled from the tyranny of taxation without representation) declared that the best way to build a financially able and resilient society was to tax the working backbone of the nation until it collapsed under the weight of those taxes—all the while giving tax cuts and breaks to the wealthiest citizens, corporations, and conglomerates?

No nation on Earth has ever flourished for any length of time by bleeding the lifeforce of its own inception. We should know this; our nation was born out of rebellion against such

tyranny; we have supported other nations of the world in their quests for similar freedoms; we have railed against such injustices thrust upon other peoples of the world.

We must return—with haste and urgency—to those principles we have fought and died for, and which we know to be just, fair, and right. We must return—without a moment's hesitation—to those principles, which we know from centuries of proof, build a strong nation of happy, prosperous, contributing citizens; that backbone that is the framework upon which any free and thriving nation must be built.

I have not been brought to this moment today, here at this podium before you, to tell you this because I believe it is what you want to hear. I am here today, telling you this, because on November 4th, you knew in your hearts that a swift, decisive return to the principles of America for all its citizens—not an America for only the wealthiest citizens—is the way to rebuild our nation, and to begin to rebuild our relationships with the other nations of the world.

Let this be the moment in history when the phrase, "The Rich and Powerful" is relegated to its proper, smaller place in the world scheme, and the phrase "Power to the People" returns to its rightful position, above all else. For it was not until the people took back their power through a fair and just democratic process—as you did this past November—that "power" in this country could regain perspective at last. In the world today, "power" simply cannot denote the right of some to profit at the expense of others. "Power" must stand for the ability to make change happen for the long-term health and survival of our nation, and as a model for making change happen for the health and survival of our planet and the nations of our world.

We know that it was the driving need for change that brought us here today. I did not spend these past two years chanting "Change!" because I thought it was the best way to get elected. I have fought for that change and will continue to fight for it because only through fearless, courageous, unmitigated change can we right our foundering ship quickly, decisively, with long-lasting results that must not be delayed. There is not one moment to waste. The need is critical, pervasive, and non-partisan, and we cannot tolerate time spent for political parties to bicker or equivocate.

You are the partners in this change. This is not Congress's change; it is yours, and your voices must be heard. My question to you is: How quickly do you need this change?

How quickly—and most importantly, how effectively, for lasting benefit—do you want your jobs, homes, livelihoods restored? How quickly and solidly do you want the United States of America to be respected in the world theater once more? How soon do you want your sons and daughters to return from wars which should never have been waged? How rapidly do you want the fear between nations to de-escalate, and fear of terrorism and nuclear arms buildups to dissipate? How soon do you want to fling wide the doors of misunderstanding between cultures that fear each other, and let in the fresh clean air of tolerance and acceptance? In what timeframe do you want to see the nations of the world cooperate with each other for mutual benefit, and thus remove the very need for state-driven or state-supported terrorism? And when is it that you would you like to see our planet's environment begin to recover from the ravages and ills which now place it in peril of ecological collapse?

I ask you now: Which day do you want to be a safer day for your children? The tomorrow after tomorrow?

Well, I have children too, and I need that day to be today.

So, today is the day that—together—we will set about to change our world. And though we will begin here at home at once, we will aggressively and immediately pursue our new international initiatives simultaneously. These next 100 days may be dizzying for Congress here on Capitol Hill, but we will expect nothing less from its members than their full and intensive attention to every new idea, every new plan, every new proposal put before them. I promise you that I will compel democrats and republicans to work together with me, hand in hand, with blind eyes to red or blue, and eyes only on the target ahead. I promise you that we will use our new connectedness with each other and the world, in ways that have never been seen before, to make change happen. And we will not rest until we make serious, impactful, and lasting headway.

I call upon you—not just the people of America, but the peoples of the world—to make your voices heard; to see these needs are met; to convey your sense of urgency for the triumph of our country, our world, this beloved planet. This time, broad, bold, far-reaching measures are needed, and we will not be held at bay by the petty prevarication or self-interest of the few, or by the endless squabbling over minutiae—not when there is so much, and the lives of so very many, at stake. Tomorrow I lead the charge, full-throttle toward our next decade in this Brave New Age. But it is together that we will make it reality. Let no man or woman on Earth stand up before us and say it cannot be done. Yes, it can."

STATEMENT ON H. RES. 34 AND THE MIDDLE EASTERN CONFLICT

HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Ms. RICHARDSON. Madam Speaker, today I voted to support H. Res. 34, "Recognizing Israel's right to defend itself against missile attacks from Gaza, reaffirming the United States' support for the Israeli-Palestinian peace process."

Likewise, I strongly believe that humanitarian relief must be allowed to reach innocent Palestinian citizens, restore Gaza's electrical power and water infrastructure to prevent the outbreak of a greater humanitarian disaster. Every effort must be made to lessen civilian casualties and international aid organizations should be given consistent access to Gaza.

Hamas and Israel must return and commit to the peace process. I look forward to significant progress with the incoming Obama Administration, and pray for a lasting cease-fire is reached.

TRIBUTE TO THE VIRGINIA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. CANTOR. Madam Speaker, I rise today to honor the Virginia Society of Certified Public Accountants as they celebrate 100 years of service to the Commonwealth of Virginia.

The Virginia Society of Certified Public Accountants (VSCPA) was established on October 6, 1909. It now represents more than 8,300 CPAs working in private businesses, government agencies, nonprofit organizations, and educational institutions, to name just a few. The VSCPA has 10 chapters across the Commonwealth of Virginia that offer networking, education and other opportunities to get involved in local communities.

They created an Educational Foundation in 1984 to attract future CPAs and promote accounting careers to Virginia students through undergraduate and graduate scholarships, financial literacy grants and other awards and recognition programs.

CPAs play a unique and vital role in the success and growth of business, the soundness of government operations, the excellence of higher education and the protection and confidence of investors in the Commonwealth of Virginia, as well as the rest of the United States.

Because of their contribution to the accounting profession, we are honored to recognize the VSCPA as they commemorate their centennial year.

HONORING THE KENSINGTON VALLEY COMMUNITY CREDIT UNION

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 2, 2009

Mr. McCOTTER. Madam Speaker, today I rise to honor and acknowledge the Kensington Valley Community Credit Union, a financial institution based in Highland, Michigan, upon the 50th anniversary of the Credit Union's establishment.

Founded on January 29, 1959 as the Huron Valley Schools Employees Credit Union, the Kensington Valley Community Credit Union has grown substantially since its first 200 members. Originally a small, member-run institution, the Credit Union expanded its membership opportunities in 1985 to school district retirees, parents of students in the school district, credit union employees, and immediate family members. In 1996 the Credit Union further expanded its services to add students in the school district, family members, and persons age 55 receiving retirement benefits. Importantly, as a service to its community, from

1995 to 1999 the Credit Union operated the first student run elementary savers club program at all eleven elementary schools within the Huron Valley School district.

The Kensington Valley Community Credit Union has become a landmark in the community it serves by providing important financial services to its members. On February 16, 2000, with 4,500 members, over $16 million in assets, and 12 employees, the Credit Union moved into an expanded facility on the same property it originally purchased 20 years ago.

Madam Speaker, the Kensington Valley Community Credit Union has had a long and distinguished history in the Detroit area community. I ask my colleagues to join me in congratulating the Kensington Valley Community Credit Union on its 50th anniversary and honoring the institution's devoted service to the community and our country.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 3, 2009 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 4

2 p.m.
Foreign Relations
To receive a closed briefing on North Korea.
SVC–217

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the United States financial regulatory system.
SD–538

FEBRUARY 5

Time to be announced
Foreign Relations
Organizational business meeting to consider committee's rules of procedure, and subcommittee membership and jurisdiction for the 111th Congress.
S–116, Capitol

10 a.m.
Agriculture, Nutrition, and Forestry
To hold an oversight hearing to examine federal food safety relative to the peanut products recall.
SH–216

Banking, Housing, and Urban Affairs
To hold hearings to examine the Troubled Asset Relief Program (TARP), focusing on oversight of the financial rescue package.
SD–538

Health, Education, Labor, and Pensions
To hold hearings to examine implementing best patient care practices.
SD–430

Judiciary
To hold hearings to examine the nomination of David W. Ogden, of Virginia, to be Deputy Attorney General.
SD–226

11 a.m.
Indian Affairs
Organizational business meeting to consider the committee's selection of Chairman and Vice Chairman, rules of procedure for the 111th Congress, and funding resolution; to be followed by an oversight hearing to examine advancing Indian health care.
SD–628

2:30 p.m.
Intelligence
To hold hearings to examine the nomination of Leon Panetta, to be Director of the Central Intelligence Agency.
SD–G50

4:30 p.m.
Foreign Relations
To hold closed hearings to examine Iran status report, focusing on nuclear and political issues.
SVC–217

FEBRUARY 11

9:30 a.m.
Veterans' Affairs
To hold hearings to examine veterans' disability compensation, focusing on the appeals process.
SR–418

FEBRUARY 24

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the semiannual monetary policy report to the Congress.
SH–216

2 p.m.
Veterans' Affairs
To hold joint hearings to examine the legislative presentation of the Disabled American Veterans.
345, Cannon Building

MARCH 5

10 a.m.
Veterans' Affairs
To hold joint hearings to examine the legislative presentations of veterans' service organizations.
SD–106

MARCH 12

10 a.m.
Veterans' Affairs
To hold joint hearings to examine legislative presentations of veterans' service organizations.
SD–106

MARCH 18

9:30 a.m.
Veterans' Affairs
To hold joint hearings to examine the legislative presentation of the Veterans of Foreign Wars.
334, Cannon Building

HOUSE OF REPRESENTATIVES—*Tuesday, February 3, 2009*

MORNING-HOUR DEBATE

The SPEAKER. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

THE COMING FINANCIAL STORM: BIPARTISAN SOLUTIONS HAVE NEVER BEEN MORE URGENT

The SPEAKER. The Chair recognizes the gentleman from Virginia (Mr. WOLF) for 5 minutes.

Mr. WOLF. Madam Speaker, I know it sometimes takes a crisis to move Congress to action. We are in financial crisis mode today, and while there never is a convenient time to make hard decisions, the longer we wait, the more dramatic the required remedy will be.

Americans everywhere understand that we are in trouble. When you wrap your head around the following facts and figures, it's stomach-turning that things have gotten this bad—over $56 trillion in unfunded obligation through Social Security, Medicare, and Medicaid; the national debt nearing $11 trillion; and China, which violates human rights and has Catholic priests and evangelical pastors in jail, and has plundered Tibet, now holds the paper on 1 out of every 10 American dollars.

David Walker, former U.S. Comptroller General of the Government Accountability Office, has said that the sum of these statistics equals storm off our coast that is strong enough to ''swamp our ship of State.''

The narrative that accompanies the staggering statistics, I believe, is even more compelling. Entitlement spending is squeezing the life out of every discretionary dollar this committee appropriates: Math and science initiatives, so that our children receive the education that will enable them to compete in the global economy; medical research initiatives that will help us find the cure for cancer, autism, and Alzheimer's; infrastructure projects to build safe roads and bridges. All are at risk if Congress continues to keep its head in the sand while the financial tsunami moves closer to shore.

In recent weeks, the Congressional Budget Office has projected that the Federal budget deficit will balloon to $1.2 trillion this fiscal year alone. That doesn't include the $800 billion economic stimulus package recently passed by the House, a package which I believe represents a missed opportunity for Congress to address the Nation's financial future in a truly bipartisan manner.

Congressman COOPER and I have been speaking out about the dangers of runaway spending and the need for lawmakers to come together to tackle this issue. We joined together to introduce bipartisan legislation in the last Congress to create a commission to review Federal spending, with everything—entitlement and tax policy—on the table.

The SAFE Commission, short for Securing America's Future Economy, will look beyond the Beltway for solutions, holding at least 12 town meetings, one in each of the Federal Reserve districts, over a span of 12 months, in order to hear directly from the American people. After having a supermajority of the commission's members in agreement on the package of recommendations, the House would vote up or down on the commission's recommendations. Modeled after the Base Closing Commission process, Congress would be forced to act.

I offered the SAFE Commission as an amendment to the House-passed stimulus when it came through the Appropriations Committee and, because it failed more in the process rather than the substance, I also submitted it to the Rules Committee, the ability to offer the amendment, and I was disappointed that the Rules Committee denied full debate on this measure, which is a bipartisan measure which would have given every single Member of the House who understands the dangers of runaway entitlement spending the chance to be on the record on this issue.

You may ask why Congress would need a commission with teeth to deliver its responsibilities. Quite frankly, I worry that the Congress is not up to the job, and we will allow our children and our grandchildren to languish in a political divide. The SAFE Commission process gives us the necessary push to get the job done.

One of the most compelling statements I have read about our current state of affairs comes from an unlikely source. Richard Fisher, President of the Federal Reserve Bank of Dallas, has called our situation ''catastrophic,'' noting that, ''doing deficit math is always a sobering exercise.'' He said, ''It becomes an outright painful one when you apply your calculator to the long-run fiscal challenge posed by entitlement programs.''

It's out of the ordinary for the Federal Reserve to publicly express an opinion on fiscal policy matters, but these are not ordinary times.

In closing, make no mistake. This could well be the hardest economic issue our Nation will ever be faced with. But we cannot afford to wait to act. The futures of our children and our grandchildren hang in the balance. This is an economic, it is a moral, and a generational issue, and I believe Congress, this Congress has the ability to come together and do what the American people want us to do. If we do not do it, if we do not do it, history will judge the 111th Congress in a very harsh manner.

ECONOMIC STIMULUS

The SPEAKER pro tempore (Ms. EDWARDS of Maryland). The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Madam Speaker, President Obama said from the outset that we need a bipartisan plan that creates jobs first and foremost. House Republicans are prepared to work with our new President on a plan that does just that. Why? Because Americans are looking for real solutions to the legitimate economic problems facing families and small businesses around our country.

Americans like Dan, a constituent of mine, who worked for 30 years for a company in my district. He was laid off last month when his company downsized. His wife e-mailed me recently saying, and I will quote, ''We struggle, but we manage to pay our mortgage, not spend more than we have, and we have learned to cut back. Please stop the insanity of more taxpayers' money going out in the 'stimulus' handouts.''

This is the first time that this couple has contacted my office. They didn't contact me because of the burdens they are facing. They contacted me because of the burdens this trillion dollar-plan will place on future generations. This couple has two college-age sons, both who were aspiring to have advanced degrees. In addition to the debt they will incur for their education, she's very concerned about the debt their sons will have to shoulder as a result of our actions.

Madam Speaker, there are men and women like this couple all across our country who deserve better than this $1 trillion handout. It creates too few jobs, piles too much debt on our children and grandchildren, and includes too much wasteful spending.

In short, I don't believe that it meets President Obama's standard, a standard where he wants to preserve and create new jobs in America, as do Republicans here in this Congress.

My colleagues and I, I think, are offering a better solution—an economic recovery plan that will create twice as many jobs as the plan proposed by the House Democrats last week, in half the time and at half the cost. This fast-acting tax relief lets families, small businesses, homebuyers, and job seekers keep more of what they earn and, in fact, does create twice as many jobs.

After Wednesday's vote, President Obama said, ''I hope that we can continue to strengthen this plan before it gets to my desk.'' Well, on behalf of the couple that contacted me in my district, and millions of other Americans, let's hope that the Senate can do a better job and, when we get to conference, have a bill that really will help American families and small businesses create new jobs in America and heal our ailing economy.

A REPUBLICAN ALTERNATIVE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. PENCE) for 5 minutes.

Mr. PENCE. Our Nation is in a recession, and millions of Americans are hurting. Many have lost their jobs. Many more millions worry that they will be next. It is absolutely right that our new President and this Congress take decisive action to stimulate this economy. But the legislation brought to the floor last week and the legislation being considered on the Senate floor this week in the form of the Democrat stimulus bill is not the answer.

Last week, House Republicans unanimously rejected the so-called stimulus bill that was brought to the floor by Democratic leadership, and we urge our Senate colleagues to do likewise. House Republicans unanimously opposed the Democrat spending bill for a variety of reasons. But, among them first, the bill that Democrats brought to the House was not about stimulating this economy, but more about stimulating government and debt.

It included wasteful government spending that has nothing to do with creating jobs. As I asked on this floor last week, what does $50 million to the National Endowment for the Arts have to do with creating jobs in Indiana? What is $400 million for climate change research going to do to move people from the unemployment line to the factory line?

In legislation before the Senate this week, $20 million for the removal of small- to medium-sized fish passage barriers; or $25 million to rehabilitate off-roading trails for ATVs is not going to put this economy back on track. And it was exactly that kind of wasteful government spending that resulted in unanimous Republican opposition last week.

Well, the average American is starting to catch on. We are starting to see support for this so-called stimulus bill eroding around the country. And leading economists are catching on as well. As the Republican leader just said moments ago, we opposed this bill unanimously, not just for what was in it, but for what wasn't in it.

The Republicans have what we believe to be and what history proves is a better solution to get this economy moving again. Republicans proposed a broad range of fast-acting tax relief proposals that would bring immediate relief to working families and small businesses, giving the American people and American families more of their hard-earned dollars to get this economy moving again.

The bill that House Democrats brought to the floor last week was not then about stimulating the economy. Under the guise of stimulus, House Democrats brought a partisan bill to the floor. It was really more of a wish list of longstanding liberal priorities that have little to do with putting our economy back on its feet.

Now, having originally promised that a stimulus bill would be temporary and targeted, House Democrats brought to the floor this week, and the Senate is considering now, legislation that is more about, as the Speaker said, and I quote her with great respect, ''taking America in a new direction.''

Well, respectfully, Madam Speaker, I thought what we were doing was trying to pass a temporary stimulus bill that would create jobs, not reorder all the priorities of the Federal Government along liberal Democratic lines.

The truth be told, not only are the American people catching on about this bill, but many leading economists are. Some 300 economists recently published a full-page newspaper advertisement opposing this bill. Conservative economist Martin Feldstein, who last year declared his support for a fiscal stimulus bill, came out late last week describing the legislation that came before the House as ''an $800 billion mistake.''

Feldstein wrote, I believe in the Washington Post, ''The problem with the current stimulus bill is not that it is too big, but that it delivers too little extra employment and income for such a large fiscal deficit. It is worth taking the time to get it right.''

House Republicans, leading economists, and average Americans are opposing this so-called stimulus bill for one reason, and one reason only. It won't work. And it's a disservice to taxpayers.

More big government spending on a liberal wish list of programs won't cure what ails the American economy. And House Republicans do have a better solution—fast-acting tax relief for working families and small businesses. And, according to analysis and economic models used by President Obama's own economic advisors, when those models are applied to our plan, the results are clear—not the 2 million to 3 million jobs that the Democrat plan boasts that it will create in the next several years. Rather, 6 million jobs would be created under the Republican proposal, at half the cost. Twice the number of jobs at half the cost.

Better solutions. Let's put politics aside and do what is best for the American people.

STIMULATING THE NATIONAL DEBT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX) for 5 minutes.

Ms. FOXX. Thank you, Madam Speaker.

I want to thank my colleagues for the great information that they have shared today and how they have laid out the issue that we're dealing with, but I want to add some more to that.

Yesterday, the Treasury Department announced that it will need to borrow $493 billion in the first 3 months of 2009, the highest amount ever borrowed in the first quarter. This is on top of the record debt racked up in the last quarter of 2008—$569 billion. It is important to emphasize here that the only money the Federal Government has is that which it takes from taxpaying citizens or borrows from foreign countries. We have never in the history of our Nation taken on this much debt this quickly. For those keeping track at home, that's $1.062 trillion in 6 months. Did I mention that this is more than $1 trillion in new debt in a mere 6 months does not include the so-called ''stimulus'' plan, which now costs $900 billion? Folks, the Federal Government is broke. Every single dollar of new spending is added to our national debt. And how do we pay back this debt? That's easy. New taxes. Higher taxes.

In the meantime, we keep hearing how this borrow-and-spend stimulus plan is going to quickly create jobs. How does upgrading the Department of Agriculture's computers create jobs quickly? Or $650 million for DTV coupons, or a billion for Census follow-up in 2010 or $7 billion for a GSA fund that is already running a surplus?

Well, this kind of spending doesn't create jobs. It creates debt. It has no business in legislation billed as ''job creating.'' Some of this spending may actually have merit, but it belongs in the budget process, not tacked onto a must-pass bill because it couldn't stand a chance in the actual budget.

This kind of back-room deal-making and wasteful spending is just the kind of Washington business-as-usual that

Americans are tired of. If we are going to have an economic recovery package, let's do it right.

Despite our colleagues on the other side of the aisle saying we do not have a plan, Republicans have proposed a package of tax relief and unemployment assistance that will create twice the jobs at half the cost. Let me repeat that. The Republican proposal creates twice the jobs at half the cost. And the GOP plan addresses the underlying cause of our economic distress in the U.S. housing market.

I want to thank my colleague from Virginia, ERIC CANTOR, for helping to spearhead this plan and for setting up a helpful Web site that discusses the Republican economic recovery plan at republicanwhip.house.gov. This plan will help small businesses start hiring and will get the housing market moving again. And it acknowledges that every dollar the government borrows today must be paid back by our children, grandchildren and great-grandchildren tomorrow.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 50 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. CLARKE) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, may the gifts of Your Presence, unity and peace, inspire aspirations of greatness in the people of the United States and in their representatives serving here in the 111th Congress.

With a great diversity of backgrounds and opinions, while facing wedge issues that so easily divide people, encourage all Americans to work hard at understanding complex problems with depth and clarity of thinking. Teach them to be patient and persevering in their relationships with others, and help them to transcend differences by praying for one another.

Then, both in dialogue and debate, develop within Your people better skills of listening. I am sure even You, Lord, would prefer us to simply say, ''Speak, Lord, Your servant is listening,'' rather than go on and on with our complaints and petitions. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. BUTTERFIELD) come forward and lead the House in the Pledge of Allegiance.

Mr. BUTTERFIELD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CHILDREN'S HEALTH INSURANCE

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Madam Speaker, this week we have yet another opportunity to ensure that every child in America has access to health care. And during these tough economic times, it is even more critical that we move quickly and send the Children's Health Insurance Program Reauthorization Act to President Obama for his signature.

In my State of North Carolina, there are about 240,000 children enrolled in the program. But we still have an estimated 296,000 children who lack health insurance. By passing this bill, Madam Speaker, we can reduce that number by 46 percent. Our children need health insurance now.

I hope you will join me in approving this important bill this week when it comes to the floor.

BAILOUT BONUS BANDITS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, more fallout continues from the bailout. Congress gave the people's money to AIG last year in the amount of $152 billion. AIG has decided to spend $400 million on bonuses for 400 executives. That sounds like about $1 million per executive to me.

But they aren't alone. The Wall Street fat cats demanded and received $350 billion in bailout money, and gave $18 billion to their big-shot executives. Do you know that those are the same executives that helped get us in this current economic mess? It looks like they are being rewarded for bad conduct.

But the real problem is the bonus money doesn't belong to AIG or the ''Wall Street Banking Boys Gang.'' It's one thing for a free market, private company to spend their money any way they choose. That's capitalism. But the free enterprise system was altered when those companies started demanding and taking taxpayers' money. Most normal citizens who are scraping to make ends meet, like the Joe Sixpacks in America, don't like the way the bailout bandits are spending and wasting their taxpayer money.

Madam Speaker, when Big Business gets in bed with Big Government, in the morning, the government mistress will tell Big Business how to spend the money.

And that's just the way it is.

UNIVERSAL HEALTH CARE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. There's talk now that the banks will receive an additional $1 to $2 trillion in bailout funds. That would bring the total amount to $2.7 trillion, which equates to about a little bit more or less than $9,000 per person. I want you to think about that in terms of the fact that there are 50 million Americans without any health insurance and another 50 million who are underinsured. Health care for the American people should be a defining purpose of our government. And yet, we are giving money to these corporations and these banks who won't create jobs, who won't save homes and who will hoard the money.

It's time that we had a universal health care system such as is provided in H.R. 676, the bill that I'm cosponsoring with JOHN CONYERS, that once and for all says that the health of the American people is a defining purpose of government.

We have to start thinking about the American people. They need a bailout. They need to be bailed out of their difficulties with insurance companies. They need to have a job. They need pension security. It is time to stand up for the people and stop these bailouts.

THE VETERANS' HERITAGE FIREARMS ACT

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. During World War II and the Korean War, veterans serving overseas often brought back firearms collected on the battlefield. These were trophies of their service, not tools for criminal activity. And yet, after fighting for the preservation of our freedom, a badly written law has made criminals out of American heroes. Unless weapons have been registered with the Federal Government, the veteran, or their heir, can be convicted of illegally possessing the firearm.

This is an offense of justice. That is why I have introduced the Veterans'

Heritage Firearms Act, which provides a limited amnesty for veterans who possess these relics to register their firearms without fear of prosecution. This amnesty also extends to any lawful heirs who inherited these weapons.

It's time to stop treating our veterans like criminals. It's time to start treating them like the heroes that they are.

A DREAM TURNS INTO A NIGHTMARE

(Mr. LEE of New York asked and was given permission to address the House for 1 minute.)

Mr. LEE of New York. Madam Speaker, last week I received an e-mail from a constituent, Lori Adams, who runs the Silver Lake Country Market in Perry, New York. Her e-mail reads, ''I thought owning a business would be a dream, but it feels more like a nightmare. I keep thinking we are gaining ground only to slide back. I've had to make tough choices to stay open. When I hear about the stimulus and the bailouts for people who made bad choices, I feel even more defeated. When is Washington going to realize it's the small businesses that are on the frontline of this crisis?''

This is an example of the countless messages I have received over the past weeks from families and small business owners struggling to survive and outraged by how Washington continues to spend their money without restraint. For every dollar this so-called ''stimulus'' devotes to tax relief for small businesses, Washington gets to keep $6 to create new government programs.

We need a timely, fiscally responsible plan that helps small businesses innovate, creates good paying jobs and grows the economy for our families, not adding to an already bloated Federal Government.

LET'S SUPPORT THE AMERICAN TAXPAYER

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, yesterday I spoke to some small business owners in South Carolina, including Betty Jackson at The Sunset Grill in West Columbia. They are concerned with the billions in spending some in Congress are proposing. They also know that we need to take action and create jobs. I was grateful to tell them that big spending is not the only solution. There are fiscally responsible solutions that put more money back into the pockets of taxpayers, help American businesses create jobs and help boost our housing market.

Congress does not have to choose between a big spending agenda and no action. We can create jobs while holding the line on spending. We can help small businesses without expanding government.

Our constituents go to work every day to make our communities wonderful places to live and to raise families. We must not forget, when we talk about billions of dollars in spending, that this is the taxpayers' money and not the government's money.

In conclusion, God bless our troops, and we will never forget September the 11th.

SENATE COMPOUNDS WASTEFUL SPENDING

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, it is important that we continue to help the American people understand what is in this so-called ''stimulus bill.'' The bill passed last week, but in addition to every Republican voting ''no,'' there were 11 brave Democrats who also voted ''no.'' That has not been told much on the news.

Here are some more facts about how the Senate, which is now debating the bill, has made this awful bill even worse. When the public knows the facts, it then can react and tell its Members what they should and shouldn't do. The Senate added $88 million for ATV trails, park trails, fish and wildlife trails and fish passages. There is $524 million to create 388 jobs in the United States through the State Department Capital Investment Fund. This equals $1.35 million per job created. There is $696 million for the Department of Homeland Security headquarters consolidation, $70 million for a support computer for climate research, $34 million of renovations at the Department of Commerce and $20 million for IT improvements to the Bureau of Industry and Security. The American people are angry, and they should be.

□ 1415

WHERE DO WE BORROW IT FROM?

(Mr. MCCLINTOCK asked and was given permission to address the House for 1 minute.)

Mr. MCCLINTOCK. Madam Speaker, when we speak of running up $2 trillion of debt to pay for this year of unprecedented spending, where does that money come from? We don't have it, so we borrow it. Where do we borrow it from? We'll borrow that $2 trillion from the same pool of funds that would otherwise have been available for employers seeking to add jobs, or homebuyers seeking to buy homes or consumers seeking to buy new cars and appliances. But now that money won't be there for consumers or homebuyers or employers to borrow to expand the economy because government has borrowed it instead to increase government programs like the National Endowment for the Arts.

Madam Speaker, when are we going to stop hurting the economy and start helping it?

SO-CALLED ECONOMIC STIMULUS BILL

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, some people look at the huge, so-called economic stimulus bill and think it's a Christmas present. But the Federal Government is not Santa Claus. Elves are not producing this money. This money isn't free, and the American people will get the bill.

The $1 trillion in spending and interest equals more than $9,000 for every taxpayer. And the unprecedented deficit will inevitably hike inflation and damage the economy.

Only $90 billion, or 12 percent of this spending spree, will stimulate the immediate creation of jobs which are needed now. Most of the spending doesn't occur for 2, 3 or 4 years.

It would be far more effective to provide tax incentives and investment credits to the small businesses of America that already create 70 percent of all the jobs.

FISCAL CONSERVATIVES

(Mr. CULBERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CULBERSON. Madam Speaker, fiscal conservatives may be outnumbered today in the Congress of the United States, but we take our obligation to lead very seriously. We understand, with common sense, that each one of us as Americans are endowed with, that this spending spree the liberal majority has engaged in is a lot like attempting to run up your MasterCard to pay off your mortgage. All this money that's being spent so rapidly by this liberal majority is coming out of our grandchildren and great-grandchildren's pockets. It's all borrowed money.

The bond market has never seen this much money come on to be sold at one time. There may be as much as the $3 trillion in debt sold over a 30-day period.

We fiscal conservatives have laid out a commonsense alternative of immediate tax cuts. What better way to stimulate the economy and get the job market growing again and to put money in people's pockets and let them keep the money to begin with?

We support and have endorsed Congressman LOUIE GOHMERT's idea of a 2-

month tax holiday. Rather than spend all this money, why don't we let people keep it, not pay any income tax for a 2-month period, that they can spend that money as they wish, invest it, save it. That's the way to grow jobs in America right away.

CONGRESS CAN AND MUST DO BETTER

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Madam Speaker, you know, last week our Democrat leadership in this House passed their $1 trillion spending bill, and now we will see what our colleagues across the hall in the Senate are planning to do with that.

But, Madam Speaker, I think it's important to note, we Republicans know that excessive spending is not stimulus. And last week's bill was a spending bill. We know that the permanent way to work through to stimulus is to have it targeted, to have it temporary, to have it focused and to make certain that it is there to give jobs. We know the best way to do this is through tax incentives, tax reductions, regulatory relief, making certain that the private sector can create the jobs, because there is no economic stimulus that is better than a job. That is the best way to do this.

Now, also, Madam Speaker, the Democrat leadership in this House has seen us with a $1.2 trillion deficit for this fiscal year in 2008. That's the spending they did in 2008. I mean, swiping those numbers off the credit card. They are at it again with another $1.2 trillion, adding that to our national debt.

It is time for everyone to stand up and oppose the Democrat stimulus bill.

APPOINTMENT OF MEMBERS TO JOINT ECONOMIC COMMITTEE

The SPEAKER pro tempore. Pursuant to 15 U.S.C. 1024(a), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Joint Economic Committee:

Mr. HINCHEY, New York
Mr. HILL, Indiana
Ms. LORETTA SANCHEZ, California
Mr. CUMMINGS, Maryland
Mr. SNYDER, Arkansas
Mr. PAUL, Texas
Mr. BURGESS, Texas
Mr. CAMPBELL, California

APPOINTMENT OF MEMBERS TO SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING

The SPEAKER pro tempore. Pursuant to section 4(a) of House Resolution 5, 111th Congress, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Select Committee on Energy Independence and Global Warming:

Mr. BLUMENAUER, Oregon
Mr. INSLEE, Washington
Mr. LARSON, Connecticut
Ms. HERSETH SANDLIN, South Dakota
Mr. CLEAVER, Missouri
Mr. HALL, New York
Mr. SALAZAR, Colorado
Ms. SPEIER, California

EXECUTIVE COMPENSATION

(Mr. MOORE of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MOORE of Kansas. Madam Speaker, I rise today to express my frustration, and that of my constituents, over the irresponsible and reprehensible actions of some of those very financial services corporations that you and I and every American taxpayer have helped financially over the last few months.

In October 2008 we heard about AIG's corporate retreat, complete with manicures and lavish meals. Last week we got news that Wall Street handed out $18 billion in bonuses. And just this weekend, Bank of America spent $800,000 on tents for their Super Bowl party.

I could go on and on. The American people deserve better. We must demand better.

That's why as chairman of the House Financial Services Oversight and Investigations Subcommittee, I will be demanding greater oversight and accountability for companies receiving taxpayer funds and working in a bipartisan way to develop a structure that will regulate and supervise financial institutions and transactions.

I've also spoken to my distinguished colleague from Missouri, Senator CLAIRE MCCASKILL, who filed the original bill in the Senate and who shares my frustration. She's been a strong advocate for greater accountability and transparency, and I am proud to join with her to promote legislation to help address these abuses by financial services corporations receiving TARP funds.

Tomorrow I will introduce the Executive Pay Act, which would ensure that no employee of a financial institution or other entity that receives funds under TARP may receive annual compensation including bonuses and stock options in excess of that paid to the President of the United States.

I think we need to move together here to restore the confidence of the American people in what we are trying to do to save our economy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

CAMPUS SAFETY ACT OF 2009

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 748) to establish and operate a National Center for Campus Public Safety.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Center to Advance, Monitor, and Preserve University Security Safety Act of 2009'' or the ''CAMPUS Safety Act of 2009''.

SEC. 2. NATIONAL CENTER FOR CAMPUS PUBLIC SAFETY.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new part:

"PART LL—NATIONAL CENTER FOR CAMPUS PUBLIC SAFETY

"SEC. 3021. NATIONAL CENTER FOR CAMPUS PUBLIC SAFETY.

''(a) AUTHORITY TO ESTABLISH AND OPERATE CENTER.—

''(1) IN GENERAL.—The Director of the Office of Community Oriented Policing Services is authorized to establish and operate a National Center for Campus Public Safety (referred to in this section as the 'Center').

''(2) GRANT AUTHORITY.—The Director of the Office of Community Oriented Policing Services is authorized to award grants to institutions of higher education and other nonprofit organizations to assist in carrying out the functions of the Center required under subsection (b).

''(b) FUNCTIONS OF THE CENTER.—The Center shall—

''(1) provide quality education and training for campus public safety agencies of institutions of higher education and the agencies' collaborative partners, including campus mental health agencies;

''(2) foster quality research to strengthen the safety and security of institutions of higher education;

''(3) serve as a clearinghouse for the identification and dissemination of information, policies, procedures, and best practices relevant to campus public safety, including off-campus housing safety, the prevention of violence against persons and property, and emergency response and evacuation procedures;

''(4) develop protocols, in conjunction with the Attorney General, the Secretary of Homeland Security, the Secretary of Education, State, local, and tribal governments and law enforcement agencies, private and nonprofit organizations and associations, and other stakeholders, to prevent, protect

against, respond to, and recover from, natural and man-made emergencies or dangerous situations involving an immediate threat to the health or safety of the campus community;

''(5) promote the development and dissemination of effective behavioral threat assessment and management models to prevent campus violence;

''(6) coordinate campus safety information (including ways to increase off-campus housing safety) and resources available from the Department of Justice, the Department of Homeland Security, the Department of Education, State, local, and tribal governments and law enforcement agencies, and private and nonprofit organizations and associations;

''(7) increase cooperation, collaboration, and consistency in prevention, response, and problem-solving methods among law enforcement, mental health, and other agencies and jurisdictions serving institutions of higher education;

''(8) develop standardized formats and models for mutual aid agreements and memoranda of understanding between campus security agencies and other public safety organizations and mental health agencies; and

''(9) report annually to Congress and the Attorney General on activities performed by the Center during the previous 12 months.

''(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing the Center, the Director of the Office of Community Oriented Policing Services shall—

''(1) consult with the Secretary of Homeland Security, the Secretary of Education, and the Attorney General of each State; and

''(2) coordinate the establishment and operation of the Center with campus public safety resources that may be available within the Department of Homeland Security and the Department of Education.

''(d) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—In this section, the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,750,000 for each of the fiscal years 2009 through 2013.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, over the past few years we have seen a number of tragic incidents of violence at colleges and universities, including the disastrous events at Virginia Tech and Northern Illinois University. Therefore, we have introduced the Center to Advance, Monitor and Preserve University Security Safety Act of 2009, or the CAMPUS Safety Act of 2009.

This bill will help schools to more effectively prevent such incidents, and to more effectively respond if such events do occur. It creates a National Center of Campus Public Safety, a program to be administered through the Department of Justice.

The center will train campus safety agencies, promote research in improving campus safety, and be a clearinghouse for campus safety information. The director of the center will have authority to award grants to institutions of higher learning to help them meet their enhanced public safety goals.

I would like to thank the gentleman from Texas, the ranking member of the subcommittee, Mr. GOHMERT, for his support of this important bipartisan measure.

I urge colleagues to support the bill, and I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

In 2 weeks, teachers, students, alumni and friends of Northern Illinois University will gather to commemorate the 1-year anniversary of the tragic shootings that occurred at the university's campus. As you may recall, on February 14, Valentines Day 2008, a gunman stormed a classroom at NIU and opened fire, killing five students and wounding 16 others before killing himself.

Later this year, in April, similar groups of individuals associated with Virginia Tech will commemorate the 2-year anniversary on that campus shooting that killed 27 students and five faculty members. We now know that the shooter was a mentally disturbed individual who was able to purchase two handguns in any event. He brought those handguns to the campus and began a shooting spree that spanned several hours and occurred in both dormitories and classrooms throughout the campus complex.

As we remember the tragic shootings at Northern Illinois University and Virginia Tech, and think of the violence that occurs in public schools across the country, it is appropriate for Congress to act and provide resources to schools and law enforcement officials to help protect our greatest resource, and that is our children in our schools. School and college campuses should be safe environments for all students to learn. Today, campus security requires much more than ever before, including the campus police, emergency alert systems and emergency response plans.

H.R. 748 authorizes the Department of Justice to establish a National Center for Campus Public Safety to award grants to colleges and universities and other nonprofit organizations. It also provides education and training for campus public safety agencies, and promotes research to improve the security of colleges and our universities.

The center may coordinate with other Federal agencies to prevent and respond to natural disasters, incidents of campus violence or even other emergencies. The center also may promote the development of an effective behavioral health threat assessment to prevent campus violence.

In the 110th Congress, Chairman BOBBY SCOTT and ranking member LOUIE GOHMERT of the Crime Subcommittee worked together to cosponsor a version of this bill, which was passed by the House on a voice vote. The Senate was unable to take up this bill last year, so many of my colleagues reintroduced the bill this term. It is my hope that the other body will consider and pass this legislation during the Congress.

Through this legislation and other programs across the country, we can endeavor to prevent violence on our college and university campuses. And I urge all of my colleagues to support the passage of H.R. 748.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I would inquire if the gentleman has other speakers.

Mr. POE of Texas. Yes, two.

Mr. SCOTT of Virginia. I reserve my time.

Mr. POE of Texas. Madam Speaker, I yield 3 minutes to my friend and colleague from Texas (Mr. CULBERSON).

□ 1430

Mr. CULBERSON. Madam Speaker, there certainly is no higher priority for all of us than the safety of our sons and daughters, and that safety involves not only their physical safety but their financial safety. The financial safety of our young men and women across this country is held in the palms of the hands of this Congress. In fact, this new liberal majority in Congress has been spending money so fast, and we have only been in session for 17 legislative days.

Madam Speaker, in thinking about the financial safety of these young people, if you look at just the time that Congress has been zeroed in on this so-called stimulus bill, Congress has spent $1.3 trillion in 9 legislative days. Let me repeat that. We have this new liberal majority. The country voted for change, but I am not sure this is the change that people wanted or expected. The change we got was spending money at an ever faster rate. $1.3 trillion has been spent by this liberal majority in 9 legislative days. That means that this new majority in Congress is spending money at a rate of $100 million a minute. Now that needs to sink in for a minute. For the change that we got, this new Congress is spending money at the rate of $100 million a minute.

That is not unlike if I were to try to pay my mortgage with my MasterCard.

Now, everyone knows you cannot do that. I cannot pay my mortgage with my MasterCard, but I would get a lot of frequent flyer miles out of that. It is as dangerous, I should say, to pay your mortgage with your MasterCard as it is for this Congress to imperil the financial safety of future generations by spending borrowed money we do not have.

This is an unprecedented spending spree that has much more to do with rewarding the constituency of the liberal majority—the trial lawyers and the labor unions—rather than stimulating the economy and protecting the financial safety of future generations.

We fiscal conservatives understand instinctively that the best way to protect the financial safety of future generations is to simply let Americans keep more of their own money by cutting their taxes, by giving them a tax-free holiday. How about that? That would be a straightforward, simple, immediate way to inject money into the economy, which is for people to spend and to invest as they wish rather than for the Federal Government to make the united policy decision that it is necessary to engage in deficit spending in order to stimulate the economy.

Rather than pumping the money out to labor unions and to trial lawyers and to new government programs and expanding the bureaucracy, why don't we simply inject that money into giving Americans X number of tax-free days where you keep 100 percent of your money, where you can invest it, save it, and spend it as you wish? In my opinion, there is no better way. I think that is something that every American can understand. There is no simpler, quicker or better way to stimulate job growth and to strengthen the economy than to simply let Americans keep more of their hard-earned money. That is the way to protect the financial stability of future generations.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POE of Texas. I yield the gentleman from Texas an extra minute.

Mr. CULBERSON. Madam Speaker, as we go through this debate today and look to protect the physical and financial safety of future generations, it is important for this Congress to remember that every dollar we spend today is truly borrowed money. It is money that is going to have to be paid for by future generations, and we have an obligation—all of us as guardians of the Treasury—to remember the financial safety and security of our children and grandchildren.

In every spending decision we make, why aren't we approaching this from the perspective of we have got the biggest debt in the history of the Nation? We have got the biggest deficit in the history of the Nation. Therefore, the answer is ''no'' to new spending. We need to not only cut taxes but to cut spending at the same time. We need to all of us stay focused on what is truly in the best interests of these young people. How do we best protect their physical and financial security? By protecting the financial solvency of the United States of America.

Our most sacred obligation, it seems to me as Representatives of the people, is to protect the financial safety and security of the Nation.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. POE of Texas. I will yield to the gentleman 1 extra minute.

Mr. CULBERSON. Madam Speaker, I believe this is an unprecedented spending spree. When you analyze the history of the Congress of the United States, I would challenge anyone to find another time in our history when the Congress has ever spent at the rate of $100 million a minute. I don't think that has ever happened before. $100 million a minute. $1.3 trillion in 9 days. Now, the entire annual budget of the United States is about $900 billion.

I have the privilege of serving on the Appropriations Committee, by the way, where my starting answer on all spending requests is ''no.'' ''Yes'' is very hard to earn. I am very careful about the few things that I ask support for in the sciences and in medical scientific research.

We have this new liberal majority in Congress. The change that this new majority and the new President promised has led to a spending spree of $100 million a minute. That has given this country a $1.3 trillion so-called stimulus spending bill in 9 legislative days, exceeding the annual budget of the United States, which is about $900 billion. This is unprecedented. It is dangerous. It imperils the financial safety of future generations, Madam Speaker, and I hope Congress throws this spending bill out in favor of tax cuts.

Mr. SCOTT of Virginia. Madam Speaker, I am prepared to close if the gentleman has concluded and will yield back.

Mr. POE of Texas. Madam Speaker, I have an additional speaker. I yield as much time as he wishes to consume to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Madam Speaker, I know that the subject of this particular piece of legislation has to do with campus safety, and I know we are all concerned about campus safety. In fact, this is a separate bill relating to campus safety, which makes the point, Madam Speaker:

If you look at the current proposal dealing with our economy and the economic ruin that families are facing, there is $6 billion allocated in that bill to colleges and to universities. That gives me great cause for concern. What in the world does that have to do with stimulating our economy and with allowing families and small businesses in this country to get back on their feet?

Again, I would say to my colleague and friend from Virginia, as well as to the gentleman from Texas, that the bill on the floor does have to do with college campus safety. That is where a $6 billion allocation appropriation to colleges and universities should belong, not in a stimulus bill.

Listen, the people of this country are expecting Washington to finally clean up its act and to respond accordingly so that we can get our economy back on track. In fact, the latest Gallup poll that was taken this weekend shows that only 38 percent of Americans support the congressional Democrats' spending bill. Speaker PELOSI's bill in this House contains billions of dollars of continued Washington spending in the same old fashion. It has got plenty of pork in it. It has got $137 billion while creating 32 new Federal programs.

I would say that some of these programs have laudable goals. There is no question that we need to address so many things going on in this country. Right now, though, the priority is this economy, and when we are talking about a stimulus plan, a stimulus plan should be focused like a laser on the preservation, on the protection and on the creation of jobs. Again, it may not be bad that we are looking to spend more money in terms of helping safety on our college campuses, but that belongs in a separate bill, not in a spending bill aimed at stimulating this economy.

I would say that the Members on our side of the aisle continue to want to work with the majority to try and craft a bill that delivers results. President Obama was elected partly due to the hope that he instilled in so many Americans that he would change the way that Washington works, that we finally in this town would be accountable to the people who pay the taxes so that we could deliver the results and so that we could deliver on job creation and on opportunities for our children and for the next generation.

Madam Speaker, the bill that passed this House last week does not rise to that standard, and I implore the Speaker and her colleagues on the other side of the aisle to work with us. We have put forward a plan that involves real stimulus, that is very focused on the folks—on the entrepreneurs, on the small businesspeople and on the self-employed—who actually do create the jobs in this economy. We need to provide them with relief. We need to provide relief to the working families—to the taxpayers who are suffering under this heavy burden for which they have got to pay every single day that they are at work.

Madam Speaker, again, I urge our colleagues on the other side of the aisle to work with us so that we can arrive

at a bill that provides true stimulus and that delivers results.

Mr. POE of Texas. Madam Speaker, I yield back the remainder of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield myself such time as I may consume.

I would like to thank the other side for their support of the underlying bill and for their comments that give rise to the challenge we may have in actually funding the legislation.

Sixteen years ago, we had a Democratic majority, and we passed a budget and an economic plan. It passed without a single Republican vote—not one in the House, not one in the Senate. It was signed by President Clinton. In 8 years, we eliminated the debt.

As a matter of fact, at the end of the 8 years, when Chairman Greenspan was testifying before Congress, the questions he was asked were questions like: What will happen when we pay off the national debt? What will happen to the bond market? What will happen to interest rates when we pay off the national debt?

It was anticipated that year that we were to clear up all of the debt held by the public. The median income went up about $7,000. Tens of millions of jobs were created. The Dow Jones industrial average more than tripled. Then in 2001, the Republican plan was adopted—the Republicans who have been lecturing on for the last few minutes about the economy.

As a direct result of their plan, we had the worst job performance since the Great Depression. The Dow Jones Industrial Average did not triple. It went down. The median income actually went down. We did not pay off the national debt. We almost doubled the national debt. We are now in a situation where we have to dig ourselves out of that mess. Everyone regrets the necessity of having to have a huge stimulus plan to get us out of the mess, but that is what we have had to do. We would like to listen to the other side and to their ideas, but unfortunately, as a result of recent history, we know where those ideas will put us. So we have a stimulus plan. Hopefully, it will get us out of the mess we are in so that we will have the funds to fund the CAMPUS Safety Act of 2009.

I would hope that the House would support the bill and would support the authorization. Then the next job we will do will be to actually fund it in order to get us out of the economic mess that we are in.

Mrs. MCCARTHY of New York. Madam Speaker, I rise in support of the CAMPUS Safety Act of 2009, H.R. 748.

First let me start by thanking Congressman SCOTT for his continued leadership on campus safety issues. He has been a steadfast supporter of establishing a National Center for Campus Public Safety as well as improving hate crime reporting on campuses under the federal Jeanne Clery Act.

Creation of a National Center for Campus Public Safety grew out of recommendations from a 2004 National Summit on Campus Public Safety convened by the U.S. Department of Justice's Office of Community Oriented Policing Services, or COPS Office. The purpose of the Center is to support the field, foster collaboration and lasting relationships, facilitate information sharing, and provide quality education on safety issues facing colleges in a post-September 11, 2001 world.

After the tragic incidents of gun violence at Virginia Tech on April 16, 2007, at Northern Illinois University on February 14, 2008, and on other campuses across the country, we were reminded just how important this work is and it took on a new urgency. The Center will be able to help campuses create partnerships with mental health professionals and others to catch problems before they escalate and implement proven strategies to respond should another tragedy strike.

This effort is also consistent with and an important follow-up to legislation I sponsored that was enacted last year as part of the Higher Education Opportunity Act, P.L. 110–315. This new provision, known as the Virginia Tech Victims Campus Emergency Response Policy and Notification Act, or "VTV Act" and a part of the federal Jeanne Clery Act, requires institutions to enact comprehensive emergency response plans that include means to issue immediate warnings when an emergency threatens the campus.

I look forward to the Center working with the U.S. Department of Education, the agency with jurisdiction over the Clery Act, and campuses across the country to help them fully implement these life-saving notification requirements. Making sure that institutions have a central resource to turn to for assistance with this will be one of the most important things that we in Congress can do to help secure our Nation's campuses.

Important groundwork for the Center has already been laid. In 2006 the International Association of Campus Law Enforcement Administrators, Inc., IACLEA, received a grant to develop a strategic plan for the Center. Among other things they convened an advisory board comprised of key constituency groups to help guide this process.

I was especially pleased to see that a leading voice for students and families on campus safety issues—Security On Campus, Inc., SOC—was included at the table. It is imperative that SOC and other groups that represent the interests of those the Center is intended to protect, along with campus public safety professionals, continue to be heard as this process moves forward.

I would encourage the Attorney General and his staff to make sure that the COPS Office continues to reach out to diverse constituency groups and organizations that may have important resources to bring to bear.

Establishment of a National Center for Campus Public Safety will be a tremendous asset for our Nation's colleges and universities as they work to protect their students, employees, and others on campus.

I support the bill and ask my colleagues to join me.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in strong support of H.R. 748, the "Center to Advance, Monitor, and Preserve University Security Safety Act of 2009" or "CAMPUS". I would like to thank my colleague Congressman BOBBY SCOTT for introducing this important legislation, as well as the Chairman of the Committee on the Judiciary, Congressman JOHN CONYERS. I urge my colleagues to support this legislation.

Importantly, H.R. 748 would establish a national center for campus public safety and employ a collaborative effort with local state and federal officials to fight violence on university campuses. This center would train agencies to better deal with emergency situations that occur on university campuses, helping to eliminate unpreparedness at the universities.

The future of our country sits in our classrooms everyday along with those that train them. It is our job as members of Congress to ensure that these future leaders and all those involved in molding them will be taught in a classroom or lecture hall.

H.R. 748 is a bill that takes a great step in ensuring that the potential that is harbored in our classrooms everyday is protected. The events that occurred at Virginia Tech and Northern Illinois University are disastrous examples of why we need more concentrated protection efforts implemented by the Federal government. The Virginia Tech shooting resulted in the slaying of over 30 members of the Virginia Tech family and many others were wounded. The shooting that occurred on the campus of Northern Illinois University on February 14, 2008 also killed and injured several individuals on the campus. Unfortunately, because these events were the first of their kind for the schools, they were not fully knowledgeable on how to respond. In my home state of Texas, the University of Texas at Austin in 1966 was struck by fear when a sniper from atop the university's bell tower struck and killed 16 people and wounded 31. The large gap in time between these events shows the length of inaction by the Congress in establishing a national center to protect the young minds in our Universities.

With the creation of a National Center for Protection of facilities of higher education, our country can finally begin to use the knowledge gained by officials in all states in conjunction with the Attorney General, the Secretary of Homeland Security, and the Secretary of Education in a collaborative effort to reduce violence in all higher education facilities across the country.

The CAMPUS Safety Act will create a National Center of Campus Public Safety, which will be administered through the Department of Justice. The Center will train campus public safety agencies, encourage research to strengthen college safety and security, and serve as a clearinghouse for the dissemination of relevant campus public safety information. By having this information, institutions of higher education will be able to easily obtain the best information available on ways to keep campuses safe and secure and how to respond in the event of a campus emergency.

The events that have taken place on the campuses of Virginia Tech, Northern Illinois, and Texas Universities shows that campus violence is not regional nor is it specific to one state and we should not be either of these things when fighting against it. That is why we

must act as the front line in that battle against campus violence by passing this legislation and developing a National Center for Campus Public Safety. I urge my colleagues to support this legislation.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 748.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DEATH IN CUSTODY REPORTING ACT OF 2009

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 738) to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Death in Custody Reporting Act of 2009''.

SEC. 2. STATE INFORMATION REGARDING INDIVIDUALS WHO DIE IN THE CUSTODY OF LAW ENFORCEMENT.

(a) IN GENERAL.—For each fiscal year after the expiration of the period specified in subsection (c)(1) in which a State receives funds for a program referred to in subsection (c)(2), the State shall report to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).

(b) INFORMATION REQUIRED.—The report required by this section shall contain information that, at a minimum, includes—

(1) the name, gender, race, ethnicity, and age of the deceased;

(2) the date, time, and location of death;

(3) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(4) a brief description of the circumstances surrounding the death.

(c) COMPLIANCE AND INELIGIBILITY.—

(1) COMPLIANCE DATE.—Each State shall have not more than 120 days from the date of enactment of this Act to comply with subsection (a), except that—

(A) the Attorney General may grant an additional 120 days to a State that is making good faith efforts to comply with such subsection; and

(B) the Attorney General shall waive the requirements of subsection (a) if compliance with such subsection by a State would be unconstitutional under the constitution of such State.

(2) INELIGIBILITY FOR FUNDS.—For any fiscal year after the expiration of the period specified in paragraph (1), a State that fails to comply with subsection (a), shall, at the discretion of the Attorney General, be subject to not more than a 10 percent reduction of the funds that would otherwise be allocated for that fiscal year to the State under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(d) REALLOCATION.—Amounts not allocated under a program referred to in subsection (c)(2) to a State for failure to fully comply with subsection (a) shall be reallocated under that program to States that have not failed to comply with such subsection.

(e) DEFINITIONS.—In this section the terms ''boot camp prison'' and ''State'' have the meaning given those terms, respectively, in section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)).

(f) STUDY AND REPORT OF INFORMATION RELATING TO DEATHS IN CUSTODY.—

(1) STUDY REQUIRED.—The Attorney General shall carry out a study of the information reported under subsection (b) and section 3(a) to—

(A) determine means by which such information can be used to reduce the number of such deaths; and

(B) examine the relationship, if any, between the number of such deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Attorney General shall prepare and submit to Congress a report that contains the findings of the study required by paragraph (1).

SEC. 3. FEDERAL LAW ENFORCEMENT DEATH IN CUSTODY REPORTING REQUIREMENT.

(a) IN GENERAL.—For each fiscal year (beginning after the date that is 120 days after the date of the enactment of this Act), the head of each Federal law enforcement agency shall submit to the Attorney General a report (in such form and manner specified by the Attorney General) that contains information regarding the death of any person who is—

(1) detained, under arrest, or is in the process of being arrested by any officer of such Federal law enforcement agency (or by any State or local law enforcement officer while participating in and for purposes of a Federal law enforcement operation, task force, or any other Federal law enforcement capacity carried out by such Federal law enforcement agency); or

(2) en route to be incarcerated or detained, or is incarcerated or detained at—

(A) any facility (including any immigration or juvenile facility) pursuant to a contract with such Federal law enforcement agency;

(B) any State or local government facility used by such Federal law enforcement agency; or

(C) any Federal correctional facility or Federal pre-trial detention facility located within the United States.

(b) INFORMATION REQUIRED.—Each report required by this section shall include, at a minimum, the information required by section 2(b).

(c) STUDY AND REPORT.—Information reported under subsection (a) shall be analyzed and included in the study and report required by section 2(f).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Madam Speaker, I yield myself such time as I may consume.

H.R. 738 will strengthen the Death in Custody Reporting Act of 2000, a law which encourages constructive oversight of the conduct, of the arrests, of imprisonment, and of other forms of detention in our Nation's prisons and jails. If we are to have meaningful oversight, we have to at least know how many people are dying in our jails and prisons.

□ 1445

The Death in Custody Act simply requires States and localities to simply report the fact that a death occurred and a brief description of what happened.

The bill reinforces the 2000 act's reporting requirements by authorizing the Attorney General to withhold a portion of the State's Byrne-Justice Assistance Grants if it is not in compliance with those requirements.

It will help improve oversight in two other additional ways. First, it applies the reporting requirements to Federal law enforcement authorities as well as States. As a result, Congress will have information for the entire incarcerated population in the United States, not just the State systems.

Second, H.R. 738 directs the Attorney General to examine data collected by the Bureau of Justice since the original act became effective to identify what practices are most effective in lowering the death rate in our Nation's prisons and jails. For example, the bureau reported in August of 2005 that there had been a 64 percent decline in suicides in custody and a 93 percent decline in homicides in custody since 1980.

The Attorney General's study should provide Congress with useful guidance

on why the death rate was reduced, and what we can do to continue to lower it. Like the original Death In Custody Reporting Act of 2000, the bill enjoys broad bipartisan support. Statistics collected under the original act demonstrate that it can be exceptionally successful because those administering prisons and jails know that they will have to report each death in their custody and they may be held accountable for those deaths. And this bill not only continues the program but strengthens it. And I encourage my colleagues to support the bill.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 738, the Death in Custody Reporting Act of 2009. As my colleague, Chairman SCOTT, has mentioned a few moments ago, Congress passed a similar piece of legislation in the 110th Congress with overwhelming bipartisan support.

The Death in Custody Reporting Act of 2000 directs the Bureau of Justice Statistics within the Department of Justice to collect data on deaths that occur in two primary stages of the criminal justice system: First, deaths occur ''in the process of arrest'' or during transfer after arrest; and second, deaths that occur in jail and in prisons.

The Bureau of Justice Statistics report that between 2001 and 2006 there were 18,550 State prisoner deaths. Likewise, there were an additional 5,935 local prisoner deaths and 43 juvenile deaths between 2000 and 2005

Half of all State prison deaths are the result of heart disease and cancer; two-thirds involve inmates age 45 and older; and two-thirds are the result of medical problems which were present at the time of admission when they were incarcerated.

Although illness-related deaths have slightly increased in recent years, the homicide and suicide rates in State prisons have dramatically decreased over the last 25 years.

H.R. 738 reauthorizes this data collection program and directs the Attorney General to not simply collect the data but to study it, as well as to determine how to reduce deaths in custody in the future.

H.R. 738 incorporates several changes adopted by the Senate during the last Congress. In addition to collecting data from State and local agencies, the Attorney General is now directed to also collect data on the number of deaths that occur in Federal facilities each year.

The bill also ensures that those States that make a good faith effort to report this important data to the Attorney General will not automatically lose 10 percent of their Byrne-Justice Assistance Grants funding if their data submissions are untimely. The collection of this data will help Federal, State, and local governments examine the relationships between deaths in custody and the proper management of jail and prison facilities. It will also provide important information to Congress on how we may need to improve Federal custody procedures.

I urge all of my colleagues to support this legislation, and I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I have no additional speakers. I will be prepared to close when the gentleman from Texas has yielded back his time.

Mr. POE of Texas. Madam Speaker, I have two additional speakers, and I wish to yield 3 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. I thank my colleague for yielding.

Madam Speaker, we are considering today a piece of legislation to report on the deaths of prisoners in Federal custody. As part of the responsibility of this Congress, we have to make sure those prisons are paid for. We've got to have the money to make sure we can pay for the operation of those prisons and keep those prisoners safe.

In order to have that money, we've got to exercise fiscal responsibility here as guardians of the Treasury. Our highest priority as the elected representatives of the people who pay the taxes that pay for these lights, that pay for this House Chamber, we've got an obligation to protect their financial safety and security for the future. Not only the safety and securities of these prisoners, but more importantly, the safety and security of the American people.

In order to make sure we've got that money available, we need to be very, very thoughtful and careful and remember that we face a deficit of over $1 trillion, a national debt of over $10 trillion, unfunded liabilities of $60 trillion-plus. The Comptroller tells us if you were to sell off every asset in America that proceeds might generate $62 trillion.

So we've reached a point as a Nation, Madam Speaker, where our national assets—all of the private property owned by every one of us; sell the real estate, sell all your possessions—might generate $62 trillion. That's how much unfunded liability we've got out there that our kids and grandchildren are going to have to pay for Medicare, Social Security, Medicaid.

And now all of this new spending that the majority—the new liberal majority has engaged in the biggest, most unrestrained profligate spending spree in the history of America in a short 17-day period—the change that the new majority has given America is it's spent $1.3 trillion in a short 17 days. Not sure how we're even going to be able to assure the safety of prisoners in Federal custody much less the safety and security of Americans across the Nation when in 17 days we spent 50 percent, almost 50 percent more money than the entire annual budget of the United States.

My colleague, Chairman SCOTT, a man of good faith and sincerity, says he hopes that this financial stimulus package works. That's not enough. That's a scary hope. Where are the legions of economists? Where are the witnesses? Why wasn't there any testimony?

We had an appropriations hearing of about 6 hours to spend about $800 billion, our piece of this bill. Ways and Means had a hearing of maybe about 6 hours. Normally, the entire annual budget of the United States, about $900 billion, requires a year's worth of hearings, hundreds of witnesses, hundreds of hours of committee hearings and thoughtful deliberations by the committees of the Congress to generate the annual budget for the United States of about $900 billion.

Yet this new liberal majority, this utterly unrestrained liberal majority in Congress has managed to spend in a short 17-day period $1.3 trillion of borrowed money. Again, it's like me paying off my mortgage with my Master Card. It makes no sense.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POE of Texas. Madam Speaker, I yield the gentleman an additional minute.

Mr. CULBERSON. And instead of, for example, this legislation that we've got on the floor today, Madam Speaker, to protect and report on the safety of prisoners in the prison system, one of the many responsibilities of Congress, this utterly irresponsible profligate spending that the new liberal majority has engaged in to stimulate the economy, 800 million for Amtrak, 4 million for climate change. What is this? We're going to have $200 million for AmeriCorps, $3 billion for prevention and wellness programs, including sexually transmitted diseases, $4.2 billion for neighborhood stabilization activities. What is that? What does that have to do with protecting the financial safety and security of the American people?

We're spending money. I am a fiscal conservative. And by the way, Mr. SCOTT, I voted against most of those big spending programs that were pushed over the last 8 years. I have done my best, as a fiscal conservative, to vote against Medicare prescription drug, voted against the farm bills, voted against No Child Left Behind, voted against as much of these new big authorization spending programs as I can because I'm trying to think about what obligation I'm passing on to my daughter and future generations.

Madam Speaker, the best way to protect the safety of prisoners in prisons and the safety of the American people

is for this Congress to cut spending and cut taxes and quit spending money we don't have.

Mr. POE of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CHAFFETZ).

Mr. CHAFFETZ. Thank you, I appreciate it.

Madam Speaker, I rise in support of H.R. 738. I appreciate the good work and the action of the Congress and believe that this act will actually encourage better government which our citizens certainly support.

I also want to thank the men and women who are serving in these prisons. They go underappreciated and, in my opinion, undercompensated. That's why it gives me so much frustration as I see the out-of-control spending that this Congress is willing to pass forward.

I read about $88 million for an icebreaking ship in the polar region, and yet we're not taking care of the men and women who are there in the prisons protecting us against these criminals; $248 million for furniture at the new Homeland Security headquarters. I just physically do not understand why this government, which is $10 trillion in debt, which already has a $3.1 trillion budget, a budget that over the course of the last 12 years has doubled, that there is not enough financial constraint because we need to take care of those men and women who are there protecting us in those prisons.

And while this act will go a long way to helping us understand what's happening within the system, I just am so frustrated and fed up with the Federal Government that cannot rein in spending as this so-called stimulus package has $400 million for the Centers of Disease Control to screen and prevent STDs—there does not seem to have the priorities in place that we need as a Federal Government—$75 million for smoking cessation activities.

Again, I think the American people demand limited government, fiscal discipline, which seems to be lacking in this Congress as the Democrats push forward, this liberal spending that we continue to see time and time again. $10 million to inspect canals? $10 million to inspect canals. I was actually glad to see a bill out there that actually had the word ''millions'' instead of ''billions.''

Now this bill, this act, that we look at today, H.R. 738, Death in Custody Reporting Act of 2009, will go a long ways to making government better, but please let's take care of the men and women who are serving us; and let's take get rid of this excessive spending, rein in spending. We can't be all things to all people, but let's make sure that we do those things that matter most to the American people and get rid of this stimulus bill and get rid of the excessive spending that does nothing but put us further and further into debt.

Mr. POE of Texas. Madam Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, the Death in Custody Reporting Act of 2009 has bipartisan support, and I appreciate the gentleman from Texas stating that support.

And I would also like to remind people, as the other side has, that we're going to have to come up with funds to do the research to make best use of the statistics that we gather.

There are essentially two totally different economic theories in place that we're considering. One was in place for 8 years beginning in 1993, and the other was in place from 2001 till last year. The Democratic theory that passed without a Republican vote in either the House or the Senate created 8 years where we eliminated the entire deficit. If we hadn't messed up the budget, we would have, in 10 years, run up a $5.5 trillion surplus, more than enough to pay Social Security for 75 years without reducing benefits.

We had created tens of millions of jobs, median income was up over $7,000, the Dow Jones Industrial Average more than tripled. I think that was a good result.

We also have the Republican theory of economics that was in place beginning in 2001 that passed with the Republican House and Republican Senate and the Republican President. As a direct result of that plan, we had the worst job performance since the Great Depression; the Dow Jones Industrial Average didn't triple, it went down; median income went down, and we ran up the national debt so much that it's almost doubled in the last 8 years rather than being eliminated as it would have been had the Democratic plan continued without getting messed up.

The stimulus that's been disparaged is necessary to try to dig us out of the mess that we're in. We all regret the fact that we need a stimulus, but had we not had the mess that we're in, we wouldn't have needed the stimulus.

And so, Madam Speaker, I close in support of the Death in Custody Reporting Act of 2009. It will continue the reporting that we've had and make best use of the statistics so that we can reduce these preventible deaths in the custody of law enforcement officers.

Mr. HONDA. Madam Speaker, I would like to commend my colleague Congressman BOBBY SCOTT for his leadership in seeking to bring transparency to the operation of state and local prisons.

Congressman SCOTT's legislation, the Death in Custody Reporting Act of 2009, compels state and local governments to report deaths of prisoners in state prisons and local jails, and juvenile correctional facilities. This reporting is an incredibly useful oversight tool, and ensures accountability and transparency in our state and local facilities.

The data that will be reported under the bill will allow public officials and those in the non-profit sector to track mortality rates as related to illness, suicide, homicide, drug and alcohol use, and other causes of death. This data is crucial if we hope to reduce deaths in custody, and promote safer custody through the reduction of suicide, drug abuse, violence, and the provision of proper medical care.

Again, I applaud Congressman SCOTT for his efforts and leadership and urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise in support of H.R. 738 ''Deaths in Custody Reporting Act of 2009.''

The purpose of this bill is to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies. I urge my colleagues to support this legislation.

Each year a small number of people die suddenly while restrained. Most of these deaths are associated with individuals who were restrained while being taken into custody during a violent police encounter. Other cases of sudden restraint death involve individuals in detention or residential treatment programs who were restrained during violent encounters while also under the influence of psychiatric medications.

Madam Speaker, no one is certain how many restraint related sudden deaths occur each year. Identifying the exact cause of death is the biggest problem. The number of estimated deaths is in question but may range between 50 and 125 per year. Some estimates are higher. Sudden death after individuals were taken into police custody has been reported for several decades; however this piece of legislation provides the first uniform national reporting for all deaths in law enforcement and correctional custody. H.R. 738 will now make it possible to ascertain the percentage of deaths by suicides and homicides, or from natural causes, which will result in a significant improvement in the oversight of prisoner treatment. With the detailed statistical data, policy makers, both state and federal, can make informed policy judgments about the treatment of prisoners leading to great success in lowering the prisoner death rate. In fact, since the focus on deaths in custody emerged in the mid-1980's, the latest BJS report, dated August 2005, shows a 64 percent decline in suicides and a 93 percent decline in the homicide rate.

Madam Speaker, between 2001 and 2004, state prison authorities nationwide reported a total of 12,129 state prisoner deaths to the Deaths in Custody Reporting Program (DCRP). Total number of deaths excludes 258 State prison executions during 2001–2004. Nearly 9 in 10 of these deaths (89 percent) were attributed to medical conditions. Less than 1 in 10 were the result of suicide (6 percent) and homicide (2 percent), while alcohol/drug intoxication and accidental injury accounted for another 1 percent each. A definitive cause could not be determined for 1 percent of these deaths.

The Deaths in Custody Reporting Act requires that states receiving federal funding report quarterly to the Attorney General, in methods prescribed by the Attorney General, the circumstances surrounding the death of any person in custody of a state prison or

local jail, which includes any person in the process of arrest, en route to incarceration, incarceration in any state facility (municipal jail, county jail, prison, juvenile facility or any other State or local correctional facility).

In 1983, the State of Texas Legislature passed laws requiring the reporting of all custodial deaths in Texas. The data was to involve deaths that occur in the process of arrest, as well as those deaths that occurred while confined in a jail or any correctional facility. This information was reported to the State Attorney General's Office, and Prosecutor Assistance/Special Investigation Division. The reports were aimed to be vital pieces to investigations and for open records requests. The failure to report a death to the proper authorities would result in a misdemeanor offense.

Madam Speaker, this legislation provides for detailed statistical data, that allows for policy makers, both state and federal, to make informed policy judgments about the treatment of prisoners leading to great success in lowering the prisoner death rate. I urge my colleagues to support this bill.

Mr. KENNEDY. Madam Speaker, I rise in strong support of H.R. 738, the Death in Custody Reporting Act of 2009. This legislation would mandate prompt reporting of prisoner and immigration detainee deaths in state and local prisons to the Attorney General. Under current law, many families of prisoners and detainees often do not receive timely information regarding deaths in custody. An inmate death in a local and state correctional facility is a serious matter that deserves full reporting to family members as well as federal regulators so that a full and transparent investigation can take place into the causes and circumstances surrounding a death. I applaud this Congress's action on this critical issue and would hope that I can work with my colleagues to implement widespread reform in our Nation's prison system.

For too long, America has turned a blind eye to abuse and neglect in our prisons and detention centers. In particular, immigration prisons have been the focus of great concern as recent deaths in facilities in Virginia and my home state of Rhode Island have made the need for transparency as important as ever. Immigration detainees, many of whom have neither been charged nor convicted of a criminal act and are in custody awaiting a hearing or deportation, often do not receive timely or adequate health care. Others are indiscriminately transferred thousands of miles away from family members and legal counsel. These issues must be addressed in our ongoing efforts to reform our prison system. This legislation lays the groundwork for those reforms and I applaud Chairman SCOTT's leadership on this issue.

I thank Chairman SCOTT, and I would urge my colleagues to support this important bill.

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Mr. SCOTT of Virginia. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 738.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL STALKING AWARENESS MONTH

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 82) raising awareness and encouraging prevention of stalking by establishing January 2009 as ''National Stalking Awareness Month''.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 82

Whereas in a 1-year period, an estimated 3,400,000 people in America reported being stalked, and 75 percent of victims are stalked by someone who is not a stranger;

Whereas 81 percent of women, who are stalked by an intimate partner, are also physically assaulted by that partner, and 76 percent of women, who are killed by an intimate partner, were also stalked by that intimate partner;

Whereas 11 percent reported having been stalked for more than 5 years and 1/4 of victims reported having been stalked almost every day;

Whereas one in four victims reported that stalkers had used technology, such as e-mail or instant messaging, to follow and harass them, and one in 13 said stalkers had used electronic devices to intrude on their lives;

Whereas stalking victims are forced to take drastic measures to protect themselves, such as changing their identities; relocating, changing jobs, and obtaining protection orders;

Whereas one in seven victims moved in an effort to escape their stalker;

Whereas approximately 130,000 victims reported having been fired or asked to leave their job because of the stalking, and about one in eight lost time from work because they feared for their safety or were taking steps, such as seeking a restraining order, to protect themselves;

Whereas less than half of victims report stalking to police and only 7 percent contacted a victim service provider, shelter, or hotline;

Whereas stalking is a crime that cuts across race, age, culture, gender, sexual orientation, physical and mental ability, and economic status;

Whereas stalking is a crime under Federal law and under the laws of all 50 States and the District of Columbia;

Whereas there are national organizations, local victim service organizations, prosecutors' offices, and police departments that stand ready to assist stalking victims and who are working diligently to craft competent, thorough, and innovative responses to stalking;

Whereas there is a need to enhance the criminal justice system's response to stalking and stalking victims, including aggressive investigation and prosecution, and to increase the availability of victim services across the country tailored to meet the needs of stalking victims; and

Whereas the House of Representatives urges the establishment of January 2009 as National Stalking Awareness Month: Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that—

(A) National Stalking Awareness Month provides an opportunity to educate the people of the United States about stalking;

(B) all Americans should applaud the efforts of the many victim service providers, police, prosecutors, national and community organizations, and private sector supporters for their efforts in promoting awareness about stalking; and

(C) policymakers, criminal justice officials, victim service and human service agencies, college campuses and universities, nonprofits, and others should recognize the need to increase awareness of stalking and the availability of services for stalking victims; and

(2) the House of Representatives urges national and community organizations, businesses in the private sector, and the media to promote awareness of the crime of stalking through National Stalking Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, House Resolution 82 is a bipartisan measure and will help raise awareness of the terrible toll that stalking is taking in our society. Every year, stalking affects millions of Americans of both genders and of all races and ages.

The consequences of stalking can be extremely serious. The fear and mental anguish can leave stalking victims paralyzed. Stalkers cause their victims severe emotional distress, including anxiety, insomnia, social dysfunction and depression, which can affect all aspects of life, including family, social activities and work.

In fact, many stalking victims have been forced to relocate their residences and also frequently needed psychological counseling. Approximately

130,000 victims reported being fired or forced to find work elsewhere because they've been stalked.

Stalking also leads to physical attacks on the victim. This explains why most States and the Federal Government treats stalking as a felony. Over 75 percent of women murdered by an intimate partner have been stalked by that partner. Advances in technology have given stalkers ever-increasing access to their victim's personal information, making the victim even more vulnerable.

I'd like to commend my Judiciary Committee colleague, the gentleman from Texas (Mr. POE), for his leadership on this issue. I urge my colleagues to join me in supporting House Resolution 82.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I'm proud to have introduced House Resolution 82, establishing January as National Stalking Awareness Month.

I hope this resolution serves as a unifying force for the community leaders, policy-makers, and victim service providers. The goal of this resolution is to raise awareness and encourage prevention of stalking by establishing January 2009 as National Stalking Awareness Month.

Stalking, conduct intended to instill fear in a victim, is a crime that occurs in every State in our country. As the cochair and founder of the Congressional Victims Rights Caucus, I have spoken to countless victims and victim service providers about the dangers of stalking and the tragedies that have occurred in their lives.

A January 2009 report from the Department of Justice Bureau of Justice Statistics found that during a 1-year period an estimated 3,400,000 people in America reported being stalked. According to the National Center for Victims of Crime, this is an increase of 2 million victims per year in the last decade. These statistics are a jarring reminder of the scope and seriousness of this crime.

The Department's study also found that nearly three out of four victims knew their stalker, and approximately one in four victims reported some form of cyberstalking.

Stalkers pursue and harass their victims and are often relentless. Cyberstalkers systemically flood their target's e-mail inbox with obscene, hateful or threatening messages.

Cyberstalkers may also assume the identity of their victim and post information, fictitious or not, to solicit unwanted responses from other people. Although cyberstalking does not involve physical contact with a victim, it is still a serious crime. The widespread use of the Internet and the ease with which hackers can find personal information has made this form of stalking more accessible to criminals.

By establishing January 2009 as National Stalking Awareness Month, Congress can help to educate Americans about the severity of stalking and encourage victims to report these crimes to the police. We recognize and applaud the many law enforcement agencies and victims' services for their effort to combat stalking and increase awareness of services available to stalking victims.

Stalking has only been criminalized for 28 years. Unlike domestic violence stalking is about power and control over the victim. While stalking is now a crime in all 50 States, the District of Columbia and the Federal Government, stalking often leads to other crimes, including physical assault, sexual assault and sometimes homicide. Stalking laws are basic to the individual right of each person in this country to be left alone and their right of privacy.

The best way to attack the threat of stalking is through law enforcement and education, and I encourage victim service providers, law enforcement prosecutors and community leaders to promote awareness of stalking, and I thank them for their efforts every day in making the lives of victims better.

I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I reserve the balance of my time.

Mr. POE of Texas. I yield 4 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Madam Speaker, Judge POE is exactly right. Our most fundamental right as Americans is the right to be left alone. It is important legislation and appreciate the judge bringing it to us.

We're going to hear from our good friend Congressman ROYCE in a minute who has been working on this legislation for many years. We will hear from him in just a moment.

I want to make sure, however, we as a Congress are focused on the financial hurricane stalking America just over the horizon. The financial, really if we're not careful, the urgency of this financial hurricane is something we cannot afford to ignore any longer.

We, as a Congress, have as our highest priority again the preservation of the security and financial safety of future generations. We're guardians of the Treasury. We're responsible for ensuring that we're not spending money we don't have; yet this so-called stimulus bill has added to the urgency of this financial hurricane stalk in America.

This $1.3 trillion spending spree that the new liberal majority has engaged has, in fact, created at least 32 new Federal programs at a cost of about $137 billion. This spending spree of $1.3 trillion over these 17 legislative days has a lot more to do with expanding the power base of the liberal majority and growing the Federal Government's power than it does with stimulating the economy.

In my opinion, this legislation will do, in fact, far more to turn America into France ultimately than it will to restore the strength and vibrancy of America's free market economy, and that's the best way to stave off this financial hurricane stalking America today.

We, I think, as fiscal conservatives may be outnumbered today, Madam Speaker, but we have an obligation to stand up and speak out at every opportunity. We are entrusted by our constituents with the responsibility to lay out thoughtful, fiscally responsible alternatives to the profligate spending we see coming from the other side. At a time of real national emergency, when we're seeing disturbing trends in job losses, when average Americans want to make sure that we as a Congress are being only good stewards of their money, well, what are we doing to ensure the security of their next paycheck? What are we doing to reassure Americans that we're doing everything in our power to protect the security of their job, to make sure that they don't have fear stalking their household that they are going to lose their job or lose the security of that health care coverage that they've always had?

This liberal majority, instead, has been focused on creating brand new programs to pay for public school construction. That's an area that the Federal Government has traditionally steered away from because of the massive cost. This stimulus bill that, again, is going to do far more to grow the government than grow the economy, this stimulus bill promoted by the new liberal majority in Congress, has set aside about $14 billion for school modernization and repair; $6 billion for higher education modernization and repair. That means for the first time that Federal taxpayers are assuming the responsibility for rebuilding and repairing local public school buildings, all these traditionally the responsibility of local taxpayers, locally issued bonds by school districts and universities across the country.

I know the Houston Independent School District tells me just to complete, off-the-cuff figure, they estimate they've got in the Houston Independent School District alone about $4 to $5 billion worth of need to rebuild, repair existing school buildings. Imagine the size of that obligation that this new liberal majority has now created for future generations to pay for.

We are in this, as fiscal conservatives, doing everything in our power to enlighten the American people, to let the public know, Madam Speaker,

that there's a thoughtful, fiscally conservative alternative out there, America. We want to cut your taxes and cut spending to get this economy moving. We vigorously oppose this effort to grow the government and saddle future generations with more debt.

Mr. POE of Texas. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE). He is the original sponsor of the stalking legislation.

Mr. ROYCE. I thank the gentleman for yielding.

I also agree that on the issue on this omnibus spending spree that we're calling a stimulus bill, that where we increase from $1 trillion, add another trillion and push up the deficit to 10 percent of the GDP, this is not the answer.

But let me talk for a minute about the stalker bill because I'm the author of the first stalker act, both here in the Federal Government and at the State level in California.

In Orange County, California, we had four young women who were killed in the span of 6 weeks, and law enforcement had told me at the time that if they had been able to intervene they could have protected them. One law enforcement officer said the hardest thing he ever had to do in his life, he was waiting to try to apprehend the man who was going to kill his girlfriend. The man succeeded and then killed himself. It was 30 seconds too late for the officer to prevent that, or a minute too late.

So the Federal law and the State law, the California law has now, frankly, been copied by all 50 States. But I wanted to share with my colleagues here that our Federal anti-stalker law has now been passed in Japan. It's been passed in countries in Europe and elsewhere around the world. I'm still getting calls from legislators about the need to set up this deterrence, so that when a credible threat is given against a victim of a crime, she knows when she's being threatened and stalked, that that's a felony, that she can take out a restraining order; she can thus make that a felony and get law enforcement involved in order to protect her.

Let me just say that I think this resolution is important because what it does is raise the level of awareness around the country as to the necessity of not only law enforcement, judges, but the average citizen to be aware of this. And those who are involved, men and women who are involved in stalking their victims should understand that under State and Federal law they risk serving serious time in Federal and State penitentiary if they continue with this pattern of threats and behavior.

Let me also say that I think that in our society it is really time to figure out how the victims can get access to the information about the laws that we pass, because too many times we have people—and this even includes in law enforcement—who are not cognizant of the fact that they can step in here and get involved and prevent serious harm before it occurs.

So just in closing and yielding back my time, I commend the sponsors and cosponsors of this resolution, because in calling attention to this special week, National Stalking Awareness Month, calling attention to this, my hope is that all of you can make those potential victims of this crime more knowledgeable so that they understand they have recourse, so that steps can be taken before they're physically harmed.

Mr. POE of Texas. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. I thank the gentleman from Texas for that.

Last week, Madam Speaker, I joined a bipartisan group of colleagues in opposing a recklessly wasteful economic stimulus package that promised $32 billion for my home State of California, currently suffering from 8.2 percent unemployment.

California does not need $32 billion worth of spending to stimulate the economy because, at the same time, our State water supply has been hijacked by the irresponsible Endangered Species Act. A simple flip of the switch at the pumps at the Sacramento-San Joaquin Delta could save 40,000 jobs and rescue a $90 billion industry from the brink of disaster.

Instead, my colleagues on the other side of the aisle seem more interested in spending money like drunken sailors and watch the Endangered Species Act literally dehydrate one of America's most prosperous industries.

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Every one of my colleagues from California has no excuse not to join me in calling for a temporary suspension of the Endangered Species Act to immediately start the flow of water from the delta pumps in California.

Mr. POE of Texas. I yield 2 minutes to the gentleman from Utah (Mr. CHAFFETZ).

Mr. CHAFFETZ. I congratulate my colleague, the gentleman from Texas (Mr. POE). This is a great piece of legislation.

There are too many of our fellow citizens who don't feel the safety and security that the rest of America feels. They feel the weight of somebody watching them or pestering them. They are worried about that when they go to the grocery store, they are worried about that when they go to the gas station. There's a feeling that sinks in on you that all too many people recognize. And this will address the stalking component of it. It's something that I think the rest of America also feels when they look at our economy and what this Congress is failing to do. It's failing to be responsible with the people's money. It's not the government's money.

As we look at $10-plus trillion debt and a so-called stimulus bill that I think most of us recognize will not stimulate the economy, we can only look at that and recognize that it's our children and grandchildren that will be burdened with this debt. That they will have to pay it.

We are $10 trillion in debt. Last year, we paid $429 billion just in interest on that debt. And the people that I talk to, the people from Utah and from around the country that are peppering us with information and feedback, are absolutely fed up. They don't want to have that burden. And every time we spend a dollar, a dollar we don't have, and can't afford, we create a burden upon the American family.

$50 million for the National Endowment for the Arts. It will do nothing to stimulate our economy. Absolutely nothing. $650 million for the conversion to digital television, for goodness sake. We don't have the money to do that. $13 million for research related to volunteer service; $70 million for a support computer for climate research; $524 million to create, ''388 jobs in the United States'' through the State Department Capital Investment Fund.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume. I'd like to refocus. The purpose of this bill has to do with stalking. A few years ago, most of us didn't even know what stalking was. And now, most Americans know someone or personally have been affected by a stalker out there, whether it's a physical stalker or whether it's someone on cyberspace. It has become a growing crime in this country.

Madam Speaker, as I mentioned before, I think the Constitution, in essence, says one thing—that we, as people, as individuals, have the right to be left alone. And criminals who stalk to harass and to put fear in the souls and the minds of individuals should be, of course, prosecuted.

I thank Mr. ROYCE for his endeavors years ago to make this crime a national crime, and also an awareness of most individuals. So I urge support of this legislation, this resolution.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have been lectured again by the party that authored the economic mess that we have been in for the last 8 years about economic theory. I just want to remind everyone what that economic theory created. It erased a $5½ trillion surplus and replaced it with at least a $3½ trillion debt. There was no comment about fiscal responsibility and our grandchildren paying off the debt while they were doing that to the public.

And, while overspending the budget by $9 trillion, or even more, they incredibly managed to produce the worst job performance since the Great Depression. And now they are criticizing those who support the economic theory that created the $5½ trillion surplus and tens of millions of jobs.

If you just want to look at economic activity, and not just the jobs, if you look at what happened to the Dow Jones Industrial Average. If the last 8 years of the Dow Jones Industrial Average had done in the last 8 years what it had done during the preceding 8 years under the Democratic economic theory, the Dow Jones Industrial Average would be approximately four times bigger than it is now.

So look at your 401(k) and imagine if it had been four times bigger. That is where it would be if the economic results of the Democratic theory of the 1990s had been in effect. I think most of the people would like to see their 401(k)s and IRAs four times bigger than it is today.

So we will let the people decide which economic theory they would rather have—the one that we have been lectured from, or the one that was put into effect in 1993 and the one we are trying to get the economy back on track with a stimulus package, which many economists think is too small for the big mess that we are in.

In any case, Madam Speaker, I'd like to thank the gentleman from Texas for introducing the legislation establishing January, 2009, as National Stalking Awareness Month. I hope that we would adopt the resolution.

Ms. JACKSON-LEE of Texas. Madam Speaker, today we will vote on an important piece of legislation that discusses a problem that persists in communities across our country. This bill will show that this problem will not go away with wishful thinking and good intentions. Something must be done to prevent stalking now. We can not afford to wait. I encourage all of my colleagues to support this resolution, do their part to make America aware of stalking, and do their utmost to prevent its occurrence.

Every day, millions of women and men have their lives disrupted by a stalker. While every state and DC has passed laws that make this act illegal, stalking still happens far too often. We must do everything we can to tell those being stalked that they are not alone and we will help them. We must do everything we can to tell those terrorizing their fellow man or woman with stalking that you will be caught and prosecuted.

Madam Speaker, stalking has multiple ways it can impact its victims. Stalkers do not just harass and annoy their targets, they also cause real financial and psychological harm. 26% of stalking victims have lost time working because of their stalkers while a full 7% have been so frightened, they have not returned to work at all. Almost 30% have sought counseling because of the stalking. Overall, the prevalence of insomnia, anxiety, social dysfunction and severe depression is much higher among stalking victims.

These victims feel helpless and will do anything to control their lives again. The number of victims who drastically change their lives to get away from these individuals is staggering. Through no fault of their own, the victims often reach out to law enforcement early requesting restraining orders to prevent contact with their tormenters. These attempts rarely work and result in about 3 out of every 4 restraining orders being violated. Victims have gone so far as to move from their homes to prevent the stalker from being able to antagonize them. One in seven victims has moved in order to maintain their ability to live their life or as normally as possible.

In one out of five cases, the stalker will approach his target with a weapon to threaten or harm them. The worst is that in cases where a woman is murdered by an ex-intimate partner, nearly 90% of them were stalked prior to the homicide. This can not be allowed to go on anymore. We have the means and the ability to prevent these attacks.

While technology has aided law enforcement in the ability to target stalkers it has also been used by the stalker to target and contact victims. One in four victims have reported being stalked online. Every day women are stalked and not enough of them are reporting it. Less than half report it to law enforcement officers and only 7% contact victims groups. As the famous author Michele Archer said, "It is important that people know that stalking is a crime and that they can do something about it." This advice can help save a lot of lives.

The biggest misconception about stalking is that it only happens to women. While women are the majority of the targets, they are by no means the only gender that is stalked. Men and women are both targeted and attacked. This legislation will help bring attention to this problem that's underreported, undereducated on and overlooked far too often.

All of us, as members of Congress, want to help, and so often we disagree on how to accomplish that laudable goal. For once we can agree on a problem and can help provide a solution. Today we have that chance to make an impact upon the people who live in daily fear. We can say to them today they are not alone, we are on their side and we will do anything we can to fight for them. We can also say that stalkers' days are numbered.

Madam Speaker, I urge that my colleagues support this resolution.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 82.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. POE of Texas. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 103) supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 103

Whereas communities across the country carry out activities to raise awareness about teen dating violence during the week of February 2 through February 6, 2009;

Whereas 1 in 11 adolescents reports being a victim of physical dating violence;

Whereas 1 in 5 teenagers in a serious relationship reports having been hit, slapped, or pushed by a partner;

Whereas 1 in 3 female teenagers in a dating relationship has feared for her physical safety;

Whereas more than 1 in 4 teenagers have been in a relationship where a partner is verbally abusive;

Whereas 27 percent of teenagers have been in dating relationships in which their partners called them names or put them down;

Whereas 40 percent of the youngest teens, those between the ages of 11 and 12, report that they have friends who are victims of verbal abuse in dating relationships;

Whereas 1 in 5 teenagers between the ages of 13 and 14 say they have friends who are victims of dating violence;

Whereas 1 in 2 teenagers in a serious relationship has compromised personal beliefs to please a partner;

Whereas 29 percent of girls who have been in a relationship said that they have been pressured to have sex or to engage in sexual activities that they did not want;

Whereas technologies such as cell phones and the Internet have made dating abuse more pervasive and more hidden;

Whereas 30 percent of teenagers who have been in a dating relationship say that they have been text-messaged between 10 and 30 times per hour by a partner seeking to find out where they are, what they are doing, or who they are with;

Whereas 72 percent of teenagers who reported that they had been checked up on by a boyfriend or girlfriend 10 times per hour or more by email or text messaging did not tell their parents;

Whereas parents are largely unaware of the cell phone and Internet harassment experienced by teenagers;

Whereas nearly 3 in 4 teens say that dating relationships usually begin at age 14 or younger;

Whereas 69 percent of all teenagers who had sex by age 14 said they have experienced 1 or more types of abuse in a dating relationship;

Whereas violent relationships in adolescence can have serious ramifications for victims, putting them at higher risk for substance abuse, eating disorders, risky sexual behavior, suicide, and revictimization as adults;

Whereas the severity of violence among intimate partners has been shown to be greater in cases where the pattern of violence has been established in adolescence; and

Whereas National Teen Dating Violence Awareness and Prevention Week benefits

schools, communities, families, and individuals, regardless of socioeconomic status, race, or sex: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Teen Dating Violence Awareness and Prevention Week to raise awareness of teen dating violence in the Nation;

(2) encourages the people of the United States, State and local officials, middle schools and high schools, law enforcement agencies, and other interested groups to observe National Teen Dating Violence Awareness and Prevention Week with appropriate programs and activities that promote awareness that teen dating violence is a crime and to encourage efforts to prevent and deter it; and

(3) supports a reexamination of the Nation's criminal and civil laws regarding teen dating violence to ensure that such laws create an effective deterrent.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, House Resolution 103 designates this week, February 2 through February 6, as National Teen Dating Violence Awareness and Prevention Week. It is designed to bring public attention to the problem of teen dating violence, and the need for more effective prevention and deterrence.

According to the recent report by the National Council on Crime and Delinquency, approximately one in three adolescent girls in the United States becomes a victim of emotional, verbal, or physical abuse from a dating partner. This alarming statistic far exceeds rates at which other types of violence are affecting youth in this country.

The study also find that girls exposed to dating violence are more likely to be subjected to other forms of violence. These victims are also more likely to engage in unsafe sexual activity, to have a higher incidence of substance abuse, and to have thought about or attempted suicide, than boys or girls that have not been abused.

The study revealed that most victims of dating violence are subject to multiple acts of violence and aggressive behavior, which increases in frequency and intensity. For example, 63 percent of young people who reported having been slapped, hit, or kicked by their partner indicated that the abuse occurred on two or more occasions.

Teenage girls are more likely than adult women to be victims of dating violence, and are more likely to be injured as a result of that violence.

With deaths and injuries resulting from teen dating violence on the increase, we must recognize this type of behavior as a crime as well as a serious public health concern. We must ensure that our young people are made aware of the seriousness of these offenses. And ensure that our laws provide an effective deterrent.

Today's resolution should encourage families and communities around the country to educate their young people about this problem, and to seek their help in preventing it. I'd like to commend the gentleman from Georgia (Mr. LEWIS) for his leadership in introducing this resolution. I urge my colleagues to join me in supporting the resolution.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume. I rise in support of this resolution, which supports the goals and ideals of National Teen Dating Violence Awareness and Prevention Week. I want to commend the gentleman from Georgia (Mr. LEWIS) for sponsoring this legislation.

This nationwide effort seeks to increase public awareness and educate citizens about the prevalence of dating violence. The Teen Dating Violence Awareness and Prevention Initiative was spearheaded by teenagers across the Nation who chose to take a stand and put a stop to teen dating violence. The Initiative began in 2004, and is now supported by over 50 national, State, and local organizations.

The call to end teen dating violence was formally recognized by the House in 2006. Including today, this body has three times designated the first week in February ''National Teen Dating Violence Awareness and Prevention Week'' in an effort to bring more public awareness to a problem confronting today's teens.

Last year, an organization called Teen Research Unlimited surveyed parents, teens, and tweens—tween is someone between 11 and 14, Madam Speaker—about dating violence. The results of this poll demonstrated the depth of the problem of teen dating violence.

According to the poll, one in five teens who have been in a serious relationship report being struck in anger—either kicked, hit, slapped or punched—by a boyfriend or girlfriend. Further, one in three girls who have been in serious relationships say they have been concerned about being physically hurt by the individual that they are concerned about.

However, dating violence among children is not limited to physical, emotional, and sexual assault. It can also take on the form of harassment via computer or cell phone text messaging or e-mail. In fact, 40 percent of the tweens who have dated now know friends who have been called names, put down, or insulted via cell phones or social networking sites such as MySpace and Facebook.

National Teen Dating Violence Awareness and Prevention Week provides an opportunity for parents to engage their children about dating violence and abusive relationships. The Teen Research Unlimited poll indicates that parents often do not know that their children are in relationships, let alone abusive relationships.

More than three times as many tweens—20 percent—as parents—six percent—admit that parents know little or nothing about the dating relationships of those tweens.

I encourage parents to use this week to talk with their children about dating and violence. To start the dialog, parents or teens can call the National Teen Dating Abuse Helpline at 866–331–9474. The Helpline promotes awareness of healthy dating relationships by making vital resources available to help teens experiencing dating violence and abusive relationships.

I encourage my colleagues to support this House resolution.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield such time as he may consume to the sponsor of the resolution, the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Madam Speaker, I want to thank Chairman SCOTT for yielding. Madam Speaker, I rise today in support of this resolution that I introduced that supports National Teen Dating Violence Awareness and Prevention Week.

Let me begin by thanking Chairman CONYERS and Chairman SCOTT and all of the staff who worked so hard to bring this resolution to the floor. Youth dating violence is a trend that is spreading across our country. It does not discriminate based on race, sex, class, or sexual orientation.

□ 1530

In 2005 many of my colleagues and I mourned the loss of April Love. She was an outstanding Congressional Black Caucus Foundation summer intern from Arkansas who was killed by her boyfriend. April was really a shining star, a southern belle, with a heart of gold and a brain to match.

In the past few years, metro Atlanta witnessed similar, terrible incidents of youth dating violence. In separate cases, two teenage girls were shot and killed by their abusive boyfriends.

Some relationships that begin innocently enough soon spiral out of control, and no one has any idea how they missed the signs. And technology has made it easier for abusive relationships to go undetected by parents and loved ones.

We must bring attention to this unbelievable series of incidents that are

spreading around our country. Fear, stalking, violence, and abuse are unacceptable and always shocking.

Madam Speaker, we must break this chain and educate young people about the importance of developing healthy relationships.

During this week, I urge all of my colleagues to educate themselves and all of their citizens about this important issue.

Mr. POE of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. Madam Speaker, I thank the gentleman from Texas for yielding me this time.

Our country is facing tough economic times. When you look across the country, you see families tightening their belts. You see States cutting back to balance their budgets. Washington seems to be the only place that is going on a wild spending spree during these tough economic times. We need to help our families and our businesses and our entrepreneurs by providing tax relief to create good jobs, rather than saddling our children and grandchildren with hundreds of billions of dollars in additional national debt.

As we debate the importance of stimulating our economy, it is critical that we act responsibly and that we get it right this time.

The Democratic leadership's massive spending bill does not do enough to help middle-class families and small businesses. A Congressional Budget Office report just came out saying that more than half of the Democrats' proposed spending bill will not even begin until after 2010. This defeats the purpose of stimulus.

I have joined with other Members of Congress to propose an alternative plan called the Economic Recovery and Middle Class Tax Relief Act of 2009. H.R. 470 focuses on cutting taxes to create jobs quickly and get our Nation's economy back on track. Rather than adding hundreds of billions of dollars in new national debt, our alternative plan will create jobs by cutting taxes for middle class families and small businesses, while also protecting future generations by reining in out-of-control spending here in Washington, D.C.

When President Barack Obama called for a bill to stimulate our Nation's economy, I don't think he or the American people expected it to be hijacked by the liberals in Congress and turned into a big government spending bill.

Last week there were a dozen Democrats who joined in a bipartisan vote against this massive spending bill. In fact, just yesterday the Speaker of the House's spokesperson said of those voting against the spending bill, ''Many of the districts are more conservative and they campaigned on fiscal responsibility, and we understand that.''

What the Speaker of the House was saying is she is recognizing that people who voted against the bill last week were voting for fiscal responsibility. The American people are learning more about this bill every day, and they are starting to recognize that it is nothing more than a wild spending bill of failed, old, big government programs.

We need to set a different path. We need to get it right this time. We need to pass a bill that actually cuts taxes and gets our economy back on track.

Mr. SCOTT of Virginia. Madam Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. I would like to thank my colleague for yielding. I have been sitting here and I have been listening to the people on the other side. It is unbelievable; it is unreal. Our country is in trouble; deep trouble. The economy is in a ditch.

This President has offered a plan, a plan that he believes and 85 percent of the American people believe that it will work. Have you been reading the newspapers, watching television, or seeing the polls?

It is time for us to wake up and do what is right, do what is fair.

When President Clinton left the White House, he left a surplus. He put more than 22 million people to work. Under the last administration, you left a debt. Hundreds and thousands of millions of citizens have lost their jobs, and now you are standing here today whining.

Mr. POE of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Utah (Mr. CHAFFETZ).

Mr. CHAFFETZ. Madam Speaker, while I rise in support of the goals and ideals of National Teen Dating Violence Awareness and Prevention Week, I have to say that I have been reading the polls and I have been listening to the people who have called in. And they have come in from across the Nation. They do not believe because they know that this stimulus package that is moving forward will not grow jobs.

We want to spend $100 million to reduce the hazards of lead-based paint. It is time we do get serious about what is going on in this country. More government spending, deficit spending, is not the way to our future. It is absolutely not the way to our future. We are running this government on a credit card, and it is wrong.

The people can't live their lives on a credit card, and those who do are in trouble. It is a sinking, deep-seated feeling. And those of us here representing our States, we all care passionately about this country. Nobody has a monopoly on pride. Nobody has a monopoly on patriotism. We all want to do what is best for our country.

But I am also here to say that all of this spending is not the way we are going to solve our problems. When government comes in and picks winners and losers, there are too many people who lose.

I am a freshman here. I am first to tell you the Republicans who had the House, the Senate and the Presidency, they blew it. But we also have to come to grips that it is this House of Representatives that over the last 2 years has controlled the United States Congress. They are the ones who have spent the money. They are the ones who have control. And there is plenty of blame to go around. The question is how are we going to move forward?

When you look down this laundry list, $110 million to the Farm Service Agency to upgrade computer systems, everybody knows that is not going to get somebody a job.

We need a game changer in this country. Putting more money onto our credit cards is not the way we are going to solve our problems.

This laundry list of things that passed this body and that the Senate is contemplating, $200 million for public computer centers at a community college is not going to grow our economy; $10 million to inspect canals in urban areas, probably a worthy project, but we have a $3.1 trillion budget.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. POE of Texas. I yield the gentleman an additional minute.

Mr. CHAFFETZ. There is $13 million for research related to volunteer service. We need a game changer in this country. We need to look at tax policy, and we need to look at those things that are actually going to grow this economy.

We have a $3.1 trillion budget in this country. We have offered stimulus packages. We have offered bailouts. Maybe the way to grow our economy is not to try to spend every dollar that comes before this body. It is the American people's money. It is not our money.

Mr. POE of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Madam Speaker, it has been my privilege to serve alongside the gentleman from Georgia (Mr. LEWIS) who I admire. The man is a legend and a great leader in the civil rights movement. He is a thoughtful man with a good heart and sincere principles. These are sincere, earnest differences of principle here, Mr. LEWIS. We have deep concern for the future course of the Nation, the financial solvency of the country. And it is a source of real concern to us. Teen violence is a source of concern, but I have to tell you, the reason we are speaking out here today is we have had so little opportunity to speak out in committee. There has been so little debate in committee and on this floor of this massive spending bill, not enough time to educate the American public about the details of the bill because it was dropped on us with so little notice, written largely in secret, dropped into

the Appropriations Committee and the Ways and Means Committee without much notice to the public, without an opportunity for them to scrutinize it.

We are spending $1.3 trillion in 17 legislative days when the annual discretionary budget of the United States is about $900 billion, prepared very thoughtfully and carefully over many months by the Appropriations Committee with hundreds of hearings and witnesses and thoughtful deliberation. All of us want to see this economy get back on track and get us out of the ditch, but it is just self-evident that in 17 legislative days, with a few hours of committee hearing, a few hours of floor debate, for this liberal majority in Congress to spend $1.3 trillion, and then the very best we have heard is you guys hope it is going to work, it is not enough.

As the gentleman from Utah said quite eloquently, we are living on a national credit card. This is like we are paying the mortgage with a MasterCard. I think it was Winston Churchill who said for a nation to attempt to tax and spend its way into prosperity is like a man standing in a bucket attempting to lift himself up. This is not the way for this Nation to get the economy moving again.

We as a fiscally conservative minority have come together to stand behind a package of tax cuts that would immediately allow people to spend and invest their own money, to save or to spend it, to create jobs as they wish. We as a fiscally conservative minority have few opportunities in the House to speak directly to the American people, so this opportunity we have here today to talk about teen violence and to think about the safety and security of future generations is one of the few opportunities we have, Mr. LEWIS, to lay out in all sincerity a very earnest and heartfelt, principle-based difference of opinion with the liberal majority, that we want to see this Nation succeed and be prosperous. And we know in our hearts, common sense tells us, that the way to prosperity is not through more spending based on debt. The way back to prosperity is by cutting profligate spending and cutting taxes so the American people have more of their own money to invest and save and to create jobs for the future.

Mr. POE of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. OLSON).

Mr. OLSON. Madam Speaker, I thank my friend.

I was just home. I am proud to tell the body I was just home in my home State this past weekend. After that and after our vote last week, it is clear to me that the American people and the people in the 22nd District of Texas get it. Quite simply, they realize we cannot spend our way out of the current predicament. It is not fair to future generations.

God has blessed me. I have a beautiful 12-year-old daughter and an outstanding 8-year-old son. I ran for Congress because we cannot continue to spend like we see up here in Washington, D.C. We cannot put that burden on that generation. If we don't take courageous steps here now, this year, that generation, my son's generation, my grandson's generation, if God blesses me with grandchildren, they are going to be the first generation in American history that are going to be collectively less well off than the preceding ones; and that is wrong.

We Republicans have a plan, a plan that will bolster our economy. It will offer jobs, get jobs created quickly by tax cuts, tax cuts to families, small businesses, and entrepreneurs. That works. It is proven.

We had bipartisan opposition here on the floor of the House last week. The American people get it. The people in the 22nd District of Texas get it. We cannot continue to mortgage our children's future.

Mr. POE of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. FLEMING).

Mr. FLEMING. Madam Speaker, I am very concerned today about teen violence. There is a lot we need to do about teen violence. But in dealing with the stimulus bill, I see that we are spending our money every place but teen violence. The stimulus bill passed by the House last week and now pending in the Senate is nothing more than a Trojan horse. It has all of the labels that make it sound effective, but when we look into the details, we see a myriad of new social programs and entitlements, busting our budget for many years to come.

Economists uniformly insist that a stimulus package must be quick and create jobs. The version that just passed does neither. They have shown us that cutting tax rates for individuals and small businesses is the best way to accomplish this.

Madam Speaker, I support the Republican alternative that would immediately boost our economy by cutting taxes for those who actually pay them. This plan would create 6 million jobs over the next 2 years. That is twice the jobs at half the cost. This plan saves future generations from a crushing debt burden, and shows that Congress can act in a fiscally responsible way. I realize that the stimulus package is currently in the Senate, but if it comes back, I really think that we need to make a very complete reconstruction of the stimulus bill. I ask that we make this Trojan horse a dead horse, and that we pass commonsense legislation to get this economy back on a sound footing.

□ 1545

Mr. POE of Texas. Madam Speaker, we have no other speakers on this bill. I urge its adoption. Once again, I want to thank Mr. LEWIS from Georgia for sponsoring this legislation.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, again we've been lectured on economic theories. And we agree that there is a significant difference between the two sides on economic theory. And we've been begged to adopt the economic theory proposed by those on the other side.

I would just want to inquire exactly what result they like as a result of their economic theories? We've heard about paying the mortgage with the credit card. Well, the result in the economic theory from that side was an elimination of a $5½ trillion surplus and the creation of a $3½ trillion deficit mostly created by borrowing from foreign governments. Exactly what part of that is good? What part of job creation is good? Tens of millions of jobs were created under the Democratic economic theories, worse job performance since the Great Depression was under the Republican theories. What is good about that? What is good about income over the last 8 years, median income that has actually gone down? It went up $7,000 a family during the 1990s. It went down over the last 8 years. What is good about that? What is good about the Dow Jones Industrial Average going down? It more than tripled from 1993 through 2000, more than tripled. It has actually gone down. Exactly what is good about that?

We've been lectured over and over again about how great these theories are. Maybe they don't like jobs. Maybe they like a deficit. Maybe they like incomes going down or the Dow Jones Industrial Average going down. I would like to see the Dow Jones Industrial Average go up, income go up, surplus rather than deficits and jobs created. But we will let the people decide.

In the meantime, we would like to thank the gentleman from Georgia for introducing the National Teen Dating Violence Awareness and Prevention Week and hope that we will adopt the resolution.

Ms. JACKSON-LEE of Texas. Madam Speaker, we must pass House Resolution 103 and bring awareness to an often overlooked yet extremely dangerous issue.

As a parent, I know the dangers my children faced when they were growing up. I often lost sleep worrying that something would happen to one of my kids that was beyond my control. It was part of the reason I decided to run for Congress.

Today, more than ever, we need to make people aware of the dangers our children face, we never did. Children have such broad access to information that it ages them in ways still not fully understood.

They look at their favorite movie or TV stars and want to emulate them. They research adult topics on the Internet and share information through cell phones and facebook with their friends. They feel because they know

things they view as adult, they are adults. Parents do not discuss regularly enough drug use, domestic violence or sex with their children.

This legislation will set aside a week to help foster discussion between the parent and the child, which is the number one way to prevent the awful outcomes which have become far too common on our daily news. This resolution will also bring attention to this matter and would let Americans know that this issue is serious.

The statistics are staggering: one out of every eleven adolescents have reported they have been the victim of a physical abuse. Of the teenagers who are in "serious relationships" one in five have reported being abused in some way. Our children are trying to be like us and in the process they are growing up far too fast. The scariest statistic is, of children who are between the age of 11 and 12, the youngest of our teens, has been or knows someone who has been abused. This is a true travesty.

We can no longer sit by and reminisce about the golden age of child rearing. Children can not be left alone and can expect to turn out like we did. As Chair of the Congressional Children's Caucus, I have worked tirelessly to ensure all America's children can lead safe and productive lives. We must ensure they get the right start.

This resolution will not only prevent our children from living through a terrible ordeal, but it will also help curtail future attacks. Evidence exists showing the severity of domestic violence among a couple is far greater if there is a pattern of abuse from early on in the abuser's life. We have a duty to protect our children and we have a duty to protect our fellow citizens and assure the right to live in peace.

Proclaiming this week National Teen Dating Violence Awareness and Prevention Week will show how serious this issue is and continue the discussion which has already begun in many homes. This resolution will also expand the discussion to many homes in the district I represent as well as the rest of the country. We must pass this resolution today and send a clear message to our fellow citizens that this issue will not go away.

Madam Speaker, I urge its immediate passage so we can begin to solve a problem that's gone unchecked far too long. We can make a difference in these and future young adults. The time to act is now.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 103.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REDUCING OVER-CLASSIFICATION ACT OF 2009

Mr. THOMPSON of Mississippi. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 553) to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing Over-Classification Act of 2009".

SEC. 2. FINDINGS.

Congress finds the following:

(1) A key conclusion in the Final Report of the National Commission on Terrorist Attacks Upon the United States (commonly known as the "9/11 Commission") was the need to prevent over-classification by the Federal Government.

(2) The 9/11 Commission and others have observed that the over-classification of homeland security information interferes with accurate, actionable, and timely homeland security information sharing, increases the cost of information security, and needlessly limits public access to information.

(3) The over-classification problem, which has worsened since the 9/11 attacks, causes considerable confusion about what information can be shared with whom both internally at the Department of Homeland Security and with its external partners. This problem negatively impacts the dissemination of homeland security information to the Department's State, local, tribal, and territorial homeland security and law enforcement partners, private sector customers, and the public.

(4) Excessive government secrecy stands in the way of a safer and more secure homeland. This trend is antithetical to the creation and operation of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and must be halted and reversed.

(5) To do so, the Department should start with the understanding that all departmental information that is not properly classified, or marked as controlled unclassified information and otherwise exempt from disclosure, should be made available to members of the public pursuant to section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act").

(6) The Department should also develop and administer policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities pertaining to the proper use of classification markings and the United States National Archives and Records Administration policies implementing them.

SEC. 3. OVER-CLASSIFICATION PREVENTION WITHIN THE DEPARTMENT OF HOMELAND SECURITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following new section:

"SEC. 210F. OVER-CLASSIFICATION PREVENTION PROGRAM.

"(a) IN GENERAL.—The Secretary shall develop and administer policies, procedures, and programs within the Department to prevent the over-classification of homeland security information, terrorism information, weapons of mass destruction information, and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) that must be disseminated to prevent and to collectively respond to acts of terrorism. The Secretary shall coordinate with the Archivist of the United States and consult with representatives of State, local, tribal, and territorial government and law enforcement, organizations with expertise in civil rights, civil liberties, and government oversight, and the private sector, as appropriate, to develop such policies, procedures, and programs.

"(b) REQUIREMENTS.—Not later than one year after the date of the enactment of the Reducing Over-Classification Act of 2009, the Secretary, in administering the policies, procedures, and programs required under subsection (a), shall—

"(1) create, in consultation with the Archivist of the United States, standard classified and unclassified formats for finished intelligence products created by the Department, consistent with any government-wide standards, practices or procedures for similar products;

"(2) require that all finished intelligence products created by the Department be simultaneously prepared in the standard unclassified format, provided that such an unclassified product would reasonably be expected to be of any benefit to a State, local, tribal or territorial government, law enforcement agency or other emergency response provider, or the private sector, based on input provided by the Interagency Threat Assessment and Coordination Group Detail established under section 210D;

"(3) ensure that such policies, procedures, and programs protect the national security as well as the information privacy rights and legal rights of United States persons pursuant to all applicable law and policy, including the privacy guidelines for the information sharing environment established pursuant to section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), as appropriate;

"(4) establish an ongoing auditing mechanism administered by the Inspector General of the Department or other appropriate senior Department official that randomly selects, on a periodic basis, classified information from each component of the Department that generates finished intelligence products to—

"(A) assess whether applicable classification policies, procedures, rules, and regulations have been followed;

"(B) describe any problems with the administration of the applicable classification policies, procedures, rules, and regulations, including specific non-compliance issues;

"(C) recommend improvements in awareness and training to address any problems identified in subparagraph (B); and

"(D) report at least annually to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the public, in an appropriate format, on the findings of the Inspector General's audits under this section;

''(5) establish a process whereby employees may challenge original classification decisions made by Department employees or contractors and be rewarded with specific incentives for successful challenges resulting in the removal of classification markings or the downgrading of them;

''(6) inform employees and contractors that failure to comply with the policies, procedures, and programs established under this section could subject them to a series of penalties; and

''(7) institute a series of penalties for employees and contractors who repeatedly fail to comply with the policies, procedures, and programs established under this section after having received both notice of their noncompliance and appropriate training or retraining to address such noncompliance.

''(c) FINISHED INTELLIGENCE PRODUCT DEFINED.—The term 'finished intelligence product' means a document in which an intelligence analyst has evaluated, interpreted, integrated, or placed into context raw intelligence or information.''.

SEC. 4. ENFORCEMENT OF OVER-CLASSIFICATION PREVENTION WITHIN THE DEPARTMENT OF HOMELAND SECURITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following new section:

''SEC. 210G. ENFORCEMENT OF OVER-CLASSIFICATION PREVENTION PROGRAMS.

''(a) PERSONAL IDENTIFIERS.—The Secretary shall—

''(1) assess the technologies available or in use at the Department by which an electronic personal identification number or other electronic identifying marker can be assigned to each Department employee and contractor with original classification authority in order to—

''(A) track which documents have been classified by a particular employee or contractor;

''(B) determine the circumstances when such documents have been shared;

''(C) identify and address over-classification problems, including the misapplication of classification markings to documents that do not merit such markings; and

''(D) assess the information sharing impact of any such problems or misuse;

''(2) develop an implementation plan for a Department standard for such technology with appropriate benchmarks, a timetable for its completion, and cost estimate for the creation and implementation of a system of electronic personal identification numbers or other electronic identifying markers for all relevant Department employees and contractors; and

''(3) upon completion of the implementation plan described in paragraph (2), or not later than 180 days after the date of the enactment of the Reducing Over-Classification Act of 2009, whichever is earlier, the Secretary shall provide a copy of the plan to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

''(b) TRAINING.—The Secretary, in coordination with the Archivist of the United States, shall—

''(1) require annual training for each Department employee and contractor with classification authority or those responsible for analysis, dissemination, preparation, production, receiving, publishing, or otherwise communicating written classified information, including training to—

''(A) educate each employee and contractor about—

''(i) the Department's requirement that all classified finished intelligence products that they create be simultaneously prepared in unclassified form in a standard format prescribed by the Department, provided that the unclassified product would reasonably be expected to be of any benefit to a State, local, tribal, or territorial government, law enforcement agency, or other emergency response provider, or the private sector, based on input provided by the Interagency Threat Assessment and Coordination Group Detail established under section 210D;

''(ii) the proper use of classification markings, including portion markings; and

''(iii) the consequences of over-classification and other improper uses of classification markings, including the misapplication of classification markings to documents that do not merit such markings, and of failing to comply with the Department's policies and procedures established under or pursuant to this section, including the negative consequences for the individual's personnel evaluation, homeland security, information sharing, and the overall success of the Department's missions;

''(B) serve as a prerequisite, once completed successfully, as evidenced by an appropriate certificate, for—

''(i) obtaining classification authority; and

''(ii) renewing such authority annually; and

''(C) count as a positive factor, once completed successfully, in the Department's employment, evaluation, and promotion decisions; and

''(2) ensure that such program is conducted efficiently, in conjunction with any other security, intelligence, or other training programs required by the Department to reduce the costs and administrative burdens associated with the additional training required by this section.

''(c) DETAILEE PROGRAM.—The Secretary shall—

''(1) implement a Departmental detailee program to detail Departmental personnel to the National Archives and Records Administration for one year, for the purpose of—

''(A) training and educational benefit for the Department personnel assigned so that they may better understand the policies, procedures and laws governing original classification authorities;

''(B) bolstering the ability of the National Archives and Records Administration to conduct its oversight authorities over the Department and other Departments and agencies; and

''(C) ensuring that the policies and procedures established by the Secretary remain consistent with those established by the Archivist of the United States;

''(2) ensure that the program established under paragraph (1) includes at least one individual for each Department office with delegated original classification authority; and

''(3) in coordination with the Archivist of the United States, report to Congress not later than 90 days after the conclusion of the first year of the program established under paragraph (1), on—

''(A) the advisability of expanding the program on a government-wide basis, whereby other departments and agencies would send detailees to the National Archives and Records Administration; and

''(B) the administrative and monetary costs of full compliance with this section.

''(d) SUNSET OF DETAILEE PROGRAM.—Except as otherwise provided by law, subsection (c) shall cease to have effect on December 31, 2012.

''(e) FINISHED INTELLIGENCE PRODUCT DEFINED.—The term 'finished intelligence product' has the meaning given the term in section 210F(c).''.

SEC. 5. TECHNICAL AMENDMENT.

The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding after the item relating to section 210E the following new items:

''Sec. 210F. Over-classification prevention program.
''Sec. 210G. Enforcement of over-classification prevention programs.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Texas (Mr. OLSON) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Madam Speaker, I would like to include an exchange of letters between the distinguished chairman of the Committee on Oversight and Government Reform and myself.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, February 2, 2009.

Hon. BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security, Washington, DC.

DEAR CHAIRMAN THOMPSON:

I am writing about H.R. 553, the Reducing Over-Classification Act of 2009, which was introduced by Rep. Harman on January 15, 2009, and referred to the Committee on Homeland Security.

I appreciate your effort to consult with the Committee on Oversight and Government Reform regarding H.R. 553. In particular, I appreciate your willingness to work with me to move a governmentwide over-classification bill to the House floor in the near future.

In the interest of expediting consideration of H.R. 553 and in recognition of your efforts to address my concerns, the Oversight Committee will not request a sequential referral of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 553 or a similar Senate bill be considered in conference with the Senate.

Notwithstanding the Oversight Committee's agreement to forgo a sequential referral, I believe it is important to reiterate my general concern about H.R. 553 as it applies to the Department of Homeland Security. H.R. 553 creates procedures for the Homeland Security Department to follow in order to reduce the over-classification of information. Several congressional investigations and the 9/11 Commission have emphasized,

however, that over-classification is a governmentwide problem that requires a governmentwide solution. Accordingly, I favor an approach that requires all agencies to follow the same classification protocols and encourages the sharing of information between agencies and with the public to the maximum extent possible.

Again, thank you for your efforts to address my concerns with H.R. 553. I look forward to working with you to reduce the significant problem of over-classification throughout the federal government.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 553 that fall within the jurisdiction of the Oversight Committee.

Please include our exchange of letters on this matter in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

EDOLPHUS TOWNS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, February 2, 2009.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

DEAR CHAIRMAN TOWNS: Thank you for your letter regarding H.R. 553, the ''Reducing Over-Classification Act of 2009,'' introduced by Congresswoman Jane Harman on January 15, 2009.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that H.R. 553 contains provisions that fall under the jurisdictional interests of the Committee on Oversight and Government Reform. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Oversight and Government Reform.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Congressional Record during floor consideration of H.R. 553. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Madam Speaker, I rise to support this bill and yield myself such time as I may consume.

Madam Speaker, last month, millions of people came together from around the Nation and the world to witness history. The swearing in of Barack Obama as the 44th President of the United States of America ushered in a new, brighter day for our Nation. It also ushered in a new, more open approach to governing that emphasizes partnering with State and local governments. Nowhere is there a greater need for a new approach than when it comes to how government manages information.

During the Bush administration, critical information was routinely over-classified, thereby keeping it out of the hands of our Nation's ''first preventers,'' the police and sheriffs on the front-lines.

The legislation that we are about to consider is one of three homeland security bills that we are considering today. Together, they reflect a new and commonsense approach to homeland security.

Ms. HARMAN introduced H.R. 553, the Reducing Over-Classification Act of 2009, to make the Department of Homeland Security a model when it comes to properly classifying data. To make America more secure, DHS must share as much information as possible with its partners on the State, local and tribal levels as well as the private sector. They are the people who are among the best-positioned to take action when terrorists threaten America's homeland.

Yet in recent years, Madam Speaker, too much of the intelligence products generated by DHS are stamped ''Secret.'' Given that few first preventers have security clearances, they are effectively blocked from information they need.

There is a better way. H.R. 553 would ensure that classification is limited to narrow cases, thereby promoting the creation of unclassified intelligence products from the outset. Additionally, Ms. HARMAN's bill will start DHS on the path to creating a culture of accountability.

Madam Speaker, H.R. 553 is a commonsense bill that will help foster better information sharing to improve security throughout our Nation. I urge the passage of this important homeland security legislation.

Madam Speaker, I reserve the balance of my time.

Mr. OLSON. Madam Speaker, I yield myself as much time as I may consume.

I rise in support of H.R. 553, the Reducing Over-Classification Act of 2009, which seeks to address the problem of over-classification of sensitive information.

While classification has an essential role in protecting our country from harm, over-classification is a very serious problem within the Federal Government, and Chair HARMAN should be commended for her hard work on the bill.

H.R. 553 rightfully concludes that over-classification could interfere with sharing of critically important homeland security information. Unfortunately, because of jurisdictional issues, this bill only applies to the Department of Homeland Security. So, while the goals of this bill should be supported, we remain concerned that this bill may lead to policies that are not uniform throughout the Federal Government.

As this legislation moves forward, we would encourage the Congress to adopt a government-wide approach to the problem of over-classification so that agencies and departments operate with a uniform set of classification policies.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield, for as much time as she may consume, to the gentlewoman from California, the person who sponsored the legislation, Ms. HARMAN.

Ms. HARMAN. I thank our chairman for yielding and commend him for his role on this bill and the two that will follow. Let me also point out, Madam Speaker, that our committee is an extremely bipartisan committee. This legislation, I would say to the manager on the Republican side, was reported unanimously by our subcommittee last year, unanimously by our full committee, and was adopted by voice vote on the House floor. This legislation, which applies only to the Department of Homeland Security, was the result of a very careful set of hearings. There may be arguments to deal with this subject in other parts of the government, but I believe this legislation, and the careful way it was considered, is a model for what the House should be doing. And I urge its prompt enactment again.

Madam Speaker, America's first preventers faced an enormous challenge 2 weeks ago, as Chairman THOMPSON said. They protected key members of the old and new administrations, especially the First Families. Though the so-called ''Purple Tunnel of Doom'' incident meant many ticket holders could not get in, a thoroughly preventable fiasco, our first preventers did manage a crowd of millions for the largest American Presidential inauguration ever, working almost seamlessly with Federal counterparts to do so.

The most important part of this extraordinary feat was the efficient sharing of accurate, actionable and timely information, especially information about threats, with police officers on the ground.

Now that the inauguration is over, local law enforcement shouldn't have to return to business as usual. Information sharing, we should all be reminded, was a huge problem leading up to 9/11. And 8 years later, we still have unfinished business.

Though hard to believe, sheriffs and police chiefs cannot readily access the information they need to prevent or disrupt a potential terrorist attack because those at the Federal level resist sharing information. Over-classification and pseudoclassification, which is stamping with any number of sensitive-but-unclassified markings, remain rampant.

Protecting sources and methods is the only valid reason to refuse to share information. It is no exaggeration that people die and our ability to monitor

certain targets can be compromised if sources and methods are revealed. As one who served on our Intelligence Committee for 8 years, I saw this up close and personal. But, Madam Speaker, classifying information to protect turf or avoid embarrassment is wrong. As I mentioned, I served for many years on the Intelligence Committee and became incredibly frustrated with this practice, which the Bush administration elevated to an art form. And sadly, the practice has spread to our newest Federal agency, the Department of Homeland Security.

Madam Speaker, the next attack in the United States will not be stopped because a bureaucrat in Washington, DC found out about it in advance. It will be the cop on the beat who is familiar with the rhythms and nuances of his or her own neighborhood who will foil that attack.

H.R. 553 is an attempt to establish a gold standard at DHS when it comes to classification practices. It requires that all classified intelligence products created at the department be simultaneously created in a standard unclassified format if such a product would help local law enforcement keep us safe.

□ 1600

This is unprecedented. Furthermore, the bill requires portion marking, the identification of paragraphs in a document that are unclassified, permitting the remainder of the document to remain unclassified.

I misspoke, Madam Speaker. The portion marking is for portions that are classified, to leave the remainder of the document unclassified.

The measure will promote accountability by requiring the DHS Inspector General to randomly sample classified intelligence products and identify problems that exist in those samples. It also directs the Secretary to develop a plan to track electronically how and where information classified by DHS is disseminated, so that misuse can be prevented.

And finally, the legislation requires the Secretary to establish extensive annual training on the proper use of the classification regime, and penalties for staff who repeatedly fail to comply with applicable classification policies.

Madam Speaker, a key to homeland security is personal preparedness. A prepared public is not likely to be terrorized. Access to important unclassified information is essential to ensure preparedness, and this bill protects the public's right to know. It enjoys broad support by privacy and civil liberties groups.

Madam Speaker, on behalf of first preventers and first responders everywhere, I urge passage of this essential bipartisan legislation, again commend our committee members and staff for their work on this legislation, and urge its prompt consideration following our action by the Senate.

Mr. OLSON. Madam Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Madam Speaker, I am glad that we are considering this legislation today, which will be helpful to local law enforcement agencies who are such a vital part of our homeland security. We have, in Congress, I think, for too many years not done enough to bring local law enforcement into the homeland security network that's essential to protecting this Nation against attack from terrorists, people who would enter this country to hurt us, crossing our borders. I am although strenuously opposed to the scale of this spending bill that the liberal majority has pushed through this House with so little public input, so little public notice, so few public hearings. The scale of the bill is one that we in the long term, I think, will find a crushing burden on our kids and grandchildren. At least the legislation includes some small fraction of money for ports of entry. I understand the legislation includes funding to help strengthen airport security. However, the Democrat, the liberal stimulus bill does not include funding for expanding and building more rapidly the border fence, as it should.

This so-called stimulus bill of almost $1.3 trillion spending spree that we have seen in the first 17 days of this new majority in Congress, the money that is spent in this stimulus bill only focuses on the little piece that focuses on homeland security, focuses on land ports of entry and airports. I would certainly encourage the chairman of the Homeland Security Committee to work with our subcommittee on appropriations. I serve on the Homeland Security Appropriations Subcommittee. We would like to work with you in finding ways to send more funding to our local border sheriffs, to our local law enforcement agencies that are working along the border to secure this country against narcoterrorists and extremist Islamic terrorists coming across our border, southern and northern. We need to do far more to work in cooperation with these local law enforcement agencies. And the precious dollars that we spend in this Congress, the hard-earned tax dollars of our constituents, when we do need to spend them, should be focused on things like national security, like protecting the security of this Nation when it comes to the border.

It's just inexcusable that this profligate stimulus bill that the majority has put together, has things utterly unrelated to job growth, such as neighborhood stabilization activities, $4.19 billion for groups like ACORN. How desperately that money is needed to strengthen our southern border, to help reimburse local law enforcement agencies for housing foreign nationals in county jails, the SCAP program, the State and County Alien Assistance Program, to help the local taxpayers pay for the cost of housing foreign nationals who are in this country illegally and arrested by local sheriffs and housed in county jails at massive expense. Why aren't we helping these local taxpayers and local jailers who are doing their part for Homeland Security instead of spending money on ACORN neighborhood stabilization activities? $3 billion for prevention and wellness programs utterly unrelated to job growth. If we were spending some of this money for local jails to house criminal foreign nationals, they would be hiring more local, more law enforcement officials in that local jail, that would at least be some job growth and help make the streets of our communities safer when it comes to homeland security.

$400 million for climate change research? What's that got to do with the short-term recovery of the economy of the United States?

Our highest priority today, as we stand here today, at the beginning of February 2009, is to reassure the American public that we are being responsible with their tax dollars and doing everything in our power to strengthen the economy and be sure that people are going to have a paycheck and a job next month.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield as much time as he may consume to the chairman of the Management Information Oversight Subcommittee, Mr. CARNEY from Pennsylvania.

Mr. CARNEY. Madam Speaker, I rise today in very strong support of H.R. 553, the Reducing the Over-Classification Act of 2009. It's an essential part of our national security, and this act is identical to one that passed the House last year, H.R. 4806.

I was proud to work on that legislation with Ms. HARMAN and my other Intelligence Subcommittee colleagues last year, and I am pleased that we are moving it anew this Congress. Our goal is a simple one, to make DHS the gold standard when it comes to classification practice.

As someone with many years of intelligence experience as a member of the U.S. military, I know that intel is useless if it doesn't get to the people who need it. And I have witnessed personally the missed opportunities that can arise from over-classification.

That's why H.R. 553 is designed to ensure that as much homeland security information as possible is shared with the Department's State, local, tribal and private sector partners, the men and women on the front lines of the Nation's homeland security efforts.

As the 9/11 Commission and others have noted, it is those officers who, during their day-to-day police work,

are most likely to uncover a terrorist plot in the making, and those who are best positioned to disrupt or even prevent it. They are not only our first responders, they are also our first preventers.

Unfortunately, what we have heard time and again from those officers is not encouraging. They are not getting important information that can keep people safe because too much of it is stamped ''Top Secret.''

H.R. 553 will promote accountability and best practices at DHS by requiring employees and contractors to use the classification regime the way it was intended: To protect sensitive sources and methods, not to hide embarrassing facts or protect political turf.

Among other things, H.R. 553 will promote accountability by requiring that all classified intelligence products created at the Department be simultaneously created with a standard unclassified format as well if such a product would help police and sheriffs keep us safe. This will help change the intelligence culture that is still far too comfortable with classifying rather than sharing.

H.R. 553, likewise, will promote accountability by requiring the Secretary to create an auditing mechanism for the DHS Inspector General that randomly samples classified intelligence products, identifies problems that exist in those samples, and recommends improvements to fix them.

To further engage Department staff in their efforts to get classification right, H.R. 553 requires the Secretary to establish a process through which employees may challenge original DHS classification decisions and be rewarded for bringing those abuses to light.

The legislation further requires the Secretary to establish penalties for staff who repeatedly fail to comply with applicable classification policies, despite notice of their noncompliance and an opportunity to undergo retraining.

Mr. CULBERSON. Will the gentleman from Pennsylvania yield for a brief question?

Mr. CARNEY. I will not. I will finish my statement at this time.

Mr. CULBERSON. And I can ask at the end of your statement?

Mr. CARNEY. Perhaps. H.R. 553 is a bipartisan fix to a decades-old problem that will only get worse if we don't act now.

Mr. Speaker, I would like to thank Ms. HARMAN for her leadership on this bill. And on behalf of first preventers, first responders everywhere, I urge passage of this essential legislation.

Mr. CULBERSON. Would the gentleman yield for a brief question?

Mr. CARNEY. Yes.

Mr. CULBERSON. Thank you, Mr. CARNEY. I wanted to ask if you could please, sir, I would like to know how spending $50 million for the National Endowment of the Arts and $3 billion on sexually transmitted diseases is going to stimulate the economy in Pennsylvania or anywhere else. How will spending money on the NEA and sexually transmitted diseases stimulate the economy in Pennsylvania?

Mr. CARNEY. Those provisions are removed from the stimulus package, if I'm correct.

Mr. CULBERSON. The National Endowment of the Arts funding, the prevention and wellness programs, $3 billion. How will spending $3 billion on prevention and wellness programs stimulate the economy in Pennsylvania?

Mr. OLSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. I thank my colleague from Texas for the opportunity to speak on this legislation today.

And I think Congress agrees, I think we are going to have a nice bipartisan vote on this legislation. I want to thank the chairman for his hard work on this legislation.

But we have a greater issue that we also need to talk about today, Mr. Speaker. And action is truly needed to rebuild our economy. We know that. The American people know that. And our elected leaders know that we have to not only have good policies for homeland security and national security, but our economic security at home. And unfortunately, the Democrat majority in their so-called stimulus bill, which is really nothing more than a spending bill, does nothing of the sort. It devotes, ''tens of billions of dollars to causes that have little to do with jolting our economy out of recession,'' as the Associated Press says.

Only 3 percent of the funds in the so-called stimulus bill, or the pork barrel bill, are dedicated to road and highway infrastructure projects. And just 2.7 percent is dedicated to small business tax relief, even though we know that 90 percent of Americans are employed by small businesses, and most of the new jobs that this country creates are created by small businesses. And the Democrats' answer to stimulating the economy is not by helping small businesses, but by creating 32 new government programs and spending $646,214 per government job that is created under that bill.

To make matters worse, the nonpartisan Congressional Budget Office reported that over half the money will be spent between 2011 and 2019, after most economists say this economy will have recovered and we will be out of this recession.

Look, this was nothing more than a partisan opportunity to lard up and load up this piece of legislation and add a bunch of different liberal spending priorities. It's not about a stimulus. It's not about helping the American people through these economic times.

And with so many of my constituents struggling in Western North Carolina just to keep their head above water, this Congress passed an $819 billion spending bill that will do nothing but add to our debt and deficit and cause us massive inflation in the years to come, as well as mounting debt every day. And I'm in agreement with so many of these economists who predict that this legislation will have a disastrous effect on our long term economic security in this country and will do little to stimulate this economy.

Well, the one thing that is certain is the result of this type of legislation will be a massive tax increase by this Democrat Congress in the future. I think this is highly unfortunate.

I think we should come together, as President Obama has said, and work for a bipartisan piece of legislation that will have tax cuts for small businesses in this country, as well as proper infrastructure spending that will help our economy regain its footing, so we can get back to economic growth and creating new jobs and good jobs for my constituents in Western North Carolina, as well as all Americans in all 50 States.

And so with that, I urge this congressional leadership to work together and listen to what President Obama has said.

Mr. THOMPSON of Mississippi. Mr. Speaker, I have no more speakers and I am prepared to close if the gentleman from Texas is.

Mr. OLSON. Mr. Speaker, I have one more speaker.

Mr. THOMPSON of Mississippi. I reserve.

Mr. OLSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. CASSIDY).

□ 1615

Mr. CASSIDY. Mr. Speaker, I would classify ''intelligence'' as important, but when I was back in my district last weekend, what folks asked me about was the stimulus package. They sense that something is needed, but they also sense, as, I think, all of us do, that what is most important are tax cuts and infrastructure development. Yet the bill that came out last week reminded me a little bit as though my wife had sent me to Wal-Mart and had said, ''I want you to get some bread and meat,'' and instead, I come back with a DVD and a grill. Now, DVDs and grills are great, but someday, you have got to pay the credit card bill.

Right now, we have to focus on the bread and meat—the jobs and the infrastructure—not on the DVDs and grills. I keep on thinking: What would Dave Ramsey say? He is the guy who kind of advises couples on how to get out of financial difficulty. Dave would say, ''Get a job, and stop spending on your

credit card.'' Now, the parts of this that are infrastructure and tax cuts are ''get a job,'' but the part of this that is maxing out the credit card and that is putting $2,700 worth of debt on my children and grandchildren going henceforth is the part that Dave would advise against.

I ask that we in Congress follow Dave Ramsey's wisdom—that we focus on tax cuts and infrastructure and forgo the rest.

Mr. THOMPSON of Mississippi. Mr. Speaker, I am prepared to close. I do not have any more speakers.

Mr. OLSON. I have no further speakers, and I am prepared to close.

Mr. Speaker, the bill we are discussing today rightfully focuses on our physical security. But what of our economic security? What of our future? What of our freedom?

Mr. Speaker, I represent a State that is known for rolling up their sleeves and for working hard. Texans know that prosperity does not come from borrowing and spending but, rather, from working hard and from saving for the future. As I spent this last weekend down in my district, speaking with my constituents about the need to help the economy, the overwhelming message I heard was of the concern that, once again, Washington was out of touch.

My constituents do not want to support a stimulus that creates 30 new government programs. They want a real stimulus that creates real, new jobs. They want tax relief for hardworking Americans, and they want economic relief for businesses, small and large, in order to rebuild our economy. They find the prospect of saddling their children and grandchildren with trillions of dollars of debt to be unthinkable.

Make no mistake. The bipartisan coalition that opposed this misguided measure last week acted simply not to obstruct but, rather, to promote commonsense measures for economic growth. We voted for tax cuts, for better jobs, for long-term growth over short-term gimmicks, and for the post-partisan environment that we saw on the west front of this very building on January 20.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Let me first thank Ms. HARMAN for her leadership on this bill. She brought it up through her subcommittee on Homeland Security and in the full committee. Mr. REICHERT, who is no longer on the committee, was ranking member.

As already noted, it passed out of the committee unanimously, and it was passed here on the floor likewise. So, basically, any hesitation or reservation on this bill is being noted for the first time, and I would hope that we do not mix a good bill with other politics of this body. For that reason, Mr. Speaker, we have new leadership here in Washington. It is committed to change for our Nation. With this bill, we have a profound opportunity to deliver a change for the better at the Department of Homeland Security.

The overclassification of materials impedes information sharing with State, local and tribal law enforcement. It also impedes information sharing with the owners and operators of critical infrastructure. Given that over 85 percent of our Nation's critical infrastructure, including electrical grids, airports, power plants, and mass transit systems, are all in the hands of nongovernmental entities, it is critical that DHS establish robust, stable lines of communication.

Last year, this legislation, as I indicated, was passed unanimously out of the committee, and was approved by this House by voice vote. Today, we have the opportunity to send it over to the Senate with another strong message for change.

Before I yield back, I want to express my profound disappointment that this bipartisan bill is seen as an opportunity for empty partisan attacks dealing with the economic stimulus. It is fine to attack the stimulus, but you need to attack it in its consistent form and not just attack it in good bills like this—bills that pass bipartisan in our committee and again by voice vote on the floor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of H.R. 553, The Reduce Over-Classification Act of 2009. This measure will allow the expansion of information that the Department of Homeland Security shares with state and local governments. The bill also will require ''portion marking'' which refers to the identification of paragraphs in a document that are classified, but allows the unclassified portions to be viewed.

The measure requires the department to develop the policies, procedures and programs to prevent the over-classification of information relating to weapons of mass destruction, terrorism, homeland security or other matters within the scope of the information-sharing environment that must be disseminated in order to prevent and respond to acts of terrorism.

The practical, day-to-day processes will be done in coordination with the National Archives and Records Administration but in reality it will require full-fledged cooperation from the Department of Homeland Security and the very able staff that make up its workforce.

This legislation requires all finished intelligence products to be prepared in the standard unclassified format, provided that an unclassified product would serve to benefit state and local governments.

Mr. Speaker, I am also pleased to see that the bill directs the Homeland Security Department, in coordination with the NARA, to require annual training for employees and contractors with classification authority who are responsible for analysis, dissemination, preparation, production, receiving, publishing, or otherwise communicating written classified information. This training would include information on the department's policy for preparing all finished intelligence products in a standard unclassified format, as well as information on the proper use of classification markings, including portion markings. Training would also cover the consequences of over-classification and other improper uses of classification.

Under the bill, the training would serve as a prerequisite, once completed successfully, for obtaining classification authority and renewing that authority on an annual basis, and it would count as a positive factor for employment, evaluation, and promotion.

Mr. Speaker, this legislation also requires that DHS create standard and unclassified formats for the department's finished intelligence products. This bill is designed to ensure citizen and government access to unclassified information but I believe it strikes the right balance between calculated information flow and the protection of national security.

I am pleased Mr. Speaker that Section 210 of this bill allows employees to challenge classification decisions made by department employees or contractors and be rewarded if the classification markings are removed or downgraded.

And my colleagues and I are well aware that no piece of legislation is completed without measures designed to ensure compliance, and that's why it is critical to the ultimate success of this bill that a series of penal provisions were included to reinforce the legislation.

H.R. 553 is about preventing over-classification. My hope is that the legislation will serve as a proper deterrent and move us away from the hoarding of non-classified information that characterized the previous administration.

Open and accessible government is a hallmark of democracy. Citizens shouldn't live in fear of their government. It is OUR government.

I strongly urge my colleagues to support this measure.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield back the balance of my time and urge passage of the bill.

The SPEAKER pro tempore (Mr. LARSEN of Washington). The question is on the motion offered by the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 553.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FAST REDRESS ACT OF 2009

Mr. THOMPSON of Mississippi. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 559) to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair, Accurate, Secure, and Timely Redress Act of 2009'' or the ''FAST Redress Act of 2009''.

SEC. 2. ESTABLISHMENT OF APPEAL AND REDRESS PROCESS FOR INDIVIDUALS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT, OR DENIED A RIGHT, BENEFIT, OR PRIVILEGE.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

''SEC. 890A. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT, OR DENIED A RIGHT, BENEFIT, OR PRIVILEGE.

''(a) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the Secretary shall establish a timely and fair process for individuals who believe they were delayed or prohibited from boarding a commercial aircraft or denied a right, benefit, or privilege because they were wrongly identified as a threat when screened against any terrorist watchlist or database used by the Transportation Security Administration (TSA) or any office or component of the Department.

''(b) OFFICE OF APPEALS AND REDRESS.—

''(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the TSA and such other offices and components of the Department as the Secretary determines appropriate.

''(2) COMPREHENSIVE CLEARED LIST.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will maintain and appropriately disseminate a comprehensive list, to be known as the 'Comprehensive Cleared List', of individuals who—

''(A) were misidentified as an individual on any terrorist watchlist or database;

''(B) completed an approved Department of Homeland Security appeal and redress request and provided such additional information as required by the Department to verify the individual's identity; and

''(C) permit the use of their personally identifiable information to be shared between multiple Departmental components for purposes of this section.

''(3) USE OF COMPREHENSIVE CLEARED LIST.—

''(A) IN GENERAL.—The Secretary shall—

''(i) except as provided in subparagraph (B), transmit to the TSA or any other appropriate office or component of the Department, other Federal, State, local, and tribal entities, and domestic air carriers and foreign air carriers that use any terrorist watchlist or database, the Comprehensive Cleared List and any other information the Secretary determines necessary to resolve misidentifications and improve the administration of the advanced passenger prescreening system and reduce the number of false positives; and

''(ii) ensure that the Comprehensive Cleared List is taken into account by all appropriate offices or components of the Department when assessing the security risk of an individual.

''(B) TERMINATION.—

''(i) IN GENERAL.—The transmission of the Comprehensive Cleared List to domestic air carriers and foreign air carriers under clause (i) of subparagraph (A) shall terminate on the date on which the Federal Government assumes terrorist watchlist or database screening functions.

''(ii) WRITTEN NOTIFICATION TO CONGRESS.—Not later than 15 days after the date on which the transmission of the Comprehensive Cleared List to the air carriers referred to in clause (i) of this subparagraph terminates in accordance with such clause, the Secretary shall provide written notification to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate of such termination.

''(4) INTERGOVERNMENTAL EFFORTS.—The Secretary may—

''(A) enter into memoranda of understanding with other Federal, State, local, and tribal agencies or entities, as necessary, to improve the appeal and redress process and for other purposes such as to verify an individual's identity and personally identifiable information; and

''(B) work with other Federal, State, local, and tribal agencies or entities that use any terrorist watchlist or database to ensure, to the greatest extent practicable, that the Comprehensive Cleared List is considered when assessing the security risk of an individual.

''(5) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department, shall—

''(A) require that Federal employees of the Department handling personally identifiable information of individuals (in this paragraph referred to as 'PII') complete mandatory privacy and security training prior to being authorized to handle PII;

''(B) ensure that the information maintained under this subsection is secured by encryption, including one-way hashing, data anonymization techniques, or such other equivalent technical security protections as the Secretary determines necessary;

''(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve an appeal and redress request;

''(D) ensure that the information maintained under this subsection is shared or transferred via an encrypted data network that has been audited to ensure that the anti-hacking and other security related software functions perform properly and are updated as necessary;

''(E) ensure that any employee of the Department receiving the information maintained under this subsection handles such information in accordance with section 552a of title 5, United States Code, the Federal Information Security Management Act of 2002 (Public Law 107–296), and other applicable laws;

''(F) only retain the information maintained under this subsection for as long as needed to assist the individual traveler in the appeal and redress process;

''(G) engage in cooperative agreements with appropriate Federal agencies and entities, on a reimbursable basis, to ensure that legal name changes are properly reflected in any terrorist watchlist or database and the Comprehensive Cleared List to improve the appeal and redress process and to ensure the most accurate lists of identifications possible (except that section 552a of title 5, United States Code, shall not prohibit the sharing of legal name changes among Federal agencies and entities for the purposes of this section); and

''(H) conduct and publish a privacy impact assessment of the appeal and redress process established under this section and transmit the assessment to the Committee on Homeland Security of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

''(6) INITIATION OF APPEAL AND REDRESS PROCESS AT AIRPORTS.—At each airport at which—

''(A) the Department has a presence, the Office shall provide written information to air carrier passengers to begin the appeal and redress process established pursuant to subsection (a); and

''(B) the Department has a significant presence, provide the written information referred to in subparagraph (A) and ensure a TSA supervisor who is trained in such appeal and redress process is available to provide support to air carrier passengers in need of guidance concerning such process.

''(7) REPORT TO CONGRESS.—Not later than 240 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of information sharing among users at the Department of any terrorist watchlist or database. The report shall include the following information:

''(A) A description of the processes and the status of the implementation of this section to share the Comprehensive Cleared List with other Department offices and components and other Federal, State, local, and tribal authorities that utilize any terrorist watchlist or database.

''(B) A description of the extent to which such other Department offices and components are taking into account the Comprehensive Cleared List.

''(C) Data on the number of individuals who have sought and successfully obtained redress through the Office of Appeals and Redress.

''(D) Data on the number of individuals who have sought and were denied redress through the Office of Appeals and Redress.

''(E) An assessment of what impact information sharing of the Comprehensive Cleared List has had on misidentifications of individuals who have successfully obtained redress through the Office of Appeals and Redress.

''(F) An updated privacy impact assessment.

''(c) TERRORIST WATCHLIST OR DATABASE DEFINED.—In this section, the term 'terrorist watchlist or database' means any terrorist watchlist or database used by the Transportation Security Administration or any office or component of the Department of Homeland Security or specified in Homeland Security Presidential Directive–6, in effect as of the date of the enactment of this section.''.

(b) INCORPORATION OF SECURE FLIGHT.—Section 44903(j)(2) of title 49, United States Code, is amended—

(1) in subparagraph (C)(iii)—

(A) by redesignating subclauses (II) through (VII) as subclauses (III) through (VIII), respectively; and

(B) by inserting after subclause (I) the following new subclause:

"(II) ensure, not later than 30 days after the date of the enactment of the FAST Redress Act of 2009, that the procedure established under subclause (I) is incorporated into the appeals and redress process established under section 890A of the Homeland Security Act of 2002;";

(2) in subparagraph (E)(iii), by inserting before the period at the end the following: ", in accordance with the appeals and redress process established under section 890A of the Homeland Security Act of 2002"; and

(3) in subparagraph (G)—

(A) in clause (i), by adding at the end the following new sentence: "The Assistant Secretary shall incorporate the process established pursuant to this clause into the appeals and redress process established under section 890A of the Homeland Security Act of 2002."; and

(B) in clause (ii), by adding at the end the following new sentence: "The Assistant Secretary shall incorporate the record established and maintained pursuant to this clause into the Comprehensive Cleared List established and maintained under such section 890A.".

(c) CONFORMING AMENDMENT.—Title 49, United States Code, is amended by striking section 44926 (and the item relating to such section in the analysis for chapter 449 of title 49).

(d) CLERICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding after the item relating to section 890 the following new item:

"Sec. 890A. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Texas (Mr. OLSON) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise in support of this bill, and I yield myself as much time as I may consume.

H.R. 559, the Fair, Accurate, Secure, and Timely Redress Act—or the FAST Redress Act—was first introduced by Representative CLARKE in the last Congress. Ms. CLARKE is to be commended for her effort in steering this legislation through the House in a cooperative, bipartisan way.

H.R. 559 was marked up and was approved on a bipartisan basis by the Committee's Transportation Security and Infrastructure Protection Subcommittee in the last Congress. Last June, the bill was unanimously passed by the House, but unfortunately, it was not signed into law. With our new President, I believe this bill will soon become law.

Everyone complains about the lack of sanity in the watch list process, but few have dared to wade into all the ins and outs of the system. Representative CLARKE has done just that, and this legislation is the product of her thoughtful undertaking.

As you know, Mr. Speaker, this issue is of great concern to me as well. We must have prudent security policies, and these policies must ensure that people are not improperly identified as potential terrorists or are on any watch list or database. This bill promotes security while also protecting civil liberties. President Obama's swearing-in began a new era in our homeland and national security policies, and smart legislation, like these measures before us today, will be well served by our new leadership.

Certainly, the practice of watch-listing individuals plays an important role in identifying possible terror suspects. It is important to keep in mind that the watch list is only as good as the information on it. Without accurate, complete and reliable information, the purpose of a watch list is frustrated, and the database becomes unreliable.

Fixing the watch list and reducing misidentifications is a particularly difficult challenge. To meet this challenge, all of the intelligence and law enforcement components that populate the list need to come together and need to agree to clean it up. Unfortunately, this has not happened.

Since February 2007, over 32,000 Americans have sought redress through the DHS Traveler and Redress Inquiry Program, also known as DHS TRIP. Each individual voluntarily provides personal information to establish his or her identity. When there is a determination that this person is not a threat, his name is placed on a cleared list that is maintained by the Transportation Security Administration. This cleared list is populated with names of individuals who have the same or similar names as someone on the no fly or selectee list, but they have proven that they are not the people on the list. The cleared list is then only shared with the airlines for screening purposes, not with all other agencies that use the watch list.

Under H.R. 559, the updated information would be shared throughout DHS and with other Federal agencies that use the terrorist watch list or database. This would ensure that individuals who are cleared under the redress process are not stopped as potential terrorists by other Federal agencies.

Specifically, H.R. 559 requires the Secretary of Homeland Security to establish the Office of Appeals and Redress to provide a timely and fair redress process. The Office of Appeals and Redress is directed to maintain a comprehensive cleared list that contains the names of individuals who have been misidentified and who have corrected erroneous information. The comprehensive cleared list would be made available to those who would use the terrorist watch list or database to resolve misidentification.

The bill directs TSA, CBP, the Coast Guard, and other DHS components to reference the Comprehensive Cleared List when assessing the security risk of an individual. This will ensure that individuals, such as our esteemed colleague from Georgia, Congressman JOHN LEWIS, will not be repeatedly stopped or delayed or will not have to seek redress from different components in the same Federal agency. Importantly, the measure includes protections to ensure that personally identifiable information is handled in accordance with privacy laws. Once enacted, individuals who go through the trouble of clearing their names will not have to repeat the exercise again and again.

With the inauguration of President Obama, America enters a new chapter, and this bill moves our security policies forward in a manner that protects our homeland and our civil liberties.

Mr. Speaker, on behalf of every JOHN LEWIS and others who are frequently misidentified on the watch list, I urge swift passage of this bill.

I reserve the balance of my time.

Mr. OLSON. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of the Fair, Accurate, Secure, and Timely Redress Act of 2009.

At the outset, I would like to thank Ms. CLARKE of New York for her bipartisan outreach in crafting this worthy piece of legislation. Her efforts to ensure that Republican concerns were addressed before bringing this legislation to the floor are truly admirable and appreciated.

Mr. Speaker, throughout numerous hearings and briefings by executives in the Government Accountability Office, our committee has heard repeatedly that the terrorist watch list works. Recent GAO reports have stated, "The watch list has helped screening agencies assess the potential threat a person poses and take a wide range of counterterrorism responses. The watch list has helped support law enforcement investigations and the intelligence community by tracking the movements of known or appropriately suspected terrorists and collecting information about them."

The bottom line is that the terrorist watch list keeps known or suspected terrorists out of our neighborhoods. However, this comes at a cost. Every month, Federal, State and local law enforcement officials screen some 270 million individuals against a new and constantly evolving consolidated terrorist watch list.

□ 1630

Since 2004, a known or suspected terrorist has been encountered some 600,000 times. Some suspects were arrested, many were refused entry into the United States but all were identified to local law enforcement officials.

Nevertheless, the system is not perfect and sometimes mistakes are made. The problem with this name-based system is compounded by the fact that some individuals have over 50 identities on the watch list. Occasionally this leads to misidentifications between law-abiding Americans and watch-listed identities.

These misidentifications are not simply persons with Arab names, as the press would have you believe. Actors, writers, and yes, even Congressmen have been tripped up by the terrorist watch list. The legislation before us enables a reasonable process to ensure that once a misidentified individual seeks redress through the Department's Traveler Redress Inquiry Program, the results of that process are transmitted to DHS entities to prevent further inconveniences.

Perhaps the single most important provision in this bill is the requirement that the Department better advertise its redress process. When I hear from constituents that they are being misidentified as a watch-listed individual, I am disturbed that they have not heard of the Department's process to seek redress.

This bill requires the Department to advertise its redress process at each airport and have staff on hand at the largest airports to explain the process and answer questions from the travelling public.

Mr. Speaker, this is a good bill. This is a bipartisan bill. I ask that all Members join me in supporting this legislation.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 5 minutes to the gentlelady from New York (Ms. CLARKE) who has championed this issue ever since her arrival on the Homeland Security Committee. And obviously this is her bill and we support it.

Ms. CLARKE. Mr. Speaker, nearly everyone in the homeland security community agrees that having a single comprehensive list of terrorist suspects is an important tool in keeping America safe. However, there are flaws in how the terrorist watch list is maintained and used.

Over the years, this list has grown to have over 1.1 million entries. With so many different names on the list, it is not surprising that every single day countless Americans are misidentified as terrorists.

The errors most commonly occur when an innocent person's name happens to be similar to the one listed in the database. For example, if your name is Al Smith and there is an A. Smith on the list, guess what? You're going to be caught. This is even worse for the millions of American residents who have names which can have different pronunciations or ways of spellings.

This wastes time both for law enforcement, because they're using resources investigating innocent people, and for the general public who face the prospect of being wrongfully detained and possibly altogether prevented from going about their business. Most commonly, this affects air travelers who are screened against a watch list more often than anyone else.

Currently, each time a reservation is made, airlines must determine whether a customer is a potential match based on information from us, from the government. Every day, thousands of people are pulled aside, required to go through special procedures, detained, or even denied boarding altogether at great personal and financial costs to the frustrated travelers who've missed flights. For private citizens, this can lead to ruined plans. These practices have, in essence, begun the process of eroding the foundation on which our civil liberties were built.

However, at a time when we're doing everything we can to stimulate the economy, this problem can be catastrophic for business travelers and companies. The inability for thousands of people to travel for work puts jobs in jeopardy. And for every employee unable to make a meeting because of being mistakenly denied boarding, companies needlessly lose productivity. This is a waste when Congress is spending money to help commerce grow.

Furthermore, because the terrorist watch list is used by many different screening agencies, other people have also been impacted by this problem, including anyone whose license plates are run by local law enforcement; port workers who have been incorrectly denied a Transportation Worker Identification Card, which is now required to work at port facilities in the U.S.; international travelers delayed or denied entry into the country by CBP, and potential foreign visitors denied visas by the State Department.

In the future, this will likely become a greater issue as more potentially sensitive activities are tied to screening against the watch list.

This is why I originally introduced the FAST Redress Act, which I'm proud to say passed the House last year with very strong bipartisan support. Unfortunately, despite more bipartisan support in the Senate, the other chamber ultimately failed to move this forward.

Therefore, I have reintroduced this bill in the 111th Congress in the hope that this time we can push it through and help millions of people. The FAST Redress Act solves the misidentification problems by granting DHS the tools to create a department-wide office of redress and appeals—a one-stop shop for any individual who feels they're being incorrectly identified as a terrorist whenever they have contact with the government.

This bill will greatly streamline the process for the countless people who, just because of their names, are regularly misidentified as a terrorist, creating a single, highly visible office within the government for everyone who wants to clear their names.

I'm glad to see the U.S. House of Representatives taking up this bill once again—and doing so with such speed—demonstrating the strong show of support to help the people affected by this issue.

I'm very thankful to Chairman THOMPSON and Ranking Member KING for their great bipartisan leadership in pushing the FAST Redress Act forward; Congresswoman SHEILA JACKSON-LEE and ranking member, I also thank them. I thank the staff on both sides of the Homeland Security Committee for their hard work and the time they put into this bill, and my own senior legislative aid for Homeland Security, Mr. Daniel Hattis, for his hard work, his vigilance, and his commitment for making the FAST Redress Act the law of the land.

Further, this bill has received strong support from the National Business Travelers Association, which has recognized that the problem of misidentification hurts the economy and how this bill benefits the business travel committee.

I ask my colleagues to join me in support of this bipartisan support

Thank you very much, Mr. Chairman.

Mr. OLSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. ROE).

Mr. ROE of Tennessee. Mr. Speaker, I rise today to urge support for real economic stimulus legislation. With terrible economic news coming in all the time, I'm eager to support legislation that will spur economic investment and put an infrastructure in place that will promote future economic development.

Folks in east Tennessee will tell you that the bill the House passed last week is a bad bill. It's bloated by wasteful spending. Back home, we're adapting to this troubling economic climate by tightening our belts and clamping down on unnecessary spending.

Many people are understandably upset that the Federal Government's reaction is exactly the opposite. They're amazed when we're prepared to spend an additional $819 billion of their money after a $700 billion bailout that was spent without anyone being able to give a straight answer about where the money went. They're skeptical of the results that we're getting, and so am I.

I think there are a few stimulative activities we should be taking a good look at. First, we should return more of the money we're taking in in Washington through tax cuts for people who pay taxes. In my opinion, and in the opinion of many economic experts, this is one of the most effective measures we can take. I would also cut taxes for small business who are going to create the jobs we need to get out of this economic crisis. These businesses can use this money to reinvest in plant equipment.

This weekend, I met a young man named Mike who is in deep trouble with his two restaurants. He doesn't have the capital to keep going on. He hires 21 people. This is someone we need to desperately help, and this story can be repeated across this Nation.

To those who've been put out of a job, I would eliminate the taxes on unemployment insurance. It is so counterproductive to provide people these benefits only to turn around and take part of the benefit right back, and it doesn't make any sense.

As a former mayor, I would also encourage meaningful infrastructure investment focused on improving our Nation's roads, sewers, and education. I know from my experience that these improvements lay the groundwork for future economic development that will benefit our children's generation. In Johnson City, Tennessee, the investments we made several years ago make our city attractive to businesses and homebuyers, which in turn promote economic development.

I hope the majority party will take these suggestions and incorporate them into their package so that the next bill we consider on the House floor will be an American stimulus package, not a Democrat or Republican stimulus package.

Thank you, Mr. Chairman.

Mr. THOMPSON of Mississippi. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. OLSON. Mr. Speaker, I yield 2 minutes to the gentlelady from the State of Wyoming (Mrs. LUMMIS).

Mrs. LUMMIS. Mr. Speaker, I would like to use my time today to compliment the bipartisan work of the Committee on Homeland Security. The bill before you, the FAST Redress Act of 2009, is the result of extensive bipartisan negotiations. This is what my constituents asked for when they elected me to Congress.

The people of Wyoming want to see the parties working together for the good of the American people. And this bill is an example of the type of bipartisanship that I hoped to see when I came here.

Unfortunately, my first month in this body did not display to me that type of bipartisanship. So to have this example here today is very refreshing. Last week, we had an example that was quite the opposite.

The stimulus package went to the Senate without a single Republican vote. But the fact of the matter is, the American people are now weighing in, and they're weighing in with their Senators, and they're giving their Senators the opportunity to make a better decision than we in the House made: a decision based on the spirit of bipartisanship and a decision that's based on job stimulus, not on pork barrel spending.

So I want to compliment the Committee on Homeland Security for bringing us a bill that is truly bipartisan. And I would encourage us, as a Congress, the House of Representatives, to take the same spirit of bipartisanship to heart when the Senate returns the stimulus package to us for our subsequent consideration.

Mr. OLSON. Mr. Speaker, I have no further speakers.

I urge the passage of the bill and yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the practice of watch listing individuals plays an important role in identifying possible terrorist suspects, we must keep in mind that the watch list is only as good as the information on it. Without accurate, complete, and reliable information, misidentifications persist. The database becomes unreliable, and the purpose of the watch list is frustrated leaving America vulnerable.

For the watch list to truly be cleaned up, there needs to be direction from the Obama administration to all of the consumers of the list throughout the Federal Government that the way the list is populated and maintained needs reformed. The intelligence community, Federal law enforcement, and DHS must all come together in order to revamp the watch list. In the absence of reform, America needs an immediate remedy. The FAST Redress Act provides just that.

I urge swift passage of this bill, H.R. 559. Ensuring that business travel and other Americans can fly without being misidentified against a terrorist watch list will also stimulate the economy. Air travel is already distressed. Interrhetoric against a solid stimulus bill does little to make things right.

Mr. Speaker, this bill moves our security policies forward in a manner that protects our homeland and our civil liberties.

Mrs. MILLER of Michigan. Mr. Speaker, I rise today in strong support of H.R. 559, the FAST Redress Act of 2009. This bill requires the Homeland Security Secretary to create a timely and fair process for individuals who believe they were delayed or prohibited from boarding a commercial aircraft, or entering the country because they were wrongly identified as a threat when screened against any terrorist watch list or database used by the Transportation Security Administration (TSA), Customs and Border Protection, or any other component of the Department of Homeland Security.

We have heard many news reports of people whose names are similar to those on the watch list, detained for hours at border crossings and airports, all because their name is the same or similar to a person with suspected terrorist ties.

The Fast Redress Act would set up a dedicated office within Department of Homeland Security to coordinate and streamline the process of appeal for individuals who believe they have been wrongly placed on a government watch list and consequently remanded to secondary screening.

This office would then create and share a "Cleared List" of individuals who have gone through the redress process and that list would be disseminated to all components of DHS—preventing the same individuals from being stopped by multiple government agencies.

My home state of Michigan is home to the first and second busiest border crossings on the northern tier of the nation, where thousands of people cross the border into Canada every single day.

Detroit Metropolitan Airport is also a hub for Northwest Airlines and is one of the busiest airports in the nation.

When you combine the fact that southeast Michigan is home to one of the largest Arabic populations in America, the vast majority of whom are law abiding and patriotic Americans, with the important international travel corridors that exist in our community, far too many of my constituents have been needlessly inconvenienced without the goal of security being advanced.

Unfortunately, my office has been contacted by numerous people who were mistakenly detained, often at gunpoint, because their name mistakenly appeared on the terrorist watch list.

Now, American citizens will have a process to permanently clear their names, and spread that information throughout the DHS and others who use the watch list. And that will make it a more effective tool to keep our nation safe.

We must ensure that our CBP officers and TSA agents spend their limited time, manpower and resources on genuine threats to our security; scrubbing the watch list is an important first step to making sure that happens.

Mr. THOMPSON of Mississippi. I encourage the passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 559.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. THOMPSON of Mississippi. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL BOMBING PREVENTION ACT OF 2009

Mr. THOMPSON of Mississippi. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 549) to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Bombing Prevention Act of 2009''.

SEC. 2. BOMBING PREVENTION.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following new section:

''SEC. 210F. OFFICE FOR BOMBING PREVENTION.

''(a) IN GENERAL.—The Secretary shall establish within the Protective Security Coordination Division of the Office of Infrastructure Protection of the Department an Office for Bombing Prevention (in this section referred to as 'the Office').

''(b) RESPONSIBILITIES.—The Office shall have the primary responsibility for enhancing the ability, and coordinating the efforts, of the United States to deter, detect, prevent, protect against, and respond to terrorist explosive attacks in the United States, including by—

''(1) serving as the lead agency of the Department for ensuring that programs designed to counter terrorist explosive attacks in the United States function together efficiently to meet the evolving threat from explosives and improvised explosive devices;

''(2) coordinating national and intergovernmental bombing prevention activities to ensure those activities work toward achieving common national goals;

''(3) conducting analysis of the capabilities and requirements necessary for Federal, State, local, and tribal governments to deter, prevent, detect, protect against, and assist in any response to terrorist explosive attacks in the United States by—

''(A) maintaining a national analysis database on the capabilities of bomb squads, explosive detection canine teams, tactics teams, and public safety dive teams; and

''(B) applying the analysis derived from the database described in subparagraph (A) in—

''(i) evaluating progress toward closing identified gaps relating to national strategic goals and standards; and

''(ii) informing decisions relating to homeland security policy, assistance, training, research, development efforts, testing and evaluation, and related requirements;

''(4) promoting secure information sharing of sensitive material and promoting security awareness, including by—

''(A) operating and maintaining a secure information sharing system that allows the sharing of critical information relating to terrorist explosive attack tactics, techniques, and procedures;

''(B) educating the public and private sectors about explosive precursor chemicals;

''(C) working with international partners, in coordination with the Office for International Affairs of the Department, to develop and share effective practices to deter, prevent, detect, protect, and respond to terrorist explosive attacks in the United States; and

''(D) executing national public awareness and vigilance campaigns relating to terrorist explosive threats, preventing explosive attacks, and activities and measures underway to safeguard the United States;

''(5) assisting State, local, and tribal governments in developing multi-jurisdictional improvised explosive devices security plans for high-risk jurisdictions;

''(6) helping to ensure, in coordination with the Under Secretary for Science and Technology and the Administrator of the Federal Emergency Management Agency, the identification and availability of effective technology applications through field pilot testing and acquisition of such technology applications by Federal, State, local, and tribal governments to deter, prevent, detect, protect, and respond to terrorist explosive attacks in the United States;

''(7) coordinating the efforts of the Department relating to, and assisting departments and agencies of Federal, State, local, and tribal governments, and private sector business in, developing and implementing national explosives detection training, certification, and performance standards;

''(8) ensuring the implementation of any recommendations in the national strategy required under section 210G, including developing, maintaining, and tracking progress toward achieving objectives to reduce the vulnerability of the United States to terrorist explosive attacks;

''(9) developing, in coordination with the Administrator of the Federal Emergency Management Agency, programmatic guidance and permitted uses for bombing prevention activities funded by homeland security assistance administered by the Department; and

''(10) establishing and executing a public awareness campaign to inform the general public and private sector businesses on ways they can deter, detect, prevent, protect against, and respond to terrorist explosive attacks in the United States, that—

''(A) utilizes a broad spectrum of both mainstream and specialty print, radio, television outlets, and the Internet;

''(B) utilizes small and disadvantaged businesses, as defined under the Small Business Act (15 U.S.C. 631 et seq.); and

''(C) ensures that the public awareness messages under the campaign reach and are understandable to underserved populations, including—

''(i) persons with physical and mental disabilities, health problems, visual impairments, hearing impairments, limited English proficiency, and literacy barriers;

''(ii) socially and economically disadvantaged households and communities;

''(iii) the elderly; and

''(iv) children.

''(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator of the Federal Emergency Management Agency, the Director of the United States Secret Service, or the Attorney General of the United States.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $10,000,000 for fiscal year 2010;

''(B) $25,000,000 for each of fiscal years 2011 through 2013; and

''(C) such sums as may be necessary for each subsequent fiscal year.

''(2) AVAILABILITY.—Amounts made available pursuant to paragraph (1) are authorized to remain available until expended.

''(e) ENHANCEMENT OF EXPLOSIVES DETECTION CANINE RESOURCES AND CAPABILITIES.—To enhance the Nation's explosives detection canine resources and capabilities the Secretary of Homeland Security shall, by partnering with other Federal, State, local, and tribal agencies, nonprofit organizations, universities including historically black colleges and universities and minority serving institutions, and the private sector—

''(1) within 270 days after the date of the enactment of this subsection—

''(A) develop a pilot program that includes a domestic breeding program for purpose-bred explosives detection canines; and

''(B) increase the current number of capability assessments of explosives detection canine units to identify common challenges and gaps in canine explosives detection, to provide for effective domestic preparedness and collective response to terrorism, and to inform grant guidance and priorities, consistent with national capabilities database efforts;

''(2) continue development of a scientifically based training curriculum to enhance consensus-based national training and certification standards to provide for effective domestic preparedness and collective response to terrorism through the effective use of explosives detection canines for explosives detection canines; and

''(3) continue engagement in explosives detection canine research and development activities through partnerships with the Science and Technology Directorate and the Technical Support Working Group.

''SEC. 210G. NATIONAL STRATEGY.

''(a) IN GENERAL.—The Secretary shall develop and periodically update a national strategy to prevent and prepare for terrorist explosive attacks in the United States.

''(b) DEVELOPMENT.—Not later than 90 days after the date of the enactment of this section, the Secretary shall develop the national strategy required under subsection (a).

''(c) REPORTING.—Not later than six months after the date of the submission of the report regarding each quadrennial homeland security review conducted under section 707, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the national strategy required under subsection (a), which shall include recommendations, if any, for deterring, preventing, detecting, protecting against, and responding to terrorist attacks in the United States using explosives or improvised explosive devices, including any such recommendations relating to coordinating the efforts of Federal, State, local, and tribal governments, emergency response providers, and the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210E the following new items:

''Sec. 210F. Office for Bombing Prevention.
''Sec. 210G. National strategy.''.

SEC. 3. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following new sections:

"SEC. 318. EXPLOSIVES RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, the Attorney General, the Secretary of Defense, and the head of any other relevant Federal department or agency, shall ensure coordination and information sharing regarding nonmilitary research, development, testing, and evaluation activities of the Federal Government relating to the detection and prevention of, protection against, and response to terrorist attacks in the United States using explosives or improvised explosive devices, and the development of tools and technologies necessary to neutralize and disable explosive devices.

''(b) LEVERAGING MILITARY RESEARCH.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, shall coordinate with the Secretary of Defense and the head of any other relevant Federal department or agency to ensure that, to the maximum extent possible, military policies and procedures, and research, development, testing, and evaluation activities relating to the detection and prevention of, protection against, and response to terrorist attacks using explosives or improvised explosive devices, and the development of tools and technologies necessary to neutralize and disable explosive devices, are adapted to nonmilitary uses.

"SEC. 319. TECHNOLOGY TRANSFER.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, shall establish a technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to deter, prevent, detect, protect, and respond to terrorist attacks in the United States using explosives or improvised explosive devices.

''(b) PROGRAM.—The activities under the program established under subsection (a) shall include—

''(1) applying the analysis conducted under section 210F(b)(3) of the capabilities and requirements of bomb squad, explosive detection canine teams, tactical teams, and public safety dive teams of Federal, State, and local governments, to determine the training and technology requirements for Federal, State, and local governments, emergency response providers, and the private sector;

''(2) identifying available technologies designed to deter, prevent, detect, protect, or respond to terrorist attacks using explosives or improvised explosive devices that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, foreign governments, or international organizations;

''(3) reviewing whether a technology described in paragraph (2) may be useful in assisting Federal, State, or local governments, emergency response providers, or the private sector in detecting, deterring, preventing, or responding to terrorist attacks using explosives or improvised explosive devices; and

''(4) communicating to Federal, State, and local governments, emergency response providers, and the private sector the availability of any technology described in paragraph (2), including providing the specifications of any such technology, indicating whether any such technology satisfies appropriate standards, and identifying grants, if any, available from the Department to purchase any such technology.

''(c) WORKING GROUP.—To facilitate the transfer of military technologies, the Secretary, acting through the Under Secretary for Science and Technology, in coordination with the Secretary of Defense, and in a manner consistent with protection of sensitive sources and methods, shall establish a working group to advise and assist in the identification of military technologies designed to deter, prevent, detect, protect, or respond to terrorist explosive attacks that are in the process of being developed, or are developed, by the Department of Defense or the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 317 the following new items:

''Sec. 318. Explosives research and development.

''Sec. 319. Technology transfer.''.

SEC. 4. GAO STUDY OF EXPLOSIVES DETECTION CANINE TEAMS.

Section 1307(f) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 395) is amended by striking ''utilization'' and all that follows through the end of the sentence and inserting ''utilization of explosives detection canine teams, by the Transportation Security Administration and all other agencies of the Department of Homeland Security that utilize explosives detection canines, to strengthen security and the capacity of explosive detection canine detection teams of the Department.''.

SEC. 5. REPORT ON CANINE PROCUREMENT ACTIVITIES.

The Secretary of Homeland Security shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate by not later than 180 days after the date of the enactment of this Act examining the administration of canine procurement activities by the Department of Homeland Security to deter, prevent, detect, and protect against terrorist explosive attacks in the United States, that includes consideration of the feasibility of reducing the price paid for the procurement of untrained canines, including by utilizing an expanded pool of breeds, procuring canines from domestic breeders, and acquiring canines from animal shelters, rescue societies, and other not-for-profit entities.

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The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Texas (Mr. OLSON) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Speaker, I would also like to include in the RECORD an exchange of letters between the distinguished chairman of the Committee on Science and Technology and myself.

COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, January 15, 2009.

Hon. BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security, Ford House Office Building, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 549, the National Bombing Prevention Act of 2009. H.R. 549 was introduced by Congressman Peter T. King on January 15, 2009. H.R. 549 is identical to the reported version of H.R. 4749 from the 110th Congress.

H.R. 549 implicates the Committee on Science and Technology's jurisdiction over Homeland Security research and development under Rule X(1)(o)(14) of the House Rules. The Committee on Science and Technology acknowledges the importance of H.R. 549 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces, or otherwise affects the jurisdiction of the Committee on Science and Technology, and that a copy of this letter and of your response will be included in the Congressional Record when the bill is considered on the House Floor.

The Committee on Science and Technology also expects that you will support our request to be conferees during any House-Senate conference on H.R. 549 or similar legislation.

Thank you for your attention to this matter.

Sincerely,

BART GORDON,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, January 15, 2009.

Hon. BART GORDON,
Chairman, Committee on Science and Technology, Rayburn Bldg., House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 549, the ''National Bombing Prevention Act of 2009,'' introduced by Congressman Peter T. King on January 15, 2009.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that H.R. 549 contains provisions that fall under the jurisdictional interests of the Committee on Science and Technology. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Science and Technology.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction and I agree to support such a request.

I will ensure that this exchange of letters is included in the Congressional Record during floor consideration of H.R. 549, the ''National Bombing Prevention Act of 2009.'' I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Mr. Speaker, I rise in support of this bill and yield myself such time as I may consume.

Mr. Speaker, explosives remain the preferred weapon of choice by terrorists around the world. Yet, in the immediate aftermath of the September 11 attacks, the Bush administration placed a disproportionate level of attention on unconventional emerging threats such as chemical, biological, radiological, and nuclear weapons of mass destruction.

Despite the issuance 2 years ago of HSPD 19, which is entitled ''Combating Terrorist Use of Explosives in the United States,'' the focus needed to address the conventional explosives has been sorely lacking.

Time and again, we have seen terrorists use explosives against the United States and our overseas interests. We have also seen them used to deadly effect against some of our closest allies, including Britain, Spain and, most recently, India.

Because explosives, be they homemade or military grade, are relatively easy to obtain and use in an improvised explosives device, a focused and coordinated approach is needed.

Passage of H.R. 549, the National Bombing Prevention Act of 2009, is a critical step to putting us on a path to developing such an approach.

Specifically, this bill, a reintroduced version of H.R. 4749 from last Congress, which passed the House overwhelmingly on June 18 of last year, establishes the Office of Bomb Prevention at the Department of Homeland Security.

I wish to thank the gentleman from Long Island, the ranking member of the Committee on Homeland Security, Mr. KING, for authoring this legislation, and I am proud to once again be an original cosponsor.

This is a straightforward, bipartisan bill that authorizes the Office of Bombing Prevention in law and sets forth its responsibilities for coordinating Federal efforts to deter, detect, prevent, protect against, and respond to terrorist explosive attacks in the United States.

To do so, the office is required to conduct analysis of the Federal, State, local, and tribal government capabilities; and maintain a national database of the capabilities of bomb squads, explosive detection canine teams, tactics teams, and public safety dive teams around the Nation.

Additionally, the bill requires the Secretary of Homeland Security to develop a national strategy to prevent and prepare for terrorist explosive attacks in the United States.

The bill authorizes $10 million for fiscal year 2010 and $25 million annually for the following 3 years.

I strongly urge passage of this important homeland security legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OLSON. Mr. Speaker, I yield myself such time as I may consume.

This bill authorizes the Office of Bombing Prevention within the Department of Homeland Security. In previous Congresses, it passed on suspension with bipartisan support.

This office will provide the necessary analysis and coordination of our Nation's bomb prevention capability to best protect our citizens from the threat posed by explosive materials.

We only need to look at terrorist activities overseas to understand that conventional and improvised explosive devices are a terrorist's weapon of choice to target military and civilians.

Within the United States, we have been subject to our own share of explosive attacks, including the 1993 World Trade Center bombings, the 1995 Oklahoma City bombing, the Centennial Olympic Park bombing, and others.

State and local authorities have developed the capabilities to respond to potential explosive threats and to neutralize them. Yet without the office established in this bill, there would be no analysis of our nationwide capability to respond to explosive threats, or where gaps exist in training, equipment, and personnel against a national baseline. This analysis will assist State and local officials in applying for homeland security grants to fill these gaps.

Further, this legislation will authorize the office to continue to promote information sharing and IED security awareness through advanced bomb prevention techniques and usable information.

The office uses a secure Web site, known as ''TRIPwire,'' to provide to bomb prevention officials across the country access to current terrorist IED tactics, techniques and procedures, along with expert analysis and reports, making it a one-stop shop for actionable information.

I previously mentioned our troops' experience with IEDs in Iraq and Afghanistan. This legislation instructs the Secretary of Homeland Security to work closely with the Department of Defense to take advantage of what our troops have learned on the battlefield, both in tactics and technology, to improve the capability of our first responders here at home.

Preventing a bomb from going off should involve more than just those first responders attempting to neutralize the threat once the bomb has been placed. Education and awareness programs regarding the threat of IEDs are also a piece of this legislation, providing information on explosive precursors to merchants who can recognize suspicious purchases.

The continued need for the Office of Bombing Prevention is clear. It is important to note that this office is not designed to replace existing elements of counter-explosive expertise already found in the Federal Government, but to assist and coordinate State, local, and tribal capability. In fact, the National Tactical Officers Association supports this legislation.

By supporting H.R. 549, we take another step in upholding our responsibility to protect the lives and livelihood of American citizens.

I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I don't have any additional speakers for the bill, and I reserve the balance of my time.

Mr. OLSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. WOLF).

Mr. WOLF. I thank the gentleman for yielding the time.

Mr. Speaker, I rise in support of H.R. 549, the National Bombing Prevention Act of 2009. However, I have some concerns about language included in this bill regarding the enhancement of explosives detection canine resources and capabilities. I'm concerned and worried that this provision could unintentionally harm established Federal canine training facilities and even weaken existing training standards.

Currently, the Customs and Border Protection agency runs two world-class canine training facilities under its Canine Enforcement Program, in addition to a USDA facility in Florida. One of these facilities is located in my congressional district in Front Royal, Virginia, in what is viewed as the Shenandoah Valley. I strongly encourage Members to visit this exceptional program, staffed by dedicated Federal employees, before making any comprehensive reforms to this model program.

The Canine Enhancement Program already serves the needs of the Department of Homeland Security and other Federal agencies. It is so highly regarded that many of our closest international allies—and I was out there. Egypt had their people out there training and many others—send their canine program officials to the Front Royal facility for training.

Mr. Speaker, rather than reinventing a program that already demonstrates exceptional results, I hope that we can work with the Department of Homeland Security and Customs and Border Protection to address these issues as this legislation moves forward.

Mr. OLSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for yielding and am privileged to address you, Mr.

Speaker, and to rise in support of H.R. 549, the National Bombing Prevention Act.

This is something that certainly arises out of 9/11, when we watched in horror as the twin towers burned, the Pentagon was attacked, and the plane was crashed in Pennsylvania. It's changed the focus of this Nation. It's changed the priorities that we have.

One would think that government would simply look at this and make sure that all the gaps are filled, that we were able to analyze capabilities and maintain a database, identify those gaps. The list of the things in this bill goes on.

I'm looking at the risk to America and the energy that brings this bill to the floor, Mr. Speaker, and I think about this country in the broad terms. What do we need to do to take America to the next level of our destiny? How do we nurture the things that protect us? And how do we enhance the components that improve us?

And I can't help but reflect, Mr. Speaker, as I stand here that we are unanimous in our support in protecting the American people. We disagree sometimes on the tactics—and I don't think we much disagree on these tactics—but I think that there are greater risks out there to America that cry out for an urgent approach rather than H.R. 549, the National Bombing Prevention Act.

Some of those greater risks come from overseas. They come on our American military that are today in harm's way in Iraq and Afghanistan, the whole backdrop of that. We have poured a significant amount of resources in, and we've seen great success in Iraq in particular. We have a tough battle to fight in Afghanistan. That's the habitat that breeds the people that would like to penetrate through our shield.

That's something we cannot always see but it's a tangible enemy because we have seen the results of that tangible enemy.

Mr. Speaker, I can't watch this bill move through debate without raising the issue of the intangible enemy that we have, the enemy that we have from within, the enemy that creeps up on us and sneaks up on us, and the one that causes us to revert to security and trying to find a safer future. Whenever we see a bump along in our economy, when we see the stock market take a dip, when we see some unemployment numbers that go up, the first thing that happens is those who have been lying in wait for an economic disaster pounce upon that as an argument that the free markets are not the solution, that a managed economy is the solution.

And we're in the middle of a pivotal debate in America today, Mr. Speaker, and that pivotal debate rests not so much on the physical security of the American people, as it does the economic opportunity of the American people.

And in the name of economic security, we are watching trillions of dollars being invested in programs that have not shown any pattern of being successful. There was a $150 billion stimulus plan not quite a year ago and then a $700 billion stimulus plan that came out before the election, the bailout plan as it's commonly known, and now we're looking at perhaps a $900 billion stimulus that has with it at least $347 billion in interest attached to it over the next 10 years which takes us to $1.3 trillion.

Just add the $700 billion on from the bailout from last fall, and we're at $2 trillion, $2 trillion in debt and burden which is just one leg of a multi-legged stool as we know from President Obama that has to be constructed by that approach.

And I will submit that as much as we'd like to provide for the safety and the security of the American people—and I will continue to support and work together hand-in-hand across the aisle on those issues—I do oppose the idea that government can spend money better than people can, and I oppose the idea that creating new government programs and spending trillions of dollars. And this one-leg of a multi-legged stool is a $2 trillion leg, Mr. Speaker.

How many more trillion dollars before we get all the legs built on this stool that may look like a centipede and our debt may look like it's insurmountable into the future?

We've got to revert to the things that made this Nation great, the foundations of the American exceptionalism. And those foundations have been—and if we're to have a future will be—the free markets, the markets, the free enterprise system, and our faith in those markets. And at some point, we have to look back at history and understand that no matter how deep we can dig into the old ''New Deal'' of the 1930s, that the best that can be said for it was it may have slowed and diminished the depths to which we sunk during the Great Depression, but the tradeoff was that it delayed the recovery.

□ 1700

And now we are looking at a new, uber, new, new deal that's coming, that is multitrillions of dollars, that may or may not diminish the depths, but it will certainly delay the recovery.

So that is my greatest fear for America, Mr. Speaker. I appreciate your attention.

Mr. THOMPSON of Mississippi. Mr. Speaker, I reserve the balance of my time.

Mr. OLSON. Mr. Speaker, I have no further speakers. I urge members to support this bill.

I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support H.R. 549, and believe that authorizing the Office of Bombing Prevention will greatly enhance our Nation's preparedness and response to arguably the most likely method of terrorist attack.

In addition to authorizing the Office to develop a strategic vision and establish the capabilities level around the Nation, the bill provides support for efforts to research explosives detection and mitigation.

It is important to note, Mr. Speaker, that an informed public is a prepared public. In this spirit, the bill also directs the Office to develop and implement a public awareness campaign that can reach the private sector, as well as ordinary citizens.

Again, I'd like to commend Ranking Member KING for bringing forth this important bipartisan legislation, and I urge immediate passage of H.R. 549.

Mr. KING of New York. Mr. Speaker, I rise in support of H.R. 549, the National Bombing Prevention Act of 2009, and am pleased that the House has moved quickly early in the 111th Congress to act on this important legislation. On January 15, 2009, I introduced H.R. 549, which authorizes the Office of Bombing Prevention within the Department of Homeland Security. In the previous Congress, the full House passed similar legislation by bipartisan voice vote on June 18, 2008.

The Office of Bombing Prevention will provide much needed analysis and coordination of our Nation's bomb-prevention capacity. This will inform State and local governments on how to best protect our citizens from the threat posed by improvised explosive devices (IEDs). The terrorist attacks in Iraq and Afghanistan; the attacks in London in 2007 and 2005; the Madrid bombings in 2004; and the countless other bombing attacks around the world serve as reminders that terrorist organizations utilize IEDs to target civilians and military personnel.

Within the United States, we have been subject to our own share of explosive attacks, including the 1993 World Trade Center bombings; the 1995 Oklahoma City bombing; the Centennial Olympic Park bombing; and others. State and local bomb squads across the country have formed and trained to respond to these types of threats. But at the national level, there is no analysis of our nationwide capability to respond to explosive threats, or to identify where gaps exist in training, equipment, and personnel against a national baseline. The Office authorized by this bill gives us that ability.

This analysis will also assist State and local officials in applying for homeland security grants to fill these gaps. Further, the bill requires the Office to continue to share information with State and local officials and promote IED security awareness. This information is distributed through a secure website, known as "TRIPwire," which provides to appropriate law enforcement officials access to current IED tactics, techniques and procedures—updated in light of new events and as terrorists change their methods. "TRIPwire" includes analysis and reports by experts making it a ''one-stop shop'' for actionable information.

Information sharing with law enforcement is only one part of preventing an IED attack within the United States. Another key component of the Office of Bombing Prevention authorized in this bill is the establishment of an awareness program for the public regarding the threat of IEDs. This program will educate merchants, for example, on types of materials that are explosive pre-cursors, so that sellers can watch for, and recognize, suspicious purchases.

Recognizing that our military has developed invaluable expertise in recognizing and countering IEDs, this legislation instructs the Secretary of Homeland Security to work closely with the Department of Defense to leverage lessons learned by our troops in combat. Adapting appropriate tactics and technology from overseas will improve the capability of our first responders here at home.

The Office of Bombing Prevention has been in existence at the Department of Homeland Security since 2005, but has not yet been authorized by statute. The continued need for the Office of Bombing Prevention is clear. While there are many Federal agencies that bring expertise and roles to countering an explosive threat, this Office provides a unique role to assist and assess State, local, and tribal capability.

By supporting H.R. 549, we take another step in upholding our responsibility to protect the lives and livelihood of American citizens. I urge my colleagues to vote in favor of this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 549, the National Bombing Prevention Act, introduced by my distinguished colleague from New York, Representative KING. This important legislation establishes the Office of Bombing Prevention within the Protective Security Coordination Division of the Office of Infrastructure Protection of the Department.

This legislation is a bi-partisan bill, whose lead sponsor is the Ranking Member of the Committee on Homeland Security, Representative KING and is also cosponsored by Chairman THOMPSON. The function of the Office of Bombing Prevention already exists in the Department, and this bill establishes it in statute. The Office is responsible for coordinating the Government efforts to deter, detect, prevent, protect against, and respond to terrorist explosive attacks in the United States. As we all know, the most likely terrorist threat to our nation's critical infrastructure and transportation modes is from explosives. Moreover, although our nation's security experts have been working assiduously on preventing large-scale terror attacks since the terror attacks that hurt our nation, we must also be vigilant when it comes to improvised and smaller attacks.

Mr. Speaker, we need to ensure that the Office of Bombing Prevention has the protection of being established by the force of law, so the Department can more readily meet the threats to our nation. This legislation requires the Secretary to develop and periodically update a national strategy to prevent and prepare for terrorist explosive attacks in the United States which is due 90 days after the date of enactment. The Secretary is further required to report to Congress regarding the national strategy. This strategy is also called for by Homeland Security Presidential Directive–19, Combating Terrorist Use of Explosives in the United States, issued by President Bush in February of 2007. This legislation also authorizes the Office to support technology transfer efforts as well as research into explosives detection and mitigation.

I did, however, have one reservation with regards to this legislation, regarding canine procurement, which is why I introduced an amendment, which was addressed by the bill in Sections 4 and 5. Dogs are used to detect illicit and illegal substances every day. They are used to: detect illegal narcotics; find money that is being smuggled out of the country; and locate explosives that may be concealed in cargo, within vehicles, on aircraft, in luggage and on passengers.

There is no doubt that every day, the actions of these dogs and their handlers significantly contribute toward deterring threats and protecting our nation from terrorists. While the contributions of our canine forces are priceless, they are not without cost. We must place a price on what we are willing to pay for untrained dogs.

The Department of Homeland Security's Inspector General has found that from April 2006 through June 2007, Customs and Border Protection spent $1.46 million on purchasing 322 untrained dogs—that is about $4500 per dog. Most of these dogs are purchased in Europe and brought to America. These are not fully trained animals. They are puppies that will be trained to provide valuable service. I think most people would find $4500 for an untrained dog an exorbitant amount.

However, I cannot deem this amount out of bounds because the Department of Defense pays $3500 for each untrained dog. The Secret Service pays an average of $4500 for each untrained dog. Therefore, the price paid by CBP is within the acceptable range of current practice. However, I think that if we are to be good stewards of the American tax dollar, we must change the current practice. When one considers that domestic breeders offer the same kinds of dogs for $500–$2000, we cannot justify what I can only call a puppy tariff.

I am proud to support this legislation, which bring our great nation closer to its goal of securing the homeland, and I encourage my colleagues to support this important legislation.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 549, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBERS TO SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING

The SPEAKER pro tempore. Pursuant to section 4(a) of House Resolution 5, 111th Congress, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Select Committee on Energy Independence and Global Warming:

Mr. SHADEGG, Arizona
Mr. SULLIVAN, Oklahoma
Mrs. BLACKBURN, Tennessee
Mrs. MILLER, Michigan
Mrs. CAPITO, West Virginia

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 2 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOCCIERI) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 82, by the yeas and nays;
H. Res. 103, by the yeas and nays;
H.R. 559, by the yeas and nays.

The vote on H.R. 738 will be taken tomorrow.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

NATIONAL STALKING AWARENESS MONTH

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 82, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 82.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 47]

YEAS—417

Abercrombie	Adler (NJ)	Altmire
Ackerman	Akin	Andrews
Aderholt	Alexander	Arcuri

Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—15

Barrett (SC)
Buyer
Campbell
Conyers
Crowley
Flake
Herger
Kilpatrick (MI)
McMorris Rodgers
Moran (KS)
Payne
Solis (CA)
Stark
Stupak
Tiahrt

□ 1855

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HERGER. Mr. Speaker, on rollcall No. 47, I was unavoidably detained. Had I been present, I would have voted "yea."

INTRODUCING ZACHARY LARS SANDLIN

(Ms. HERSETH SANDLIN asked and was given permission to address the House for 1 minute.)

Ms. HERSETH SANDLIN. Mr. Speaker, it is with great joy that my husband, Congressman Max Sandlin, a former Member of this distinguished body, and I introduce to you and to all of our colleagues the newest addition to our family, Zachary Lars Sandlin.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 103, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and agree to the resolution, H. Res. 103.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 13, as follows:

Roll No. 48

YEAS—419

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind

King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—13

Barrett (SC)
Buyer
Campbell
Crowley
Flake
Kilpatrick (MI)
McMorris Rodgers
Moran (KS)
Payne
Solis (CA)
Stark
Stupak
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in the vote.

□ 1906

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCING THE PASSING OF FORMER REPRESENTATIVE WENDELL WYATT

(Mr. WU asked and was given permission to address the House for 1 minute.)

Mr. WU. Mr. Speaker, Wendell Wyatt passed away last week at the age of 91. He represented the First Congressional District of Oregon from 1964 to 1975. He was my predecessor's predecessor's predecessor. He represented Oregon with integrity and compassion, and he will be remembered for his constituent service, his willingness to work toward consensus, and for his service in the Marine Corps during World War II as a fighter pilot.

Oregon has lost a statesman, but we remain indebted to Wendell Wyatt's service and legacy.

Mr. WALDEN. Would the gentleman yield?

Mr. WU. I am pleased to yield to the gentleman from Oregon.

Mr. WALDEN. I thank the gentleman.

Wendell Wyatt guided bills through Congress that left lasting imprints all over our great State of Oregon, including bills that established the Tualatin Reclamation Project in Washington County, the Columbia River 40-foot shipping channel, Lincoln City's Cascade Head Scenic Area, and a bill authorizing the purchase of ranch lands along the Snake River for public recreation.

He will be missed; he will never be forgotten.

Mr. WU. I ask my colleagues to join me in celebrating Wendell Wyatt's life and expressing condolences to his family by requesting a moment of silence.

The SPEAKER pro tempore. Members will rise and observe a moment of silence.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

FAST REDRESS ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 559, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 559.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 3, not voting 16, as follows:

[Roll No. 49]

YEAS—413

Abercrombie
Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick

Murphy, Tim
Murtha
Myrick
Nadler (NY)
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Pence
Perlmutter
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—3

Broun (GA)
Poe (TX)
Westmoreland

NOT VOTING—16

Barrett (SC)
Buyer
Campbell
Crowley
Flake
Frank (MA)
Kilpatrick (MI)
McMorris Rodgers
Moran (KS)
Napolitano
Payne
Perriello
Solis (CA)
Stark
Tiahrt
Velázquez

□ 1919

Messrs. POE of Texas and WESTMORELAND changed their vote from ''yea'' to ''nay.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, due to personal reasons, I was unable to attend to several votes today. Had I been present, I would have voted "yea" on final passage of H. Res. 82, Raising Awareness and Encouraging Prevention of Stalking by Establishing January 2009 as National Stalking Awareness Month; "yea" on final passage of H. Res. 103, Supporting the Goals and Ideals of National Teen Dating Violence Awareness and Prevention Week; and "yea" on final passage of H.R. 559—Fair, Accurate, Secure, and Timely Redress Act.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO H.R. 2, CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–10) on the resolution (H. Res. 107) providing for consideration of the Senate amendment to the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 352, DTV DELAY ACT

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–11) on the resolution (H. Res. 108) providing for consideration of the Senate bill (S. 352) to postpone the DTV transition date, which was referred to the House Calendar and ordered to be printed.

REMEMBERING THE HONORABLE WENDELL WYATT, FORMER MEMBER OF CONGRESS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, Oregon lost a remarkable leader last week with the passing of Wendell Wyatt. He was a man who served his country in the FBI and the Marine Corps. He was a citizen volunteer and a leader of his political party. He also served for 10 distinguished years here in this Chamber. A Republican who could manage partisan clashes as well as chair a Presidential campaign, he was skillful in bringing people together. He shared his progressive insights from the hard-headed perspective of a principled conservative. I will miss his wit, intellect and insight, but will always cherish his friendship.

SMART GOVERNMENT SOLUTIONS

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, yesterday I had the honor of attending Groundhog Day at Gobbler's Knob in Punxsutawney, Pennsylvania. And while we were all there to celebrate an age-old tradition, I was not surprised by what was on the minds of my constituents.

Like the rest of the country, Mr. Speaker, small-town, rural Pennsylvania is facing difficult times. But with that said, a great majority of the folks in the Fifth District of Pennsylvania are adamantly against this latest boondoggle that some are calling a ''stimulus package.'' Are there some worthwhile programs in this bill? Absolutely. But hardworking, Main Street Americans are looking for what I call smart government solutions, not the Big Government Washington-as-usual-style plan that was adopted by the House Democrats.

Smart government solutions put money back in taxpayers' pockets for small business and middle class tax relief. Done correctly, investment in infrastructure and increased domestic energy production are smart government solutions. Mr. Speaker, there are 435 able-minded Members of the body. And while we all come from different corners of the country with different opinions and unique backgrounds, this is the people's House, where debate should be encouraged and thoughtful deliberation the standard. Unfortunately, Mr. Speaker, from what I have witnessed thus far, the people's representatives are not being heard.

HONORING NANCY BRINKER

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute.)

Mr. KLEIN of Florida. Mr. Speaker, I rise today as we begin National Cancer Prevention Month to honor an extraordinary member of our south Florida community, Mrs. Nancy Brinker. Nancy is the founder of the Susan G. Komen Foundation, the largest charity in the world. Named after Nancy's only sister who succumbed to breast cancer in 1980, the foundation has raised tens of millions of dollars for research and currently includes 100,000 volunteers worldwide.

As many of you know, the signature event of the Susan G. Komen Foundation is its annual Race for the Cure. This past weekend, I was honored to participate with many others for the Race for the Cure held in West Palm Beach, where I walked in honor of my sister who was recently diagnosed with breast cancer. At this event, I was delighted to meet Nancy in person and thank her for her tireless efforts in fighting this terrible disease.

Mr. Speaker, I would like to recognize Nancy Brinker and all of the participants in the 2009 West Palm Beach Race for the Cure for their commitment to defeating breast cancer.

CONGRATULATIONS TO THE PITTSBURGH STEELERS

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, to paraphrase an old NFL films episode, there are 31 teams in the National Football League, and then there are the Pittsburgh Steelers. By winning their NFL

record sixth Super Bowl this past Sunday, the Steelers have now truly gone where no team has gone before.

I want to congratulate the Rooney family, especially team owner Dan and president Art Rooney, the architects of yet another championship team. Head coach Mike Tomlin now goes down in history as the youngest coach to ever win a Super Bowl. And while every player played a role, special congratulations go out to quarterback Ben Roethlisberger, who engineered one of the greatest clutch drives ever, linebacker James Harrison, who scored on the longest play in Super Bowl history, and game MVP Santonio Holmes, whose spectacular touchdown catch sealed the win.

Congratulations again to ''Six-Burgh'' and fans across the Steelers Nation.

WE WILL STAND BY THE JEWISH COMMUNITY IN CARACAS, VENEZUELA

(Mr. ENGEL asked and was given permission to address the House for 1 minute.)

Mr. ENGEL. Mr. Speaker, just a few days ago, there was a despicable attack on the largest synagogue in Caracas, Venezuela, which was orchestrated and very, very disgraceful. Twenty members of the House of Representatives Foreign Affairs Committee wrote a strong letter to President Hugo Chavez asking him not only to condemn this but to take strong steps to prevent it. The fact of the matter is it is Hugo Chavez's actions which led to this. He created the atmosphere which led to this, a climate of fear and intimidation against the Jewish community in Venezuela. This has to stop.

When you single out the Jewish community and ask them to condemn Israel and tell them that they must do it, this creates this kind of atmosphere. This is government sponsored, as far as I'm concerned. We will continue to monitor it.

We will not leave the Jewish community to stand by itself there. We will be with them every step of the way. And we will not allow Hugo Chavez to continue to intimidate those people. There are 25,000 people, ten of them have left. We're going to monitor the situation very carefully.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PUBLICATION OF THE RULES OF THE COMMITTEE ON APPROPRIATIONS, 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Madam Speaker, pursuant to clause 2 of rule XI, I submit for publication in the CONGRESSIONAL RECORD the rules of the Committee on Appropriations for the 111th Congress, adopted on January 21, 2009.

COMMITTEE ON APPROPRIATIONS, COMMITTEE RULES, EFFECTIVE FOR ONE HUNDRED ELEVENTH CONGRESS, APPROVED JANUARY 21, 2009

RESOLVED, That the rules and practices of the Committee on Appropriations, House of Representatives, in the One Hundred Tenth Congress, except as otherwise provided hereinafter, shall be and are hereby adopted as the rules and practices of the Committee on Appropriations in the One Hundred Eleventh Congress.

The foregoing resolution adopts the following rules:

SEC. 1: POWER TO SIT AND ACT

(a) For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House of Representatives, the Committee and each of its subcommittees is authorized:

(1) To sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary; and (2) To require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, reports, correspondence, memorandums, papers, and documents as it deems necessary.

(b) The Chairman, or any Member designated by the Chairman, may administer oaths to any witness.

(c) A subpoena may be authorized and issued by the Committee or its subcommittees under subsection (a)(2) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the Members of the Committee voting, a majority being present. The power to authorize and issue subpoenas under subsection (a)(2) may be delegated to the Chairman pursuant to such rules and under such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairman or by any Member designated by the Committee.

(d) Compliance with any subpoena issued by the Committee or its subcommittees may be enforced only as authorized or directed by the House.

SEC. 2: SUBCOMMITTEES

(a) The Majority Caucus of the Committee shall establish the number of subcommittees and shall determine the jurisdiction of each subcommittee.

(b) Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee all matters referred to it.

(c) All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks unless, by majority vote of the Majority Members of the full Committee, consideration is to be by the full Committee.

(d) The Majority Caucus of the Committee shall determine an appropriate ratio of Majority to Minority Members for each subcommittee. The Chairman is authorized to negotiate that ratio with the Minority; Provided, however, That party representation in each subcommittee, including ex-officio members, shall be no less favorable to the Majority than the ratio for the full Committee.

(e) The Chairman and Ranking Minority Member of the full Committee are each authorized to sit as a member of all subcommittees and to participate, including voting, in all of the work of the subcommittees.

SEC. 3: STAFFING

(a) Committee Staff—The Chairman is authorized to appoint the staff of the Committee, and make adjustments in the job titles and compensation thereof subject to the maximum rates and conditions established in Clause 9(c) of Rule X of the Rules of the House of Representatives. In addition, he is authorized, in his discretion, to arrange for their specialized training. The Chairman is also authorized to employ additional personnel as necessary.

(b) Assistants to Members:

(1) Each of the top twenty-one senior majority and minority Members of the full Committee may select and designate one staff member who shall serve at the pleasure of that Member. Effective as of such date as the Chairman may determine, all other Members of the Committee may also each select and designate one such staff member.

(2) Effective as of such date as the Chairman may determine, the Chairman and Ranking Minority Member of the full committee and of each subcommittee may each select and designate one staff member, in addition to the staff member designated under the preceding paragraph, who shall serve at the pleasure of the Member making the designation.

(3) Staff members designated under this subsection shall be compensated at a rate, determined by the Member, not to exceed 75 per centum of the maximum established in Clause 9 (c) of Rule X of the Rules of the House of Representatives. Effective as of such date as the Chairman may determine, the limit on compensation under this subsection shall be increased to 80 per centum of such maximum.

(4) Members designating staff members under this subsection must specifically certify by letter to the Chairman that the employees are needed and will be utilized for Committee work.

SEC. 4: COMMITTEE MEETINGS

(a) Regular Meeting Day—The regular meeting day of the Committee shall be the first Wednesday of each month while the House is in session, unless the Committee has met within the past 30 days or the Chairman considers a specific meeting unnecessary in the light of the requirements of the Committee business schedule.

(b) Additional and Special Meetings:

(1) The Chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the Chairman.

(2) If at least three Committee Members desire that a special meeting of the Committee be called by the Chairman, those Members may file in the Committee Offices a written request to the Chairman for that special meeting. Such request shall specify the measure or matter to be considered. Upon the filing of the request, the Committee Clerk shall notify the Chairman.

(3) If within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the Committee

Members may file in the Committee Offices their written notice that a special meeting will be held, specifying the date and hour of such meeting, and the measure or matter to be considered. The Committee shall meet on that date and hour.

(4) Immediately upon the filing of the notice, the Committee Clerk shall notify all Committee Members that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at the special meeting.

(c) Vice Chairman To Preside in Absence of Chairman—A member of the majority party on the Committee or subcommittee thereof designated by the Chairman of the full Committee shall be vice chairman of the Committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting of the Committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

(d) Business Meetings:

(1) Each meeting for the transaction of business, including the markup of legislation, of the Committee and its subcommittees shall be open to the public except when the Committee or the subcommittee concerned, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed.

(2) No person other than Committee Members and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed.

(e) Committee Records:

(1) The Committee shall keep a complete record of all Committee action, including a record of the votes on any question on which a roll call is demanded. The result of each roll call vote shall be available for inspection by the public during regular business hours in the Committee Offices. The information made available for public inspection shall include a description of the amendment, motion, or other proposition, and the name of each Member voting for and each Member voting against, and the names of those Members present but not voting.

(2) All hearings, records, data, charts, and files of the Committee shall be kept separate and distinct from the congressional office records of the Chairman of the Committee. Such records shall be the property of the House, and all Members of the House shall have access thereto.

(3) The records of the Committee at the National Archives and Records Administration shall be made available in accordance with Rule VII of the Rules of the House, except that the Committee authorizes use of any record to which Clause 3 (b)(4) of Rule VII of the Rules of the House would otherwise apply after such record has been in existence for 20 years. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to Clause 3 (b)(3) or Clause 4 (b) of Rule VII of the Rules of the House, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination upon the written request of any Member of the Committee.

(f) Availability of Record Votes on the Committee's Website.—In addition to any other requirement of these rules or the Rules of the House, the Chairman shall make the record of the votes on any question on which a record vote is demanded available on the Committee's website not later than 3 legislative days after such vote is taken. Such record shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

SEC. 5: COMMITTEE AND SUBCOMMITTEE HEARINGS

(a) Overall Budget Hearings—Overall budget hearings by the Committee, including the hearing required by Section 242 (c) of the Legislative Reorganization Act of 1970 and Clause 4 (a)(1) of Rule X of the Rules of the House of Representatives shall be conducted in open session except when the Committee in open session and with a majority present, determines by roll call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security; except that the Committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(b) Other Hearings:

(1) All other hearings conducted by the Committee or its subcommittees shall be open to the public except when the Committee or subcommittee in open session and with a majority present determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or Rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present at a hearing conducted by the Committee or any of its subcommittees, there being in attendance the number required under Section 5 (c) of these Rules to be present for the purpose of taking testimony, (1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Clause 2 (k)(5) of Rule XI of the Rules of the House of Representatives or (2) may vote to close the hearing, as provided in Clause 2 (k)(5) of such Rule. No Member of the House of Representatives may be excluded from nonparticipatory attendance at any hearing of the Committee or its subcommittees unless the House of Representatives shall by majority vote authorize the Committee or any of its subcommittees, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public; Provided, however, That the Committee or its subcommittees may by the same procedure vote to close five subsequent days of hearings.

(2) Subcommittee chairmen shall coordinate the development of schedules for meetings or hearings after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings.

(3) Each witness who is to appear before the Committee or any of its subcommittees as the case may be, insofar as is practicable, shall file in advance of such appearance, a written statement of the proposed testimony and shall limit the oral presentation at such appearance to a brief summary, except that this provision shall not apply to any witness appearing before the Committee in the overall budget hearings.

(4) Each witness appearing in a nongovernmental capacity before the Committee, or any of its subcommittees as the case may be, shall to the greatest extent practicable, submit a written statement including a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(c) Quorum for Taking Testimony—The number of Members of the Committee which shall constitute a quorum for taking testimony and receiving evidence in any hearing of the Committee shall be two.

(d) Calling and Interrogation of Witnesses:

(1) The Minority Members of the Committee or its subcommittees shall be entitled, upon request to the Chairman or subcommittee chairman, by a majority of them before completion of any hearing, to call witnesses selected by the Minority to testify with respect to the matter under consideration during at least one day of hearings thereon.

(2) The Committee and its subcommittees shall observe the five-minute rule during the interrogation of witnesses until such time as each Member of the Committee or subcommittee who so desires has had an opportunity to question the witness.

(e) Broadcasting and Photographing of Committee Meetings and Hearings—Whenever a hearing or meeting conducted by the full Committee or any of its subcommittees is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause (4)(f) of Rule XI of the Rules of the House of Representatives. Neither the full Committee Chairman or subcommittee chairman shall limit the number of television or still cameras to fewer than two representatives from each medium.

(f) Subcommittee Meetings—No subcommittee shall sit while the House is reading an appropriation measure for amendment under the five-minute rule or while the Committee is in session.

(g) Public Notice of Committee Hearings—The Chairman of the Committee shall make public announcement of the date, place, and subject matter of any Committee or subcommittee hearing at least one week before the commencement of the hearing. If the Chairman of the Committee or subcommittee, with the concurrence of the ranking minority member of the Committee or respective subcommittee, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman or subcommittee chairman shall make the announcement at the earliest possible date. Any announcement made under this subsection shall be promptly published in the Daily Digest and promptly entered into the Committee scheduling service of the House Information Systems.

SEC. 6: PROCEDURES FOR REPORTING BILLS AND RESOLUTIONS

(a) Prompt Reporting Requirement:

(1) It shall be the duty of the Chairman to report, or cause to be reported promptly to the House any bill or resolution approved by

the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, a report on a bill or resolution which the Committee has approved shall be filed within seven calendar days (exclusive of days in which the House is not in session) after the day on which there has been filed with the Committee Clerk a written request, signed by a majority of Committee Members, for the reporting of such bill or resolution. Upon the filing of any such request, the Committee Clerk shall notify the Chairman immediately of the filing of the request. This subsection does not apply to the reporting of a regular appropriation bill or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(b) Presence, of Committee Majority—No measure or recommendation shall be reported from the Committee unless a majority of the Committee was actually present.

(c) Roll Call Votes—With respect to each roll call vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure of matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the Committee report on the measure or matter.

(d) Compliance With Congressional Budget Act—A Committee report on a bill or resolution which has been approved by the Committee shall include the statement required by Section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the bill or resolution provides new budget authority.

(e) Constitutional Authority Statement—Each report of the Committee on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(f) Changes in Existing Law—Each Committee report on a general appropriation bill shall contain a concise statement describing fully the effect of any provision of the bill which directly or indirectly changes the application of existing law.

(g) Rescissions and Transfers—Each bill or resolution reported by the Committee shall include separate headings for rescissions and transfers of unexpended balances with all proposed rescissions and transfers listed therein. The report of the Committee accompanying such a bill or resolution shall include a separate section with respect to such rescissions or transfers.

(h) Listing of Unauthorized Appropriations—Each Committee report on a general appropriation bill shall contain a list of all appropriations contained in the bill for any expenditure not currently authorized by law for the period concerned (except for classified intelligence or national security programs, projects, or activities) along with a statement of the last year for which such expenditures were authorized, the level of expenditures authorized for that year, the actual level of expenditures for that year, and the level of appropriations in the bill for such expenditures.

(i) Supplemental or Minority Views:

(1) If, at the time the Committee approves any measure or matter, any Committee Member gives notice of intention to file supplemental, minority, or additional views, the Member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views in writing and signed by the Member, with the Clerk of the Committee. All such views so filed shall be included in and shall be a part of the report filed by the Committee with respect to that measure or matter.

(2) The Committee report on that measure or matter shall be printed in a single volume which—

(i) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(ii) shall have on its cover a recital that any such supplemental, minority, or additional views are included as part of the report.

(3) This subsection does not preclude—

(i) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by such subsection; or

(ii) the filing by the Committee of a supplemental report on a measure or matter which may be required for correction of any technical error in a previous report made by the Committee on that measure or matter.

(4) If, at the time a subcommittee approves any measure or matter for recommendation to the full Committee, any Member of that subcommittee who gives notice of intention to offer supplemental, minority, or additional views shall be entitled, insofar as is practicable and in accordance with the printing requirements as determined by the subcommittee, to include such views in the Committee Print with respect to that measure or matter.

(j) Availability of Reports—A copy of each bill, resolution, or report shall be made available to each Member of the Committee at least three calendar days (excluding Saturdays, Sundays, and legal holidays) in advance of the date on which the Committee is to consider each bill, resolution, or report; Provided, That this subsection may be waived by agreement between the Chairman and the Ranking Minority Member of the full Committee.

(k) Performance Goals and Objectives—Each Committee report shall contain a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

(l) Motion to go to Conference—The Chairman is directed to offer a motion under clause 1 of rule XXII of the Rules of the House whenever the Chairman considers it appropriate.

SEC. 7: VOTING

(a) No vote by any Member of the Committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

(b) The vote on any question before the Committee shall be taken by the yeas and nays on the demand of one-fifth of the Members present.

(c) The Chairman of the Committee or the chairman of any of its subcommittees may—

(1) postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment;

(2) resume proceedings on a postponed question at any time after reasonable notice.

When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or. amendment to the same extent as when the question was postponed.

SEC. 8: STUDIES AND EXAMINATIONS

The following procedure shall be applicable with respect to the conduct of studies and examinations of the organization and operation of Executive Agencies under authority contained in Section 202(b) of the Legislative Reorganization Act of 1946 and in Clause (3)(a) of Rule X of the Rules of the House of Representatives:

(a) The Chairman is authorized to appoint such staff and, in his discretion, arrange for the procurement of temporary services of consultants, as from time to time may be required.

(b) Studies and examinations will be initiated upon the written request of a subcommittee which shall be reasonably specific and definite in character, and shall be initiated only by a majority vote of the subcommittee, with the chairman of the subcommittee and the ranking minority member thereof participating as part of such majority vote. When so initiated such request shall be filed with the Clerk of the Committee for submission to the Chairman and the Ranking Minority Member and their approval shall be required to make the same effective. Notwithstanding any action taken on such request by the chairman and ranking minority member of the subcommittee, a request may be approved by a majority of the Committee.

(c) Any request approved as provided under subsection (b) shall be immediately turned over to the staff appointed for action.

(d) Any information obtained by such staff shall be reported to the chairman of the subcommittee requesting such study and examination and to the Chairman and Ranking Minority Member, shall be made available to the members of the subcommittee concerned, and shall not be released for publication until the subcommittee so determines.

(e) Any hearings or investigations which may be desired, aside from the regular hearings on appropriation items, when approved by the Committee, shall be conducted by the subcommittee having jurisdiction over the matter.

SEC. 9: OFFICIAL TRAVEL

(a) The chairman of a subcommittee shall approve requests for travel by subcommittee members and staff for official business within the jurisdiction of that subcommittee. The ranking minority member of a subcommittee shall concur in such travel requests by minority members of that subcommittee and the Ranking Minority Member shall concur in such travel requests for Minority Members of the Committee. Requests in writing covering the purpose, itinerary, and dates of proposed travel shall be submitted for final approval to the Chairman. Specific approval shall be required for each and every trip.

(b) The Chairman is authorized during the recess of the Congress to approve travel authorizations for Committee Members and staff, including travel outside the United States.

(c) As soon as practicable, the Chairman shall direct the head of each Government agency concerned not to honor requests of subcommittees, individual Members, or staff for travel, the direct or indirect expenses of which are to be defrayed from an executive appropriation, except upon request from the Chairman.

(d) In accordance with Clause 8 of Rule X of the Rules of the House of Representatives and Section 502 (b) of the Mutual Security Act of 1954, as amended, local currencies owned by the United States shall be available to Committee Members and staff engaged in carrying out their official duties

outside the United States, its territories, or possessions. No Committee Member or staff member shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in applicable Federal law.

(e) Travel Reports:

(1) Members or staff shall make a report to the Chairman on their travel, covering the purpose, results, itinerary, expenses, and other pertinent comments.

(2) With respect to travel outside the United. States or its territories or possessions, the report shall include: (1) an itemized list showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, and any funds expended for any other official purpose; and (2) a summary in these categories of the total foreign currencies and/or appropriated funds expended. All such individual reports on foreign travel shall be filed with the Chairman no later than sixty days following completion of the travel for use in complying with reporting requirements in applicable Federal law, and shall be open for public inspection.

(3) Each Member or employee performing such travel shall be solely responsible for supporting the amounts reported by the Member or employee.

(4) No report or statement as to any trip shall be publicized making any recommendations in behalf of the Committee without the authorization of a majority of the Committee.

(f) Members and staff of the Committee performing authorized travel on official business pertaining to the jurisdiction of the Committee shall be governed by applicable laws or regulations of the House and of the Committee on House Administration pertaining to such travel, and as promulgated from time to time by the Chairman.

□ 1930

SAFE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, last week I re-introduced the Security and Financial Empowerment Act, better known as the SAFE Act, to help stop a cycle of violence that exists in many American families today.

Domestic violence, dating violence, sexual assault and stalking are serious, widespread social problems which impact all Americans regardless of race, ethnicity or social status. The reality of this violence is highlighted by the fact that 1 in 4 American women report being physically or sexually abused at some point in their life.

These serious crimes, primarily against women, have both physical and psychological consequences. Yet credible research has found that many women stay in abusive relationships because they cannot support themselves. As a result, many victims are faced with the terrifying decision of living with the abuse or leaving without financial security.

For victims of domestic violence, this choice is even more daunting during tough economic times like now, for research tells us that as the economy worsens the incidence of violence increases.

The SAFE Act will provide the safety net many need to create a safe and stable environment for themselves and their children by eliminating obstacles that may prevent them from gaining meaningful employment or seeking help.

My bill makes it possible to take limited leave from work for safety planning and necessary court appearances without the threat of losing a job. The SAFE Act also provides job protection when reasonable workplace safety modifications are requested.

To protect victims of violence who seek help against their abuser, the SAFE Act prohibits employers or insurance providers from basing insurance coverage or hiring decisions on an individual's history of abuse.

The SAFE Act also makes a survivor of domestic and dating violence, sexual assault and stalking, eligible for unemployment insurance if it is necessary to leave a job to escape the abuse.

Madam Speaker, the SAFE Act is needed to provide these victims with equal protection throughout our country. While several States have laws similar to the SAFE Act, the reality is that today a person's financial ability to leave an abusive environment depends primarily on where they live.

I thank the many dedicated advocates who daily work to empower women against the horrific crimes of dating and domestic violence, sexual assault and stalking for their invaluable input, expertise and support of the SAFE Act.

I encourage my colleagues to join me and Representative TED POE in cosponsoring and helping to pass the SAFE Act which, for many of these victims, can make the difference between life and death.

CONSEQUENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. CHAFFETZ) is recognized for 5 minutes.

Mr. CHAFFETZ. Mr. Speaker, I rise today to comment about a growing concern among my constituents. They are concerned about our unwillingness to hold ourselves and others accountable.

As the Senate debates the $1 trillion stimulus package, my constituents are begging us to consider the consequences. Every American knows about consequences. They pay them all the time. But they're beginning to wonder if Congress knows about consequences. The continued commitment to deficit spending exacts a huge price upon this country. Yet, it is not nearly enough discussion about the consequences.

It's easy to ignore the consequences. It's easy to pretend they don't exist. It's easy to get caught up in short-term fixes that ignore long-term results. But we weren't elected to do the easy thing. We were elected to make tough choices. We cannot be all things to all people.

It's time to turn things around. If we're serious about change, we have to get serious about accountability.

I'm concerned that Congress has been sending the wrong message to the American people. Consider what they see on a daily basis. They see Wall Street exploiting people, breaking rules and ruining lives. For the offenders, the consequences are minimal. But there is a price. The American people get stuck paying it.

They see financial gurus allegedly ripping people off, and consequences are minimal. But there's a price and the victims pay it.

They see tax evaders nominated to serve the highest offices in our government and, oops, there doesn't seem to be much after of a consequence. But there's still a price. The American government pays it, as we undermine our own credibility.

Now the American people see a government spending trillions of dollars of borrowed money. Congressional leadership is telling them there won't be a consequence. But they know better, and so do we.

We need to join the President's calls to raise our standards. In his inauguration speech, the President said, ''Those of us who manage the public's dollars will be held accountable, to spend wisely, reform bad habits and do our business in the light of day, because only then can we restore the vital trust between people a government.''

If we are truly going to restore that ''vital trust'' we must demand and expect accountability. We have to tell the American people the truth.

The American people know what happens when you borrow too much. They know what happens when you spend too much. And they're worried. They should be. And so am I.

Over the past 12 years our Federal budget has doubled and we are now more than $10 trillion in debt, with long term obligations close to $100 trillion. We are a Nation in debt. We have record numbers of individuals filing for bankruptcy.

Where is the self-restraint, the personal pride, the honor that is our heritage?

We haven't even passed the majority of the appropriations bills for Fiscal Year 2009. We are operating our government on an extension. Yet, the first priority of this Congress is to pass an emergency stimulus bill.

Last week, all the House Republicans and some brave Democrats voted against this so-called stimulus. I was and am fundamentally opposed because

it does not solve the underlying challenges eroding our economy. We all want our economy to thrive, but the bill currently in debate in the United States Senate does not make the fundamental changes we deserve and we need.

The so-called stimulus was sold as a jobs bill. Tell me, how do the following expenditures drive our economy forward? $50 million for the National Endowment of the Arts, $150 million for the Smithsonian, $400 million for global warming research, another $2.4 billion for carbon capture demonstration projects, $600 million for the Federal Government to buy automobiles, $650 million on the top of the billions already doled out to pay for digital TV conversion coupons, $1 billion for the follow up for the 2010 census. And the list goes on.

We need a game changer. Massive spending bills do not represent change because it is merely more of the same. Setting aside money we don't have to pay for projects we can't afford is not change.

The economic crisis we face provides a historic opportunity for us to show America that we get it.

When I speak with business interests in my State, I hear the same request over and over, and it doesn't matter if it's a small business or a big business. From the sole proprietor who owns a graphics shop, to the trucker I spoke with that has 12 employees, to the medical device company that employs nearly 1,000 people in my district, the call is unanimous. They want us to demonstrate accountability. They want us to live within our means. They want us to quit borrowing from our enemies and taxing generations that are yet unborn.

This country needs a game changer. Let us understand the consequences, and let us live within our means.

A TIME OUT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, on his first day in office, I sent a letter to President Barack Obama calling for an international cease fire or ''time out.''

Like many of my colleagues, I have serious concerns about our Nation and its ongoing participation in armed conflicts. Right now, our men and women in uniform are engaged in bloody struggles in Iraq, and Afghanistan, and other troops are based throughout six continents. I fear that our influence around the globe is felt more by our military presence than diplomatically, economically or socially. That, in turn, leads to a negative and hostile view of the United States, its policies and its people.

Mr. Speaker, last November, people overwhelmingly supported then Candidate Obama because of his message of change and hope for a new America and a new era in foreign policy. I was especially encouraged by his statement. He said, ''To renew American leadership in the world, I will strengthen our common security by investing in our common humanity. Our global engagement cannot be defined by what we are against. It must be guided by a clear sense of what we stand for. We have a significant stake in ensuring that those who live in fear and want today can live with dignity and opportunity tomorrow.''

Mr. Speaker, while we have the most highly skilled military in the world, it is easily recognized that the world's conflicts will not be solved at the barrel of a gun. Instead, they will be resolved through serious discussion, hard work, reconciliation and diplomacy, all methods this administration has endorsed. Our partnership with the United Nations and our international partners will be invaluable in this process.

We must review our diplomatic and military stance and give strong consideration to redeploying our troops from Iraq and Afghanistan, reducing the size of our military and, in its place, change our outdated international policy to reflect a message of change, a message of hope.

Additionally, Mr. Speaker, our Nation and the world at large would be greatly served by a worldwide cease fire, a ''time out'' to work out a rededication to diplomacy in the form of negotiation, reconciliation, humanitarian assistance and dialogue. The sooner this could be accomplished, the sooner we can move towards a conflict-free world, a world that all of our children can go to sleep feeling safe and wake up knowing they will be safe for another 24 hours.

I was pleased to see that former Senator George McGovern has joined me in calling a time out. Actually he called it on his own, but we did it at exactly the same time. In the Washington Post this weekend, or last weekend, Senator McGovern wrote, and I quote him, ''Like you, Mr. President, I don't oppose all wars. I risked my life in World War II to protect our country against genuine danger.''

He continued, ''But it is the vivid memory of my fellow airmen being shot out of the sky on all sides of me in a war that I believe we had to fight that makes me cautious about sending our youth into needless conflicts that weaken us at home and abroad, and may even us weaken us in the eyes of God.''

Mr. Speaker, today I urge our President and our Nation to seriously consider our actions and our policies that come at the end of a gun or the launching of a missile.

I am encouraged greatly, however, by the leadership of this new administration. Under its guidance we will live up to our international commitments and we will be judged by what we build, not by what we destroy.

CONGRATULATING THE TEXAS FARM BUREAU ON ITS 75TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CONAWAY) is recognized for 5 minutes.

Mr. CONAWAY. Mr. Speaker, I rise today to extend my warmest congratulations to the Texas Farm Bureau on its 75th anniversary. The bureau's legacy of service, advocacy and partnership has brought out the best in Texas agriculture and helped to preserve the rural way of life that we so deeply cherish in my district.

The people who make up the Farm Bureau have an unparalleled history of making a difference in their local communities. They have helped to make family businesses across Texas more efficient and resilient by sharing the best practices available, providing important services to members that make the most out of their often limited resources. And perhaps most importantly, by giving farmers and ranchers a unified voice, they have guaranteed that they will always have a role in the democratic process.

Though the hours are long and the work is sometimes difficult, the work done by the Farm Bureau is irreplaceable. For the past 75 years it has helped millions of Texans better provide for themselves, their communities and their country.

Finally, I would also like to offer a special word of gratitude to the past and present leadership of the Texas Farm Bureau. Their ongoing vision for rural Texas is a testament to what can be accomplished when neighbors help one another.

Mr. Speaker, it is my great honor to represent some of the many men and women of the Texas Farm Bureau. On behalf of my constituents, I would like to thank them all for truly being the voice of Texas agriculture, and wish them many more years of continued service.

□ 1945

HAPPY BIRTHDAY TO HANK AARON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. SCOTT) is recognized for 5 minutes.

Mr. SCOTT of Georgia. Mr. Speaker, I rise on a very, very joyous and celebratory occasion, an occasion to wish happy birthday to an extraordinary person, a great American, and a leading world citizen, and that is home run king Hank Aaron.

For on February 5th of this month, Hank Aaron will celebrate his 75th birthday, and I am sure all of us in this Congress and across America and around the world would love to take this opportunity to say, ''Happy birthday, Hank.''

Hank Aaron was born in 1934 in the midst of the Depression in Mobile, Alabama. In that same year, a gentleman by the name of Babe Ruth swatted his last home run for the New York Yankees. Who would have thought that this young, black kid in Mobile, Alabama in 1934 would one day beat the record that many said never would be broken?

Then World War II comes along; Pearl Harbor is bombed. While Hank Aaron's father is in the shipyards of Mobile, Alabama, fixing up the boats and the ships to help win World War II, Hank Aaron is playing his very first ball game as a 7 year old in Mobile, Alabama.

Then 1947 comes around, and Jackie Robinson comes on the scene, and Jackie Robinson breaks the color barrier, and creates a great gleam and hope and inspiration in the heart of this young 13-year-old kid, Hank Aaron, to think that, one day, I can play Major League Baseball because Jackie Robinson is with the Brooklyn Dodgers.

He grows up in 1951, and at the tender age of 17, this young man signs a contract, Hank Aaron. His mother packs his suitcase and sends him off to play in the Negro league for the Indianapolis Clowns. What an historic and extraordinary life.

Two years later, three years later in 1954, when the Supreme Court brings down that great decision in the Kansas Board of Education to integrate the schools and to start America on the movement to where we have seen this crowning achievement this year to elect the first black President, Hank Aaron signs with the Milwaukee Braves.

In 1957, he has shown such skill, such tenacity to be one of the leading players, star players, in all of Major League Baseball in just 4 short years, and he leads the Milwaukee Braves to their first and only world championship, and he gets the crown as the Most Valuable Player in the 1957 World Series.

Then in 1966, the South beckons. We want a major league team. The South is in the major leagues. Atlanta beckons. Mayor Ivan Allen makes a trip to Milwaukee, not to talk to the mayor, not to talk to the general manager or to the owner but to go knock on the door and to sit in the living room of Hank Aaron in 1965 and say, ''We are building a stadium, but we need a team.''

Hank Aaron says, ''Let's go south, boys,'' and history was made, and the South becomes a part of Major League Baseball because of this great American, Hank Aaron, in 1966.

In 1974, the night is April 8, and then we flash back to that year 1934 and remember the great bambino strikes his final home run the year Hank Aaron is born. 714, they said, would never be broken, but on that night on April 8, 1974, Hank Aaron shatters Babe Ruth's record and hits 715. It is the shot heard around the world and the accolades. A great achievement. One of the greatest sports achievements in history.

In 1976, he hits 755.

All America join me in saying, ''Happy birthday, Hank Aaron, on your 75th birthday.''

IN THESE DIRE ECONOMIC TIMES, MICHIGAN IS LISTENING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. McCOTTER) is recognized for 5 minutes.

Mr. McCOTTER. In these dire economic times, Mr. Speaker, I try to remind my colleagues that, when Washington is talking, Michigan is listening because, again, we are living your nightmare now.

Last week, the House passed what I believe to be a $1 trillion fiscal obscenity at taxpayers' expense and at the expense of the unemployeds' hope, but you need not take my word for it because, again, Michigan was listening, and when I had the chance to talk to a gentleman named Greg from Milford, this is what he said about the supposed stimulus bill.

Greg said, ''I worked for a company that just lost 700 jobs nationwide, and the stimulus package just amazes me, that Congress is trying to push this thing through—the $600 million and everything going on, things that are not going to stimulate the economy. I have enough money to last a month.''

At this point, Greg's voice started to break.

''Try telling your kids at the dinner table that you just lost your job. It is devastating when you tell your daughter you cannot even buy her a school yearbook because you just do not have the money. You have got money that you were going to spend on something just to let your kids celebrate something that you did, and now that is going to go to the grocery store because you cannot do otherwise or you are going to try to pay your house bill,'' and again, Greg paused.

''When we are sending money overseas to pay for abortions for people who are not even in this country, we are not supporting our own people. They need to change it. I am just one person. They do not listen. If we can have everybody call them and just say, 'We have got to do something different. We cannot throw this money in the garbage. What can we do?' ''

That was Greg's view of a bill that was intended to help him and his struggling family. When Greg was listening to what Washington was saying as it passed the, quote/unquote, stimulus bill, he heard about billions for national parks, about the hundreds of millions for artists, about the smoking secession programs, and about the prevention of sexually transmitted diseases. When this bill was explained back down in Michigan, here is what Greg heard.

He heard that, if you are a hiker who is artistic, who is trying to quit smoking and who is trying to avoid STDs, the House Democrats' bill was for you. If you were in a manufacturing State and you had just lost your job and you were worried about your family, like Greg, you fared far more poorly.

I just want Greg to know that we are listening out here, that when the $1 trillion stimulus bill that will not help him came to the House floor, the entire House Republican minority and 11 Intrepid Democrats said no. They recognized that this would not help him, that it would not help his family and that it would not help any American family that is struggling in straits such as his.

That is why House Republicans responded to President Obama's proposal for bipartisanship early on and produced a package that would have created twice the jobs at half the cost, and this is why we will continue to work in as bipartisan a fashion as is allowed in this Chamber to do what is right for Greg and for his family and for all American families in these very dire times.

HONORING THE LIFE OF VALERIE C. BECKLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, as we celebrate African American History Month, I rise to pay tribute to Ms. Valerie Beckley, a resident of my community who recently passed away. Ms. Beckley was a daughter, a wife, a mother, an avid churchgoer, and a dear friend to many. She was a longstanding and active member of the Curey Tercentenary African American Episcopal Church.

Valerie and her family lived on the west side of Chicago during her formative years. One can say that they were pioneers of sorts. They were some of the first African Americans to live in their area. Valerie was one of the first 100 black students to integrate Austin High School in the 1960s. Even as a child, Valerie displayed exceptional leadership, and was the first black female chosen to become the captain of both the girls volleyball and basketball teams at Austin High School. Valerie grew up in a close, nurturing and bonded family formed by her parents—Mr. Larry and Mrs. Ollie Mae Mitchell.

Valerie attended and obtained a bachelor's degree in Sociology from Roosevelt University and, later on, a master's degree in Social Work from Loyola University.

On September 11, 1976, Valerie married Jerome Beckley, Junior, and they were blessed with two beautiful children—Shakir and Kamaria.

In 1979, Valerie became President and CEO of her family's company, the Lawndale Paper Supply, which was the only paper and janitorial wholesale supply company on the west side of Chicago. Here she honed her management and marketing skills and implemented both long- and short-range goals.

In 1986, Valerie became associated with the other love of her life, the Sickle Cell Disease Association of Illinois. Valerie assumed the role of camp director of the Bright Horizons Summer Camp. Later, she became a program specialist, and in short order, she became totally immersed in the plight of people affected by sickle cell disease.

In 2002, when Howard Anderson—the founder and president of the Sickle Cell Disease Association of Illinois—decided to retire, he stated that he could find no better person to take over as president, and she did, devoting the rest of her life providing aid and comfort to sickle cell patients, raising money for services and working continuously to try and help find a cure for this dreadful disease.

For most of her 58 years on this Earth, Valerie C. Beckley's life was driven by her compassion to serve the marginalized, the underserved and the misrepresented. She became a dedicated leader and advocate whose passion for the welfare of others has helped numerous families in Chicago, the State of Illinois and within the broader context of the African Diaspora.

Mr. Speaker, Valerie represented to all of us who knew her the fact that one can give of oneself and not tire. She gave totally of herself to the end of her life, to the end of time for the benefit of others.

We all say thank you, Valerie.

THE BLUE DOGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Louisiana (Mr. MELANCON) is recognized for 60 minutes as the designee of the majority leader.

Mr. MELANCON. Mr. Speaker, I appreciate the opportunity to be on the floor tonight with my fellow Blue Dogs, and we were just going to make some remarks and talk about the Blue Dogs' concern with fiscal responsibility in previous Congresses and in Congresses going forward.

Over the long haul, the Federal budget has been in a downward spiral with the national debt growing faster than the economy. With this grim fiscal outlook, it is more important than ever that Congress and the administration work together in a bipartisan manner to address the needs for long-term fiscal sustainability.

□ 2000

Back in the 1990s, under the administration of Bill Clinton and with the cooperation of the Congress led by the Blue Dog Coalition, PAYGO rules were put into statute, put into law that required that the Congress of the United States pay for that which they wished to spend. So no new spending could be appropriated and spent without the author or the party or the group that wanted to propose new spending finding a means or a place to cover the cost.

About 8 years ago, the PAYGO rules were abolished out of statute, and since that time and in the period of 8 years, the Government Accounting Office in the projections for 10 years out showed that the budget was estimated to have a surplus of $5.5 trillion in the next 10 years. As I stand here today with my colleagues, we are now projecting an excess of $10 trillion deficit. That's a $15.5 trillion swing.

And if you actually looked at government accounting, or if you looked at accrual accounting rather than government accounting, you will find that—those of you that are in business out in this country will know that a $56 trillion deficit projected is the real number.

Because of the deficits that exist in so many programs, entitlements and others, we have spun ourselves or spent ourselves into a hole that will take us quite a while to climb out of.

I have one grandson. His name is Jack, and he's 2½ years old. For Christmas, I got one of those video frames that changes the pictures out. And it is one of the greatest things that my family could have given me because Jack's there every day to remind me of the reason why I need to be here, why the Blue Dogs have continued their attack on the budget, why they have continued the march and the drumbeat of PAYGO and fiscal responsibility when neither side of our Congress would face up to the facts.

If in fact we are to leave them a good world, we need to face up, just like every American does, to the bills that confront us; and we can't spend more than we take in. We need to, as was done back in the 1990s, go back to statutory PAYGO, live within our means, make sure we have the money to pay for those things which are good for our country—not squander the future for our children and our grandchildren—but to make sure that their future has a potential to be a bright one, as mine was, because of my parents' and my grandparents' efforts during their time.

I would like to ask my friend, Congressman BARON HILL, to make a few comments.

Mr. HILL. I thank my friend from Louisiana for yielding me this dedicated time.

Fourteen days ago, Mr. Speaker, Barack Obama became President of the United States. And listening to some of my colleagues earlier in the evening, you would have thought by listening to them that the $10 trillion deficit that we're now facing was created by President Obama within the last 14 days. And we all know that that is not true.

As a matter of fact, the largest budget deficits that we've ever had have, quite frankly, come under the presidencies of three Republican presidents: one in the 1980s, one in the 1990s, and this last President that we've had for the last 8 years.

And the Blue Dogs have the special hour here today, and for years we have been coming to this microphone to talk about the dangers to the long-term economy by driving up these deficits. And we have had a day of a reckoning that happened several months ago that, in part, was caused by wasteful spending and deficit spending. What we have been warning this Congress about for many years is that if we do not get a fix on our national deficit, it is going to have a devastating effect upon our economy.

Now here we are standing before the American people telling the American people that that day has arrived.

Now, in totality, it was not the fault of the Federal budget deficit. There were a lot of things that were going on with the financial markets that were no good, but here we are trying to figure out what to do next.

Now, the Blue Dogs did something that was extraordinary, or at least most of the Blue Dogs—not all of the Blue Dogs—but many of the Blue Dogs felt like that this economy was in such dire straits that we had to forego the disciplines that we have practiced for many, many years. In light of the fact that our economy was tanking, many of us felt like we should borrow more money in order to stimulate the economy.

But in the process of doing that, we have had ongoing negotiations with the folks in the Obama administration that while many of us were willing to suspend our feelings about fiscal discipline in order to jump start the economy, that somewhere down the line very soon, as a matter of fact, that we had to implement new PAYGO rules in order to get a handle on this spiraling budget deficit that is out of control.

Now, it's going to take some time to climb out of the hole that we find ourselves in after 8 years of the Bush administration. But we must start now to impose fiscal discipline on the Federal Government so that our children and grandchildren do not bear the burden of our debts.

Blue Dogs know that we need to work quickly to put budget enforcement tools, like statutory PAYGO, in place so that we can begin paying down the national debt that's crippling our economy and putting future generations of Americans in jeopardy. This is why we have been working with our leadership in the House, as well as newly appointed Office of Management and Budget Director Peter Orszag, to make sure that we put our country back on a path to fiscal responsibility and economic sustainability.

Now just recently, at the Blue Dogs' asking, Dr. Orszag recently sent a letter to the House leaders stating the President's support for a return to PAYGO budgeting: ''Moving forward we need to return to the fiscal responsibility and pay-as-you-go budgeting that we had in the 1990s for all nonemergency measures. The President and his economic team look forward''—this is not me reading my words; this is Dr. Orszag saying this, ''The President and his economic team look forward to working with Congress to develop budget enforcement rules that are based on the tools that helped create the surpluses of a decade ago. Putting the country back on the path of fiscal responsibility will mean tough choices and difficult trade-offs, but for the long-term health of our economy, the President believes that they must be made.''

That letter was sent to the leaders of this Congress at the request of the Blue Dogs who have been consistently and perpetually making sure, Madam Speaker, that this Congress get its fiscal house in order.

President Obama has been very clear about his intentions to clean up the Federal budget, cut out wasteful spending, reinstitute pay-as-you-go budgeting, and address the long-term fiscal challenges facing the country. As a strong, moderating force within the House of Representatives, we look forward to continuing work with the President and others in Congress to put forward a plan for real fiscal reform over the long term.

The bottom line is that our country is maintaining an unsustainable level of debt that is threatening not only our economy, but our national security and the quality of life of every single American. We have to do something about it now, and the Blue Dogs stand ready to make the difficult decisions necessary to reverse the out-of-control spending and reckless fiscal policies of the last 8 years, not the last 2 weeks.

And so, Madam Speaker, the Blue Dogs look forward to working with this President and working with the leadership of this Congress to make sure that after we've done the stimulus that we start the process of getting our fiscal house in order by paying pay-as-you-go statutory PAYGO rules.

With that, I yield back to my good friend from Florida, ALLEN BOYD, who's been a stalwart champion in this regard as the leader of the Blue Dogs for the last 2 years. We welcome his remarks here this evening.

Mr. BOYD. Madam Speaker, ladies and gentlemen, thank you. I thank my friends, my friend from Indiana, BARON HILL, and from Louisiana, CHARLIE MELANCON, both who are current leaders of the 51-strong fiscally conservative Blue Dog Coalition, a group which has spent the last 12 or 14 years in this Congress touting fiscal responsibility and trying to continuously take the message to the American people that the United States Government, the United States Congress, should act just like our families and our small businesses and our local governments do, and that is we should act responsibly when it comes to spending our money and how we collect and spend our money.

I think most Americans, most people watching these proceedings here tonight, understand that 8 years ago in early 2001 at the end of President Clinton's administration that this country's government stood in great shape with a balanced budget and surpluses—as Congressman HILL and Congressman MELANCON have talked about—as far as the eye could see with an opportunity to do many things in terms of reducing taxes and paying down debt and fixing some long-term entitlement program challenges that we have.

The Congress and the administration in the coming years after 2001 passed on that opportunity and instead led us down a path of fiscal irresponsibility where we have continually spent, borrowed, and spent and told the American people they could have anything they wanted and they didn't have to pay for it.

Now, the chickens, so to speak, have come home to roost; and you are beginning to see the results of this horrible fiscal policy, economic policy, of the last 8 years.

Some would say that because we're in a recession now is not the time to worry about the consequences of government spending. Madam Speaker, I and my Blue Dog colleagues would argue the exact opposite—that now is exactly the time to address the fiscal situation that we as a country are facing.

We have an opportunity under new leadership, under the leadership of President Obama, to tackle the problem in a multi-faceted manner and recommit not only to stimulating and jump starting and getting our economy going again, but also to put in place the tools that we need as a Nation to have fiscal discipline in the future and lead us back toward fiscal responsibility, a balanced budget, and establish ourselves again as the economic, military, and political leader of the world.

My friends, Mr. MELANCON and Mr. HILL, have talked about PAYGO and the history of PAYGO; and, yes, it was, it was a tool that was used in the 1990s to get us into that position where we had surpluses and we were balancing the budgets and we were acting responsibly. Those tools were allowed to expire in 2002. And that's when everything kind of ran amok and we began to spend, spend, spend, we reduced revenue base; and as a result, we went overseas to borrow the money. And now, instead of a $5 trillion national debt, we've got over a $10 trillion national debt.

In this fiscal year, Madam Speaker, this Nation, this government, will sustain a $1 trillion-plus deficit in its budget, $1 trillion-plus deficit. And that's unheard of. That's like 6 or 7 percent of the gross domestic product of this country that we're going overseas to borrow, mortgaging the future of our children to run the operations of this government.

And some of us believe that's irresponsible, it's unethical, immoral.

Now, what do we do? We have spent years and years of passing the buck on these issues, but now is the time to stop passing the buck and address these issues and confront them head on.

There are a couple of specific pieces of legislation that I would like our viewers to know about.

One is a bill that's sponsored—the two primary sponsors are Congressman JIM COOPER, who is a member of the Blue Dog Coalition from Tennessee, Democrat, and Congressman FRANK WOLF from Virginia, a Republican. It's called the SAFE Commission Act.

□ 2015

This particular piece of legislation offers solutions to place the U.S. Government on a course to ensure the solvency of Social Security, Medicare and Medicaid for the coming century.

The SAFE Commission creates a nonpartisan, 16-member commission to examine all areas of Federal spending and revenue, including entitlement spending. The two primary entitlement programs, as you know, are Social Security and Medicare. This bill has real teeth. Once it passes, it will require that Congress vote on the legislation that comes out of the recommendations of the commission within 90 days.

This country needs something like this because Congress has shown an inability—certainly shows it doesn't have the will—to address these challenges head-on otherwise.

Our sustainability challenges are not new. Now, I think most Americans understand kind of the lay of the land here, what happened, where we were in 2000 and 2001 in terms of our government and its financial situation versus now, and there's been a lot of angst and polarization around party lines, and it just hasn't worked very well for the last 6 or 8 years.

But Madam Speaker, the new President, President Obama, and I think many of us in the majority here in the House are offering our hand of bipartisanship across that aisle, to work together with members of the minority party in tackling these issues because they're not Democratic and Republican issues. These are not problems that one party or the other can take sole ownership of, but in solving them, we have to reach across the aisle and develop bipartisan solutions.

President Obama has taken a very solid step, in my feeling, toward putting our country on the right path by the recent announcement of a fiscal summit in the near future. The fiscal summit will be headed up obviously by his economic team, Dr. Orszag, the new OMB director, and others and so we look forward to participating in that summit and are hopeful that out of that summit will come some very solid ideas that the President can then advance and work with the Congress in putting into law.

Madam Speaker, we've got some very serious challenges as a Nation in front of us. I have been in legislative politics for 20 years, not nearly as long as some of the other folks who serve in this body, but I've never seen the challenges and the problems faced so dear.

And we can all agree that if our kids are to have any kind of future that we have to figure out a way to give them the good standard of living, and we need to fix our budget problems, and we need to fix them quickly, and we need to focus on stimulating the economy, but also, we need to focus on the long-term fiscal discipline and restoring commonsense budgeting and commonsense fiscal management to the operation of this government.

I want to thank my friend Mr. MELANCON from Louisiana for his leadership in the Blue Dogs, for his leadership on the issues of fiscal responsibility, and also for allowing me a few moments here to come speak to the Nation.

Mr. MELANCON. Thank you, Congressman BOYD, my friend from Florida.

You know, one of the ironies is that some four-and-a-half years ago, or five-and-a-half years ago now when I made the decision to run for the vacated seat in the Third District of Louisiana, which is of course the coastal district that was hit by both Katrina and Rita and then subsequently this past year by Gustav and Ike, we have a lot of foreigners showing up on the shores of Louisiana these days. I ran, of course. People referred to Democrats as tax-and-spend Democrats.

One place that I always thought that I had some relationship to Republicans was in fiscal matters, and ironically after getting here and finding out the situation of our deficit and its continuing to grow. I've learned too that we as Democrats or my predecessors as Democrats may have been tax and spend, but my colleagues on the other side of the aisle will go down in history I believe as borrow and spend. You can't continue to print money and continue to elevate the debt on this country.

And particularly when you look at the debt of this country as we stand here today, in 8 years this deficit has grown to a size that is larger than all the cumulative deficits for all administrations from George Washington to the start 8 years ago. That's amazing.

The fourth largest item in our budget is the interest that we pay on the money that we borrow. Forty percent of the debt that we owe, the people that hold the treasuries and the bonds for this country's future are held by China. I wonder why we're so nice to our friends in China.

So, as we move forward, we need to look at a fiscal policy, but we also in a time that is unparalleled, we have to be looking at what do we do to preserve the economy.

This bill, as we've talked about that's presently moving through the Congress, is not a perfect bill. I, in fact, voted for the substitute presented by the Republicans. I don't know that I can agree with either of the bills as being a perfect bill, and no one, because of the nature of the animal we're dealing with, can say that the problems will be solved.

If you go back to 1929 when the market collapsed, 2 years later Roosevelt was elected. Between that time, the Congress and the administration in Washington said the markets will correct themselves; we need not do anything. Roosevelt came into office, started the CCC, the WPA. People talk about socialized government. That was probably as close as you will get to it. Checks were paid to people for work that they did, but they managed to put food on the table, however scarce. They managed to have a roof over their head, to clothe their children, to be able to continue going forward. It was not a glorious time. It was one of the blackest times in our history.

But by—I hate to say this—by coincidence a law came toward the end of the 1930s, and as a manufacturing country we got our economy going back. And then after World War II we got out of that, laws were passed by this Congress, enacted by this Congress, signed into law by the President that had preceded us that would have protected America and America's economy, had all the regulatory agencies been doing the job that they were supposed to have been doing through these periods of time.

There's been a movement towards deregulation, and I'm for deregulation, but when you put together people and money you breed greed. And what we have caused here was the greed of people and not just in this country. We are faced with a worldwide situation, one that resembles what happened in the period of 1929 into the 1930s.

And after listening to my parents through the years, talking with my grandparents as I grew up, I don't think that I want to be labeled a person who did nothing, a person who said the market will correct itself, a person who said they will fend for themselves, a person who leaves a debt that my children and grandchildren and my friend's children and grandchildren will never ever be able to repay if we don't start the march in the right direction this day, in this Congress, in this administration, in this city, in this great country.

Mr. BOYD. Would the gentleman yield?

Mr. MELANCON. Yes, I will.

Mr. BOYD. I know that the gentleman and our viewers understand that America is the richest country on the face of the earth. America a few years ago, with 5 percent of the world's population, controlled 25 percent of the world's wealth. But 8 years ago we decided we didn't want to pay our own bills. That was the effect of those decisions that were made and that we would go into the capital markets to borrow that money. That's not the way our economic model is set up, and that's the mindset that we really have to change.

Now it's my belief that President Obama, whom I think many of us admire because he's going to lead us through this, he understands what you have to do. Some tough decisions have to be made. He's been given a very tough hand to play with the economic and fiscal situation of this country at the moment, but I believe that all the Nation wishes him well, and we want to work with him to get us back on the right path and fiscal responsibility.

Let's do some hard, tough work on Medicare and Social Security. We've known for years that those programs have to be reformed, that insolvency for these programs is right around the corner, and we have punted that ball down the field for many years now. He knows you can't do that anymore, and he's making the right calls and getting the right people together and getting the right team in place to move forward with this and get it done right.

So I want to thank my friend for getting this hour for us to speak for a few minutes about fiscal issues in the country and our economic situation.

Mr. MELANCON. I thank my friend from Florida, and in closing, let me just say there's an expression that you will hear in Washington, and it's called kicking the can down the street and refers to one party or another party or one administration or another administration or one politician or another politician taking the issue and just moving it down the road and trying to

avoid having to face the hard issue of picking it up and resolving what the issues need to be.

We can no longer, as a government of this great country, kick the can down the road. We need to pick it up. We need to face the issues. We need to do it in a bipartisan way. We need to go back to regular order, take bills the way they used to be, where people debated them, they negotiated them. And a good deal or good bill has always been, in my mind, one where both parties either leave unhappy or both parties leave happy. When one party leaves happy and the other one isn't, then it's not a good deal, and it particularly is not a good deal for the great American citizens that put up with what has gone on through the decades.

We need to reform the way we do our business by going back to regular order, by making sure that there's transparency in our government, that people that are in this body have an opportunity to participate in the legislative process and pass bills that can muster votes from both sides of the aisle. Then we can say we're starting to act like American citizens and American politicians should.

So with that, Madam Speaker, I appreciate the opportunity for the Blue Dog Coalition to be here tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK of Michigan (at the request of Mr. HOYER) for today on account of personal reasons.

Mr. STUPAK (at the request of Mr. HOYER) for today on account of a funeral in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) to revise and extend their remarks and include extraneous material:)

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. SCOTT of Georgia, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. MCCOTTER) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, February 10.

Mr. JONES, for 5 minutes, February 10.

Mr. CULBERSON, for 5 minutes, today.

Mr. CHAFFETZ, for 5 minutes, today.

Mr. CONAWAY, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

ADJOURNMENT

Mr. BOYD. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 4, 2009, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

347. A letter from the Assistant Inspector General Communications and Congressional Liaison, Department of Defense, transmitting the Inspector General's report on the physical security of Department of Defense installations, pursuant to Section 357 of the National Defense Authorization Act for Fiscal Year 2008; to the Committee on Armed Services.

348. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Removal of North Korea from the List of Terrorist Countries [DFARS Case 2008-D036] (RIN: 0750-AG18) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

349. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; List of Firms Owned or Controlled by the Government of a Terrorist Country (DFARS Case 2008-D025) (RIN: 0750-AG22) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

350. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; U.S. -International Atomic Energy Agency Additional Protocol [DFARS Case 2004-D003] (RIN: 0750-AF98) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

351. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; DoD Law of War Program [DFARS Case 2006-D035] (RIN: 0750-AF82) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

352. A letter from the Directors of HOPE for Homeowners Program, Board of Directors of HOPE for Homeowners Program, transmitting the Board's final rule — HOPE for Homeowners Program: Program Regulations: Upfront Payment Incentive for Subordinate Mortgage Lien Holders and Other Program Changes [Docket No.: B-2009-F-03] (RIN: 2580-AA01) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

353. A letter from the Senior Counsel for Regulatory Affairs, Department of the Treasury, transmitting the Department's final rule — TARP Conflicts of Interest (RIN: 1505-AC05) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

354. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — The Low-Income Definition (RIN: 3133-AC98) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

355. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps [Release Nos.: 33-8999; 34-59246; 39-2549; File No. S7-02-09] (RIN: 3235-AK26) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

356. A letter from the Assistant Secretary Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Interpretive Bulletin Relating to Investing in Economically Targeted Investments (RIN: 1210-AB29) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

357. A letter from the Assistant Secretary Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Civil Penalties Under ERISA Section 502(c)(4) (RIN: 1210-AB24) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

358. A letter from the Assistant Secretary Employee Benefits Security Administration, Department of Labor, transmitting the Department's final rule — Interpretive Bulletin Relating to Exercise of Shareholder Rights (RIN: 1210-AB28) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

359. A letter from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Methods for Computing Withdrawal Liability; Reallocation Liability Upon Mass Withdrawal; Pension Protection Act of 2006 (RIN: 1212-AB07) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

360. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries [EPA-HQ-OAR-2003-0146; FRL-8768-2] (RIN: 2060-AO55) received January 29, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

361. A letter from the Assistant to the President for Homeland Security and Counterterrorism, Assistant to the President for National Security Affairs, transmitting the Administration's study on the coordination of WMD terrorism programs by the National and Homeland Security Councils; to the Committee on Foreign Affairs.

362. A letter from the Chairman, United States Institute of Peace, transmitting the Institute's interim report from the Congressional Commission on the Strategic Posture of the United States, pursuant to Public Law 110-417, section 1060; to the Committee on Foreign Affairs.

363. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's Performance and Accountability Report for fiscal year 2008, pursuant to Public Law 106-531; to the Committee on Oversight and Government Reform.

364. A letter from the Chairman, National Indian Gaming Commission, transmitting the Commission's Strategic Plan for Fiscal Years 2009-2014; to the Committee on Oversight and Government Reform.

365. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's annual report on the status of Telework in the Federal Government; to the Committee on Oversight and Government Reform.

366. A letter from the President & CEO, Overseas Private Investment Corporation, transmitting the Corporation's fiscal year 2008 report related to its employment category rating system activities, pursuant to 5 U.S.C. 33199(d); to the Committee on Oversight and Government Reform.

367. A letter from the Chair of the Board, Pension Benefit Guaranty Corporation, transmitting the Corporation's annual report as required by the Employee Retirement Income Security Act of 1974; to the Committee on Oversight and Government Reform.

368. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's report on competitive sourcing efforts for fiscal year 2008, pursuant to Section 647(b) of Division F of the Consolidated Appropriations Act; to the Committee on Oversight and Government Reform.

369. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Limited Access Privilege Programs; Individual Fishing Quota Referenda Guidelines and Procedures for the New England Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the National Marine Fisheries Service [Docket No.: 070920529-81555-02] (RIN:0648-AW05) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

370. A letter from the Deputy Assistant Administrator For Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning [Docket No.: 050613158-5262-03] (RIN: 0648-AT48) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

371. A letter from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting notification that the Solicitor General has decided not to cross-appeal the final judgment entered by the United States District Court for the District of Colorado in the case of Mark Jordan v. Mary H. Sosa, et al., No. 05-CV-1283-EWN (D. Colo. July 22, 2008); to the Committee on the Judiciary.

372. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Department's final rule — Visas: Documentation of Immigrants under the Immigration and Nationality Act, as Amended: Electronic Petition for Diversity Immigrant Status [Public Notice: 6457] (RIN: 1400-AB84) received January 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

373. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, ''National Water Quality Inventory: Report to Congress, 2004 Reporting Cycle,'' pursuant to Section 305(b) of the Clean Water Act; to the Committee on Transportation and Infrastructure.

374. A letter from the Staff Attorney, Office of Chief Counsel for Import Administration, Department of Commerce, transmitting the Department's final rule — Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations (RIN: 0625-AA79) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

375. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Allocation of Section 36 First-Time Homebuyer Credit Between Taxpayers Who Are Not Married [Notice 2009-12] received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

376. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Applicable Federal Rates — February 2009 (Rev. Rul. 2009-5) received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

377. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Treatment of Certain Obligations under Section 956(c) [Notice 2009-10] received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

378. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Field Directive on Tier I Issue: Tier I Issue Research Credit Claims Directive #2 [LMSB Control No.: LMSB-4-0608-035 Impacted IRM 4.51.5] received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

379. A letter from the Chief, Publications and Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Dubai Mercantile Exchange Section 1256(g)(7)(C) Qualified Board or Exhange Revenue Ruling (Rev. Rul. 2009-4) received January 22, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

380. A letter from the Acting Under Secretary, Department of Defense, transmitting notification of funding transfers made during fiscal year 2008, pursuant to Section 8005 of the Department of Defense Appropriations Act, 2008; jointly to the Committees on Armed Services and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POLIS of Colorado: Committee on Rules. House Resolution 107. Resolution providing for consideration of the Senate amendment to the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Childrens's Health Insurance Program, and for other purposes (Rept. 111–10). Referred to the House Calendar.

Mr. CARDOZA: Committee on Rules. House Resolution 108. Resolution providing for consideration of the bill (S. 352) to postpone the DTV transition date (Rept. 111–11). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. POSEY (for himself, Mr. GRIFFITH, Mr. PITTS, Mr. MASSA, Mr. AKIN, Mrs. BACHMANN, Mr. BARRETT of South Carolina, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BONNER, Mr. BOOZMAN, Mr. BROUN of Georgia, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CASSIDY, Mr. CULBERSON, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. HERGER, Mr. HUNTER, Mr. JORDAN of Ohio, Mr. LAMBORN, Mr. LEE of New York, Mr. DANIEL E. LUNGREN of California, Mr. MCCLINTOCK, Mr. ROONEY, Mrs. SCHMIDT, Mr. SOUDER, and Mr. TIAHRT):

H.R. 793. A bill to amend the Internal Revenue Code of 1986 to make permanent the child tax credit and to allow for adjustments for inflation with respect to the child tax credit; to the Committee on Ways and Means.

By Mr. LAMBORN:

H.R. 794. A bill to prohibit the use of funds to transfer enemy combatants detained by the United States at Naval Station, Guantanamo Bay, Cuba, to the Florence Federal Correctional Complex in Colorado, or to construct facilities for such enemy combatants at such location; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS (for himself, Mr. ABERCROMBIE, Mr. BISHOP of Georgia, Ms. BORDALLO, Ms. CORRINE BROWN of Florida, Mr. CLEAVER, Mr. DAVIS of Tennessee, Mr. HARE, Mr. HINOJOSA, Ms. HIRONO, Mr. HOLT, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. MURPHY of Connecticut, Ms. NORTON, Mr. PAYNE, Ms. WOOLSEY, Mr. CAPUANO, Mr. KENNEDY, Mr. CARNAHAN, Ms. SCHWARTZ, Ms. KILPATRICK of Michigan, Ms. SHEA-PORTER, Mr. GUTIERREZ, Mr. SESTAK, Mr. GRIJALVA, Ms. LEE of California, Mr. ISRAEL, Mrs. MALONEY, Mr. ROTHMAN of New Jersey, Mr. COURTNEY, Mr. KUCINICH, Mr. CONYERS, Mr. JOHNSON of Georgia, and Ms. SCHAKOWSKY):

H.R. 795. A bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment, retention, research, and reinvestment in the profession, and for other purposes; to the Committee on Education and Labor.

By Mr. LEWIS of Georgia (for himself, Mr. RANGEL, Mr. STARK, Mr. LEVIN, Mr. MCDERMOTT, Mr. POMEROY, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, Mr. CROWLEY, Mr. VAN HOLLEN, Mr. MEEK of

Florida, Ms. SCHWARTZ, Mr. DAVIS of Illinois, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 796. A bill to amend the Internal Revenue Code of 1986 to repeal the authority of the Secretary of the Treasury to enter into private debt collection contracts; to the Committee on Ways and Means.

By Mr. CALVERT:

H.R. 797. A bill to greatly enhance the Nation's environmental, energy, economic, and national security by terminating long-standing Federal prohibitions on the domestic production of abundant offshore supplies of oil and natural gas, and for other purposes; to the Committee on Natural Resources, and in addition to the Committees on the Budget, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. PENCE, Mr. WALZ, Mr. BOEHNER, Mr. KIND, Mr. PETRI, Mr. DONNELLY of Indiana, Mr. ELLSWORTH, and Mr. BURTON of Indiana):

H.R. 800. A bill to amend the Food, Conservation, and Energy Act of 2008 to authorize producers on a farm to produce fruits and vegetables for processing on the base acres of the farm; to the Committee on Agriculture.

By Mr. CONYERS (for himself, Mr. ISSA, Mr. WEXLER, Mr. FRANKS of Arizona, and Mr. COHEN):

H.R. 801. A bill to amend title 17, United States Code, with respect to works connected to certain funding agreements; to the Committee on the Judiciary.

By Mr. HELLER:

H.R. 802. A bill to amend the Internal Revenue Code of 1986 to extend and modify the first-time homebuyer credit; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. BLUMENAUER, Mr. INSLEE, Mr. MCDERMOTT, Mr. STARK, and Mr. THOMPSON of California):

H.R. 803. A bill to amend titles 23 and 49, United States Code, to require metropolitan planning organizations to consider greenhouse gas emissions in long-range transportation plans and transportation improvement programs; to the Committee on Transportation and Infrastructure.

By Mr. BACA:

H.R. 804. A bill to amend the Public Health Service Act to require the expansion, intensification, and coordination of research and other activities of the National Institutes of Health with respect to primary lateral sclerosis; to the Committee on Energy and Commerce.

By Ms. BALDWIN (for herself, Mr. TERRY, and Mr. TOWNS):

H.R. 805. A bill to amend the Public Health Service Act to improve the Nation's surveillance and reporting for diseases and conditions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS:

H.R. 806. A bill to establish a mail-order pharmacy pilot program for TRICARE beneficiaries; to the Committee on Armed Services.

By Mr. BILIRAKIS:

H.R. 807. A bill to amend the Emergency Economic Stabilization Act of 2008 to require a public database of the executive compensation of the institutions receiving assistance under the Troubled Assets Relief Program; to the Committee on Financial Services.

By Mr. KUCINICH (for himself, Mr. CONYERS, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. CARSON of Indiana, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEFAZIO, Mr. ELLISON, Mr. FARR, Mr. FILNER, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. HIRONO, Mr. HOLT, Mr. HONDA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. LARSON of Connecticut, Ms. LEE of California, Mr. LEWIS of Georgia, Mrs. MALONEY, Mr. MARKEY of Massachusetts, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. NADLER of New York, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. PAYNE, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. RYAN of Ohio, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SHERMAN, Mr. STARK, Mrs. TAUSCHER, Mr. TOWNS, Ms. WATSON, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Ms. BALDWIN, Ms. CORRINE BROWN of Florida, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, and Ms. WATERS):

H.R. 808. A bill to establish a Department of Peace; to the Committee on Oversight and Government Reform, and in addition to the Committees on Foreign Affairs, the Judiciary, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 809. A bill to amend title 38, United States Code, to reduce from age 57 to age 55 the age after which the remarriage of the surviving spouse of a deceased veteran shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse; to the Committee on Veterans' Affairs.

By Mr. BILIRAKIS:

H.R. 810. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to employers for the value of the service not performed during the period employees are performing service as members of the Ready Reserve or the National Guard; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 811. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOREN (for himself and Mr. TIBERI):

H.R. 812. A bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity; to the Committee on the Judiciary.

By Mr. BUTTERFIELD (for himself, Mr. SHULER, Ms. FOXX, Mr. ETHERIDGE, Mr. KISSELL, Mr. JONES, Mr. WATT, Mr. MILLER of North Carolina, Mr. MCHENRY, Mr. COBLE, Mrs. MYRICK, Mr. PRICE of North Carolina, and Mr. MCINTYRE):

H.R. 813. A bill to designate the Federal building and United States courthouse located at 306 East Main Street in Elizabeth City, North Carolina, as the "J. Herbert W. Small Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Ms. DEGETTE (for herself, Ms. BORDALLO, Mr. NADLER of New York, and Ms. DELAURO):

H.R. 814. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to improve the safety of food, meat, and poultry products through enhanced traceability, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE (for herself, Mr. NADLER of New York, and Ms. DELAURO):

H.R. 815. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public health and food safety through enhanced enforcement, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EDWARDS of Texas (for himself and Mr. JONES):

H.R. 816. A bill to amend title 10, United States Code, to prohibit certain increases in fees for military health care; to the Committee on Armed Services.

By Mr. GINGREY of Georgia (for himself, Mr. DEAL of Georgia, Mr. KINGSTON, Mr. LINDER, Mr. PRICE of Georgia, Mr. WESTMORELAND, and Mr. BROUN of Georgia):

H.R. 817. A bill to prohibit the use of funds to transfer individuals detained at Naval Station, Guantanamo Bay, Cuba, to facilities in Georgia or to house such individuals at such facilities; to the Committee on Armed Services.

By Mr. HALL of New York:

H.R. 818. A bill to require advertising for any automobile model to display information regarding the fuel consumption and fuel cost for that model, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOLDEN (for himself, Mr. NYE, Mr. TIM MURPHY of Pennsylvania, Ms. WOOLSEY, Mr. RAHALL, Mr. COLE, Mr. BRADY of Pennsylvania, Mr. JOHNSON of Georgia, Ms. NORTON, and Ms. BORDALLO):

H.R. 819. A bill to amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date; to the Committee on Veterans' Affairs.

By Mr. HONDA:

H.R. 820. A bill to ensure the development and responsible stewardship of nanotechnology; to the Committee on Science and Technology, and in addition to the Committees on Energy and Commerce, Ways and Means, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. GRIJALVA):

H.R. 821. A bill to amend the Clean Air Act to require that mercury emissions from electric utility steam generating units be subject to the MACT standard for hazardous air pollutants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KING of New York:

H.R. 822. A bill to provide for an awareness program, and a study, on a rare form of breast cancer; to the Committee on Energy and Commerce.

By Mrs. MALONEY (for herself, Mr. GRIJALVA, Mr. WAXMAN, Ms. LEE of California, Ms. WOOLSEY, Mr. STARK, and Mr. CUMMINGS):

H.R. 823. A bill to amend the Hate Crime Statistics Act to require the Attorney General to acquire data about crimes that manifest evidence of prejudice based on gender; to the Committee on the Judiciary.

By Mrs. MALONEY (for herself, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Ms. BALDWIN, Ms. CORRINE BROWN of Florida, Mr. ELLISON, Mr. FILNER, Mr. FRANK of Massachusetts, and Ms. NORTON):

H.R. 824. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to allow employees to take, as additional leave, parental involvement leave to participate in or attend their children's and grandchildren's educational and extracurricular activities, and to clarify that leave may be taken for routine family medical needs and to assist elderly relatives, and for other purposes; to the Committee on Education and Labor, and in addition to the Committees on Oversight and Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARSHALL:

H.R. 825. A bill to direct the Secretary of Education to extend the same level of increased flexibility to all rural local educational agencies under part A of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Education and Labor.

By Mr. McHUGH:

H.R. 826. A bill to establish a grant program to support cluster-based economic development efforts; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOORE of Wisconsin (for herself, Mr. CONYERS, Mr. ELLISON, Mr. LANGEVIN, Mr. THOMPSON of Mississippi, Mr. OBERSTAR, Mr. FATTAH, Mr. BRADY of Pennsylvania, Mr. KENNEDY, Mr. HASTINGS of Florida, Mr. PASTOR of Arizona, Ms. JACKSON-LEE of Texas, and Mr. CLEAVER):

H.R. 827. A bill to authorize funds to the Local Initiatives Support Corporation to carry out its Community Safety Initiative; to the Committee on the Judiciary.

By Mr. MORAN of Virginia (for himself, Mr. WOLF, and Mr. CONNOLLY of Virginia):

H.R. 828. A bill to amend chapter 84 of title 5, United States Code, to allow individuals who return to Government service after receiving a refund of retirement contributions to recapture credit for the service covered by that refund by repaying the amount that was so received, with interest; to the Committee on Oversight and Government Reform.

By Mrs. MYRICK:

H.R. 829. A bill to prohibit the use of funds to transfer individuals detained at Naval Station, Guantanamo Bay, Cuba, to facilities in North Carolina or to house such individuals at such facilities; to the Committee on Armed Services.

By Ms. NORTON:

H.R. 830. A bill to amend the District of Columbia Home Rule Act to eliminate Congressional review of newly-passed District laws; to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 831. A bill to direct the Comptroller General to conduct a study of the legal requirements and policies followed by the Department of Transportation in deciding whether to approve international alliances between air carriers and foreign air carriers and grant exemptions from the antitrust laws in connection with such international alliances, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Mr. BLUMENAUER):

H.R. 832. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 833. A bill to abolish the Board of Governors of the Federal Reserve System and the Federal reserve banks, to repeal the Federal Reserve Act, and for other purposes; to the Committee on Financial Services.

By Mr. POE of Texas:

H.R. 834. A bill to amend chapter 44 of title 18, United States Code, to exempt certain peace officers from certain minimum sentencing requirements for using a firearm to commit a crime of violence during or in relation to their employment; to the Committee on the Judiciary.

By Mr. POE of Texas (for himself and Mr. FRANKS of Arizona):

H.R. 835. A bill to stimulate the economy and provide for a sound United States dollar by defining a value for the dollar, and for other purposes; to the Committee on Financial Services, and in addition to the Committees on Ways and Means, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself, Mr. LATHAM, Mr. SAM JOHNSON of Texas, Mr. KIND, Mr. CANTOR, Mr. TIBERI, Mr. DAVIS of Alabama, Mr. BOUSTANY, Mr. CROWLEY, Mr. HIGGINS, Mr. HELLER, and Mr. PASCRELL):

H.R. 836. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 837. A bill to designate the Federal building located at 799 United Nations Plaza in New York, New York, as the ''Ronald H. Brown United States Mission to the United Nations Building''; to the Committee on Transportation and Infrastructure.

By Ms. ROS-LEHTINEN (for herself, Mr. MEEK of Florida, Ms. WASSERMAN SCHULTZ, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 838. A bill to provide for the conveyance of a parcel of land held by the Bureau of Prisons of the Department of Justice in Miami Dade County, Florida, to facilitate the construction of a new educational facility that includes a secure parking area for the Bureau of Prisons, and for other purposes; to the Committee on the Judiciary.

By Mr. SHULER (for himself, Mr. McHENRY, Ms. FOXX, Mr. JONES, Mr. BOREN, and Mr. MINNICK):

H.R. 839. A bill to provide for the consideration of a petition for Federal Recognition of the Lumbee Indians of Robeson and adjoining counties and other Indian groups in North Carolina, and for other purposes; to the Committee on Natural Resources.

By Ms. SLAUGHTER (for herself, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Mrs. CAPPS, Mr. COSTA, Mr. CUMMINGS, Ms. EDWARDS of Maryland, Ms. DELAURO, Mr. FARR, Mr. GRIJALVA, Mr. HOLT, Ms. LEE of California, Mrs. MALONEY, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MICHAUD, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, and Mr. STARK):

H.R. 840. A bill to reduce sexual assault and domestic violence involving members of the Armed Forces and their family members and partners through enhanced programs of prevention and deterrence, enhanced programs of victims services, and strengthened provisions for prosecution of assailants, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on the Judiciary, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SUTTON:

H.R. 841. A bill to authorize the Secretary of Health and Human Services to order a mandatory recall of any product that is regulated by the Food and Drug Administration, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of Mississippi:

H.R. 842. A bill to designate the United States Courthouse to be constructed in Jackson, Mississippi, as the ''R. Jess Brown United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska:

H.R. 843. A bill to amend the Marine Mammal Protection Act of 1972 to repeal the long-term goal for reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations, and to modify the goal of take reduction plans for reducing such takings; to the Committee on Natural Resources.

By Mr. YOUNG of Alaska:

H.R. 844. A bill to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Natural Resources.

By Mr. WEXLER (for himself, Ms. WASSERMAN SCHULTZ, Mr. HASTINGS of Florida, and Ms. BERKLEY):

H. Con. Res. 36. Concurrent resolution calling on the President and the allies of the United States to engage with officials of the Government of Iran to raise the case of Robert Levinson at every opportunity, urging officials of the Government of Iran to fulfill their promises of assistance to the family of Robert Levinson, and calling on the Government of Iran to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation; to the Committee on Foreign Affairs.

By Mr. LEWIS of Georgia (for himself, Mr. COSTA, Ms. LEE of California, Mr. RANGEL, Mr. ISRAEL, Mr. POE of Texas, Mr. CLEAVER, and Mr. MOORE of Kansas):

H. Res. 103. A resolution supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week; to the Committee on the Judiciary; considered and agreed to.

By Mr. RAHALL (for himself and Mr. HASTINGS of Washington):

H. Res. 104. A resolution providing amounts for the expenses of the Committee on Natural Resources in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. COSTA (for himself, Mr. POE of Texas, Ms. MATSUI, Mr. MARCHANT, and Mr. MORAN of Virginia):

H. Res. 109. A resolution supporting the mission and goals of 2009 National Crime Victims' Rights week to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984; to the Committee on the Judiciary.

By Mr. DOYLE (for himself, Mr. ROONEY, and Mr. TIM MURPHY of Pennsylvania):

H. Res. 110. A resolution congratulating the National Football League champion Pittsburgh Steelers for winning Super Bowl XLIII and becoming the most successful franchise in NFL history with their record 6th Super Bowl title; to the Committee on Oversight and Government Reform.

By Mr. KING of New York:

H. Res. 111. A resolution establishing a Select Committee on POW and MIA Affairs; to the Committee on Rules.

By Mr. LEE of New York (for himself, Mr. ACKERMAN, Mrs. BACHMANN, Mrs. BLACKBURN, Mrs. BONO MACK, Mr. BOOZMAN, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Ms. GINNY BROWN-WAITE of Florida, Mr. BUCHANAN, Mr. BURGESS, Mr. BURTON of Indiana, Mr. BUTTERFIELD, Mrs. CHRISTENSEN, Mr. COBLE, Mr. COHEN, Mr. COSTELLO, Mr. CROWLEY, Mr. DAVIS of Kentucky, Mr. DAVIS of Tennessee, Mr. FORBES, Mr. FRELINGHUYSEN, Mr. GOHMERT, Ms. HARMAN, Mr. HELLER, Mr. HOLDEN, Mr. ISSA, Ms. KAPTUR, Mr. KILDEE, Mr. LINDER, Mr. LOBIONDO, Mr. DANIEL E. LUNGREN of California, Mr. MACK, Mr. MANZULLO, Mr. MCCAUL, Mr. MCHENRY, Mr. MORAN of Virginia, Mr. MURPHY of Connecticut, Mrs. MYRICK, Mr. PAUL, Mr. POE of Texas, Mr. PRICE of Georgia, Mr. ROGERS of Kentucky, Mr. ROHRABACHER, Mr. SCHIFF, Mr. SCOTT of Virginia, Mr. SENSENBRENNER, Mr. SMITH of New Jersey, Mr. SOUDER, Mr. TERRY, Mr. WITTMAN, Mr. WOLF, Mr. WU, and Mr. YOUNG of Alaska):

H. Res. 112. A resolution supporting the goals and ideals of American Heart Month and National Wear Red Day; to the Committee on Oversight and Government Reform.

By Mr. REYES:

H. Res. 113. A resolution providing amounts for the expenses of the Permanent Select Committee on Intelligence in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. SIRES (for himself, Mr. TOWNS, Ms. HIRONO, Mr. MCGOVERN, Ms. KILPATRICK of Michigan, Mr. BACA, Ms. WASSERMAN SCHULTZ, Mr. PASTOR of Arizona, Mr. PASCRELL, Mr. SHULER, Mr. ELLSWORTH, Mr. ELLISON, Ms. HERSETH SANDLIN, Mr. CARDOZA, Mrs. DAHLKEMPER, Mr. DOGGETT, Mr. BRADY of Pennsylvania, Mr. HIGGINS, Mr. ALTMIRE, Mr. CLAY, Mr. CLEAVER, Mr. HARE, Ms. VELÁZQUEZ, Mr. COSTA, Mr. ANDREWS, Mr. CARSON of Indiana, Mr. SESTAK, Mr. FARR, Mrs. CAPPS, Mr. MCKEON, Mr. HALL of New York, Mr. GENE GREEN of Texas, Mr. SALAZAR, Mr. HOLT, Mr. GONZALEZ, Mr. RODRIGUEZ, Mr. ARCURI, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. BALDWIN, Mr. TEAGUE, Mr. WELCH, Mr. BRALEY of Iowa, Mr. REYES, Mr. RYAN of Ohio, Mr. ORTIZ, Mr. GRIJALVA, Mr. WILSON of Ohio, Mr. HINOJOSA, Mrs. NAPOLITANO, Mr. YARMUTH, Mr. DAVIS of Tennessee, Ms. SCHAKOWSKY, and Mr. MCINTYRE):

H. Res. 114. A resolution supporting the goals and ideals of ''National Girls and Women in Sports Day''; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 798. A bill for the relief of Adrian Rodriguez; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 799. A bill for the relief of Francisco Rivera and Alfonso Calderon; to the Committee on the Judiciary.

By Mr. FILNER:

H. Res. 105. A resolution referring the bill (H.R. 798), entitled ''For the relief of Adrian Rodriguez'', to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

By Mr. FILNER:

H. Res. 106. A resolution referring the bill (H.R. 799), entitled ''For the relief of Francisco Rivera and Alfonso Calderon'', to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. BOOZMAN and Mr. CALVERT.

H.R. 21: Mrs. DAVIS of California.

H.R. 22: Mr. GORDON of Tennessee.

H.R. 23: Mr. COSTA, Mr. DOYLE, and Mr. LOBIONDO.

H.R. 25: Mr. WHITFIELD.

H.R. 31: Mr. MCGOVERN and Ms. WATSON.

H.R. 44: Mr. WEXLER and Ms. MATSUI.

H.R. 49: Mr. BURTON of Indiana, Mr. KINGSTON, Mr. PAUL, Mr. BROUN of Georgia, Mr. WESTMORELAND, Mr. MCHENRY, Mr. BARTLETT, Mr. BISHOP of Utah, Mr. LATTA, Mr. ROGERS of Kentucky, Mr. MANZULLO, Mr. LAMBORN, Ms. FALLIN, Mr. ROHRABACHER, Mr. CALVERT, Mr. SOUDER, Mrs. MYRICK, Mr. GRAVES, Mr. BROWN of South Carolina, and Mr. BLUNT.

H.R. 106: Ms. SCHWARTZ and Mrs. NAPOLITANO.

H.R. 111: Mr. KINGSTON.

H.R. 118: Mr. LOBIONDO.

H.R. 122: Mr. MARSHALL and Mr. PETRI.

H.R. 131: Mr. SOUDER, Mr. YOUNG of Florida, Mr. GINGREY of Georgia, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. PRICE of Georgia, Mr. MCHENRY, Mr. PLATTS, Mr. CAMPBELL, Ms. GRANGER, Mr. HOEKSTRA, Mr. ADERHOLT, Mr. ROGERS of Kentucky, Mr. WOLF, Mr. WILSON of South Carolina, Mr. PETRI, Mrs. BLACKBURN, Mr. ALEXANDER, Mr. BARTLETT, Mr. JORDAN of Ohio, Mr. FRANKS of Arizona, Mr. ABERCROMBIE, Mr. BILIRAKIS, Mr. CARTER, Mr. CASTLE, Mr. CONAWAY, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DREIER, Mr. GOODLATTE, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. COBLE, and Mr. HOLDEN.

H.R. 137: Mr. DREIER.

H.R. 148: Mr. AKIN, Mr. LUCAS, Mr. GRAVES, and Mr. FORTENBERRY.

H.R. 154: Mr. ROONEY.

H.R. 156: Ms. NORTON and Mr. GUTHRIE.

H.R. 159: Mrs. CHRISTENSEN.

H.R. 176: Ms. LEE of California and Mr. STARK.

H.R. 179: Mr. CUMMINGS, Mr. FRANK of Massachusetts, Ms. ZOE LOFGREN of California, Mrs. NAPOLITANO, and Ms. VELÁZQUEZ.

H.R. 197: Mr. NEUGEBAUER, Mr. MCCOTTER, Mr. JONES, Mr. RAHALL, Mrs. BACHMANN, Mr. SOUDER, Mr. BLUNT, Mr. ROONEY, Mr. WHITFIELD, Mr. MURTHA, and Mr. BOOZMAN.

H.R. 205: Mr. GARRETT of New Jersey, Mr. SMITH of Texas, Mr. WITTMAN, and Mr. HARPER.

H.R. 233: Mr. KIND.

H.R. 265: Mr. CLYBURN, Mr. TOWNS, Mr. DAVIS of Illinois, Ms. LEE of California, Ms. NORTON, Mr. BRADY of Pennsylvania, Mr. CUMMINGS, Mr. COHEN, Mr. GUTIERREZ, Mr. RUSH, Mr. GRIJALVA, and Mr. JOHNSON of Georgia.

H.R. 270: Mr. LATHAM.

H.R. 302: Mr. THOMPSON of California.

H.R. 303: Mr. WHITFIELD, Mr. ROGERS of Alabama, Mr. GALLEGLY, Mr. MICHAUD, Ms. GINNY BROWN-WAITE of Florida, and Mr. WAMP.

H.R. 305: Ms. HIRONO and Ms. BORDALLO.

H.R. 333: Mrs. MALONEY.

H.R. 336: Ms. ZOE LOFGREN of California, Mr. RANGEL, Mr. TOWNS, Mr. GRIJALVA, Ms. KILPATRICK of Michigan, Ms. FUDGE, Mr. THOMPSON of California, and Mr. SNYDER.

H.R. 346: Mr. FRANKS of Arizona.

H.R. 347: Mr. ACKERMAN, Mr. SCOTT of Virginia, Mr. EDWARDS of Texas, Mr. COOPER, Mr. ETHERIDGE, Mr. PRICE of North Carolina, Mr. MCMAHON, Mr. CONNOLLY of Virginia, Mr. ADLER of New Jersey, Ms. KOSMAS, Ms. SCHWARTZ, Ms. KAPTUR, Mr. COHEN, Mr. GEORGE MILLER of California, Mr. TIM MURPHY of Pennsylvania, Mr. VISCLOSKY, Mr. CUELLAR, Mr. TONKO, Ms. ZOE LOFGREN of

California, Mrs. CAPPS, Ms. WOOLSEY, Mr. FARR, Ms. SPEIER, Mr. SHERMAN, Mr. BOYD, Mr. HINCHEY, Mr. PASCRELL, Mr. STUPAK, Mrs. MALONEY, Mr. BERRY, Mr. RYAN of Ohio, Mr. ROSS, Mr. CARNAHAN, Mr. DONNELLY of Indiana, Mr. BECERRA, Mrs. NAPOLITANO, Mr. CROWLEY, Mr. CLAY, Ms. WATSON, Ms. HARMAN, Mr. LEWIS of California, Mr. CALVERT, Mr. GARY G. MILLER of California, Mr. BILBRAY, Mr. GALLEGLY, Mr. MACK, Mrs. BONO MACK, Mr. PENCE, Mr. DANIEL E. LUNGREN of California, Mr. ANDREWS, Mr. SNYDER, Mrs. DAVIS of California, and Mr. SMITH of Washington.

H.R. 365: Mr. SABLAN.

H.R. 388: Mr. HINCHEY and Mr. BLUMENAUER.

H.R. 391: Mr. LAMBORN, Mr. YOUNG of Alaska, and Mr. BACHUS.

H.R. 393: Mr. LUCAS.

H.R. 398: Mr. MCDERMOTT, Ms. MATSUI, Mr. COHEN, and Mr. PASCRELL.

H.R. 426: Mr. CALVERT, Ms. DEGETTE, and Mr. SIRES.

H.R. 450: Mr. BOOZMAN.

H.R. 460: Ms. DEGETTE.

H.R. 463: Mr. BAIRD and Mr. BOSWELL.

H.R. 484: Mr. HARPER.

H.R. 489: Mr. MILLER of Florida.

H.R. 493: Mr. SARBANES.

H.R. 497: Mr. ROGERS of Kentucky.

H.R. 527: Ms. SUTTON.

H.R. 528: Mr. MASSA and Mr. COSTA.

H.R. 529: Ms. ROS-LEHTINEN.

H.R. 538: Mrs. CHRISTENSEN.

H.R. 560: Mr. BERRY.

H.R. 578: Mr. WELCH.

H.R. 605: Mr. LANGEVIN and Mr. SOUDER.

H.R. 615: Mr. BRADY of Pennsylvania and Mr. CALVERT.

H.R. 618: Mr. HONDA, Ms. WOOLSEY, Mr. PETRI, Ms. KILPATRICK of Michigan, Mr. CARNAHAN, and Ms. BALDWIN.

H.R. 620: Mr. DANIEL E. LUNGREN of California, Mr. BUCHANAN, and Mr. POE of Texas.

H.R. 622: Mr. ROGERS of Michigan and Mr. ROSS.

H.R. 627: Mr. LYNCH, Ms. WOOLSEY, and Mr. SHERMAN.

H.R. 634: Mr. ROGERS of Kentucky, Mr. BURGESS, and Mr. WHITFIELD.

H.R. 661: Mr. FLEMING, Mrs. MYRICK, Mr. YOUNG of Alaska, Mr. SMITH of Texas, Mr. DENT, and Mr. KLINE of Minnesota.

H.R. 662: Mr. PETERS.

H.R. 668: Mrs. MCMORRIS RODGERS.

H.R. 669: Mr. FALEOMAVAEGA and Ms. LEE of California.

H.R. 670: Mr. REYES.

H.R. 671: Ms. BORDALLO and Mr. BACA.

H.R. 672: Ms. LEE of California and Ms. BALDWIN.

H.R. 676: Mr. JOHNSON of Georgia and Mr. COSTELLO.

H.R. 678: Mr. BILBRAY, Mr. GRIJALVA, and Mr. FRANK of Massachusetts.

H.R. 688: Mr. BOUSTANY, Mr. DAVIS of Kentucky, Mr. COLE, and Mr. GALLEGLY.

H.R. 690: Mr. CALVERT, Mrs. BACHMANN, Mr. ROGERS of Michigan, Mrs. BLACKBURN, Mr. AKIN, and Mr. BRALEY of Iowa.

H.R. 702: Mr. COSTELLO, Mr. CARNAHAN, Mr. EHLERS, Mrs. CAPPS, and Mr. PATRICK J. MURPHY of Pennsylvania.

H.R. 704: Ms. GINNY BROWN-WAITE of Florida, Mr. PAUL, Mr. LOBIONDO, Mr. MCCAUL, Ms. NORTON, Mr. SESTAK, Mr. BACHUS, Mrs. BLACKBURN, Mr. VAN HOLLEN, Mr. ROGERS of Alabama, Mr. CROWLEY, Mr. SHUSTER, Mr. HOLT, Mr. DENT, Mr. BOREN, and Mrs. MILLER of Michigan.

H.R. 707: Mr. AL GREEN of Texas, Mrs. DAHLKEMPER, Mr. WEXLER, Mr. WITTMAN, Mr. COLE, Mr. CONAWAY, Ms. SHEA-PORTER, Mr. MACK, Mr. ROSKAM, Mr. MICA, Mr. GINGREY of Georgia, Mr. BARTLETT, Mr. SCALISE, Ms. DELAURO, Mr. LOBIONDO, Ms. FALLIN, Mr. KIRK, and Mr. RYAN of Wisconsin.

H.R. 727: Mr. BRADY of Texas.

H.R. 731: Mr. WITTMAN.

H.R. 734: Mr. BRALEY of Iowa, Mr. CAPUANO, Mrs. TAUSCHER, and Mr. MCGOVERN.

H.R. 748: Mr. HOLT, Ms. LINDA T. SÁNCHEZ of California, and Mr. POE of Texas.

H.R. 751: Mr. FRANKS of Arizona and Mr. WILSON of South Carolina.

H.R. 764: Mr. COBLE, Mr. JONES, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. MCCARTHY of California, Mr. BOOZMAN, Mr. BILBRAY, and Mr. GARY G. MILLER of California.

H.R. 767: Mr. HASTINGS of Florida, Mr. HINCHEY, and Ms. SUTTON.

H.R. 768: Mr. CARDOZA, Mr. ABERCROMBIE, Mr. CLAY, Mr. HASTINGS of Florida, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. FATTAH, Mr. MORAN of Virginia, Mr. BRADY of Pennsylvania, Ms. LINDA T. SÁNCHEZ of California, Mr. COURTNEY, Mr. SIRES, and Mr. SALAZAR.

H.R. 774: Ms. VELÁZQUEZ and Mr. MCMAHON.

H.R. 776: Mr. PASCRELL.

H.J. Res. 11: Mr. EHLERS.

H.J. Res. 18: Mr. HONDA, Mr. MCGOVERN, Mrs. TAUSCHER, Mr. LANGEVIN, Mr. SARBANES, Mr. SERRANO, Mr. CROWLEY, Mr. OLVER, Mr. WU, Mr. BRADY of Pennsylvania, Ms. ESHOO, Ms. DEGETTE, Ms. HIRONO, and Mr. FRANK of Massachusetts.

H. Con. Res. 14: Mr. WOLF, Mr. WU, Ms. BORDALLO, Ms. SCHWARTZ, Mr. LEVIN, Ms. RICHARDSON, Mr. MCGOVERN, Mr. MCDERMOTT, Ms. CASTOR of Florida, Mr. CUMMINGS, Ms. SHEA-PORTER, Mr. MICHAUD, Mr. BERMAN, Mr. WAXMAN, Mr. PASTOR of Arizona, Ms. MCCOLLUM, Ms. KILROY, Mr. COLE, Mr. SMITH of Washington, Ms. EDWARDS of Maryland, Mr. MOORE of Kansas, and Mr. KING of New York.

H. Con. Res. 29: Mr. KLEIN of Florida and Mr. NADLER of New York.

H. Res. 18: Mr. MEEKS of New York, Ms. ZOE LOFGREN of California, and Ms. DEGETTE.

H. Res. 19: Mr. SCHOCK.

H. Res. 20: Mr. POE of Texas.

H. Res. 22: Mr. GUTIERREZ and Mrs. CHRISTENSEN.

H. Res. 36: Mr. FRANK of Massachusetts, Mr. TEAGUE, Ms. TITUS, Mr. WATT, Mr. SNYDER, Mr. FATTAH, Ms. NORTON, Mr. CONYERS, Mr. THOMPSON of Mississippi, Mr. POLIS of Colorado, Mr. SIRES, Ms. KAPTUR, and Mr. SKELTON.

H. Res. 49: Mrs. BONO MACK, Mr. CLYBURN, Mrs. NAPOLITANO, Mr. CALVERT, and Mr. BRADY of Pennsylvania.

H. Res. 54: Mr. WOLF, Mr. LATTA, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. MCKEON, Mr. CALVERT, Mr. GOODLATTE, Mr. FOSTER, and Mr. ROONEY.

H. Res. 70: Mr. DRIEHAUS.

H. Res. 76: Mr. BLUMENAUER, Mr. SCOTT of Georgia, and Mr. ELLISON.

H. Res. 81: Mr. BROWN of South Carolina.

H. Res. 82: Mr. ROYCE.

H, Res. 86: Mr. WAXMAN and Ms. BORDALLO.

H. Res. 89: Mr. GONZALEZ, Mr. NYE, Ms. SCHAKOWSKY, Mr. MCDERMOTT, and Mr. CARNAHAN.

H. Res. 93: Mr. MORAN of Virginia.

H. Res. 99: Mr. BROWN of South Carolina.

SENATE—*Tuesday, February 3, 2009*

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of all nations, light of the world, illuminate the hearts of our Senators today. Enable them to shine Your light into our Nation and world, not to glorify themselves but to honor You. Lord, give them the fire of ethical congruence that will enable them to reinforce lofty rhetoric with righteous actions. As they face daunting challenges, lift the light of Your countenance upon them. Keep them from growing weary in doing what is right, as You remind them of the certainty of a bountiful harvest. Lord, help them to see the great results that come from seeking to do Your will and from striving to let their words and thoughts please You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 3, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, it doesn't appear that Senator MCCONNELL or I will give any opening statements today. Therefore, we will move immediately to the Economic Recovery Act, H.R. 1.

The Senate will recess today from 12:30 to 2:15 p.m. for weekly caucus luncheons. There will be rollcall votes throughout the day and we hope into the night. We have a lot of work to do in the next few days. We need cooperation on both sides to make sure Senators have the opportunity to offer amendments they feel appropriate and to agree to a reasonable time on these.

The Republican leader and I are looking forward to a good debate and opportunities for people to offer amendments. At this stage, there appears to be no limit on the type of amendments offered. We hope people will be considerate of the rest of the Senators and move forward as quickly as we can. We have a lot to do in a little bit of time.

The Presidents Day recess is to begin a week from this Friday, and that recess will not begin unless President Obama has a bill on his desk to sign. I would hope everyone appreciates the fact that we not only have to complete the legislation but we have to work out some kind of arrangement with the House.

I have spoken last night to the Republican leader, and we intend to go to conference on this bill. I hope everyone keeps in mind the time concerns we have.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Reid (for Inouye-Baucus) amendment No. 98, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, today, we continue consideration of the economic recovery bill. Our country is facing a serious economic challenge. America is in the middle of the most significant economic downturn in the lifetimes of most Americans, and the bill before us is a serious response.

The Finance and the Appropriations Committees have sought to assemble the most effective tools available to help our economy recover. Ninety-nine percent of the Finance Committee's response will take effect in the first 19 months of the bill. I repeat: 99 percent of the Finance Committee's response will take effect in the first 19 months of the bill.

Today, we begin work in earnest on the bill. We hope to consider a number of amendments. We have taken extraordinary steps to ensure the Senate is considering this bill with a fair process. We posted the Finance Committee part of the bill on the Internet last Friday, and Chairman INOUYE and I submitted our substitute amendment to the CONGRESSIONAL RECORD last Friday as well. So the legislative text of the measure before us has been available for 4 days.

During the Finance Committee's consideration of the bill in committee, we had a thorough and open amendment process. The committee considered the bill over the course of 11 hours. Senators filed more than 200 amendments. The committee voted on 30 amendments.

As we proceed to consideration of the bill on the Senate floor, we also hope to have an open amendment process. We hope it will proceed much as it did on the children's health bill last week. As Senators will recall, last week the Senate considered the children's health bill over the course of 4 days. Senators offered 27 amendments, and the Senate conducted rollcall votes on 14 amendments. I do not believe we turned any Senator away from offering an amendment last week. We had a thorough process, and the Senate passed the children's health bill with an overwhelming 66-to-32 vote.

This week, on the economic recovery bill, we hope once again to process a number of amendments. We intend to begin with an amendment by the Senator from Washington, Senator MURRAY, regarding infrastructure. This afternoon, we expect to consider amendments by Senator MIKULSKI regarding automobiles, Senator BOXER regarding repatriation, and Senator FEINGOLD regarding earmarks.

We hope to consider multiple amendments during the day. This is a significant bill. We have a work product from

both the Appropriations and the Finance Committees represented in the pending substitute. Senators INOUYE and COCHRAN will manage the bill for the appropriations matters and Senator GRASSLEY and I will be managing the bill for finance matters.

I urge Senators to let the managers know of their intentions to offer amendments. We will want to make sure the appropriate manager is here to respond to the amendment. As much as possible, we would like to give all Senators notice about what subjects will be coming up. In other words, we are working on possibly grouping subjects so as to give Senators a little more notice and to help make the process a little more orderly.

I thank all Senators for their cooperation, and I look forward to a healthy debate.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, I wish to talk about not just the stimulus bill but how we need to address this overall economic crisis, which the more we hear about, the worse it gets. If we don't watch out, we are going to be in a downward economic spiral.

Look back to where we got into the mess. Wall Street allowed banks to make too many bad home loans. They were home loans the homeowners could not afford, and many times they were rushed into signing these kinds of agreements when their income level would not support that kind of mortgage. Then Wall Street bundled thousands of those mortgages—sometimes you heard them referred to as subprime—and sold them as a security. Those were bought and sold throughout the financial process, from financial institution to financial institution. They were sold at a profit. There was little or no regulation. Of course, the bankers walked away with billions of dollars in bonuses and the taxpayers now have to clean up the mess.

Well, what began as trouble in the housing market quickly spread to the financial system and, from there, to the economy as a whole. The revenue stream for these mortgages was cut off because people weren't paying their monthly payments on the mortgages, and therefore the revenue from these bundled securities of bad mortgages weren't paying off, and that started rippling through the entire financial system for whoever held those bundled mortgages.

What started as an American problem now has become a global problem. Foreign governments, many of their investors, had invested in these bundled securitized mortgages. Foreign governments have seen their exports decline, and they are finding themselves shut out when they seek loans from the world's banks. The banks aren't lending because they do not have the security of knowledge that those borrowers are going to pay off. Lo and behold, since this thing has spread globally, even to foreign governments, some of the governments may even default on their own debts, which would be a devastating blow for any nation.

That is a story that has yet to be told. We may have foreign governments defaulting on their debts and going into insolvency. Such defaults could clearly pose a national security threat for us, as already fragile governments fall and are replaced by forces that are hostile to American interests.

At the same time, our current economic crisis will soon become a financing problem for our own Government. We are running up a large tab. We are spending nearly $900 billion in this bill to stimulate the economy. Maybe we are going to have to spend that much again to relieve the banks of the toxic assets—these bad assets that are so underwater—in order to get these toxic assets off the books of the banks.

Well, when you look down the road, it is hard to fathom that we are going to put this financial burden on our children, but economists—conservative and liberal—across the spectrum agree that the burden could be far worse if we don't take bold and immediate action, as evidenced in what is on the floor of the Senate now. We need to act, we need to act boldly, and we need to act now.

This economic recovery bill that we will consider this week begins to move us in the right direction. Now, there ought to be some tweaks and some iterations on it, and we are going to consider that in the amendatory process, but let's consider the thrust of it. It funds shovel-ready infrastructure—those projects that are ready to go—which are going to strengthen our Nation while creating jobs in the construction sector.

We heard the chairman of the Finance Committee say that over 90 percent of all the spending that occurs as a result of the tax cuts and the tax incentives—he said over 90 percent of all the tax portion of the bill is going to take effect in the first 19 months. Now that is the kind of stimulus we need.

This bill provides health and education assistance to State governments. It protects the most vulnerable, while putting money back into the economy. The legislation before us creates incentives for the private sector to put money into innovative ideas in health care technology, in energy efficiency, and in a smarter electricity grid.

I think this bill moves us in the right direction. But we have to watch out that we do not get sidetracked. We need to make sure we are investing in sectors where the economy is idle, where Americans stand ready to work on the projects we fund. As we debate the bill's tax provisions, we need to make sure they provide incentives for employers to create new well-paying jobs.

I saw something that is disturbing to me. I saw that a group of our Senators is trying to do some cuts in this, and in a publication this morning they singled out NASA, the National Aeronautics and Space Administration. The chairman of the Appropriations Committee has helped those of us who work in this kind of specialty here before the Senate. What this group of Senators does not realize is that is directly related to job stimulus because of the horrible situation we have ourselves in where we are going to shut down our American vehicle to get to space, the space shuttle, and it is going to be another 5 years, under the present plan, to get the new rocket ready to get to our own space station that we have built and paid for. As a result, the Kennedy Space Center, the Johnson Space Center in Texas, and the Marshall Space Center in Alabama are looking at massive layoffs. My space center in Florida is looking at 5,000 jobs being laid off. The chairman of the Appropriations Committee, who has an insight into this, has provided that money for stimulus for those jobs. So let's keep that goal in mind—jobs. That is what we want to do with this stimulus bill.

The legislation alone is not going to move us beyond the total problem we are facing, the potential downward spiral. Experts, liberal and conservative, now agree that the Nation's banks are going to need ongoing support at a cost that might exceed what we have committed already. If the banks are going to continue receiving Government support, they must grant taxpayers a meaningful ownership stake. They must boost lending to individuals and to small business, and they must accept real limits on executive compensation.

Of course, there is another story chronicled in this morning's newspapers about how all of these banks have gotten all of these billions of dollars, and that not only has not increased lending, their lending to borrowers has actually decreased. That is unacceptable.

If we provide the banks with more support—and I suspect we are going to have to—in this next tranche of $350 billion, then we still are going to have to address the mortgage foreclosure crisis, which is the root cause of the current circumstance. We need a credible plan for Government-backed mortgage refinancing, whether it is through Freddie or Fannie, the FDIC, or whether we create a new loan facility that is created specifically for that purpose. I talked to the Secretary of the Treasury three times about this, and I am encouraged that the administration appears to support such a plan.

I am telling you, every one of us knows that our constituents, particularly those near retirement age and retired, are dramatically concerned about the loss of their retirement savings which has accompanied the markets' collapse.

Since the 1980s, what happened? We have seen a shift away from a defined benefit pension, toward a market-based individual retirement account. Many Americans now rely on such accounts as a vital source of retirement income—the IRAs, the 401(k)s—and for those who have reached retirement—and every one of us has a lot of retirees in our State—or for those who hope to retire in the near future, the markets' collapse has delayed or laid waste to their plans, all the while Wall Street executives walk off with billions of dollars in bonuses. These are folks who have worked. They played by the rules. They have saved all of their lives. They deserve our attention more than the bankers who got us into this mess.

I want to quote from an Indiana newspaper, the Evansville Courier. To our colleagues from Indiana, I wish to compliment the editorial from your newspaper on February 2:

The middle class retirees who saved in their IRA and 401(k) plans, and who intended to use their Social Security entitlement to supplement their investment income, and thereby to live out their days in modest comfort, now face the complete loss of that dream. It was not a dream of luxury, just a hard-won freedom from daily work and maybe a trip to somewhere warm in the winter.

That is what they saved for. And once this economy recovers—and it will, hopefully sooner than many predict—we are still going to have a lot of work that will remain. We need to look at the current causes of our crisis, and we need to better regulate our financial markets. As the economy recovers, we will need to keep a close eye on the Nation's monetary policy. Interest rates now are at historic lows, and our monetary policy is looser than it has been in decades. As we step on the fiscal gas, in addition to the monetary loosening, we need to make sure we do not overshoot the mark and trigger a new period of inflation.

So our problems are many and our options are few. Things may get worse before they get better. If we put aside the differences and reason together, they will get better.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. McCONNELL. I am going to proceed for a few moments on my leader time.

Evidently, the President had a meeting with House and Senate Democratic leadership last night, impressing upon them, obviously, the urgency of approving a stimulus bill that actually works. But I think it is safe to say that the version House Democrats approved last week certainly does not meet that test. Most of the infrastructure projections it includes would not impact the economy for at least a year.

I was recently talking to my Governor, and he indicated basically that the spend-outs were in year 2 and 3 in much of this, thereby kind of illustrating my point that in terms of immediate impact, it is quite deficient. Worse still, permanent spending—or what we call, inside the Beltway, ''entitlement spending''—is actually increased by $200 billion.

The President has talked on a number of occasions—I know I have spoken with him about it—about my willingness to work with him on a bipartisan basis to get entitlements or permanent spending under control. We know it is going to ruin our country in the near future. This bill, in the name of stimulus, actually increases permanent spending, entitlement spending, by $200 billion, making an already incredibly difficult problem worse. As everybody—almost everybody—is now fully aware, the House bill was, of course, additionally loaded with wasteful spending. Unfortunately, the version Senate Democrats put forth is not a whole lot better.

President Obama said 75 percent of the bill's discretionary projects should be paid for within 2 years. Yet more than half of the spending in the Senate version would not be spent until after 2 years. President Obama said 40 percent of the bill should be tax relief. Yet less than one-third of the spending in the Senate version would go to tax relief. And like the House bill, the spending portion in the Senate version is simply way too big. The spending portion is way too big. If you include the interest payments on all of this money we are purportedly about to spend, the Senate Democratic bill is nearly $1.3 trillion. So I cannot imagine President Obama is terribly pleased with the proposal Democrats in the House or the Senate have put forward at this point. I am hoping he convinced them last night that it is time to put forth, together, a bill that gives an immediate jolt to the economy and creates jobs right now, not a bill that increases permanent spending, not a bill that spends out in years 3 and 4. A stimulus package ought to do something right now to stimulate the economy.

President Obama has acknowledged that Senate Republicans have a number of good ideas that he would like to incorporate into the final bill. So has the senior Senator from New York. Republicans will be pursuing these ideas this week, and how they would help President Obama achieve his goal for the stimulus bill. We Republicans think we can send the President a simpler, more targeted stimulus bill that gets right at the root of our current economic troubles, that does not waste money we do not have on projects that do not create jobs now.

Most people recognize that housing is at the root of the current economic downturn, so we would fix this problem before we do anything else. Republicans believe that one way to do that is to provide a Government-backed, 30-year fixed mortgage at approximately 4 percent to any creditworthy borrower. That would reduce monthly mortgage payments and increase demand for homes. According to this proposal, the average family would see its monthly mortgage payment drop by over $400 a month. That comes out to over $5,000 a year. Over the life of a 30-year loan, that is a savings of over $150,000. That is a proposal to get right at the housing problem now.

Next, in order to get money into the economy quickly, Republicans propose that we cut income tax rates for working Americans right now. The Federal Government imposes a 10-percent tax on married couples for incomes up to $16,700. By cutting that rate in half, we put $500 into the pockets of every working family and give an immediate jolt to the country. Incomes between $16,700 and $67,900 are taxed at 15 percent. Republicans would cut that rate to 10 percent, putting another $1,100 into the pockets of working couples. And single filers would get similar rate reductions. In other words, everyone who works and pays income taxes would see an immediate increase in pay. This simpler, targeted plan gets at the root of the problem, which is housing. It puts money into people's pockets immediately.

President Obama asked Congress to put together a bill without wasteful spending that creates jobs now. We Republicans believe we have better ideas for doing both. We look forward to having the chance to explain these ideas this week to the American people through our amendments, and we look forward to having votes on those amendments in the hope that many of them will pass.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington State is recognized.

AMENDMENT NO. 110 TO AMENDMENT NO. 98

Mrs. MURRAY. Madam President, I send an amendment to the desk on behalf of myself, Senator FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, and Mr. REED of Rhode Island, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr.

BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, and Mr. REED of Rhode Island, proposes an amendment numbered 110 to amendment No. 98.

Mrs. MURRAY. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 110) is as follows:

(Purpose: To strengthen the infrastructure investments made by the bill)

Beginning on page 118, line 4, strike ''$6,400,000,000, to remain available'' and all that follows through ''$2,000,000,000 shall be for'' and insert in-lieu thereof ''$13,400,000,000, to remain available until September 30, 2010, of which $10,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $3,000,000,000 shall be for''.

On page 232, line 16, insert ''and other surface transportation'' prior to the word ''investment'', ''

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$40,060,000,000''.

On page 239, line 24, strike ''$8,400,000,000'' and insert ''$10,400,000,000''.

On page 242, after line 10, insert the following:

SUPPLEMENTAL GRANTS FOR FIXED GUIDEWAY MODERNIZATION

For an additional amount for capital expenditures authorized under section 5309(b)(2), $2,000,000,000, to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337(a)(7) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SUPPLEMENTAL FUNDS FOR CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'' as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $1,000,000,000, to remain available through September 30, 2011: *Provided*, That in awarding grants with funding provided under this heading, the Secretary shall give priority to projects that the grant funding can expedite their completion and their entry into revenue service: *Provided further*, That such funding shall be allocated without regard to the requirements of section 5309(m)(2)(A)(i) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Capital Investment Grants account.

Each amount provided in this amendment is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

Mrs. MURRAY. Madam President, last year was tragic for workers who lost their jobs and their homes in this economic crisis. Through no fault of their own, millions of people are now wondering where they are going to find the next dollar to pay for groceries or to keep a roof over their heads. For them, putting money away to save for college or for a secure retirement is simply a dream. It is clear we need to take bold action to get us through this recession and back on the road to economic recovery. I believe the American recovery and reinvestment plan now before the Senate is that kind of bold investment.

Before I continue, I particularly congratulate our new Appropriations chairman, Senator INOUYE, and commend him for his management and tremendous work on getting this bill and this part of it to the floor. He has always shown evenhandedness and poise, as he has managed dozens of bills on the Commerce and Appropriations Committees. We are very fortunate to have him as our chairman on the Appropriations Committee, helping us with this critical piece of legislation. I also thank our former chairman and ranking member for his long dedication to the Appropriations Committee, Senator COCHRAN. I truly appreciate his contribution to this committee.

I rise to offer an amendment that will make this good bill even better by boosting our investment in infrastructure and creating thousands more good-paying American jobs. Our economy needs a jolt. We have to create jobs, and we have to get commerce going again. I believe one of the best ways we can do that and bring stability to communities is by investing in construction projects throughout the entire country. The amendment I offer today will get more than 650,000 Americans back to work by injecting $25 billion into our highways and roads, mass transit systems, and water and sewer networks.

Investing in construction projects is the tried and true way to put people back to work. My amendment not only supports over 650,000 jobs, it supports the kind of good-paying jobs we desperately need to help families put meals on the table or send their kids to school or save a little money for retirement. These are also the jobs our State Governors and local mayors say they are praying for to help their communities. States and municipalities have felt the economic crisis particularly hard. They have had to make some painful cuts and layoffs. They are even canceling projects now under way to conserve cash. This weekend Governor Granholm from Michigan told CNN that her State could ''have dirt flying within 180 days'' if we pass a bill that increases Federal infrastructure investments.

With the amendment we are offering today, States such as Michigan could create jobs as fast as they are able to spend the money, and thousands of people in all 50 States would benefit. It would support, for example, more than 18,000 jobs in Georgia, 27,600 jobs in Florida, over 20,000 jobs in Michigan, more than 13,000 jobs in the State of Washington, to name a few.

I ask unanimous consent to print in the RECORD a chart that displays what this will do for every State.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Formula Funding and Jobs Impact by the Infrastructure Amendment:

State	Highway Funding in HR 1	Highway Amdt Increase	Total Highway	Highway Jobs Increased by Amdt	Highway Jobs Total Increase	Transit Funding in HR 1	Transit Increase	Total Transit	Transit Jobs Increased by Amdt	Transit Jobs Total Increase
ALABAMA	510,388,740	250,492,813	760,881,553	6,969	21,170	59,898,932	14,421,357	74,320,289	401	2,068
ALASKA	132,440,000	65,000,000	197,440,000	1,808	5,493	48,072,829	54,991,671	103,064,500	1,530	2,868
ARIZONA	502,431,243	246,587,366	749,018,609	6,861	20,840	122,061,635	36,465,319	158,526,954	1,015	4,411
ARKANSAS	360,744,049	177,048,952	537,793,001	4,926	14,963	37,033,479	8,938,947	45,972,426	249	1,279
CALIFORNIA	2,554,367,859	1,253,653,811	3,808,021,670	34,880	105,951	1,162,211,543	652,734,249	1,814,945,792	18,161	50,497
COLORADO	425,788,184	208,971,851	634,760,035	5,814	17,661	122,092,228	46,803,370	168,895,598	1,302	4,699
CONNECTICUT	243,835,864	119,671,785	363,507,649	3,330	10,114	162,927,992	72,746,633	235,674,625	2,024	6,557
DELAWARE	132,440,000	65,000,000	197,440,000	1,808	5,493	27,296,636	6,515,772	33,812,408	181	941
DIST. OF COL.	132,440,000	65,000,000	197,440,000	1,808	5,493	122,596,991	193,941,707	316,538,698	5,396	8,807
FLORIDA	1,342,640,241	658,952,097	2,001,592,338	18,334	55,690	372,195,363	141,233,561	513,428,924	3,930	14,285
GEORGIA	897,639,463	440,550,929	1,338,190,392	12,257	37,232	167,603,802	107,598,818	275,202,620	2,994	7,657
HAWAII	132,440,000	65,000,000	197,440,000	1,808	5,493	50,232,641	16,301,740	66,534,381	454	1,851
IDAHO	164,198,222	80,586,563	244,784,785	2,242	6,811	23,601,410	5,692,181	29,293,591	158	815
ILLINOIS	945,433,022	464,007,448	1,409,440,470	12,910	39,215	430,055,025	253,044,431	683,099,456	7,040	19,006
INDIANA	627,200,608	307,822,709	935,023,317	8,565	26,015	97,583,872	34,759,939	132,343,811	967	3,682
IOWA	389,442,980	191,134,051	580,577,031	5,318	16,153	46,042,812	11,086,317	57,129,129	308	1,590
KANSAS	401,224,409	196,916,238	598,140,647	5,479	16,642	39,363,817	9,488,376	48,852,193	264	1,359
KENTUCKY	419,754,610	206,010,644	625,765,254	5,732	17,411	63,547,851	15,284,526	78,832,377	425	2,193
LOUISIANA	425,063,478	208,616,174	633,679,652	5,804	17,631	77,378,064	21,223,317	98,601,381	590	2,743
MAINE	133,323,210	65,433,469	198,756,679	1,821	5,530	17,347,953	4,196,024	21,543,977	117	599
MARYLAND	419,971,070	206,116,880	626,087,950	5,735	17,420	240,852,636	109,349,630	350,202,266	3,042	9,744
MASSACHUSETTS	408,467,809	200,471,214	608,939,023	5,578	16,943	386,246,819	186,690,351	572,937,170	5,194	15,941
MICHIGAN	884,623,998	434,163,092	1,318,787,090	12,080	36,693	165,008,430	41,137,803	206,146,233	1,145	5,736
MINNESOTA	561,775,770	275,712,965	837,488,735	7,671	23,301	111,216,046	50,851,244	162,067,290	1,415	4,509
MISSISSIPPI	382,310,789	187,633,655	569,944,444	5,221	15,858	34,033,125	8,241,128	42,274,253	229	1,176
MISSOURI	638,285,959	313,263,269	951,549,228	8,716	26,475	103,046,085	41,991,326	145,037,411	1,168	4,035
MONTANA	168,286,449	82,593,017	250,879,466	2,298	6,980	19,956,041	4,848,534	24,804,575	135	690
NEBRASKA	257,910,300	126,579,353	384,489,653	3,522	10,698	29,315,457	7,062,324	36,377,781	196	1,012
NEVADA	201,570,404	98,928,392	300,498,796	2,752	8,361	59,622,016	14,262,865	73,884,881	397	2,056
NEW HAMPSHIRE	132,440,000	65,000,000	197,440,000	1,808	5,493	16,935,918	4,073,977	21,009,895	113	585
NEW JERSEY	586,516,033	287,855,196	874,371,229	8,009	24,328	633,728,497	265,975,271	899,703,768	7,400	25,032
NEW MEXICO	245,711,006	120,592,083	366,303,089	3,355	10,192	34,890,008	8,410,962	43,300,970	234	1,205
NEW YORK	992,306,143	487,012,226	1,479,318,369	13,550	41,159	1,199,255,100	728,153,121	1,927,408,221	20,259	53,626
NORTH CAROLINA	729,907,072	358,229,838	1,088,136,910	9,967	30,275	131,121,337	32,082,348	163,203,685	893	4,541
NORTH DAKOTA	160,774,985	78,906,479	239,681,464	2,195	6,669	13,708,018	3,315,262	17,023,280	92	474
OHIO	914,598,673	448,874,311	1,363,472,984	12,489	37,936	203,034,842	66,975,038	270,009,880	1,863	7,512
OKLAHOMA	499,511,701	245,154,489	744,666,190	6,821	20,719	50,170,037	12,082,832	62,252,869	336	1,732
OREGON	344,745,050	169,196,831	513,941,881	4,708	14,299	89,446,876	44,881,447	134,328,323	1,249	3,737
PENNSYLVANIA	897,060,671	440,266,865	1,337,327,536	12,250	37,208	310,788,849	159,260,776	470,049,625	4,431	13,078
RHODE ISLAND	132,440,000	65,000,000	197,440,000	1,808	5,493	49,330,420	12,024,891	61,355,311	335	1,707
SOUTH CAROLINA	482,314,809	236,714,456	719,029,265	6,586	20,006	53,688,016	12,913,846	66,601,862	359	1,853
SOUTH DAKOTA	182,487,252	89,562,605	272,049,857	2,492	7,569	14,457,321	3,504,543	17,961,864	98	500
TENNESSEE	578,764,583	284,050,875	862,815,458	7,903	24,006	90,597,655	23,295,710	113,893,365	648	3,169
TEXAS	2,263,162,957	1,110,733,858	3,373,896,815	30,904	93,872	452,188,117	154,891,589	607,079,706	4,310	16,891
UTAH	222,407,496	109,154,993	331,562,489	3,037	9,225	69,168,919	24,202,781	93,371,700	673	2,598
VERMONT	132,440,000	65,000,000	197,440,000	1,808	5,493	7,545,598	1,827,970	9,373,568	51	261
VIRGINIA	699,908,574	343,506,926	1,043,415,500	9,557	29,031	136,610,971	80,168,270	216,779,241	2,231	6,031
WASHINGTON	495,069,722	242,974,418	738,044,140	6,760	20,535	201,280,291	127,484,908	328,765,199	3,547	9,147
WEST VIRGINIA	197,039,259	96,704,559	293,743,818	2,691	8,173	23,808,878	8,401,360	32,210,238	234	896
WISCONSIN	537,075,284	263,590,255	800,665,539	7,334	22,277	99,839,633	26,503,931	126,343,564	737	3,515
WYOMING	132,440,000	65,000,000	197,440,000	1,808	5,493	11,869,051	2,886,452	14,755,503	80	411

Mrs. MURRAY. But this amendment doesn't only help the economy today by creating new jobs. This amendment will literally pave the way for future economic growth across the country. These investments will help communities provide cleaner drinking water and roads that are free of congestion. They will help create modern railroads that will get workers to their jobs more quickly and safely. They will help improve our ports so they are more efficient and more competitive. We all know businesses need good transportation and stable water and sewer systems. Less traffic means more productivity, cleaner air, and a stronger economy. These investments will pay off for years to come because communities will be stronger and more competitive in the global economy.

Finally, this amendment is critically needed because roads, bridges, and water and sewer systems are literally falling apart. Year after year, we have had to put off repairs, while we have spent billions of dollars in the wars in Iraq and Afghanistan. In August of 2007, we all stood aghast and watched in horror as the I–35W bridge in Minneapolis collapsed into the Mississippi River. That tragedy brought home to everyone how critical it is that we invest in the national highway system.

Last week, we had another reminder when the American Society of Civil Engineers issued its annual report card on the condition of America's infrastructure. The results were truly dismal. The leading experts on the state of our Nation's infrastructure have reduced the grade point average of our entire system of roads and bridges and transit and sewer plants to a D. Let me make it clear, that was a D average for all of the Nation's infrastructure. Several specific areas which I am targeting in the amendment did even worse. Wastewater treatment systems, on which I have worked with Senator FEINSTEIN, got a D-minus. The engineers pointed out that leaking pipes across the country lose an estimated 7 billion gallons of drinking water each and every day. The Nation's roads got a D-minus since a third of the major roads are considered to be in poor or mediocre condition. More than a third of urban highways are congested. American families now spend about 4.2 billion hours each year stuck in traffic. That is costing the economy almost $80 billion every single year. These are roads in every one of the States. It is time to fix them.

Our transit systems only got a D, but that is still not acceptable. With ridership skyrocketing, it could get worse, if we don't make the upgrades and improvements so dramatically needed.

Speaking as a mom and a former teacher, a D-minus or a D is not going to cut it. As far as I am concerned, when it comes to infrastructure, a D stands for disappointment. A D means demand change, demand attention, and demand investment.

The amendment I have offered is going to help us address these deficiencies head on and put over 655,000 Americans back to work. For any of my colleagues who are worried about whether we can spend infrastructure dollars fast enough, I want to be clear: More than a million workers across the country are today ready and able to start tomorrow. The unemployment rate in the construction industry is now just under 16 percent. More than 1.5 million construction workers are out of a job, a 54-percent increase over a year ago. Skilled workers all across the country are now forced to try to pick up whatever odd jobs they can to pay for their week's groceries. This amendment is about bringing jobs back to those workers and stability to their families and making the kinds of investments America has ignored for too long.

I am proposing in the amendment that we invest another $25 billion in this bill, bringing the total spending on infrastructure to $167 billion. My amendment would increase transportation investments from $45.5 billion to more than $63.5 billion, with the largest boost going to highway construction. It would give all States and communities the equivalent of 2 years of Federal highway contributions at once, enabling them to support 362,000 construction jobs alone, and another $5 billion would go to mass transit, supporting 139,000 jobs. Senator FEINSTEIN will discuss how it will increase water and sewer grants within the Environmental Protection Agency by $7 billion, supporting 154,000 new jobs.

It is a scary time for millions of families across America. They are extremely worried about their stability and the future of their families. They are worried about how they will pay their bills and whether they will be able to keep their homes. They have put their faith in all of us and in our new President to set us on a path that will not only turn things around but leave our country stronger and more resilient than ever. Today they are watching this debate, and they are expecting us to take bold, swift action to get us started. This amendment is that kind of bold action. It supports 655,000 new, good-paying jobs. It will help us rebuild roads, bridges, mass transit networks, water and sewer systems that we have neglected for too long. Most importantly, these investments will leave communities stronger and more secure in the future.

I urge my colleagues to support the amendment and help put thousands of American workers back on the job and the country back on its feet.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Will the Senator yield?

Mrs. MURRAY. I am happy to yield.

Mr. INOUYE. I am extremely impressed by the Senator's presentation. I am proud to say that I support the measure. It will provide 655,000 new jobs. As the boys in the back room would say: This is just what the doctor ordered. Congratulations.

Mrs. MURRAY. I thank the Senator.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the matter before this body is the majority's stimulus bill. It merges the products of last week's markup in the Finance Committee and the Appropriations Committee. Twenty-three Senators were involved in the Finance Committee markup. In that group, there were 13 Democrats, 10 Republicans. Thirty Senators were involved in the other committee's markup, the Appropriations Committee. In that group, there were 17 Democrats and 13 Republicans. So if we add that up, it means over half the Senate has been involved in either the Finance Committee part or the Appropriations Committee part of this legislation. For the first time, however, all Senators will have to consider this very large and complicated piece of legislation. That started yesterday and will go on for a week. So the public who want to follow Congress will have a long time to follow the issue.

We ought to take that sort of time with an $800, almost $900 billion piece of legislation. First, I will discuss process and then focus on substance. Because I am the senior Republican on the Finance Committee, I will focus on the Finance Committee's portion. I, like 69 other Senators, am still studying the Appropriations Committee part.

First, I thank my friend from Montana, Chairman BAUCUS, for courteously and professionally consulting Members on this side. We had one bipartisan Members' meeting where Chairman BAUCUS patiently heard all of us out. In addition, Chairman BAUCUS apprised me of the negotiations between Democratic leadership of both bodies and the Obama administration. Those Democrats-only negotiations were extensive. Folks on our side who read press reports could see how extensive they were. Further evidence of that deal making is the relatively small differences between the basic structure of the Committee on Ways and Means of the House of Representatives and the Finance Committee of the Senate. I congratulate Chairman BAUCUS on those negotiations. The fruit of that labor is the Finance Committee package.

One significant change followed a recommendation I made in early January. That change was made in committee. That was the addition of the alternative minimum tax patch for this year which means over 24 million families need not worry about an average

tax increase of at least $2,000 per family for this year. But let no one be mistaken that this bill is the result of bipartisan negotiations. While Republicans were courteously consulted at the Member and staff level, we were never at the negotiating table. Speaker PELOSI best described the bottom line of the process from the Washington Post, dated Friday January 23, when she said:

Yes, we wrote the bill. Yes, we won the election.

Indeed, there was a rumor floating around about an informal agreement among Democratic Members. The agreement appeared to be to vote against any Republican amendments, no matter what the merits of the amendments might be. As proof of that, if one would review the markup, they will find that nearly all Republican amendments were defeated on a virtually party-line vote. They will also find, for the first time in recent Finance Committee tax legislative history, small issues or modifications raised by dissenting Members, with a couple exceptions. I thank the leadership for those exceptions. None of these smaller issues were even accommodated.

So let's be clear. We knew at the outset the markup would be ratifying a deal made between Democratic leaders of the House and Senate: No Republican ideas need apply. With the exception of that AMT patch amendment, this was the basic outcome.

Since the largely partisan markup process finished, we have been told by the President and members of the Democratic leadership that this bill is open to improvement by amendment, and I am hopeful we will see that follow through, and before the day is over, I am sure we are going to have some votes where we can do that.

If I could define ''bipartisanship'' just for a minute, I would define it kind of the way I have seen it work over the past decade in the Finance Committee but probably other committees do the same thing. Days before you want to bring up a bill, you sit down and you negotiate between the two leaders, and maybe other people, but you consider every member's position to some extent, and you come out with what is called a bipartisan mark.

In our committee, for some times that was Grassley-Baucus, for other times it was Baucus-Grassley. It is a little bit like buying a new car. If it is going to be a family operation, CHUCK GRASSLEY does not go up to Barbara Grassley and say: I have made a determination that we are going to buy a Ford Taurus, and it is going to be blue, and it is going to have these accessories, et cetera, et cetera. No. You sit down. CHUCK and Barbara GRASSLEY sit down, and we decide what color car do we want, what brand do we want, what do we want for accessories, et cetera, et cetera. And you go to the dealer, and you have a uniform family position of what kind of a car you buy.

That is the way bipartisanship ought to work here. That is the way I define it. That is the way it has worked over a long period of time. But it is not the way it worked in the product we have before us.

Now we have the President of the United States saying to leaders of his party, when they meet at the White House: Republicans have good ideas, and we want to work toward bipartisanship. Now we have a process in place. Will the President's leadership make a difference to the majority party here on Capitol Hill?

Before I get into substance, though, I wish to pull back and talk about the larger picture for a couple minutes. Majority Leader REID opened debate on this bill yesterday. Yesterday we also had Groundhog Day. My first chart is a depiction of Punxsutawney Phil, that famous weather forecaster there in Pennsylvania. Yesterday, Phil saw his shadow. Groundhog Day is a recurring event. ''Groundhog Day'' is also the title of a famous film starring Bill Murray.

I have another picture for you of Phil and Bill driving along. In the movie ''Groundhog Day,'' Bill Murray finds himself continually repeating the same routine. Now, my friend, Chairman BAUCUS, last year rightly pointed out the message of the film. The message was that Bill, guided by Phil, eventually had to figure out what he was doing wrong. Once Bill figured it out, he escaped the infinite loop.

On this bill before us, we need to learn from Bill's and Phil's adventure. We cannot and we should not legislate in a hasty manner and place ourselves in an infinite loop of repeating the same exercise. Democrats and Republicans and the President need to get this right, particularly in the time of the terrible economic recession we are in. We cannot casually deficit spend and ask American taxpayers to clean up the fiscal mess with high taxes down the road.

To me, there is a particularly compelling irony to the fact that we are debating another stimulus bill at roughly the same Groundhog Day timeframe. One year ago, almost to this exact date, the Senate spent a week debating an economic stimulus package. The target time set for enacting legislation was similar to the one for this package. I am talking about the Presidents Day recess. Let's keep the Groundhog Day irony in mind as we move forward this week and next week. Let's not repeat the same exercise, except this time with even much bigger dollars. Let's get it right.

Now to substance. I want to make it clear that most on our side agree with President Obama that stimulus is necessary. The economy is flat on its back. Too many Americans who want to find work cannot find those jobs. A lot of Americans are worried their job will be the next to go. We get that on our side. Everyone here knows we need to do everything we can to get the economy moving again. Where we differ between parties is the degree to which the engine ought to be Government or the engine ought to be the private sector, especially America's biggest job creator, our small business sector, where you hear quite regularly from economists that 70, 80 percent of the new jobs are created. In fact, in the year 2007, big business created no new jobs. All the new jobs in 2007 were created by small business.

These are honest, well-intentioned, philosophical differences between our two parties: Government or the private sector. But those are differences that are there. On our side, we want the new jobs to come from the private sector. On the other side, the preference is to grow employment through an expansion of Government.

Many on the other side and opinion makers who agree with them are invoking the example of Iowa-born President Hoover. Iowa is my home State. They seem to be doing it to portray anyone who questions the trillion-dollar package as a reincarnation of what we call Hoover economics. It is an unfair characterization. Again, let's be clear. Folks on our side recognize the need for action. So do not accuse us of Hooverism.

Also, though Iowans are rightly respectful of the only Iowan to be President, President Hoover, you have to recognize history. I would instruct the other side on a couple lessons from the Hoover era, too, where President Hoover was wrong. One lesson: Do not obstruct free trade. The highest tariff levels in the history of this country—the Smoot-Hawley tariffs—were enacted in the middle of his Presidency, and it shut down world trade. We have to think about that right now because the latest reports have the first reversal of the growth of trade worldwide since 1982. There is little doubt those protectionist barriers that were put up in 1930 or 1931 made the Great Depression worse. So let's not repeat that mistake. There is some evidence on the other side of the aisle that they do want to repeat that mistake and build up protectionist walls.

Now, there is another lesson from the Hoover era I want the other side to be aware of. President Hoover signed into law significant tax increases that made that Depression worse. Like high tariffs, economic history tells us that these burdensome taxes retarded the economy's ability to recover—a recovery that did not happen until World War II came along. We do not want war to get us out of a recession.

On this side, we agree the lessons from the Hoover era need to be learned.

We cannot be passive. President Hoover was passive. Errors of omission on fiscal stimulus should be avoided by all of us. Likewise, errors of commission on fiscal stimulus, such as impeding free trade and raising taxes, also should be avoided.

By the conclusion of this debate, those differences will be plain to people at the grassroots of America. I will tell you, all you have to do is go to Iowa, go to church on Sunday, go eat at the Village Inn after church with your family, go to a University of Northern Iowa basketball game, and talk to your neighbors. The public knows what is going on here. They see this as a big spending bill and not a stimulus bill.

We will see differences fleshed out in the debate and on the amendments. That is the way it should be. As I indicated above, most on our side want to improve this bill. Our amendments, large and small, will be offered as improvements. We hope the other side is sincere and will follow our President's admonition yesterday in their desire to change the bill in a way that can garner a bipartisan majority. Whether Republicans or Democrats have been in control, the test of proper stimulus boils down to three words.

That famous Harvard economist, former Secretary of the Treasury, a good person, Larry Summers, had this to say that ought to be a lesson for both political parties:

> As with any potent medicine, stimulus, if misadministered, could do more harm than good by increasing instability and creating long run problems. A stimulus program should be timely, targeted, and temporary.

He may not be an MD, but there is a lesson from that Ph.D. we can learn. It is a lesson of medicine: First, do no harm. Well, we want to measure this bill according to what Dr. Summers says. If you apply the three ''T's'' test to much of the spending in this proposal, you will find it fails the test. We will get into that when we examine and debate the bill.

Some folks might ask: What is the problem if we overshoot and flunk the test? The first problem is running out of budget room. The bill before us will, when interest costs are included, add up beyond that $900 billion to $1.3 trillion added to the deficit. All of this extra deficit increase would be proposed when the baseline deficit for this fiscal year will hit $1.2 trillion. That amount exceeds all historical records. As a percentage of our economy, that will mean 8.3 percent of gross domestic product.

I have read some economists saying that is more stimulus than we have ever had in the history of this country. Maybe 8.3 percent is enough. I think in a bipartisan way, and with the President, we concluded it is not enough. But above that, it seems to me, we ought to be cautious and make sure it is timely, temporary, and targeted because this amount of 8.3 percent easily exceeds the 5.7 percent in 1983. It is almost 50 percent above any comparable post-World War II levels.

The figures on Federal debt held by the public are likewise staggering. In the period of 2001 to 2007, debt held by the public increased by comparatively smaller amounts, roughly 1 percent per year. This year's change easily exceeds all of that, as you can see from this chart of how the deficit continues to go up. You also see it there, as a percent of gross national product, higher than it has been for a 40-year average.

So we need to acknowledge the deficit situation we are in. It is very serious. So whatever we do, we ought to not make the long-term fiscal situation worse than it is. You can see from this chart in the outyears how bad that situation is going to be.

The other problem is if we prime the pump too much and the pumped-out stimulus does not materialize until after the hoped-for recovery is upon us, then we might risk too much stimulus. The result could be inflation.

Let's look at the timely part of Dr. Summers' statement. That needs to be brought into sharper focus. The Congressional Budget Office tells us that less than half of the appropriations amounts will be spent out by the end of fiscal year 2010. So only half of the spending in the bill is timely. The Finance package does a little better. Ironically, the tax policy stimulus, much maligned by the hardcore of both Democratic caucuses, helps the spend-out ratio greatly in the Finance package.

The theory for erring on the side of overloading the spending side is that we need to direct dollars to the folks most likely to spend them. This is the reason we are told we need extra FMAP money, expanded entitlements, and other State aid.

It misses the point that the U.S. fiscal policy system already has an arsenal of antirecessionary automatic stabilizers directed to the very same populations. These stabilizers provide immediate assistance to those most vulnerable who have been hit by an economic downturn. The Congressional Budget Office says that these benefits, including food stamps, unemployment insurance, and Medicaid, will grow to $250 billion this year. That built-in, lower income-population stimulus will be equal to 1.8 percent of gross national product.

It also misses the point, when you argue that you ought to err on the side of overspending, about ensuring that the lessons of moral hazards apply to the States. The fiscal problems faced by many of our States and localities are largely the result of their inability to keep spending in line with revenue. Between the third quarter of 2006 and the third quarter of 2008, State revenues increased 7 percent and State spending increased twice that amount—15 percent. In other words, the States and localities spent $2.22 for each additional dollar of revenue. The States have been on a spending spree, and they have dug themselves into a hole.

Now, we will hear that the Medicaid money we are adding—which I refer to as a slush fund for States—is necessary to avoid tax increases at the State and local level. We will also hear that vital services will be cut unless we cut a big blank check to States. Just as we did during the Finance Committee markup, some on our side will test these assumptions with amendments on these points. An open-ended slush fund is not targeted. It is not going to bring about sound, responsible fiscal policy in the States that need it, and this is true no matter how you dress up this issue.

Perhaps the most disturbing stimulus test failure is on the third ''t''—that it should be temporary. This is what bothers me most about this bill. I am referring, of course, to the temporary test. In this package, there are many new popular spending programs labeled ''temporary.'' Those programs total $140 billion. If these programs are extended or made permanent, we can expect another $1.3 trillion added to future deficits. I will challenge anyone on the other side to tell me these programs will be turned off once enacted. With large Democratic majorities and a Democratic President, I would say any such promise is dubious in this Congress. It is about as deliverable as a promise to sell the Brooklyn Bridge.

Just so appropriators don't get too far out on a limb, I wish to quote from what Chairman MILLER of one of the House committees had to say. He was talking about these built-in expenditures that are going to go beyond the 2 years; things that ought to be handled by the Appropriations Committee on an annual basis, considering all of the priorities that come to us from all segments of the economy and from all government programs. If you think you are building this into the base, this is Chairman MILLER—I am going to quote here from Congress Daily:

> Chairman Miller in the House was asked about the fact that funding for education programs disappears in two years, and he said the word he got from the Obama administration is that these funding levels will NOT become the baseline and that in two years, we can expect that the President's Budget Request will be lower than these new levels. That means schools will see a short-term jump for these programs, but any teacher or programs they put in place may be cut in two years.

Now, let me just ask my colleagues about that. Is it smart to use something that is absolutely needed—a stimulus bill—for an excuse to jack up spending well into the future? That is going to be done in 1 week. Isn't that something appropriations committees generally take several months to do before they make decisions to go down

that road? That is something for my colleagues to consider.

To sum it up, this package meets a different three t's test. We start with trillion-dollar deficits. We have a bill that, with interest added, adds more than another trillion dollars to future deficits. We have a bill that has new spending ostensibly labeled as ''temporary'' but likely to be extended, that bakes into the cake another $1 trillion of future deficits. Passing this three t's—as in trillions—test ought to be a Senator's pause, and we hope during this debate that pause happens. From our side's view, these are major shortcomings on the substance.

Although we saw execution of a deal to vote down our amendments in committee no matter whether our ideas were meritorious or not, we would like to be and will be constructive, and we will build on parts of the package that we support. But make no mistake about it, we are going to try to use Dr. Summers' guideline of, first, do no harm—he didn't say that—but the three t's test he put on the chart from his quotation. In other words, we hope our amendments will be more openly received on the Senate floor than they were in committee.

In this respect, we will go back to major differences between the parties on how to get the economy moving. On our side, we would like to push more incentives for long-term growth of private sector jobs. There is a good start on a broad-based middle-income tax cut in the package. We would like to expand the tax cut to cover all middle-income taxpayers.

During this fall's campaign, the President described as middle class families making less than $250,000. Many of the tax cuts don't apply to millions of families making less than $250,000. It doesn't make sense to me to call a proposal a middle-class tax cut if it doesn't apply to millions of middle-class families. We would like to direct that at labor and capital income earned by middle-income taxpayers.

Since we weren't at the negotiating table to offer these progrowth ideas, you will see them arise as constructive offers to improve the package.

I wish to speak for just a minute to some health provisions in the bill.

Spending in this bill should be judged based on two criteria: Will it stimulate the economy, and is the money being well spent? In committee, we aired our honest disagreements over whether several of these provisions were actually stimulative. Improving health information technology is critical for health care infrastructure. I support many of those provisions, but I have to ask: Will it stimulate our economy, and is this money we should add to the deficit rather than offsetting it?

It wasn't so long ago that $16 billion was a lot of money around here. Providing assistance to States makes sense if we are concerned about States raising taxes or cutting spending. But is $87 billion the right number, and is increasing Medicaid spending the right way to do it beyond what is necessary to take care of the millions of people who are going to lose their health insurance? That is a much smaller figure; somewhere around $10 billion to $12 billion rather than $87 billion. Could we better stimulate economic recovery using all or part of that money elsewhere?

The Finance Committee package also includes a 2-year extension of our current Trade Adjustment Assistance Programs. I am working with the chairman to see if we can agree with our counterparts on the House Ways and Means Committee on a broader reauthorization of these programs, but that is still a work in progress.

Apart from trade adjustment assistance, I am disappointed that this administration isn't focusing on trade as a component of an economic stimulus package. As I said, we should heed an important lesson from the Hoover era. Economic growth comes from expanding free trade, not contracting it, because protectionism in the 1930s brought us to World War II. Opening new markets for U.S. exporters should be a part of the mindset to stimulate our economy.

Right now, 20,000 people are being laid off from Caterpillar. I don't think John Deere has laid off very many yet, but 22 percent of John Deere workers have their jobs because of international trade—tractors made in Waterloo, IA, getting on boats in Baltimore to go overseas. We don't want to shut down those kinds of jobs, and without emphasis upon trade being a very important part of a stimulus package, we are sending a message that trade does not matter. Trade does matter. For instance, we have these pending agreements with Colombia, Panama, and South Korea which would provide significant opportunity to do just that, and they should be implemented as soon as possible.

As we go through the bill, our side will offer several amendments that I hope will be accepted to try to make the bill better and answer the questions I and other Members have raised. The people back home see Congress spending vast amounts of taxpayers' money. They are counting on us to ensure their money is spent wisely and not wastefully, and that means to make sure this is a stimulus bill and not a ''porkulus'' bill.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I will be very brief. I know the Senator from California wishes to make a statement.

Very briefly, I might just say first how much I enjoy working with my good friend, Senator GRASSLEY from Iowa. He is a joy to work with. I know of no finer Senator. He is a man of his word. He is a man of integrity and good will. He is a terrific Senator. I have enjoyed working with him on the committee in many respects.

I also wish to thank him for his kind words about the openness with which I have attempted to conduct the committee. I also wish to commend him for his AMT amendment to make sure Americans don't pay more taxes over the next year. The amendment he offered, as well as the Senator from New Jersey, Mr. MENENDEZ—the two of them offering the amendment was the right thing to do. Some have suggested we drop that amendment. I vigorously resisted that because I think it is a good idea that we have the AMT patch.

There are other provisions in here which remind all of us to help taxpayers. One is extending the small business expensing provision for 2 years. That is going to help small business. That also included an entire threshold that was enacted last year. Added to that, we have payback periods for net operating loss extended from 2 years to 5 years, as well as business tax credits extended from 2 years to 5 years. So businesses can carry back losses with respect to credits they have otherwise earned, whether it is an R&D tax credit or an energy credit.

So I want to continue working with the good Senator from Iowa as we improve this bill. I do not know whether I agree with all of the amendments some Senators on his side of the aisle will be offering, but we will certainly do our very best to keep improving the bill. There are some very good tax provisions in here to help individual taxpayers and business taxpayers.

So I just wish to thank the Senator for working with us on this.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise in support of the amendment Senator MURRAY has just sent to the desk which would add $25 billion to the infrastructure portion of the bill. I thank her for her work on this amendment.

I also thank the chairman of the committee, Senator INOUYE. Senator INOUYE became chairman of the committee approximately 1 week before this bill came out of committee, so it really represents a great deal of work in a very short period of time, and I believe he is to be commended for that.

In my view, as a former mayor, a stimulus means job production, very simply. As this bill stands, only 16 percent of the stimulus package goes toward infrastructure, which is the physical basis on which a nation's economy functions, while 39 percent would finance tax cuts.

To be very candid with you, I am one of those who do not believe tax cuts are

necessarily stimulative. The reason I don't believe that is because I believe the buying habits of Americans in this particular crisis have changed. I don't think $80 a month in the form of a tax credit is going to change that. We put $135 billion out in a rebate, and less than 15 percent of it, it was estimated—by the best chance—went into the economy. So I really worry that this package is tax cut heavy and doesn't do what it should do with respect to the production of jobs to repair this physical base on which a nation's economy can function.

The amendment, as Senator MURRAY said, is cosponsored by 21 of us. I very much appreciate all of the Senators' support. It adds $18 billion for highway and rail. Those of you who have ridden high-speed rail from Tokyo and Osaka know that it was built in the mid-sixties. Here we are in 2009, and we don't have a real high-speed rail, either by MAGLEV or steel wheel, anywhere in this country today. If you travel through Europe, you travel on fast trains. If you go from Pudong in Shanghai to the airport by transit, you can take a MAGLEV system, which does 30 miles in less than 20 minutes. Our highways are jammed. People go to work in gridlock. The newspaper this morning reported that metropolitan Washington, D.C. has some of the highest commuter travel times in America.

We need to repair this infrastructure, and the beauty of doing it as part of this package is that it puts people to work immediately on projects that are shovel ready. So I believe $18 billion in this bill, which is for highway and rail, and an additional $7 billion in revolving loan funds for clean water and sewer projects is really necessary. You might say: $25 billion—what does that do in this package? I will tell you what it does. It raises the percentage of infrastructure from 16 to 19 percent. That is all it does. That is how big this package is and how little of it is really the kind of infrastructure we should be producing.

For the water infrastructure portion alone, this amendment could create as many as 154,000 additional jobs beyond that which is estimated in the stimulus package. The transportation portion of the amendment would add 501,000 jobs. So, as Senator MURRAY said, in total, this amendment would create a net new 655,000 jobs—jobs that are desperately needed to put Americans back to work and revive our country.

I come from a State that is big. It is the seventh or eighth largest economy in the world. It has stopped all public works projects, and it is furloughing State employees. It is in deep trouble. Where California goes, because it is such a big part of the economic infrastructure of this Nation, affects other States as well.

I want to expand a bit as chairman of the Interior and Environment Subcommittee of Appropriations because I am very concerned about what I believe has been insufficient funding for clean water and sewer projects. We put over 50 percent of our allocation into these projects. It wasn't enough. We have a huge water infrastructure problem in America. Our sewer systems are deteriorating; they are old and they are broken. Each year, aging and overburdened sewer and storm water systems overflow; they break and release more than 860 billion gallons of partially treated sewage into our rivers and streams, polluting them. Last year, contamination from these spills and overflows was the second leading cause of beach closings and water health advisories nationwide—more than 4,000 closings and advisories—and the problem is only getting worse.

Investment in our Nation's water systems has not kept pace with the population growth or sprawling development.

The Government Accountability Office and EPA report that the Nation faces a $300 billion to $500 billion water and wastewater funding gap over the next 20 years. So by investing now in needed water and wastewater infrastructure, we can, in fact, create millions of jobs here at home and better protect human health.

With this amendment, the total for the water and wastewater State revolving fund will be $13 billion, with $10 billion for wastewater projects and $3 billion for drinking water projects. As I said, the EPA, which oversees this Federal program, has indicated to us that they can move these additional dollars quickly. These funds will go directly to the States, which in turn make them available to local communities. Because the law is a revolving loan fund, there is language in this that effectively makes these loans grants to States. The $6 billion currently in the bill will fund 1,290 wastewater projects and 769 drinking water projects. By increasing this funding by $7 billion, for the total of $13 billion, this amendment would triple the number of wastewater projects to 3,226 and provide 30 percent more drinking water projects.

The States will choose these projects based on their most urgent needs. Here are some of the projects that have been funded in the past through this program:

The aquifer in Rockland County, NY, was being polluted by sewer waste from septic tanks. The local sewer district used $80 million from the Clean Water State Revolving Fund to replace these septic systems with a new collection system and wastewater treatment plant. The county also installed advanced treatment technology to protect the millions of residents downstream of its facility.

The town of Easton, MD, was flushing huge nutrient loads into the Chesapeake Bay. It received a $20.5 million loan to expand its wastewater system to install enhanced nutrient-removal technologies and now exceeds Chesapeake Bay's water quality goals.

A subdivision with septic systems in Lexington County, SC, needed a connection to the nearest town's public sewer. The area septic systems had been improperly maintained and were in jeopardy of contaminating the groundwater. Thanks to funding from this program, it has a connection.

In my State, Orange County is using $162.9 million to implement a ground water replenishment system, the largest of its kind in the world. Highly treated wastewater will be pumped into basins, where it will percolate back into the ground. This project not only improves water quality but reliability and supply in an area facing long-term drought.

This amendment, as I said, waives the State match requirement in an effort to maximize the use of the funds. This funding, which can be put to use immediately, will assist the municipalities of our Nation in upgrading their wastewater systems and ending the damage to our environment. But it is not only these benefits that speak to the merits of increasing this funding—and we could do more; we could do at least another $3 billion more under EPA's ability to move the money.

The U.S. Conference of Mayors estimates that every dollar spent on wastewater infrastructure generates a return of $3 to $7 that flows back directly into the economy. The Commerce Department estimates that for each additional job created in the water and sewer industry, 3.68 jobs are created in all industries. So it has a ripple effect.

The Association of State and Interstate Water Pollution Control Administrators indicates that nearly $20 billion of shovel-ready wastewater infrastructure projects await financing today throughout the country.

In conclusion, Mr. President, the problem I have with this package is that, in my view, it is heavy on tax cuts which go right to the bottom line of the deficit and the debt and will reduce allocations to appropriators to fund the next 2 years' budgets, unless we drive this country deeper into debt and deficit. It is shy on the infrastructure, which is the stimulus projects.

Let me make one other point on the change of America's buying habits which I believe has taken place. If you look at people actually laid off from Caterpillar and you look at retail closures—the latest of which is Macy's, as of last night, indicating that they are terminating 7,000 people from their jobs—you will see that people are buying less. It is reflected in automobile sales, it is reflected in tractor sales, and it is reflected in shopping and electronic equipment shopping.

I believe the important thing of this package is to put people back to work.

My State has 1.7 million people who are out of work. We need to do those things that are necessary, such as extend unemployment insurance, protect the safety net, and have a massive program to rebuild what is a failing economic infrastructure in this country, so that America can compete in this new millennium.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add as cosponsors Senators SCHUMER and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I thank Senator FEINSTEIN for her cosponsorship and working with me and the chairman on including this amendment that would provide 655,000 jobs.

I heard the Senator from Iowa earlier talking about providing or increasing Government jobs. I would let our colleagues know that this amendment before us is about private construction jobs.

In fact, I ask unanimous consent to have printed in the RECORD a letter from AGC of America, Associated General Contractors, as well as a letter from FasterBetterSafer, Americans for Transportation Mobility, which represents the American Public Transportation Association, the American Road and Transportation Builders Association, the Associated Equipment Distributors, the Association of Equipment Manufacturers, the Associated General Contractors, the American Society of Civil Engineers, the International Union of Operating Engineers, the Laborers International Union of North America, the National Asphalt Pavement Association, the National Stone, Sand, and Gravel Association, the United Brotherhood of Carpenters and Joiners of America, and the U.S. Chamber of Commerce, in support of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Arlington, VA, February 2, 2009.

Re: Support Murray/Feinstein Amendment.

Hon. HARRY REID,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR REID: The Associated General Contractors of America urges you to support the Murray/Feinstein amendment to the American Recovery and Reinvestment Act of 2009. The amendment will provide additional funding to critical surface transportation and water infrastructure projects across the country.

Construction employment has tumbled by 899,000, or 11.6 percent, since peaking in September, 2006. Unfortunately because of dwindling public and private funding more than a million more good workers could face layoffs in 2009 without significant construction stimulus.

Providing a significant investment in funding for construction projects would help address our nation's infrastructure investment gap and create good jobs in communities across America. AGC estimates that, an additional $1 billion of investment in nonresidential construction supports or creates 28,500 jobs. More than half of the gain would impact non construction elements of our economy, as workers and owners in the construction and supplier industries spend their added income on a wide range of goods and services.

We estimate that the American Recovery and Reinvestment Act would create or support more than 1.85 million new jobs between now and the end of 2010, including over 620,000 construction jobs, 300,000 jobs in supplying industries and 930,000 jobs throughout the broader economy.

The construction industry stands ready to participate in the economic recovery spawned by the American Recovery and Reinvestment Act of 2009. Thousands of AGC members across the country have expressed their personal commitment to putting this funding to use quickly. Please support the Murray/Feinstein amendment.

Sincerely,

JEFFREY D. SHOAF,
Senior Executive Director,
Government and Public Affairs.

WASHINGTON, DC,
February 2, 2009.

TO THE MEMBERS OF THE U.S. SENATE: The Americans for Transportation Mobility (ATM) Coalition strongly supports the inclusion of funding for highways and public transportation in S. 336, the ''American Recovery and Reinvestment Act of 2009,'' and urges the Senate to increase funding levels for highways and public transportation to at least the levels provided in H.R. 1, the House-passed version of this legislation.

Preserving and creating jobs through highway and public transportation infrastructure investment is a key element of this economic recovery package. The investments in near-term transportation projects supported by this legislation would protect and create jobs to support broad recovery and address particularly hard hit sectors like construction. Transportation spending also results in long-term economic benefits: transportation infrastructure plays a critical role supporting the nation's economy by facilitating safe, efficient, and reliable movement of people and goods.

The recovery package is an important step toward renewing highway and transit infrastructure, but it is only a beginning. The ATM Coalition looks forward to working with the Senate in the coming months on reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), which must build on the investment in the American Recovery and Reinvestment Act by providing the policy and programmatic reforms as well as long-term funding needed for highways and public transportation.

ATM urges you to increase funding for highways and public transportation investments in S. 336 to at least the House-passed levels.

Sincerely,

AMERICANS FOR TRANSPORTATION MOBILITY.

ATM Management Committee Members: American Public Transportation Association, American Road and Transportation Builders Association, Associated Equipment Distributors, Association of Equipment Manufacturers, Associated General Contractors, American Society of Civil Engineers, International Union of Operating Engineers, Laborers International Union of North America, National Asphalt Pavement Association, National Stone, Sand, and Gravel Association, United Brotherhood of Carpenters and Joiners of America, U.S. Chamber of Commerce.

Mrs. MURRAY. Mr. President, the point is these are private sector jobs. In fact, less than 1 percent of these will go to Government jobs, and those jobs will be oversight and accountability to make sure our taxpayer dollars are spent wisely.

I look forward to having a vote on this amendment as soon as our chairman determines the time. I ask our Senate colleagues to join us in making sure we create the kind of investment, infrastructure, job creation that we have told America about, and we know will get us back on our feet.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I applaud the Senator from Washington in bringing this point to the attention of the American people, as I have been trying to do, that in this stimulus bill—and the same is true on the House side—there is far too little construction, far too little jobs.

I found it very difficult to believe that in the bill that came over from the other side there was only some $30 billion. I can share now, because it has been public, that 8 days ago on Monday, President Obama addressed our conference. During that conference, we talked about the stimulus bill. He was very generous with his time. In fact, he was there for an entire hour. I said: It is inconceivable to me—and here we were talking about the bill that was being considered on the other side—that with some $800 billion or $900 billion—that is without interest—it is going to be over $1 trillion when you add interest—but with those amounts, you only have $30 billion of roads and highways.

Quite frankly, President Obama was not sure my statement was accurate, and he asked Larry Summers, who was in the meeting. We were all a little bit confused about that, except I wasn't because very specifically it said $30 billion on roads and highways.

To be fair, there is another $19 billion in water projects. Infrastructure was a little higher than that. My concern is roads and highways.

The reason I am concerned is that we went through the 2005 Transportation reauthorization bill. At that time, Republicans were in the majority, so I was taking the lead on passage of that bill. I had the support of the ranking member at that time, who was Senator BOXER from California. We worked closely together on that bill. We actually were increasing all we could as time went by because the idea of funding infrastructure and funding roads and highways has a history to it.

When I was first elected, every year we had huge surpluses in the highway

trust fund. That is probably the most popular tax out there. With the highway trust fund, people know or they believe that money is going to be used to increase capacity and increase the condition, the repairs, the maintenance of the transportation system we have now.

Senator BOXER and I worked together on that bill to do all we could to enhance it, to raise the amounts because even as large as that bill was, that did not even maintain what we have today.

Over the years, as people saw the surpluses in the highway trust fund, their tendency, as is always the tendency around this place, was let's grab it and put it into something else. We started having hiking trails, we started having other elements of transportation, over and above roads and highways, bridges and maintenance. Those are the things that originally the highway trust fund, way back in the early fifties, was there for. That is what was established back in the Eisenhower administration.

We have gone over the years, and this took a turnaround a few years ago with so many people loading on to the highway trust fund and less and less was used for maintenance and expansion of our highway system. We got into the position where in 1998, during the Clinton administration, he witnessed the very large surplus that was in the highway trust fund. He took it and put it into the general fund. The total amount was $9 billion. That was something to which I was very much opposed because I thought of that as a moral issue. The people of this country were led to believe that if they paid for gas at the pump, that money was going to enhance our highway system. That used to be the situation. Anyway, we were able to successfully remove that and bring that back into the highway trust fund a matter of a few weeks ago. We improved that a little bit. Still, we have a deficit that cannot do the job the American people expect.

I am considered by some of the rating organizations to be one of the most conservative Members of the Senate. Yet I am a big spender in some areas—national defense, infrastructure. That is what we are supposed to be doing, and we have these opportunities to do it.

As I said, I applaud the Senator from Washington for recognizing the need to increase the amount of money for roads and highways.

During the reauthorization bill of 2005, we talked about what our needs were. We happen to have a guy in the State of Oklahoma, a guy named Gary Ridley, the best highway director anywhere in the United States. What he has done is put together what do we have in the State of Oklahoma that is spade-ready to employ people tomorrow if we are able to have enough money to take care of some of the things that are already authorized; we don't have to go through the environmental impact statements and other statements. This is all ready to go.

For that reason, I thought if this job stimulus bill is going to do something to stimulate the economy, it is going to have to hire people. To hire people, you are going to have to get a much larger percentage.

Getting back to 8 days ago when President Obama was before the Republicans, at that time I said: If I am right and you are wrong in terms of the fact that you only have 3.5 percent of the total amount of money that will go to roads and highways, would you be willing to raise that to some 10 percent? I am not sure the answer was very clear, but nonetheless, it is something that is very reasonable to make as a request.

I have one problem with the Murray bill. First, I agree that we need to have a larger percentage of the money going into roads and highways. But I think we also need a little bit of truth in advertising. If we are going to call this package a stimulus bill, then we need to direct the resources to the programs that have demonstrated the ability to create jobs immediately. However, merely adding the total number, as this amendment does, without giving priority to programs that are truly stimulative is perhaps not all that responsible.

In addition, the major problem I have is that the stimulus needs to be offset. You cannot tell me, if we are looking at $900 billion out there, we cannot find something to offset in order to take care of the immediate problems we have in this country in terms of our infrastructure.

I do not see the Senator from Washington on the floor now, but I would ask her—and I asked her a few minutes ago—if she was willing to offset this money. I believe her response was not at the present time. So if it changes as this develops, then perhaps I will change.

I will say this: If you are not going to be able to offset this amount, then I certainly would oppose this amendment. There will be lots of opportunities to increase the infrastructure investment over the next few days that do not add to the size of the bill. We cannot add to the size of this bill.

To me, the whole idea—well, the amount is inconceivable to most people, most thinking people, in America, and it cannot be increased.

We have numerous opportunities. We have the Boxer-Bond amendment to increase highway investment by $5.5 billion. It is fully offset. I strongly support Senator BOXER and Senator BOND in this effort. The program they eliminate is a discretionary program that would not even select projects for an entire year.

Then the program provides an additional 3 years to finish the project. That makes sense to me. My chairman, Senator BOXER, and I as the ranking member of Environment and Public Works Committee, go along with a bipartisan group of colleagues who will have a second amendment to add $50 billion to highway transit and clean drinking water. This amendment would take funds not obligated within a year up to $50 billion from programs in the stimulus that are not spending and redirect them to infrastructure projects that are ready to have a contract awarded within 120 days after receiving the funding. That is what we call a stimulus. That puts people to work in jobs. And it doesn't add to the cost of the bill.

Those are two opportunities coming up; we will have to get this done. It also moves the money from programs that are not stimulating the economy, which I think is a good idea.

I at this time urge my colleagues to oppose the Murray amendment even though I agree with what she is trying to do. I want to have this offset. We have these two opportunities that I mentioned coming up where we will have the opportunity to accomplish the same objective and have them offset.

Frankly, the amount she is talking about is not as much as I would like. I would like it to be an additional $50 billion which we will be talking about in another amendment coming up.

Since it is not going to be offset, I make a point of order against the Murray amendment's emergency spending designation under 204(a)5A of S. Con. Res. 21 of the 110th Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that Senator INOUYE be able to make a UC and then I be granted the floor to speak in favor of the Murray amendment and for the waiver she will need.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I ask unanimous consent that at 12:20 p.m. today, the Senate proceed to vote in relation to the Murray-Feinstein-Specter and others amendment No. 110 and that time until then be equally divided and controlled in the usual form; that if a budget point of order is raised against the amendment, that a motion to waive the relevant point of order be considered as made; and that no amendments be in order to the amendment prior to a vote in relation thereto.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. Reserving the right to object, can I clarify exactly then what the UC is? The Senator from Hawaii would have an opportunity to respond and offer a unanimous consent request,

and then the Senator from California would have how much time?

Mrs. BOXER. I have not asked for a specific time. I would take 15 minutes.

Mr. THUNE. I was hoping I would have an opportunity to make some remarks before the vote. The vote is going to occur at 12:20. Very good.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mrs. BOXER. Mr. President, I rise as the chairman of the Environment and Public Works Committee in favor of the Murray-Feinstein amendment, and I hope we will vote to waive this budget point of order. I want to tell you why.

Senator INHOFE is correct that I will be working with him very proudly on a couple of amendments which will all be offset. But in general, we are in such a crisis in this country that we need to look at three things in this package: jobs, jobs, jobs. This package falls short. Once we get to the conference, I think some things will fall away. I do. But we need to boost the spending, it seems to me, on the most efficient programs that create jobs, and not just any type of job but good jobs—jobs in the construction industry where we have seen devastation hit our families.

In my State of California, we have a 9.2-percent unemployment rate. Let me reiterate. In my State of California, we have a 9.2-percent unemployment rate. Were it not for our environmental laws which are putting people to work, putting solar rooftops on and the rest, I hate to think of where we would be because housing construction has literally stopped in its tracks.

The importance of the Murray-Feinstein amendment is this: jobs, jobs, jobs. That is what the people want us to invest in. We know very well that when we invest money in the type of infrastructure we are talking about—highways, water systems, sewer systems—the jobs come along with it.

We also know a lot of our physical infrastructure is failing. We can never get out of our minds the tragic collapse of the bridge in Minnesota. And when we look at the condition of our bridges across this great Nation of ours, we find there are way too many—maybe a quarter of them—in need of repair. So when we talk about this amendment, we are talking about adding funding for roads, for bridges, for transit, for rail, for ports, for drinking and wastewater infrastructure, which are the most efficient job creators.

I think it is fair to ask, are our States and localities ready to spend these dollars or will they go there only to sit? The answer is, our States are more than ready. According to the U.S. Department of Transportation, the backlog of needed improvements to simply maintain the current bridge and highway network is $495 billion. That is the backlog. This amendment is $25 billion, and as I understand it, that is being added to $27 billion. So we are at least adding more funding that is real.

To me, it is not enough. That is why Senator INHOFE and I are going to have an amendment that says if the rest of the funds in this bill are not committed by a time certain, we are going to put up to $50 billion more into these accounts. I hope that passes, but this is a very important amendment. I hope we will pass it on a bipartisan vote, but the first step is to allow the budget act to be waived.

The Department of Transportation also told us something else. They said that for every $1 billion invested in highways and bridges at the Federal level—and if that funding is matched—we could create and maintain 34,800 jobs. That is 34,800 jobs for $1 billion invested at the Federal level. I want to sort of shake my friends, in a nice way, and remind them that a million jobs were lost in this great Nation in the last couple of months—a half million in December and a half million in January. By the way, a half million also in November. I want you to think about your States and how many families that is. The number of jobs that have been lost is bigger than some States—bigger than some States. Close your eyes and imagine the whole State of Delaware with every person unemployed. That is what has happened so far, and worse.

We need to get ahead of ourselves here. What worries me about the Senate is that we are kind of chasing after this tiger called recession. It took the Bush administration forever to call it a recession. Then they finally called it a recession and said, well, hopefully, we will get over it quickly. But we keep chasing it, trying to grab it by the tail. We have to get in front of this recession or it will become a depression. You get in front of it by doing the things you know will create jobs.

Now, is every single item in this bill something I support? No. But I support the infrastructure part, I support the help to the energy sector so we can get off foreign oil, I support building a smart grid, I support making sure people who are long-term unemployed get the chance to feed their families, and I support doing more about housing. But I surely know this, as chairman of the Environment and Public Works Committee, a dollar invested in the physical infrastructure, in rebuilding it, is a dollar that will create jobs—thousands and thousands and thousands of jobs. This amendment is a good amendment. It doesn't overreach. It underreaches. But it is a start.

The next question might be: Well, Senator, I agree with you that this investment will create jobs, but have the States identified projects that will qualify? The State departments of transportation, according to the American Association of State Highway and Transportation Officials, have identified over 5,000 projects of over $64 billion in value which could create nearly 1.8 million jobs. We could restore the jobs that have been lost in the last 2 months with this amendment. Our committee, the Committee on Environment and Public Works—and I have my good staff here—has surveyed many of these States and we have determined these projects are shovel ready.

So let me say it again: $64 billion of shovel-ready projects, ready to go—1.8 million jobs. And the underlying bill falls short. The underlying bill falls short. If we pass the Murray-Feinstein-Boxer, et cetera, amendment, we will in fact move toward equaling that shovel-ready number we have.

The American Public Transportation Association tells us that States have identified 787 ready-to-go public transit projects totaling $15.9 billion that would sustain thousands of jobs. The U.S. Conference of Mayors tells us there is a total of 15,000 ready-to-go infrastructure projects in 641 cities. So you have the States telling us they are ready, you have the transit districts saying they are ready, and you have the U.S. Conference of Mayors saying they are ready. And when I look at the underlying bill, I believe it didn't fund these projects to the tune they should have.

This amendment also increases investments in drinking water and wastewater infrastructure. We are so far behind on those programs. If our kids can't drink the water, that is trouble. We need to make sure the drinking water is safe. If we have a sewer spill, that is a disaster. We need to get out ahead of that. A recent EPA study—and, Mr. President, you will be interested in this—found that failure to increase investment in water and wastewater infrastructure could result in a $500 billion water infrastructure gap in the next 20 years. That EPA study was done under George Bush. Okay, George Bush's EPA told us we could have an infrastructure gap of $500 billion in the next 20 years. So let's invest in water infrastructure. It will replace aging water pipes, expand treatment facilities, reduce pollution flowing into our Nation's rivers and streams and allow for implementation of projects to improve water efficiency.

The Murray-Feinstein amendment, my friends, is critical. We don't do enough in the underlying bill. And for those who worry about an offset, we will find those in conference. We are going to keep this bill where President Obama wants it. We know that. But let's walk down the bipartisan lane on this one. We all know our States and our localities are crying out. We all know our people are hurting because they are not working. With this amendment, we create jobs in areas

that we have to pay attention to anyway. Are we going to wait for our sewers to overflow into the streets? Are we going to wait for more bridges to collapse? I say that is ridiculous. You can't be a great economy when bridges are collapsing all around you, and our bridges are in trouble.

So to say you won't vote for this amendment because it is $25 billion in an $800-plus billion, almost $900-plus billion bill, is shortsighted. I commit to working with my friends on the other side to find the offsets in this bill. It is not going to be that hard. I agree with Senator INHOFE, they are not in this bill, but we can work to get some offsets in the conference.

Local people are saying to us, please, Senators, do something to help us get out there, spend the money on these shovel-ready projects—the highways, the bridges, the transit systems, the sewer systems, the safe drinking water issues. Help us do it. We can make this a far better bill. Private industry wants this, and these are private sector jobs. These are contracts that will be let for local contractors, small business, big business, union members, and nonunion members. This is what we should be doing in this bill.

I signed a letter with Chairman BAUCUS on this very topic and, guess what, Senator INHOFE signed it, Senator BOND signed it, and we said we need to do more building of the infrastructure of our great country. The unemployment rate for construction workers is double the national unemployment rate. Listen to this: The unemployment rate for construction workers is 15.3 percent—15.3 percent in December—compared to a 7.1-percent national unemployment. There are plenty of workers available. They are ready and they are excited to get to work. They have to support their families. They are suffering, they are worried, and they do not want to be on the Federal dole. They do not want to get food stamps. They do not want it. They want to work. They want to work.

This is an important test of whether the Senate has a heart, frankly, and a brain, because I think this is where your brain and your heart come together with a yes vote. Because with our heart we know people are suffering. With our heart we know construction workers are suffering. With our brain we know that when they go to work and they pay taxes, we all benefit. With our brain we know when we rebuild the physical infrastructure our country is stronger and we set the predicate for a very strong economic recovery into the future.

So I feel very strongly, as I am sure you can tell from the sound of my voice. I just hope we don't have a partisan vote. I think this is one where we should come together. We will find new offsets. President Obama is going to have a cap. He is going to say we don't want to spend more than X. We will make this work, but let's have a good vote on this motion to waive the budget act. I think our country will be better for it, and the people out there who are watching this debate will feel good that we know our construction workers are suffering and our construction companies are suffering, and this would go a long way to boost their confidence.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand the Senator from South Dakota wants to speak for 15 minutes. I ask unanimous consent that the Senator from Michigan, notwithstanding the pending unanimous consent request, be allowed to speak for 5 minutes following Senator THUNE of South Dakota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, this is a very important debate for the American people. We have an economy that is struggling, we have a lot of people who are hurting, and I think in the context of that debate, it is very important that we remember these dollars we are spending are the American people's dollars. Yes, we want to be able to respond to the economic crisis the country is experiencing in a way that allows people to spend more money, that gets more money back into the hands of the American people, that will help grow the economy and create jobs, and provide the necessary incentives for small businesses to invest, but I think it is important at the outset of the debate that we give serious consideration and thought to what we are doing here and what we are talking about in terms of the dimensions and the scale of what we are talking about.

When we throw around numbers here in Washington, DC, when we talk in millions and we talk in billions, and in this case a trillion dollars, we treat it as if it is something abstract. I think it is sometimes important to boil it down so that we put in perspective the dimension, the scale, the scope, and the size of what is being talked about this week on the floor of the Senate.

I want to put up a chart that illustrates that very point. Imagine thinking about a trillion dollars, and putting it back to back or if you put a bunch of hundred dollar bills back to back on top of each other and asking people around the country how high that stack would go.

I am sure you would get a lot of varying answers. You would probably have some people say it might go 300 yards into the air. Some people might say: Well, it might go 5 miles into the air. But the reality is, if you took hundred-dollar bills and stacked them on top of each other, you would have a stack that goes 689 miles high, back to back to back. That is hundred-dollar bills. We are not talking about dollar bills, we are talking about hundred-dollar bills.

Mrs. BOXER. Will the Senator yield for a question on this point?

Mr. THUNE. I would say to the Senator, through the Chair, the Senator from California just had an opportunity. I would like to finish my remarks. Then I would be happy to yield.

Mrs. BOXER. Thank you. I will stay on the floor.

Mr. THUNE. The point I am making is, you have to sometimes illustrate this in a sometimes very graphic way to help us understand what we are talking about. So I would make my point simply again: Hundred-dollar bills stacked back to back to back, if you stacked them on top of each other, would equal 689 miles.

Now, another way of looking at this is, if you took hundred-dollar bills and wrapped them around the Earth at the Equator, in other words, you took hundred-dollar bills, not stack them on top of each other but wrap them side by side all the way around the Earth, if you can believe this, it would go around the Earth almost 39 times. That is 969,000 miles of hundred-dollar bills that would go around the Earth if you took a trillion dollars and broke it down that way.

That very simply puts into perspective what it is we are talking about. Someone else has described it this way: If you started spending a million dollars a day on the day Christ was born, and you spent a million dollars every single day up until today, you still would not have spent a trillion. That is the dimension of what we are talking about.

I remember when I was in business school, we had our little business analyst calculators that we used to do financial calculations. You could not even get to this. You could not even get to a trillion dollars on calculators back at that time. I hope, today, for purposes of doing economic calculations, because of the scale we are talking about, these calculators go that far.

But my point is, this is an enormous amount of money, an enormous amount of money. We are talking about $1.26 trillion of our children's and grandchildren's money over the next 10 years. I think there is a basic principle that all Members of the Senate should consider when we are spending our fellow citizens' hard-earned dollars. That principle is this: We should not spend money we do not have on things we do not need. Let me say that again. We should not spend money we do not have on things we do not need.

Families and business owners understand this principle. Unfortunately, it is a principle that has been lost and escaped our colleagues on the other side who have drafted this 700-page, trillion-dollar spending bill, which is filled with lots of Government spending that I think most Americans would characterize as wasteful. I am not saying all Government spending is bad. Government spending, if it is properly focused and highly scrutinized, may have some countercyclical impact. One example of that would be infrastructure spending that we use to improve our roads and bridges and provide access to clean drinking water, that can provide jobs in the short term, and can create economic opportunity in the long term.

The problem we have is this bill is laden with unfocused, unnecessary, and wasteful spending. Now, the stated goal of a stimulus proposal, as stated by, I think, Larry Summers earlier this year, was it should be timely, temporary, and targeted. I may not be saying these in the right order but basically timely, temporary, and targeted, basically three criteria, three metrics by which we would measure a stimulus proposal and whether it is effective and whether it works.

I would argue this particular bill is none of the above. It is slow, it is unfocused, and it is unending. It makes commitments way beyond the 1-year, 2-year window that we are talking about if we want to have an impact and create jobs with stimulus.

So even with a price tag that is greater than any previous stimulus package in the history of our country, the majority of the spending in this bill is not focused on job creation and fails to meet the job creation goals our President called for and I think the American public expects.

With record deficits in the near term, this bill, as drafted, is a mistake that I do not believe we can afford to make. According to the Congressional Budget Office, we have a $1.2 trillion deficit in fiscal year 2009, before any financial stabilization or stimulus measures are passed by this Congress.

Now, again, we are going to spend $1 trillion. I would point out what $1 trillion means. If you took hundred-dollar bills, you put them side by side, 969,000 miles, and that is the amount we are talking about spending. It is also the amount of the deficit in this particular fiscal year, fiscal year 2009. That is before, as I said before, any financial stabilization or stimulus measures are passed by this Congress. Frankly, we expect other requests to come forward in the area of financial stabilization.

To put the $1.2 trillion deficit into perspective, that is roughly triple the previous record of $455 billion that the deficit came to in fiscal year 2008. So it is important to note that already this deficit in fiscal year 2009 will exceed by almost three times the deficit in the year 2008. It is going to be over $1 trillion before we do any of these other things.

It is also important to note that the Congress, not the executive branch, has the constitutional authority to raise and to spend revenue; that is, the power of the purse, by our Constitution, falls to Congress. So if we are looking for a scapegoat in this whole fiscal imbalance, we need to look no further than the Halls of Congress.

In fact, in the last couple years—the Democrats regained the Congress back in 2007, the Federal deficit has ballooned from $160 billion or 1.2 percent of our gross domestic product in 2007 to over $1 trillion or 8.3 percent of our gross domestic product this year, in fiscal year 2009.

Now, if we include just the additional spending for this proposal before us, the 2009 projected deficit, I am talking about now stimulus and the deficit as I mentioned earlier that is already projected for 2009, it would increase to $1.43 trillion, almost $1.5 trillion, in deficits or, put another way, about 10 percent of our gross domestic product.

I have to remind my colleagues that we are still very early in the year. We have almost 9 months left in this fiscal year to spend even more of our children's and grandchildren's tax dollars. The Congress is soon going to consider an omnibus spending bill for the remainder of 2009.

We also will have to consider a war supplemental bill and the potential of additional bailouts for the financial sector and we are told that request may be coming as early as next week.

Without a question, we are going to end 2009 in perhaps the worst financial condition the Nation has ever seen. In fact, the last time we had a single-year deficit that the GDP ratio was over 8 percent was the year 1945, during the height of World War II.

Now, for comparative purposes, the European Union, the Federal deficit there that we have this year of 10 percent, if you add the stimulus in, would not even be good enough to get into the European Union. According to European Union rules, member nations have to have a budget deficit of 3 percent or less. Our Federal deficit this year will be three times higher than the maximum threshold to get into the European Union.

Of course, European countries are also dealing with the same contractionary forces that we are dealing with in this country, which are driving up their collective deficit to GDP ratios to record highs. But even with those factors and influences in those economies, the Euro zone's collected deficits will only reach 4.7 percent in 2009. That is 4.7 percent of their gross domestic product, which will be less than half the U.S. total.

When you talk about being faced with such unsustainable deficits, Congress, I would argue, has to carefully analyze any and all deficit spending. Any additional Government programs that are financed with more deficit spending need to meet the highest standards of job creation and return on taxpayer investment.

Unfortunately, the spending bill we have before us contains a long list of Government programs that fail to meet that standard. I can start to go down the list—I will not go through the entire list because it would take too long—$1 billion for the Census; $20 billion for the removal of small- to medium-sized fish passage barriers; $400 million for STD prevention; $25 million to rehabilitate ATV or recreational vehicle trails; $34 million to remodel the Department of Commerce headquarters in Washington, DC; $70 million to support supercomputer activities for climate research; $208 million for disconnected youth; $1.2 billion for summer employment; $246 million in tax breaks for Hollywood filmmakers; $6 billion so bureaucrats in Washington can enjoy the benefits of green technology.

I happen to be one who supports green technology. I think we ought to be moving in that direction. But we also have many opportunities, energy bills we have made on a regular basis around here, in order to engage in how we invest to be moving our country in a green direction.

These programs do not create jobs. They hardly justify a $1.2 trillion debt on the shoulders of our children and grandchildren.

So I would encourage my colleagues, as we go through the debate this week to scrutinize every line item in this 700-page bill and ask themselves if these provisions will create jobs and justify making record deficits even worse. We should not spend money we do not have on things we do not need.

Over the next few days, several amendments are going to be offered to strike or replace wasteful spending items in this bill. I would call on my colleagues to consider these amendments with an open mind and a clear understanding of the dangerous consequences of a trillion-dollar mistake. A trillion dollars is a terrible thing to waste.

What we are talking about, as I mentioned in terms of the dimensions of this, if you look at hundred-dollar bills side by side, 38.9 times it goes around the Earth at the Equator. That is what I am talking about.

Mrs. BOXER. Would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. I am astounded by this new-found fiscal responsibility I hear from the other side of the aisle. I wish to ask my friend a question: Do you know what the debt was when Bill Clinton left office and George Bush took over and there was a Republican

Congress? Do you know what it was at that time?

Mr. THUNE. I would say I am not sure I know the answer, but I am sure I am going to hear it.

Mrs. BOXER. The debt was $5.7 trillion when George Bush and the Republicans took over. I will say to my friend, not to ask him a question, the debt today is $10.1 trillion; a doubling of the debt was brought to you courtesy of the Republicans.

Does my friend know—I am sure he does—that when Bill Clinton left office, we had a surplus in our budget. We not only did not have a deficit, we had a surplus. My friend knows what George Bush left us with—hundreds of billions of dollars, hundreds of billions of dollars of debt.

So for him to stand up now that the people are suffering and struggling and they need jobs and become the Herbert Hoover of current day times, I think it is hurtful to the American people. I say to my friend: Why is it that my friend now is suddenly talking about debt and did not discuss it when the Republicans were in charge?

Mr. THUNE. Mr. President, I thank the Senator from California for her question. I think we can all talk about what has come before, what has happened in the past. Frankly, there are lots of reasons why we are in the situation we are in.

But I would remind my colleague from California that the President of the United States does not appropriate a single penny; that is done by the Congress. That is done by the Congress. We in the Congress have created this problem. Now, arguably it has happened under Republican Congresses, it has happened under Democratic Congresses. But the point is, we are here talking about spending an additional trillion dollars on the top of a historic amount of debt that we have in the country and deficits that this year are going to be $1.2 trillion. That is without adding in the stimulus. That is without talking about the financial stabilization request that is going to come later. That is without the omnibus spending bill, which is for the first time, I might add, going to be over $1 trillion, and that is without the supplemental bill that will be coming our way later this year.

This Congress is talking about going on a spending spree that is unprecedented in American history. Yes, we can all point to the mistakes that were made in the past, but I am here to talk about today my concern for the future and what we are doing in the future, to future generations and our children and grandchildren, when we impose this kind of burden on them.

Mrs. BOXER. Mr. President, may I have 60 seconds?

Mrs. MURRAY. May I ask how much time is left on our side?

The PRESIDING OFFICER. There is 5 minutes allocated to the Senator from Michigan. That is all the remaining time.

Mrs. MURRAY. As the sponsor of the amendment, I ask unanimous consent for 30 seconds prior to the vote.

Mrs. BOXER. And I ask unanimous consent to extend that for 1½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I want to take 60 seconds to respond to Senator THUNE. He says he doesn't want to point fingers. He is pointing fingers all over the place. He says we are here today talking about a trillion dollars. Let me tell my colleagues what we are talking about: the deepest recession since the Great Depression, jobs being lost at 500,000 and 600,000 a month. All of a sudden some of our Republican friends have said: Whoops. Now that we can't give tax breaks to the people who are earning over a million and now that the Iraq war is winding down, we are not that interested in spending money.

Democrats, when we were in control, had our priorities straight. We said: Put families first. We balanced the budget, and we will do it again. But we must restore this economy. When I use the phrase ''Herbert Hoover,'' which has become kind of a symbol for doing nothing in the face of the middle class crumbling, I know what I am saying. I hope we will vote for the Murray amendment. It will create thousands of jobs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mrs. STABENOW. Mr. President, I commend Senator MURRAY for her amendment. I am proud to be a cosponsor, and I strongly support the motion to waive the Budget Act. When my friend from South Dakota said we should not spend money on things we don't need, we need jobs. We need jobs, and that is exactly what this amendment does. The additional resources in this amendment of $25 billion, according to the normal formulas used, by my calculation would create over 1,187,500 new, good-paying jobs. That is exactly what we need to do to get this economy going again. With all due respect to my colleagues on the other side of the aisle, the reality is, we have had 8 years of their philosophy, 8 years of a philosophy focused on the supply side of supply and demand. Start at the top, it will trickle down. What has that gotten us? In the last year alone, what that has meant to us is 2,956,000 good-paying American jobs gone, in 1 year. Over the last 8 years in manufacturing, which is the backbone of the middle class, we have lost over 4.1 million manufacturing jobs.

What this amendment is about, what this recovery plan is about, is changing the way we do business, changing priorities, focusing on middle-class workers, communities, folks working hard to stay in the middle class or get into the middle class, the people who need money in their pocket to buy things so we can have a strong economy again. We are talking about, in this proposal, creating jobs. That is what this is about.

The philosophy that has been operating for the last 8 years has put us in a situation where we lost more jobs last year than any other time since 1945: Eleven million people are out of work. Something has to change.

I commend our committee chairmen for their leadership, Senators BAUCUS and INOUYE, and all of the good work that has gone into changing direction.

The reality is, we are at a point in time where we have to focus on the folks who want a job, who want to go to work in the morning, to be able to pay the bills and keep the mortgage and put the kids in college and put food on the table. That is what this amendment does. This is about rebuilding America. At the end of it, we as taxpayers get something for it. We know a quarter of our bridges are in dangerous condition. We know we need to focus on roads and bridges and water and sewer systems, building 21st century schools for children, more focus on public transportation. We need to focus on creating good-paying jobs. That is what this amendment is all about. We have had enough of policies that only focused on a few. We have had enough of policies that asked the majority of Americans to sit and wait for something to trickle down to them and their families. This recovery plan rejects a philosophy that has not worked. Frankly, it is a philosophy that was rejected last November. People are saying they want to change the focus.

What have we done? We have put together a recovery plan that focuses on jobs and rebuilding America. That is what the Murray amendment does. We focus on green manufacturing and green technologies, which are so important to our future, because as manufacturing was the backbone of the middle class for the last century, a green economy will build on manufacturing, will build on the middle class of the future. We have significant investments that move us in that direction, that not only make sure we are growing fuels and that we are operating in a more efficient manner, but that we are building the green technologies here so the jobs are here. That is what this is about. I believe strongly that we need to waive the Budget Act. We need to get on with the Murray amendment, because the bottom line of all of this is rebuilding the middle class.

I yield the floor.

Mr. LAUTENBERG. Mr. President, the amendment we have before us is of critical importance. By adopting this infrastructure amendment, we will improve this package by increasing its focus on repairing and upgrading our

Nation's infrastructure. The fact is, our Nation's highways, bridges, and transit and water systems are just not keeping pace with our country's needs.

For our economy, our workers, and our future, we have to rebuild America. This amendment will instantly translate into construction projects in communities across our country and send a quick jolt through our economy.

In all, this amendment will create 655,000 new jobs. We cannot forget that unemployment in construction is higher than in any other sector.

We know transportation investments are one of the most effective ways to grow our economy. For every dollar we invest in transportation, we get an immediate $1.59 in return.

But make no mistake—this amendment is not just a short-term fix. It is a long-term investment that will pay off for our entire Nation.

The truth is, as a Nation, we have neglected our pressing infrastructure needs. More than 25 percent of our Nation's bridges are deficient. Let us not forget the catastrophic bridge collapse in Minneapolis just a year and a half ago. Gridlock on our highways means each commuter spends an average of 38 hours a year sitting in traffic, burning 26 gallons of gas while going nowhere. And travelers in many parts of our country are stuck in their cars simply because they don't have the option to board a train. Our economy—the largest in the world—still doesn't have a world-class passenger rail system.

This amendment will allow States to invest in highways, bridges, transit systems and expanded rail service.

And it will put people back to work. Right now, families across our country are suffering. Every day more and more people join the unemployment line, a line that is right now 11 million people long.

We have a tremendous opportunity before us to rebuild our infrastructure, reinvigorate our economy, and create jobs.

We have a lot to do in the next week, and I hope we will meet our obligations and get the job done.

Mr. CARDIN. Mr. President, this amendment directs $25 billion to a targeted list of infrastructure programs, including highway, transit, and water and sewer programs. Adopting the amendment will make investments in our Nation's physical infrastructure a clear focal point in the economic recovery bill. And it will create 654,818 jobs.

We have shovel-ready projects in every jurisdiction in my home State of Maryland.

Let me take just a few minutes to explain how this amendment will benefit my State. It is a story that will be repeated across America.

Transportation:

The amendment calls for a $2 billion increase in transit grants for local communities, which will be allocated by a well-established formula. This provision alone would increase Maryland's share of transit funds by $35.8 million.

Fixed guideway modernization funding will be increased by $2 billion as well, resulting in an $88 million boost for Maryland. Together these two transit provisions will provide nearly 3,000 jobs in Maryland.

The highway provisions in the bill will add $13 billion to repairing and improving our network of roads. Maryland's share will be $208 million, creating 5,580 jobs here in this state alone.

Water:

Drinking water: the amendment sends an additional $13.8 million for drinking water projects to Maryland to upgrade our aging drinking water facilities.

Clean water: this amendment will send an additional $146.4 million into Maryland. We have over a billion dollars in needs to repair and upgrade our sewer systems in Maryland. These additional funds will protect Marylanders from the health effects associated with sewerage overflows. It will improve our water quality in rivers and streams across the State, including our national treasure, the Chesapeake Bay.

Together the water infrastructure funds total an additional $160.2 million in Maryland that will create 6,270 jobs.

This is an amendment that meets our critical infrastructure needs and creates jobs right away, giving our economy the stimulus it needs.

But this is also an amendment that is temporary and targeted. We will get major infrastructure improvements that will last much longer than the funds themselves. These are investments roads, bridges, sewer systems, drinking water facilities—that typically last 30, 40 even 50 years. This is a smart investment in America's future.

I am proud to serve as an original cosponsor of this amendment, and I urge my colleagues to give it their enthusiastic support. This is an amendment that is an investment in America.

The PRESIDING OFFICER. The Senator from Washington, under a previous order, is recognized for 30 seconds.

Mrs. MURRAY. I ask unanimous consent that Senators CARPER and TESTER be added as cosponsors of the amendment, and I ask unanimous consent that the Senator from Pennsylvania be given 2 minutes prior to my closing remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I believe we do need a stimulus package. I have not had an opportunity to speak on the bill generally but will do so later today to express concerns I have about not following regular order in having hearings. But I understand the President is concerned about very prompt action. I support this amendment for $25 billion in infrastructure. I believe the bill is too heavily weighted on items which ought to be in the budget process, very important items, but not in the stimulus package, and more heavily directed to infrastructure on projects which are shovel ready. This amendment is directed to that objective. Governor Rendell has assured me and the public that he can have highway jobs ready in 6 months, shovel ready to proceed. So I believe this is what the stimulus ought to be doing.

I would have preferred to have seen an offset for this $25 billion. There are funds where it could have been offset; for example, in the State Stabilization Program, $79 billion, which is broad, wide-ranging discretion to the Governors, which ought not to be a part of the stimulus package. We will have an opportunity in the balance of this bill to find the savings of this $25 billion. The overall bill ought to be less than the $819 billion passed by the House. But for the present time, I will vote to waive the budget, looking for an opportunity to find the $25 billion offset later and looking for other opportunities to have an effective stimulus which is not quite so expensive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Pennsylvania. I urge my colleagues to approve this $25 billion for the 655,000 jobs across the country to rebuild roads, bridges, sewers, and infrastructure. This amendment will put people to work, and it will get the country back to the point where we feel strong again. I have heard the arguments about offsets, and I know there are a number of Senators who are working to find agreement on how we can reduce the cost of the underlying bill. We will work with them. But let's make sure we understand that infrastructure is a priority and approve this amendment.

I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—58

Akaka	Feinstein	Nelson (FL)
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Bond	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Specter
Byrd	Lautenberg	Stabenow
Cantwell	Leahy	Tester
Cardin	Levin	Udall (CO)
Carper	Lieberman	Udall (NM)
Casey	Lincoln	Warner
Conrad	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	
Feingold	Murray	

NAYS—39

Alexander	DeMint	Martinez
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Crapo	Lugar	Wicker

NOT VOTING—2

Gregg
Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected and the emergency designation is stricken.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, at 12:55 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida pertaining to the submission of S. Con. Res. 4 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Oklahoma is recognized.

AMENDMENT NO. 109 TO AMENDMENT NO. 98

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 109.

Mr. COBURN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the $246 million tax earmark for Hollywood production companies)

On page 475, beginning on line 1, strike through page 477, line 17.

Mr. COBURN. Mr. President, we are in the midst of debating a ''stimulus bill'' that has been brought forth in the hopes of alleviating some of the economic pain we have in this country.

Principally, I object to many of the provisions in the bill because they are not stimulatory whatsoever. We all know that. We are going to add $1.2 trillion to the debt and we are not fixing the real problem this country is encountering, and that is the absolute collapse of the housing industry. We can spend all the money we want to spend on ''stimulus'' packages—which this one isn't—and it is not going to do a thing, unless we fix housing and the liquidity crisis.

I bring up this amendment because it shows how misaligned this bill is. This amendment seeks to eliminate a $246 million earmark. It is nothing but that. It is a tax earmark for the movie industry. Let's put the history out there. The movie industry today can take advantage and write off all of its production costs and take an additional $15 million out of the taxpayers' pocket for every movie they produce in this country, of which 75 percent of the expenses are actually incurred in this country. What we have added is an earmark to markedly increase all movies produced in 2009, which is an additional $246 million.

I am not against tax breaks that are general across the board and will be truly a stimulus, but this is a tax break earmark that has a tremendous odor to it. The odor is this: We already created tax breaks, starting in 2004, for the movie industry that are greater than we have for any other industry, and now we are going to add to it—at a time when Hollywood is at one of its zeniths of success. As a matter of fact, yesterday in USA Today is the headline: ''Billion Dollar January is the Box Office's Best in History.''

They had the best January in their history—more profits, more revenue, a 20-percent increase in ticket sales. Yet we are going to take a stimulus bill and add another quarter of a billion dollars to one of the few industries in our country that is faring well.

To quote Rob Reiner, whom most people know—and I think this is probably disappointing to him—this is what he said when asked about Hollywood's relationship with Washington, DC:

We are a special interest group that doesn't ask for anything, like earmarks, legislation, or tax breaks. We are the one industry that doesn't ask for a quid pro quo.

What have we done in this bill? We have sent a quarter of a billion dollars of our grandkids' money to some of the most profitable businesses in this country, which at this point in time have not been impacted and don't project to be impacted at all by the recession we are currently experiencing.

This isn't stimulus; this is a gift. It is not going to stimulate the economy at all. What it is going to do is line the pockets of very wealthy individuals who are already not experiencing the downside of the economy. What we should have instead is tax breaks that go across the board to every small business and to every large business. If it is written that way, I would not object if Hollywood got some of the money. But we have singled out one industry to give them special treatment, when they already get special treatment under the Tax Code. This is not an appropriations earmark, this is a Finance Committee earmark. The chairman of the Appropriations Committee is on the floor as we speak. It is not aimed at him.

How long are we going to continue to play this game? How long are we going to continue to confuse the American people about what we are doing? I want the American people to respect what we are doing in this body. When we do things such as this and sneak in a quarter of a billion dollars for our friends, when they don't need it, because we can, we demean this institution. But more importantly, we contribute to the undermining of confidence in this country, showing that we are not about the best interests of all Americans, but instead the best interests of the special interests that have effective lobbying that can get a quarter of a billion dollars for this industry into a bill.

I will come back later and talk on this again. I want the people in America to ask a simple question: Is this something we ought to be doing right now to help and heal America? Is it going to help people who are out of work? Is it going to help in terms of restarting the engine of consumer spending? Is it going to do the things we need to do to make a difference in our economic situation in the world today? The answer, on this special interest earmark, is absolutely not. What we are going to do is benefit those who are doing the best in the economy today, not those who are doing the worst.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I will speak briefly. I believe Senator MIKULSKI is perhaps going to offer the next amendment. I do not want to disadvantage the time that has been allotted. I did want to, however, point out that I intend to talk about three amendments very briefly. I filed two of them; I will file the third shortly.

All of us understand what has happened in recent months. In the last 4 or 5 months we have seen money go out the backdoor of this Government unlike any time in the history of our country. In fact, you can read the U.S. Constitution. I don't think you can find a place in the Constitution that describes the mechanism by which massive amounts of money have gone out of this Government—$8.5 trillion, to the extent we now know how much has been moved from our Government to support various enterprises.

The reason we know that is Bloomberg News sued the Government and the Federal Reserve Board, which is the only way anybody got the information about how much money has been obligated by the Federal Reserve Board which opened its discount window for the first time in history to investment banks.

It has never before happened. How much money was committed? We know some snippets of all of that. We know that, for example, Citigroup got about $45 billion, and then we are told we have reached an agreement, along with the direct funding to Citigroup, that we are guaranteeing nearly $300 billion for toxic assets for Citigroup. We know that. We know how much has gone to some of the other investment banks. We know how much money went to AIG. We have a notion of how money went in certain directions. But no one knows exactly how much went out of the Federal Reserve Board, to whom, in what direction, for what purpose. How much from the FDIC, how much from TARP, when, why, how much—we don't know the answers to all of those questions.

Here is what I propose: Last week there was a lot of discussion about bonuses. I believe last year the Wall Street investment firms lost $35 billion in income and paid $18 billion in bonuses to their employees. I don't know. I have a masters in business. We went through a lot of casework in business school. I don't think I came across a case that said: Here is good business—lose $35 billion and then pay $18 billion in bonuses. I don't guess I saw that in the Harvard Business Review.

One amendment is, we ought to, as a government, have the right to understand what kind of bonuses are being paid by firms that are receiving financial assistance under the structure of the financial assistance that has been offered by our Government.

I propose an amendment. It is an amendment that would report bonuses to the American taxpayers. I want all companies receiving emergency economic assistance from any Federal financial agency to publicly release information on any bonuses paid, including the bonus recipients and the amount of the bonuses. The American people have a right to that information. After all, these are companies that have asked for and received Federal assistance. Let's have the American public be able to shine a spotlight on what has happened to that money, including, especially, the use of that money potentially for bonuses.

Second is an amendment I have filed that is what I call the Jobs Accountability Act. This is all about creating jobs. If we are, in fact, about creating jobs, then this proposal would be to say we should have quarterly reports in the Congress after this legislation is passed because tens of billions, hundreds of billions of dollars will have been spent in the pursuit of creating new jobs.

Why is that important? Mr. President, 20,000 people will likely learn today they lost their job, 20,000 people today and every day; 2.6 million last year, and they say 2.6 million more in the first 6 months of this year. This is a deep crater. We have to care about trying to create jobs, putting people back on payrolls to give them some hope and some confidence again.

If we are spending money to do that in what is called an economic recovery program, let's try to track that money. This amendment is very simple. It is the Jobs Accountability Act. What I propose is that when this money goes out the door to the recipients—State governments, local governments, and others—we ask them to file quarterly reports with the Congress to say three things: One, I received the money; two, here is how I spent the money; and, three, here is how many jobs I estimate we created with this money. It is the only place we will get this kind of information.

Does anybody think we ought to just ship money out the door and not ask for some sort of reporting requirement about how many jobs we created? Otherwise, it is sort of the helicopter theory of money. Get the money in bags, take it up in a helicopter, shove it out the side, and let it scatter. That is not what this is about. We are supposed to be focusing like a laser on jobs. Let's get the reports from everybody who received this funding in order to determine the effect of what we have done. That is an amendment I have filed.

The third amendment I have not filed but will file today is the issue of runaway manufacturing plants. It is something I have worked on in the past with my colleague from Maryland, Senator MIKULSKI. This is an interesting proposition. We are trying to create jobs because we are losing jobs in this country.

We have a perverse provision in our Tax Code that says this: If there are two companies in Maryland right across the street from each other, making exactly the same product to be sold in this country, in our marketplace, and one of them, on a cool January day, decides: You know what, I am leaving Maryland. I am getting rid of my workers. I am moving my production to China and I will make that product by hiring 30-cent-an-hour labor and I will ship the product back to America to be sold—after that transaction is done. What is the difference between the company that stayed in Maryland and the company that left Maryland to produce in China? The difference is the American company that left and got rid of their jobs and moved to China has a tax bill that is lower than the company that stayed.

We actually provide in this tax system of ours the most pernicious incentive I can imagine, and that is an incentive to say to companies: If you have a choice, we will actually pay you an incentive in the Tax Code to move your jobs overseas. My runaway plant amendment will fix that situation.

I have offered it, I believe, four times with my colleague from Maryland and some others. We have come up short four times. But we have a lot of new Senators who I think would very much like to vote on this amendment. We also have a new President who campaigned on it, a new President who went all across this country and said: Let's stop the incentives for shipping jobs overseas.

This is the perfect place, it seems to me, to have this vote. The reason is because we have a tax bill on the Senate floor now. This is, it seems to me, exactly the wrong incentive. If we are trying to create jobs, why should we have provisions in our Tax Code that move jobs elsewhere? Let's plug that hole, and we can do it with the amendment I will be offering.

My amendment has had over the years many cosponsors and the strong support of my colleague from the State of Maryland. I will file that amendment today. A tax bill is on the Senate floor. If not now, when should we ever plug this loophole that says as a country, we stand behind shipping jobs overseas. Let's say we stand behind keeping jobs here. No tax advantage for those who export them. Let's provide tax advantages, if we are going to, for those who create jobs and keep jobs in this country.

Ms. MIKULSKI. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Ms. MIKULSKI. My question is about the steel industry. As the Senator knows, I, along with him, tried to stand up for American steel. So the Senator means to say if a steelmaker moves production overseas at a very minimal rate, and then ships steel back, they are going to have a lower tax rate than the steel company that struggled, downsized, rightsized to try to stay in this country and manufacture steel?

Mr. DORGAN. That is exactly the case. Most people would not even believe that to be the case. They would say: How on Earth would someone have constructed a system that allows that to happen? Oh, but they did, and they have fiercely protected it.

The reason the steel company that stays here pays a higher tax is the steel company that leaves and ships back to this country gets what is called a deferral of income tax; they don't have to pay the tax until some point later. Of course, we know from history and from the history what has been described as being filed to this bill, ultimately if they are repatriated, they get to pay a tax rate of 5½ percent, something no other American gets to pay. It is a pernicious tax incentive that we certainly ought to put an end to, in my judgment.

Ms. MIKULSKI. Will the Senator agree that we are often chastised for ''Buy American'' amendments, but essentially what exists now is a ''Tax American'' situation, and the amendment of the Senator from North Dakota would remedy that situation.

Mr. DORGAN. That is exactly the case. There is a ''Buy American'' amendment I helped put in this bill that has caused a fair amount of controversy, but it is not violative of any trade agreement. It represents in this bill mostly grants to the States and others for public works projects. It seems to me to the extent we possibly can, we ought to urge the purchase of steel or iron or skids steer loaders in this country to do so. I recognize it is controversial. I am not interested in being violative of any trade agreement that we have, and my understanding is this provision does not violate trade agreements because it will largely come from State grants for public works projects.

I hope to offer the amendment dealing with the tax issue, and I will file that this afternoon. I hope I can get in line so we can have a debate because it is first and foremost about jobs.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 104 TO AMENDMENT NO. 98

(Purpose: To amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles)

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 104.

The PRESIDING OFFICER. Is there objection?

Mr. ISAKSON. Reserving the right to object, and I will not, can we establish an order of recognition? I have been on the Senate floor. Senator MCCAIN has joined us. Senator MIKULSKI has been here for a while. Can Senator MIKULSKI give us an order of presentation?

Mr. REID. Can I make a parliamentary inquiry, please?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I say to my friends, it was my understanding—I just stepped on to the Senate floor—we had a Democratic amendment that was offered. Senator COBURN offered an amendment. What we are going to try to do is rotate back and forth. The next in line that we have is Senator MIKULSKI.

Mr. MCCAIN. Is there a previous unanimous consent agreement?

Mr. REID. No. There was just an understanding between Senator MCCONNELL and me that we would rotate back and forth. The Senator can decide on his side who goes next.

Mr. MCCAIN. I was just asking if there was a previous unanimous consent agreement, I ask the Presiding Officer.

The PRESIDING OFFICER. There is a pending unanimous consent request made by the Senator from Maryland.

Mr. MCCAIN. What is the nature of that request?

The PRESIDING OFFICER. Will the Senator from Maryland restate her request?

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 140.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, would the majority leader and the Senator from Maryland object to a sequence of speaking so some of us can plan the use of our time at least for the next two or three speakers?

The PRESIDING OFFICER. The majority leader.

Mr. REID. I was not aware a Coburn amendment had been laid down. I think it would be appropriate to have the Senator from Maryland lay down her amendment and go back to the Coburn amendment. People who wish to speak on that amendment should be able to do that before we have the speaking order of the Senator from Maryland. It is my understanding the Senator from Arizona wishes to speak on the Coburn amendment.

Mr. MCCAIN. I would, Mr. President. I ask unanimous consent that after the Senator from Maryland, the Senator from Georgia and whatever speaker on the other side wishes to speak, then I be——

Mr. REID. If I may interrupt my friend, all the Senator from Maryland wants to do is lay down her amendment so when we complete action on the Coburn amendment, we can move to her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, and Mr. BROWNBACK, proposes an amendment numbered 104 to amendment No. 98.

(The amendment is printed in the RECORD of Monday, February 2, 2009, under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, to give a sense of process, I have an amendment that I think will contribute to both creating jobs and saving jobs in the American automobile industry. Before I explain my amendment, I wish to note that my remarks will take about 5 minutes. I ultimately will want to vote on this amendment later on today, when the leadership on both sides of the aisle agrees to a time in sequencing they choose. I know there will be opponents to my amendment, and I will return to debate at that time. But in the interest of comity, I will lay down my amendment, speak for 5 minutes to explain it, and then we can return to the discussion on the Coburn amendment.

Mr. President, I think we all agree that our economy is in shambles and that Congress needs to act and act very quickly. My amendment does what the President said he wanted to do, and what the other side of the aisle says it wants to do, or the other side of my amendment says they want to do. The Mikulski amendment is timely, targeted, and temporary, and it is focused on saving jobs and creating jobs in the automobile industry.

What does my amendment do? It does this. If you buy a passenger car, minivan or light truck within this year, you will get a tax deduction for your sales or excise tax and the interest on your car loan. It means a family

could save approximately $1,500 on a $25,000 car purchase.

Now, what does this amendment mean and what does it do? This amendment is actually about creating jobs. Our automobile industry is languishing—from the people who make them, to the dealers who sell them, to the people who service them, to the back office people, and to the people who also provide the supplies.

My amendment is also cost-effective in terms of the Treasury. Not a nickel will be spent unless you go buy a car or a minivan or a light truck. So we are not throwing money out of a helicopter, and we are not putting money out there and hoping people will spend. We are giving money to banks hoping they will lend. Under the Mikulski amendment, it only happens if you walk into a dealership, buy an automobile, and then once you complete that purchase, take that deduction for the sales tax along with the interest.

Why is this good? First of all, for the consumer, it means they get a deal. It is a market incentive and gets them into the showroom to buy what they want. Second, it helps the environment because all new cars—and this is going only to new cars—get greater fuel efficiency and have lower carbon emissions. It is also the only amendment that affects business up and down the chain in our own country. My amendment is not limited to only American cars but it is focused on cars made in the United States. So whether it is a Ford, a Chevy, a Chrysler, a Nissan or a Toyota, it qualifies for the Mikulski amendment.

No. 1, it helps manufacturing. If you buy a car, it means they have to be built. We are facing a crisis in the automobile industry. We can give all the bailouts we want, but unless people buy cars, the bailout will just become part of the bucket list. My amendment helps manufacturing, which means it also helps the dealerships. There are 20,000 new car dealerships in the United States, and they employ about a million people. I have met them in my own State. In many of the rural parts of my State, they are the major employer. They are also the major contributors to the United Way, to the rotary clubs, and to the athletic leagues. These are human beings who sell cars. They are the auto mechanics, with grease under their fingernails but patriotism in their hearts; they are the taxpayers who pay for the bailout of the banks, but they don't want a bailout, they want people to come in to buy their cars. My amendment also will help the consumer to have one more incentive to be able to buy these cars.

One of the auto mechanics said to me he had worked at a Chevy dealership for over 23 years. He said: Senator BARB, I have worked all my life, and I love to work on cars. I just love it. I love to fix them and I love to repair them, and I think I have done a good job at it. I am happy to think I have helped a lot of other people to be in safe, reliable vehicles, and all I want is to have a real job and a real income so that I can send my two kids to college.

I could elaborate on my amendment, but I know others also wish to speak on it, and I will reserve the right to come back and to further debate it. But if you want to help create jobs, save jobs, keep the automobile industry going, and get our economy back on its wheels, vote for the Mikulski automobile tax deduction amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Arizona is recognized.

AMENDMENT NO. 109

Mr. McCAIN. Mr. President, I would like to begin by thanking the managers for their patience and their leadership in this marathon that we are engaged.

I rise in support of the Coburn amendment, which strikes the $246 million Hollywood tax earmark. It is quite an interesting earmark in that the stimulus legislation provides a tax earmark for Hollywood in the amount of $246 million—a quarter of a billion dollars—over the next 11 years, and would allow large Hollywood studios the opportunity to choose between the existing tax break for movie studios or to write off 50 percent of the entire production cost for movies and TV shows made in 2009. In the years that follow the remainder of the production cost would be written off according to existing depreciation law. The 50-percent accelerated depreciation in the first year is a ''bonus depreciation.'' Obviously, this amendment would strike that special earmark.

I would point out to my colleagues that Hollywood is doing okay. They raked in over a billion dollars in January—the biggest January ever for the movie industry. That is testimony to the attractiveness of the product. Box office receipts were up nearly 20 percent in January 2009, with ticket sales up 16 percent over January 2008, when January is typically considered a weak month for the industry.

Movie director Rob Reiner was recently asked about Hollywood's relationship with Washington, DC, and claimed:

We are a special interest group that doesn't ask for anything like earmark legislation or tax breaks. We are the one industry that doesn't ask for a quid pro quo.

Well, rather than targeting tax breaks at big-time political donors, the stimulus should have targeted its tax break toward mainstream America.

I regret that I can't support the so-called stimulus bill that has been presented. We have an opportunity to craft a bill that would provide real relief for the American people at a time of great economic uncertainty. Unfortunately, that opportunity has so far been rejected. Once again, parochial partisan and special interests have taken precedence over the interests of the American people.

This bill has become nothing more than a massive spending bill, expected to cost taxpayers more than $1.2 trillion, according to the latest estimate by the Congressional Budget Office, and $1.2 trillion dwarfs any Government program in history, after adjusting for inflation. It is bigger than the New Deal and the Iraq war combined. The interest alone will be costlier than the Louisiana Purchase in current dollars or the amount the United States spent to land on the Moon.

During a press conference in November 2008 to introduce the new Director of the Office of Management and Budget, then President-elect Obama said:

The new way of doing business is, let's figure out what projects, what investments are going to give the American economy the most bang for their buck, how we protect taxpayer dollars so that this money is not wasted, restore a sense of confidence among taxpayers that, when we spend our money, it is on that which is actually going to improve their quality of life, create jobs that are so desperately needed, help to spur on economic growth and business creation in the private sector. That is all part of the new way of doing business.

1I was very pleased to hear the President speak those words. However, I do not believe the bill before us today is reflective of that sentiment. Let's acknowledge and continue to acknowledge that American families are hurting and they need our help. We have entered the second year of a recession. RECORD numbers of homeowners face foreclosure, our financial markets have nearly collapsed, the U.S. automobile manufacturers are in serious trouble, and the national unemployment rate stands at 7.2 percent—the highest in 16 years—with over 1.9 million people having lost their jobs in the last 4 months of 2008. Additionally, the number of Americans filing first-time unemployment claims this month matches the highest level in 26 years. Housing starts decreased 15.5 percent in December compared to the prior month. For 2008, housing starts were at a new low, shattering the previous record of 1.014 million set in 1991.

The list goes on and on, and I don't have to tell any American of the economic challenges we face and the real suffering that is going on throughout America. In the last year alone, due to the mortgage crisis, the Government has seized control of Fannie Mae and Freddie Mac, and we already passed a massive $700 billion rescue of the financial markets. We have debated giving the big three auto manufacturers tens of billions in taxpayer money as a ''short-term infusion of cash,'' knowing they would be back for more.

Last week, the House approved its $819 billion stimulus package on a party-line vote. The total cost of that

legislation is almost as much as the annual discretionary budget for the entire Federal Government. We need to stimulate the economy, but we need to do it in a smart, fiscally responsible manner that will not bankrupt future generations of Americans. It is more important now than ever before that Congress restore fiscal discipline to Washington and get our financial house in order.

In a November 25, 2008, opinion piece in the Wall Street Journal, John Taylor, a senior fellow at the Hoover Institution and a professor of economics at Stanford University, wrote:

The major part of the first stimulus package last year was the $115 billion temporary rebate payment program targeted to individuals and families that phased out as incomes rose. Most of the rebate checks were mailed or directly deposited during May, June, and July of 2008. The argument in favor of these temporary rebate payments was that they would increase consumption, stimulate aggregate demand, and thereby get the economy growing again. What were the results? This chart reveals the answer. The upper line shows disposable personal income through September. Disposable personal income is what households have left after paying taxes and receiving transfers from the government. The big blip is due to the rebate payments in May through July. The lower line shows personal consumption expenditures by households. Observe that consumption shows no noticeable increase at the time of the rebate. Hence, by this simple measure, the rebate did little or nothing to stimulate consumption, overall aggregate demand or the economy. These results may seem surprising, but they are not. They correspond closely to what basic economic theory tells us. Temporary increases in income will not lead to significant increases in consumption. However, if increases are longer term, as in the case of a permanent tax cut, then consumption is increased and by a significant amount.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of Mr. Taylor's op-ed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Nov. 25, 2008]

WHY PERMANENT TAX CUTS ARE THE BEST STIMULUS

(By John B. Taylor)

The incoming Obama administration and congressional Democrats are now considering a second fiscal stimulus package, estimated at more than $500 billion, to follow the Economic Stimulus Act of 2008. As they do, much can be learned by examining the first.

The major part of the first stimulus package was the $115 billion, temporary rebate payment program targeted to individuals and families that phased out as incomes rose. Most of the rebate checks were mailed or directly deposited during May, June and July.

The argument in favor of these temporary rebate payments was that they would increase consumption, stimulate aggregate demand, and thereby get the economy growing again. What were the results? The chart nearby reveals the answer.

The upper line shows disposable personal income through September. Disposable personal income is what households have left after paying taxes and receiving transfers from the government. The big blip is due to the rebate payments in May through July.

The lower line shows personal consumption expenditures by households. Observe that consumption shows no noticeable increase at the time of the rebate. Hence, by this simple measure, the rebate did little or nothing to stimulate consumption, overall aggregate demand, or the economy.

These results may seem surprising, but they are not. They correspond very closely to what basic economic theory tells us. According to the permanent-income theory of Milton Friedman, or the life-cycle theory of Franco Modigliani, temporary increases in income will not lead to significant increases in consumption. However, if increases are longer-term, as in the case of permanent tax cut, then consumption is increased, and by a significant amount.

After years of study and debate, theories based on the permanent-income model led many economists to conclude that discretionary fiscal policy actions, such as temporary rebates, are not a good policy tool. Rather, fiscal policy should focus on the ''automatic stabilizers'' (the tendency for tax revenues to decline in a recession and transfer payments such as unemployment compensation to increase in a recession), which are built into the tax-and-transfer system, and on more permanent fiscal changes that will positively affect the long-term growth of the economy.

Why did that consensus seem to break down during the public debates about the fiscal stimulus early this year? One reason may have been the apparent success of the rebate payments in 2001. However, those rebate payments were the first installment of more permanent, multiyear tax cuts passed that same year. Hence, they were not temporary.

What are the implications for a second stimulus early next year? The mantra often heard during debates about the first stimulus was that it should be temporary, targeted and timely. Clearly, that mantra must be replaced. In testimony before the Senate Budget Committee on Nov. 19, I recommended alternative principles: permanent, pervasive and predictable.

Permanent. The most obvious lesson learned from the first stimulus is that temporary is not a principle to follow if you want to get the economy moving again. Rather than one- or two-year packages, we should be looking for permanent fiscal changes that turn the economy around in a lasting way.

Pervasive. One argument in favor of ''targeting'' the first stimulus package was that, by focusing on people who might consume more, the impact would be larger. But the stimulus was ineffective with such targeting. Moreover, targeting implied that increased tax rates, as currently scheduled, will not be a drag on the economy as long as increased payments to the targeted groups are larger than the higher taxes paid by others. But increasing tax rates on businesses or on investments in the current weak economy would increase unemployment and further weaken the economy. Better to seek an across-the-board approach where both employers and employees benefit.

Predictable. While timeliness is an admirable attribute, it is only one property of good fiscal policy. More important is that policy should be clear and understandable—that is, predictable—so that individuals and firms know what to expect.

Many complain that government interventions in the current crisis have been too erratic. Economic policy—from monetary policy to regulatory policy, international policy and fiscal policy—works best if it is as predictable as possible.

Many good fiscal packages are consistent with these principles. But what can Congress and the incoming Obama administration do to give the economy a real boost on Jan. 20? Here are a few fairly bipartisan measures worth considering:

First, make a commitment, passed into law, to keep all income-tax rates where they are now, effectively making current tax rates permanent. This would be a significant stimulus to the economy, because tax-rate increases are now expected on a majority of small business income, capital gains income, and dividend income.

Second, enact a worker's tax credit equal to 6.2% of wages up to $8,000 as Mr. Obama proposed during the campaign—but make it permanent rather than a one-time check.

Third, recognize explicitly that the ''automatic stabilizers'' are likely to be as large as 2.5% of GDP this fiscal year, that they will help stabilize the economy, and that they should be viewed as part of the overall fiscal package even if they do not require legislation.

Fourth, construct a government spending plan that meets long-term objectives, puts the economy on a path to budget balance, and is expedited to the degree possible without causing waste and inefficiency.

Some who promoted the first stimulus package have reacted to its failure by saying that we must now switch to large increases in government spending to stimulate demand. But government spending does not address the causes of the weak economy, which has been pulled down by a housing slump, a financial crisis and a bout of high energy prices, and where expectations of future income and employment growth are low.

The theory that a short-run government spending stimulus will jump-start the economy is based on old-fashioned, largely static Keynesian theories. These approaches do not adequately account for the complex dynamics of a modern international economy, or for expectations of the future that are now built into decisions in virtually every market.

Mr. McCAIN. Now, one of the unfortunate things, and this is beginning to be appreciated by the American people, is that Members of Congress couldn't resist the temptation to load this bill with hundreds of millions of dollars in unnecessary spending, that will not do anything to stimulate the economy. We all know some of these, but they bear repeating, that have been included under the guise of stimulus: $400 million for STD prevention; $600 million for new cars for the Federal Government; $34 million to remodel the Commerce Department headquarters here in our Nation's Capital; $25 million to rehabilitate ATV trails; $150 million for honeybee insurance; $75 million for smoking cessation; and $50 million for the National Endowment for the Arts.

There is no doubt all of those are worthy causes which probably deserve our attention, our care and, sometimes, our dollars. But to portray them and others as a stimulus to create jobs and to have our economy recover, I think flies in the face of reality.

In the Senate bill, we have $100 billion to assist States with agricultural

losses; $300 million for diesel emission reduction grants; $150 million for facility improvements at the Smithsonian Museum; $198 million for school food service equipment; and $2.9 billion for the weatherization assistance program.

There is also $6 billion of wiring for broadband and wireless in rural areas. I have always been an advocate of that. But the fact is, anyone who is knowledgeable of the difficulties and challenges will tell you that it takes years to achieve that goal even if the funds are available.

In order to comply with the Congressional Budget Resolution, the committee report contains a statement of how the emergency provisions contained in the bill meet the criteria for emergency spending. The report states, and I quote:

> The bill contains emergency funding for fiscal year 2009 for responses to the deteriorating economy, natural disasters and for other needs. The funding recommended herein is related to unanticipated needs and is for situations that are sudden, urgent, and unforeseen, specifically the devastating effects of the economic crisis, natural disasters and rising unemployment.

Perhaps the authors of the bill can explain to me how $150 million for honeybee insurance falls within the distinction as outlined in the legislation. Someone needs to explain to me how giving tens of millions of dollars to the National Endowment of the Arts or the Smithsonian Museum will reverse ''the devastating effects of the economic crisis.''

The problem is we are accumulating debt that we are laying upon future generations of Americans. We are going to have to pay this debt sometime. My great worry is that if we do not account for this debt in some way, if we continue trillions of dollars of unnecessary and wasteful spending, then obviously we will find ourselves back in the situation we were in the 1970s, when we had hyperinflation and had to debase the currency.

I want to say a word for a minute about ''Buy American.'' The next time I come to debate on the ''Buy American'' provisions, I intend to bring a picture of Mr. Smoot and Mr. Hawley, the two individuals who were responsible, in the view of historians, for taking a country that was in a serious recession into the depths of one of the great depressions in the history of the United States.

Because as we enact protectionist measures, I was interested to hear my friend from North Dakota, Senator DORGAN, say it was not in violation of any treaty. It is in violation of several treaties. It is in violation of what has been an important aspect of America's policy which has been free and open trade.

I guess the fundamental difference I have between the authors of the ''Buy American'' provisions and myself is that I believe the most productive, the most innovative, and the strongest and best workers in the world reside in the United States of America, that the innovations and technology that have led the world have come from the United States of America, and that our products can compete anywhere in the world under free and open trade conditions.

Now, there have been violations on the part of other countries. That is why we are members of the WTO. That is why there are provisions in the North American Free Trade Agreement that should be vigorously pursued when there are violations and protectionist activities on the part of any nation of which we are participants in trade agreements.

If there are specific violations, then those violations should be addressed. But I wanted to emphasize, if we pass these ''Buy American'' provisions, you will find other nations retaliating and you will find us on a sure but unfortunate path to the exacerbation of our economic difficulties. That is a matter of history. Consult any historian. I hope we will not keep these ''Buy American'' provisions in whatever legislation we arrive at.

This bill contains protectionist ''Buy America'' provisions that will prove harmful to both the American worker and the world economy. The Senate version of the stimulus bill goes beyond the stark protectionism of its House counterpart in a way that risks serious damage to our economy. The Senate bill requires that major projects funded in the bill favor American-made steel, iron, and manufacturing over goods produced abroad. These anti-trade measures may sound welcome to Americans who are hurting in this economy and faced with the specter of layoffs. The United States, after all, produces the world's finest products. Yet shortsighted protectionist measures risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the ''Buy American'' provisions in this bill will cost more jobs than it will generate. Some of our largest trading partners, including Canada and the European Union, have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth.

We have seen this tendency before. In the 1930s, as depression swept the globe, countries around the world enacted protectionist legislation in a counterproductive effort to preserve jobs at home, at the expense of those abroad. It was a fool's errand, and the result was the largest and most prolonged economic downturn of the 20th century. We know better now, and we must have the foresight and the courage to do what is right.

I am very concerned about the potential impact these ''Buy America'' policies will have on bilateral trade relations with our allies. From a philosophical point of view, I oppose this type of protectionist trade policy, not only because I believe free trade to be an important means of improving relations among all nations, but it is essential to U.S. economic growth. Moreover, from a practical standpoint, the added ''Buy America'' restrictions in this stimulus bill could seriously impair our ability to compete freely in the international markets and could also result in loss of existing business from long-standing trading partners.

Let me be clear. I am not against U.S. procurement of American products. The United States, without a doubt produces the very best products in the world, this certainly is the case with American-made defense products. In fact, a Department of State study reported that U.S. defense companies sold more weapons and defense products and claimed a larger share of the world market than was previously realized. This study shows U.S. exports of defense products increased to nearly $49 billion in 2006, comprising nearly 70 percent of global exports. This number continues to rise steadily. Furthermore, I believe that competition and open markets among our allies on a reciprocal basis would provide the best equipment at the best prices for the taxpayers and U.S. and allied militaries alike.

Congress can continue to protect U.S. industries from foreign competition for selfish, special interest reasons, or we can loosen these restrictions to provide necessary funds to ensure our economy can return to the strength it once had. ''Buy America'' policy in defense spending is particularly harmful and costly. Every dollar we spend on archaic procurement policies, like ''Buy America,'' is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old and worn-out weapon systems, and advancing our military technologies. It is my sincere hope that legislative provisions like ''Buy America'' in the stimulus bill are dropped and that Congress will end once and for all the anticompetitive, antifree trade practices that encumber our Government, the military, and U.S. industry.

In addition to the ''Buy America'' language contained in both the House and Senate stimulus bills, other policy provisions have been included in this legislation. Many of these items are nothing more than typical policy riders that will do nothing to stimulate the economy and create jobs. Most are partisan provisions that were added to this bill because it is considered to be ''must-pass'' legislation. They should not be included in any type of stimulus legislation and should instead go through the regular legislative process

and subjected to necessary debate. Some examples of these policy riders include requiring the Transportation Security Administration to buy 100,000 employee uniforms from U.S. textile plants, legislation to give Federal workers new whistleblower protections, and legislative language favoring open access, or net-neutrality, that telecoms have long opposed.

Additionally, both bills contain wasteful Davis-Bacon provisions that mandate artificially high wage rates, based on faulty data, for its Federal construction spending. These rates are determined by the Secretary of Labor to be the prevailing wages in the geographic locality of the project for similar crafts and skills on comparable construction work. A report by the Department of Labor found that the wage surveys on which the prevailing wages are based are inaccurate. DOL's inspector general submitted a report to Congress that noted that a contractor hired by DOL found ''one or more errors in nearly 100 percent of the wage reports we reviewed.'' The error rates were high even after a more than $20 million effort to fix the surveys. In addition to outright errors, the inspector general noted that DOL used faulty methodology from unscientific surveys that led to bias, and even the data it did collect was untimely and, therefore, suspect.

The Davis-Bacon Act is an outmoded, depression-era, inflationary policy that, according to recent estimates, will inflate the construction costs of this bill by $17 billion. If we are trying to create new jobs then we should repeal Davis-Bacon, not encourage its expansion in this bill. Davis-Bacon imposes heavy regulatory burdens and unnecessary costs on Government contractors—not to mention the taxpayers who have to foot the bill for the inflated costs. Furthermore, Davis-Bacon makes it more difficult for entry level job seekers, the unemployed, and the unskilled to obtain work.

A recent study noted that ''contrary to its purpose, the Davis-Bacon Act distorts construction labor markets. Davis-Bacon wages bear little relation to market wages, because the Government's prevailing wage estimates are wildly inaccurate. In some cities, Davis-Bacon rates are much higher than market wages. In Long Island, New York, for example, market rates for plumbers are $29.68 an hour. Davis-Bacon rates, however, are $44.75 an hour, 51 percent more than what the markets demand. In other cities, Davis-Bacon wages are significantly below market rates. For instance, Davis-Bacon rates for carpenters and plumbers in Sarasota, FL, are $6.55 an hour, a figure below Florida's minimum wage of $7.21. Nationwide, Davis-Bacon rates average 22 percent above market wages and inflate the cost of Federal construction by 10 percent.''

Mr. President, decent, livable wages are important for every American—but imposing harmful, outdated Davis-Bacon requirements on Federal construction projects will do nothing more than bloat the cost of this bill, suppress new construction hires, and depress the economy.

I want to say a few words about the proposal that I and a group of other Senators have presented today and will be proposing as we go through this debate. Basically in the category of taxes, it would eliminate the 3.1-percent payroll tax for all American employees, lower the tax bracket from 10 percent to 5 percent, lower the 15-percent tax bracket to 10 percent, lower corporate tax brackets from 35 to 25, lower tax brackets to 25 from 35 to small businesses, and help provide for accelerated depreciation for capital investment. The total cost of that provision would be $275 billion.

It would also extend the unemployment insurance benefits, extend food stamps, unemployment insurance benefits would be made tax free, and training and employment services for dislocated workers would be provided at the cost of $50 billion.

There would be housing provisions. Let me emphasize to my colleagues what we all know: It was the housing crisis that began this conflagration and it will be the stabilization of home values that ends it.

My friend from Nevada here and others have been working hard to try to address the housing crisis. In our respective States, obviously, the housing crisis is of the utmost severity, as it is throughout the country. But in high-growth areas of the country such as ours, it is even more severe. We have seen even more dramatic reductions in home values.

So our primary goal, my friends, is that we must stabilize home values if we are going to reverse this deep and precipitous slide we are seeing and the difficulties we are experiencing in our economy.

Among other proposals, $11 billion would require the Federal Government to allocate funding to increase the fee that servicers receive from continuing a mortgage and avoiding foreclosure from a one-time fee of $1,000 up to $60 per month for the life of the loan.

Safe harbor provisions remove the legal constraints inhibiting modifications; tax incentives for home purchases; the tax credit in the amount of $15,000 or 10 percent of the purchase price, whichever is less, with the option to utilize all in 1 year, or spread out over 2 years, and GSE and FHA conforming loan limits. This cost would be around $32 billion.

We should invest in our national infrastructure and defense. We should spend $9 billion to improve, repair, and modernize Department of Defense facilitates, restore and modernize barracks, improve facilities and infrastructure directly supporting the readiness and training of the Armed Forces, and invest in the energy efficiency of Department of Defense facilities. This activity would generate construction and craftsmen jobs in the short term by addressing deteriorating conditions of existing facilities for projects that are ready to be carried out in the next 9 months.

As to the resetting our combat forces, the Department of Defense will be requesting emergency supplemental appropriations in the spring of 2009 to support the operations in Iraq and Afghanistan. Inclusion of this in the stimulus accelerates those requirements and will be used to place new orders or to repair vehicles, equipment, material, ammunition required to fully equip our combat units, while generating jobs on assembly and manufacturing lines around the country.

I urge my colleagues to think about, if we are going to provide funds, that our defense needs are great, of the equipment that has been worn out in Iraq and will again be required to be used in Afghanistan. Obviously all of us who have visited our military installations know there are facilities that need to be modernized, restored, and new construction. We propose $70 billion for road and bridge infrastructure, road and bridges on Federal land, public transit and airport infrastructure and improvements, and $1 billion for a small business loan program. The total estimated cost for investing in our infrastructure: $88 billion.

Finally, we need to require these spending programs in the stimulus bill be sunset 3 years from enactment. If this spending is intended to restore our economy and jump-start it, once the economy is jump-started and restored, then we should not have to continue this spending and increase the size of our debt and lay it on future generations of Americans.

This proposal states that after two consecutive quarters of economic growth greater than 2 percent of inflation-adjusted GDP, the following control mechanisms will trigger to reduce the deficit and promote long-term economic growth: All spending provisions in the economic stimulus legislation where funds have not been spent or obligated will be cancelled and permanently rescinded. The budget baselines shall be adjusted downward to ensure that all spending in the stimulus, whether spent or cancelled, is treated as a one-time expenditure and not assumed to be repeated.

What a lot of Americans do not know is every time we add a spending provision, that becomes part of the baseline, which assumes that that money will be spent over time. We cannot continue that indefinitely. We propose a 2-percent across-the-board reduction in spending, with the goal of balancing the budget by 2015.

We should establish two separate entitlement commissions, one to make recommendations on systems and the other Medicare-Medicaid. We all know the elephant in the room is Social Security and Medicare, and the unfunded liabilities associated with it. We should also require recipients to disclose costs for awarded projects, prohibit stimulus funds from being used for lobbying activities, political contributions, holiday parties, unnecessary renovations, and questionable travel.

We should spend some more money on accountability, transparency, oversight, and results. We should create a recovery and accountability and transparency board with a Web site, create a Congressional oversight panel, establish a recovery and reinvestment oversight board composed of Federal agency heads, require review and audits by the Comptroller General on the bill's effectiveness in achieving economic and workforce recovery goals, and establish a special inspector general modeled after the oversight required for TARP. The total is $445 billion. I think this is a balanced proposal and one that I hope deserves the serious consideration of this body.

I want to say a word about TARP. The American people have been dissatisfied with the results, and Members of this body have been as well. In the first round of $350 billion, it seemed that the priorities seemed to change literally on a daily or weekly basis.

It became unclear as to exactly what that $350 billion was going to do, and, apparently, if you look at all of the statistics, it has not resulted in significant improvement.

Now, what would have happened without it will be a matter of conjecture and analysis by economists and historians. Now we are in the second round. Now we are told there may need to be more, another TARP, after we pass this stimulus legislation and an omnibus appropriations bill.

When we start totaling that, we are talking about several trillion dollars, and we can't continue that without the American people experiencing some tangible results. Most Members of this body are in agreement. We need to stimulate and jump-start the economy. Let's not do it in such a way that our children and grandchildren pay for it in the most painful and difficult manner. We owe that to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to tell Senators what the lay of the land is and share my thoughts on how the afternoon will proceed. Senator MURRAY offered the first amendment. Then we turned to a Coburn amendment regarding the manufacture of films. That is pending. Next we turned to an amendment by Senator MIKULSKI regarding autos. That also is pending. Next we expect another Republican amendment. We have actually been going back and forth with some of the bigger amendments. Then the Republican amendments have been coming in, alternating back and forth. Next we expect an amendment by Senators BOXER and ENSIGN regarding repatriation, then a Republican amendment, then an amendment by Senators FEINGOLD and MCCAIN regarding earmarks. We hope to have several votes on these amendments today and will consult with leaders as to timing.

Once again, I urge Senators to let the managers know your intentions because we want to give Senators notice of what subjects are coming. If we don't have notice, it will delay us. Please give us as much notice as possible. There will likely be opportunity to vote on amendments, but we just need to know what is in those amendments. I thank Senators for their cooperation.

Just a word or two about the amendment offered by the Senator from Oklahoma. His amendment strikes a provision of the bill relating to the film industry. I might say to all my colleagues as well as to my good friend from Oklahoma, the provision he is referring to gives bonus depreciation to the film industry. The film industry is like any other. I don't see why it should be separated.

More importantly, the legislation before this body a year ago providing for bonus depreciation inadvertently, incorrectly omitted the film industry from all other industries. One might ask why that happened. Basically, I will not get into the personal reasons why it happened, but there was a certain House Member who personally decided he had an issue with the film industry, so he took it out for no good reason.

What I am saying is that this is not putting a new industry back in the bill that would be entitled to bonus depreciation. It corrects a mistake where the film industry was incorrectly taken out in the last bonus depreciation bill and was taken out for no good reason—taken out for a very personal reason, if I may be totally candid. It seems to me we should get back to a level playing field and treat all industries the same, not bring a vendetta against one industry, as was the case a year ago, but, rather, put this back in because it is only fair. That is an American industry too, and this bonus depreciation would apply only to films produced in the United States. It seems eminently fair to put back in a portion of the bonus depreciation bill that was incorrectly taken out a year ago. That is what this is. This is not adding an earmark; it is putting back something that was wrongly taken out.

At this point, I will include for the RECORD a letter from the Director of the Office of Management and Budget regarding the bill before us. Director Orszag lays out the urgency of passing this legislation.

We are losing jobs fast. As somebody pointed out the other day, the number of jobs lost on that day was the exact same number of people who were in the stadium watching the Super Bowl. That number of jobs was lost that day. That is that day. Then there is the next day and the next day. We are losing jobs.

This legislation is sorely needed. Is it perfect? No. Is anything around here perfect? No. But it is probably pretty good. The alternative is much worse. If we don't pass it, clearly many. more jobs will be lost. We will be in a much worse situation than we are today.

I ask unanimous consent to have the Director's letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 3, 2009.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, United States Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS: The economy faces its most serious crisis since the Great Depression, and the economic recovery package being considered on the floor of the Senate is an essential step in putting the economy back on a path to growth.

Last week, we learned that gross domestic product shrank by 3.8 percent in the fourth quarter of 2008, the largest decline in 26 years. According to the Bureau of Labor Statistics, more jobs were lost last year than were lost in any calendar year since 1945. If nothing is done, many outside experts estimate that the unemployment rate could reach double digits, and our economy would fall $1 trillion short of its capacity each year—a shortfall that translates into about $12,000 in lost income on average for a family of four. The American Recovery and Reinvestment Act is a well-crafted response to our economic difficulties since it will both jumpstart the economy in the near term (and thereby help to mitigate some of the job losses and income declines that would otherwise occur) and make key investments that will promote long-term growth.

As you consider the American Recovery and Reinvestment Act this week, I wanted to lay out the principles that guide the President as he considers the type of plan that the country needs—principles that both the House legislation and the legislation you are considering meet.

First, it is critical that we jumpstart job creation with a direct fiscal boost that will help to lift the nation out of this deep recession. The plan should bolster economic activity sufficiently to save or create three to four million jobs by the end of 2010. The plan you are considering is estimated to meet this standard.

Critically important to jumpstarting the economy is reviving the housing sector. That is why in the coming days, the President and Secretary Geithner will be releasing a comprehensive proposal to strengthen and reinvigorate this part of the economy. Their plan will build on the $50 billion to $100 billion commitment to the housing sector made by

the Director of the National Economic Council in connection with the Senate's decision last month to permit additional TARP funding. By boosting economic activity in the short-term, the recovery package itself will have a significant and immediate impact on the housing and construction sectors. In addition, the recovery package also includes some promising ideas to create incentives for individuals to purchase homes which also will help the housing sector. The Administration supports these provisions, while believing that any major new housing measures should be considered only after the release of the Administration's comprehensive proposal.

Second, as the President has made clear, he is adamant that all of the spending must be made with unprecedented levels of transparency and accountability. He is deeply committed to making sure that every American is able to know what is in this plan, can be confident that it will accomplish the goals we set forth, and has the ability to hold Congress and the Administration accountable for their actions. The Administration will post information online about how this plan's money is being spent and where it's going. In addition, he is insistent that the bill not include any earmarks or special projects. While many such projects may be worthy, this emergency legislation is not the proper vehicle for those aspirations.

Third, we need to recognize that focusing only on the short term is part of why the economy is in such dire straits today. That is why as we address the pressing demands of lifting the economy out of a recession, we also must look to the future and begin the process of reinvesting in priorities like clean energy, education, health care, and infrastructure so that the United States can enhance its long-term growth and thrive in the 21st Century.

This begins with putting the nation in position to lead in the clean energy economy. The President wants to make investments that will double our renewable energy generating capacity, modernize and expand our nation's electrical grid, and undertake the largest program to weatherize homes in history.

On health care, the President believes that we need to move immediately to lower costs and expand coverage. That would entail not only protecting coverage for millions of Americans during these difficult times, but also modernizing our health care system for the future with a serious commitment to health care information technology systems and prevention efforts.

As the global economy becomes more competitive, the President believes that investing in education is the best way we can help our children succeed. He wants the recovery package to renovate and modernize 10,000 schools so our children have libraries and labs in which to learn; make college more affordable through finding the shortfall in Pell Grants and a new higher-education tax cut; and triple the number of fellowships in science to spur the next generation of innovation.

The President also believes that we need to rebuild and retrofit America for the demands of the 21st Century. This will entail repairing and modernizing roads and mass transit options across the country as well as expanding broadband access so that businesses all across our nation can compete with firms from all over the world.

Finally, we need to recognize that this recovery and reinvestment plan is an extraordinary response to an extraordinary crisis. It should not be seen as an opportunity to abandon the fiscal discipline that we owe each and every taxpayer in spending their money—and that is critical to keeping the United States strong in a global, interdependent economy. Although it is not feasible to avoid any spillover whatsoever of the recovery package on out-year spending, the Administration believes that the package should minimize such effects on out-year spending as much as possible. Furthermore, the President is committed to paying for any extension of the temporary tax cuts included in the recovery plan that he would like to make permanent, and will detail the manner of doing so in his budget submission.

Moving forward, we need to return to the fiscal responsibility and pay-as-you-go budgeting that we had in the 1990's for all non-emergency measures. The President and his economic team look forward to working with the Congress to develop budget enforcement rules that are based on the tools that helped create the surpluses of a decade ago. Putting the country back on the path of fiscal responsibility will mean tough choices and difficult trade-offs, but for the long-term health of our economy, the President believes that they must be made.

I look forward to working with you and your colleagues in the coming days to craft a recovery package that embodies these principles and achieves these goals.

PETER R. ORSZAG,
Director.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, a couple of comments on the McCain proposal that several people are putting together. I have looked at it. I still need to study it a little more. But on the surface, it is a responsible, balanced proposal. That group needs to be congratulated for putting such a proposal together.

I rise because the most deliberative body in the world is facing a moment of great challenge but also great possibility. We should all feel the grave responsibility weighing on each of us as we debate this bill. If we pass legislation that truly stimulates the economy, it could carry this Nation to new levels of growth and prosperity. Unfortunately, if we pass a bloated spending bill with little chance of jump-starting the economy, we could delay this country's financial recovery for many years to come.

While there isn't a crystal ball to show us what path will bring us to the ultimate goal, we are not without some guidance. Winston Churchill once said: Those who fail to learn from history are doomed to repeat it. We have several examples from which to learn. We will heed those lessons if we absolutely want to raise this Nation from the economic quicksand that is swallowing it up more and more each day.

The Great Depression is a chapter of history that fewer and fewer Americans can recall firsthand. Maybe that is why the circumstances are so widely misunderstood today. It has been said that today's economic crisis is the result of a perfect storm. Well, the Great Depression was many perfect storms.

Herbert Hoover, a Republican, did not sit on the side lines, as many people believe, when Black Thursday and Black Tuesday struck in 1929. He was actually a big government interventionist. Working with Congress, he raised taxes. He enacted protectionist laws by raising U.S. tariffs. Senator MCCAIN referred to these as the Smoot-Hawley Tariff Act. He pushed all levels of government to invest in infrastructure and expand public works projects.

When Franklin Roosevelt took office in 1932, he created great momentum by earning the confidence of the American people. But his New Deal sent this Nation into an even deeper economic depression. In the late 1930s, there was a ''Depression within the Depression.'' The stock market did not return to 1929 levels for 25 years.

While World War II pulled us out of the Great Depression, there were still tremendous sacrifices being made by all Americans. Some have argued that the spending of the New Deal was not aggressive enough. I couldn't disagree more. On some levels, we are still paying for the projects that began with the New Deal.

The single biggest failure of the response to the Great Depression is that the private sector was not encouraged to grow this country out of its financial crisis. In fact, by injecting so much money into the Government programs, FDR created a competitor to the private sector. This was a match between David, the private sector, and Goliath, the Government monster. This time, unfortunately, Goliath won. We know that the policies of the New Deal actually prolonged the Nation's financial hardships. After all, the depression lasted 10 years. Do we want to be in this kind of an economic recession for 10 years?

More recently, we have learned from Japan's failed efforts to spend its way out of a recession. Japan passed stimulus bills for 10 straight years during the 1990s. They wasted money on unnecessary projects while letting insolvent banks be supported with Government money. Does that sound familiar? What did that get them? Unmanageable, debilitating debt, and a decade of rising unemployment.

We cannot afford to ignore the lessons of history. The responsibility facing us during this crisis cannot be overstated. We are bound by the Constitution that empowers us to collect taxes, borrow money, regulate commerce, and provide for the general welfare. We, however, are also bound by the responsibility to future generations of Americans. To burden our children and grandchildren with the kind of debt we are talking about today should give each of us reason to pause and consider the ramifications.

There is no doubt that the crisis facing the financial markets, the housing sector, and families will require extraordinary measures. There is perhaps

no better illustration of the grave challenges facing the Nation than that of the State of Nevada. At one time, people thought we were recession proof. When Americans buckle down on spending, a vacation to Las Vegas is no longer in the cards. Jobs are lost, homes are foreclosed, and it becomes harder to ignore the half-finished construction projects across southern Nevada.

Here in the Senate, we are among the few Americans with at least some level of job security—that is, of course, until the next election. Most Americans are living day to day, waiting to hear what new massive layoff will be announced and if it will hit them or someone in their family. It is a terrible feeling to have that much uncertainty in your life.

The calls and e-mails I have received from constituents are heartbreaking. These are good citizens who have worked hard, saved well, and contributed to their communities. They now find themselves in a place of desperation.

Mrs. Louise Cutler has lived in Clark County, NV, for more than 17 years. Her husband and two grown children who have degrees are unemployed. Louise lost her job with a mortgage company more than a year ago. She is back at work now making about $20,000 less than before. She has student loans to pay, has lost $120,000 dollars in the value of her home, and she wants to know how we are going to help her.

My constituents—all of our constituents—are looking to us for leadership and solutions.

I believe we need to stimulate our economy immediately. Government has a role to play here. The question is, How do we leverage our resources-paid for on the backs of struggling taxpayers—as efficiently as possible in order to stabilize our economy and grow it in the future?

I believe we need to start with the root of the problem. My training in veterinary medicine taught me that you don't use a Band-Aid to treat a massive puncture wound. Ignoring that problem to treat superficial injuries does not help the patient survive. The economy is very much our collective patient. It would ensure greater catastrophe to put a Band-Aid on an initial wound that started this downward spiral—and that is the housing crisis. Unfortunately, the housing market is barely addressed in this so-called stimulus bill. Most Americans would say it is the first thing we need to heal. If we make mortgages more manageable, people can stay in their homes and our economy can begin to rebuild.

One proposal I have—a guaranteed 4-percent, 30-year fixed rate mortgage for Americans would go a long way to ease pressure on family budgets. On average, more than 40 million creditworthy homeowners would save more than $400 per month. That makes a huge difference to most families, and it would target the problem of oversupply in the housing market, something we cannot ignore. This is like a permanent tax cut which economists believe is the best stimulus for our economy, not just a 1-year tax rebate.

Another proposal that goes a long way to fixing the housing situation is one from Senator ISAKSON. It expands the current homeowner tax credit to $15,000 and covers all property and all home buyers, not just first-time home buyers. This would give a big boost to housing markets across the country.

So what else works? Limited spending that makes our economy more efficient as well as tax relief that provides businesses and companies the additional capital to retain and hire more employees. This will help to increase their output and compete into the future. That spending and tax relief needs to happen soon—not next year or two years down the road. American families cannot wait that long.

I think we all must be prepared to make a sizable investment in order to ensure a swift and successful recovery. Unfortunately, the bill before us does not do that. Instead, it spends money on programs that cannot and will not aid that recovery. While Pell grants, Head Start, and the National Endowment for the Arts may be worthwhile projects in their own right, putting billions of dollars into them will not stimulate the economy. I have fought for Head Start for years, but I do not think it should be considered immediate stimulus.

The bill before us simply does not qualify as an economic stimulus bill, and there is nothing immediate about it either. It is a laundry list of spending priorities with a token of tax relief. We need a true economic stimulus bill that efficiently spends money on projects that will make our highways and infrastructure better equipped as a conduit for business. We need meaningful tax relief that will spawn a new generation of growth and success in the private sector.

Instead, half of the so-called tax portion of this bill is just creative spending dressed up as tax relief. It gives tax relief to people who do not even pay income taxes. How are we relieving their tax burden if they do not have one?

In actuality, only $21 billion of this trillion-plus dollar spending bill goes to small businesses, the engine of our economy. That equals less than three percent of this monstrous bill. This is supposed to be an economic stimulus bill to create jobs and drive growth, but less than three percent is dedicated to tax relief for small businesses which is where 80 percent of the jobs in the United States are created. How do we expect to stimulate the economy that way? That goes to show you how little input Republicans actually had in this process. I hope that will change.

President Obama came to the Hill last week with a message of bipartisan cooperation. I have reached out to my Democratic colleagues on several tax relief measures that they agree would give a much needed boost to our economy. I hope these proposals have the opportunity to be voted on by all of my Senate colleagues so together we can witness an economic revival.

The first is a plan that I am very familiar with. I worked with Senator BARBARA BOXER to get it enacted into law several years ago. We called it the Invest in the USA Act, and it lived up to its name. It brought $360 billion back into the United States in 2005 and helped to retain or create more than 2 million jobs. It also produced more than $34 billion in various tax revenues. History has proven that reducing the tax rate U.S. businesses pay to return money they made overseas provides a tremendous return. One great example comes from California-based Oracle. They used repatriated earnings to defeat a German company in acquiring a U.S.-based retail software firm. This purchase allowed Oracle to keep those jobs and intellectual property in the United States. Oracle has since grown its facilities in Georgia and Minnesota by several hundred jobs.

Right now I am working with Senator BARBARA BOXER to add an updated version of this legislation to the stimulus package. Right now, the foreign subsidiaries of many U.S. companies are faring well overseas. Competitive tax structures make it beneficial for those companies to keep their money overseas. If they wanted to return the money to the United States, the companies would have to pay up to a 35-percent tax rate. That is not much of an incentive to bring income earned overseas back to the United States.

The proposal Senator BOXER and I have put forward gives businesses the temporary relief they need. Instead of paying a 35-percent tax, they will only pay a 5.25 percent tax if they bring the money back in the next 12 months. These funds must be used for capital investment, job creation and training, research and development, or U.S. debt reduction. Some economists predict that this time around, the legislation would inject as much as $565 billion back into the United States economy.

This legislation is critical in order to get this country going again. It puts capital back into U.S. banks which can then loan that money to people and get the economy going again. Another proposal that I introduced—and I thank the chairman of the Finance Committee for working with us on a compromise—deals with the cancellation of indebtedness. My proposal would allow businesses to buy back their debt in 2009 or 2010 without high tax consequences. It would help firms deleverage and also give financial firms that hold debt more liquidity. Here is

how my bill works. Under current law, if a company purchases its own debt at a discount, it is required to pay income tax on the amount of the discount. If a business owes $1 million but negotiates a discounted amount to its lender—say $750,000 so that it does not default—it would have to pay taxes on the $250,000 difference.

Well, a lot of companies are strapped for cash and have a large amount of debt. They cannot afford to pay taxes on the difference. Instead of paying that tax, we are going to delay that for 5 years. They would then have an additional 5 years to be able to pay the taxes. This is going to help small and large businesses across the United States. I believe this proposal is going to help improve the debt situation of many companies in the United States. I thank the chairman of the Finance Committee and Senator CONRAD for working on this proposal.

So let me conclude. If we pass this $1.3 trillion spending bill, which is what it started at, we are going to have trillion-dollar debts over the next several years. This does not include another $500 billion in TARP funds that Secretary Geithner may be asking for.

We still have an omnibus spending bill to come before us. We still have military supplemental bills. Unfortunately, they are not just military bills. Everything else gets Christmas-treed on top of it. We are talking trillions and trillions of dollars.

I am looking at our Senate pages; the next generation to lead our country. Don't we care about them? Don't we have a moral responsibility not to pass huge tax burdens on to them? Current calculations are, with the debt we are running up, plus Medicare, Medicaid, and Social Security, they are going to have to pay close to a 90-percent tax rate if things are not changed. I do not think that is fair to them. Here we just pass debts on. I believe as a generation we are morally corrupt because we take whatever we want.

President Roosevelt talked about "the forgotten man." What he was talking about was this person who was forgotten during the depression. Unfortunately, we may be now dealing with a forgotten generation; a generation who does not have a voice in the Senate. We need to stand up and say, "We cannot pass this kind of debt burden on to them." "We cannot pass the kind of high taxes on to those who are going to be required to pay this debt."

So, Mr. President, we need to act responsibly. We cannot put, as this bill does, $200 billion into new entitlement programs. We cannot raise the baseline as this bill will end up doing. We know programs do not stop around here, so we need to act in a much more responsible manner than this bill does.

Yes, we want to act quickly, but there is a false deadline that has been put on this bill. There is still time. As we saw with TARP funds, when we do things too quickly around here, we make major mistakes. The false deadlines we put on this bill, I believe, are going to lead us down the wrong road. So let's slow down. We do not get any trial runs on this one. This bill is too big. Let's make sure we do this right. Let's join, not as Republicans and Democrats, but as Americans to get this right.

Mr. President, I yield the floor.

The PRESIDING OFFICER: The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 4:15 p.m. today, the Senate proceed to vote in relation to the Coburn amendment No. 109; that prior to the vote in relation to the Coburn amendment, there be 10 minutes equally divided and controlled between Senators COBURN and BAUCUS or their designees; provided further that the time until 4:05 p.m. be for debate with respect to the Mikulski amendment No. 104, with the time equally divided and controlled in the usual form; that no amendments be in order to either amendment in this agreement; that at 4:15 p.m. the Senate proceed to vote as specified above; that upon disposition of the Coburn amendment, and prior to the second vote, there be 2 minutes of debate, equally divided and controlled in the usual form; that upon the use of that time, the Senate proceed to vote in relation to the Mikulski amendment No. 104; with the second vote 10 minutes in duration; and that the next Democratic amendment be one offered by the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, I am not going to speak about the amendment I plan to offer in the next hour or so. But I really have to respond to my friend, Senator ENSIGN. Ironically, he and I are offering an amendment together.

I have heard now several of my Republican friends come to the floor with the same comments over and over and over again: Don't rush this bill. Well, if you came from my State—and I was a little shocked to hear Senator ENSIGN because his State is going through a terrible time—where we have a 9.2-percent unemployment rate and jobs being lost every minute, maybe you should look inside yourself and roll up your sleeves and get to work with us.

I find it extraordinary that after 8 long years of Republican rule around here, where we saw the debt go from $5 trillion to $10 trillion, and not a word from the other side about fiscal responsibility, with tax cut after tax cut to the wealthiest few, an unlimited checkbook for Iraq—no problem then. We did not hear speeches about the grandchildren and the great-grandchildren. Oh, no. All of a sudden, when the middle class is hurting, when the working poor are hurting, when people are losing their homes—not the richest of the rich; they are fine; they do not have mortgages—average families, suddenly my friends on the other side come out with their charts: Oh, my goodness, a trillion dollars of spending.

Well, we had a Presidential election about this issue, and I think it is safe to say the reason the results were as they were is because of this economy. I do not think there is any pundit or even anyone in the Senate who would argue otherwise. Remember the turning point, when the Republicans said: The fundamentals of our economy are strong? Well, maybe they still feel that way. Why don't they come out and say that? They do not want to say that because it is so obviously ridiculous when we are losing 500,000 jobs a month. We have lost more jobs in the last 2 months than there are people who live in the State of Delaware. This is where we are. So instead of working together, our friends on the other side come out, one after the other, with the same talking points: The Democrats are irresponsible. Well, I ask: Who is irresponsible? People who want to work to ease the pain of what is happening in our country or people who brought us to this point, giving tax cuts to the millionaires and the billionaires, and a war we never should have fought, and now they find their fiscal soul.

I am so disappointed. We have a President who has reached out to the other side, and all we get are speeches from talking points about why we shouldn't act now. I will tell my colleagues, if this gets away from us, if we can't get the votes we need—we just need a couple of our friends on the other side of the aisle—then this is going to be the party of Herbert Hoover over there all over again, and people will come out in the streets, as they did during the Great Depression and said things about Herbert Hoover that I can't repeat on this floor. People are hurting. They are two paychecks away from losing their homes. In some communities in my State, one in four homes is underwater and is being foreclosed.

Now, is this bill perfect? Absolutely not. There are things in this bill I would vote to take out; there are a handful of things, a small percentage I would vote to take out. So if you want to work with us on that, fine. But to come down to this floor and suggest that we are rushing through an emergency bill and that is wrong—it seems to me to be coming from a list of talking points that don't mesh with reality. So I hope we can change the tone of this debate.

The American people spoke out in November, and my friends on the other side are becoming the party of no: No, we can't do anything. No. And what do they come up with? Tax cuts for the

wealthy again. That is what got us in this fiscal mess in the first place. We want to give tax cuts, as we do in this bill, to the middle class, to the working poor.

At this point, I would just say to my friends, look into your heart, look into your soul, and look at reality.

I wish to say to my friend Senator MIKULSKI that I am proud to support her amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, a parliamentary inquiry before the Senator from Kansas speaks. Under the unanimous consent agreement, whose time is now being used?

The PRESIDING OFFICER. The time of the Senator from Maryland is being charged.

Ms. MIKULSKI. Did the Senator from California speak on my time as well?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 5½ minutes remaining.

Ms. MIKULSKI. I yield the time to Senator BROWNBACK to speak.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to speak in favor of the Mikulski-Brownback amendment in the limited amount of time we have.

There has been a lot of criticism on the overall bill from my side of the aisle. A lot of it is merited. I really do think this has been put together far too hurriedly, and it would be much better to follow the business of having committee hearings. In the Appropriations Committee, we had no hearings on this bill, and now we are moving forward with a $1 trillion bill. I don't think that makes much sense. I don't think it is wise. I don't think, looking at the economic problems we are looking at that could extend over a period of time, that it is wise to spend $1 trillion without having really thought about it.

Be that as it may, the amendment I am talking about and supporting with Senator MIKULSKI from Maryland is one of the sort of targeted pieces of the legislation that I believe really could deliver lead on the target, and that is why I am cosponsoring this amendment.

It would seem that one of the key things that has been emblematic of this recession we are in is the lack of purchasing of durable goods; i.e., things such as cars have just fallen off precipitously, and therefore the jobs supporting that industry have fallen off precipitously. Here is the situation, what we are seeing.

This very simple amendment would make interest payments on car loans and sales excise taxes on cars tax deductible for new cars purchased this year. So you make that interest payment tax deductible, the excise taxes tax deductible, just this year. On an average car selling for $25,000, this provision would save the purchaser about $1,500. That is the proverbial lead on the target, talking to the consumer and saying: If you are in the market for a car, you ought to do it this year because you have a one-time benefit of $1,500, which is significant, which is going to help you. We think this is an amendment which will actually end up moving car sales, helping that industry, helping the automobile manufacturers and the whole industry of dealerships move us forward.

This is the sort of spending we need to see taking place because the lack of economic activity is profound and widespread. We have seen it particularly in the auto industry, and the auto industry is spread out amongst a number of States. My State has a major GM plant and suppliers in it as well. They are not selling any cars. You can't operate a place very long that way.

This is a very targeted, time-specific provision. The provisions we have talked about need to be temporary, targeted, and really hit the measures, and this one does all of that.

I wish to also point out that in this amendment—I know some people on the Finance Committee are looking at it and saying this is not something, perhaps, that we have supported or put forward. I would ask people in this body to just look around at their own States and the car sales and the businesses they have and the auto plants they have and see if this is something that can really help those auto plants move forward and get some sales.

So I urge my colleagues to support this amendment.

I reserve the remainder of the time for my colleague who has put forward this amendment if she desires to speak any further for it while we have that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I was here when the Senator from California spoke. She didn't realize it was on my time, but the very gracious Senator from Mississippi has yielded me a few minutes of opposition time.

I think we all know the arguments, and I thank the Senator from Kansas for arguing because it shows that this amendment is a bipartisan amendment. What it does is actually create jobs or save jobs in the automobile industry.

The amendment is simple and it is targeted and it is timely. My amendment simply says if you buy a passenger car, minivan, or light truck between November of last year and December 31 of 2009, you will get a tax deduction for your State sales or excise tax and the interest on your loan. For the average consumer buying a vehicle of approximately $25,000, it would mean a $1,500 incentive.

Now, this is good for several reasons. First of all, No. 1, it really is prudent from a fiscal standpoint. The money does not leave the Federal checkbook or the Federal Treasury unless it goes to a person who has actually bought a vehicle. So no money is spent or put into the economy unless it is actually used in the economy to buy a car, minivan, or light truck.

It stimulates jobs because when you buy a car, it means, No. 1, somebody had to make it; No. 2, somebody had to sell it, service it, and process the paperwork to do it, and there had to be suppliers to also make sure that vehicle was fit for duty. We have in our automobile industry 3 million people who are dependent on it up and down the chain, from manufacturing to sales to maintenance.

In my own home State, let's take the automobile dealer. There are approximately 700 dealers, and there are close to 3,000 dealers nationwide. Each dealer employs about 50 people, again, from the people who sell them to the people who fix them. I have talked to people in my own State. The automobile dealers are, in some instances, the major employer in rural parts of my State. If you talk to someone such as the auto mechanic, as I did in Bethesda, and other automobile mechanics, they are proud of what they do. They fix those cars. They have them road-ready. They see it as helping the environment, making sure people are safe in their vehicles and getting value for their dollar. We want these small businesses to stay afloat.

That is why I think the Mikulski amendment is so specific. It only applies to the automobile industry.

No. 2, it is timely because it would immediately go into effect, and it is targeted and limited because it will only last until December 31, 2009. If you really want to get America back on its wheels again and really help America get rolling again, supporting the Mikulski amendment will go a long way to do that.

Now, there are those who say: How much will this cost the Treasury? I just wish to bring to their attention that doing nothing will cost our Treasury: more expenditures on unemployment; the possibility that one of our manufacturers could go bankrupt and throw this into pension guarantee, which would be a disaster; and in our local communities, the heartbreak that would result from a shuttered dealership in a small town on the Eastern Shore or in western Maryland would really be devastating. It would hurt the consumer and hurt consumer confidence.

If you vote for the Mikulski amendment, supported by people on the other side of the aisle, I believe we can really get our economy going again.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no time is yielded, the time will be equally charged to both sides.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, parliamentary inquiry: Where are we?

The PRESIDING OFFICER. The only time remaining on the Mikulski amendment is under the control of the Republicans.

Mr. BAUCUS. Mr. President, might I ask the Senator from Mississippi for 2 minutes?

Mr. COCHRAN. Mr. President, if there is no one seeking recognition, I have no objection to yielding back the time, but I wouldn't want to do it without consulting the distinguished Senator from Maryland.

Mr. BAUCUS. I wish to speak for 2 minutes on the amendment.

Mr. COCHRAN. I have no objection.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I deeply appreciate the Senator from Maryland offering an amendment. Just a couple of points. I am not going to make a big deal out of it. This amendment will cost about $11 billion. It reminds me of several years ago when Congress eliminated the interest deduction, consumer interest deduction. Why? Because there is so much consumer debt that is building up at such a rapid rate. The total consumer debt now is about $2.5 trillion. As a percentage of GDP, it is about 18 percent. There is a concern that this method, this way to help a specific industry is one which is going to add a lot of additional consumer debt. It is also very costly debt at a time when debt is becoming a problem in this country, public debt as well as corporate debt, but also consumer debt.

There are also other provisions here which help the auto industry, which got about $13.4 billion in relief in the TARP legislation. Through that, the 30-percent investment tax credit in this legislation would help domestic auto companies in developing advanced technology. In the TARP provisions, GM gets $9.4 billion and Chrysler gets about $4 billion. Those are direct infusions into the industry. In addition, there is $2 billion in grants for the manufacture of advanced batteries and components, and there are other provisions as well.

I am not in favor of the amendment. I think there are better ways to help the auto industry. This is not the best way, particularly given the cost.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. I rise not for purposes of debate but to add a cosponsor to my amendment. I ask unanimous consent that Senator WEBB, the Senator from Virginia, be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak until Senator COBURN arrives. He is due to arrive in about a minute, at 4:05. When he arrives, I will turn it over to him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, this is a letter from the Executive Office of the President, Peter Orszag, basically stating the economic need for this legislation. I will read it in part:

> Last week, we learned that domestic product shrank by 3.8 percent in the fourth quarter of 2008, the largest decline in 26 years. . . . more jobs were lost last year than were lost in any calendar year since 1945. . . . The American Recovery and Reinvestment Act is a well-crafted response to our economic difficulties.
>
> . . . it is critical that we jumpstart job creation with a direct fiscal boost that will help to lift the nation out of this deep recession. The plan should bolster economic activity sufficiently to save or create three to four million jobs by the end of 2010. The plan you are considering is estimated to meet this standard.

Mr. President, I will not ask unanimous consent to print the letter in the RECORD, because it has already been printed. I just wanted to read how many jobs were being lost.

Again, this is not the perfect solution. By definition, it is not. All 535 Members of Congress have a different idea on how to do it, but this is a good solution. The alternative is much worse. If this legislation is not passed, more jobs, millions more, will be lost. Congress is going—the economy is going to be closer to the Great Depression of the 1930s. For that basic reason, let's get this legislation passed at the appropriate time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I ask unanimous consent that the time during the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 109

Mr. COBURN. Mr. President, I wanted to respond to some comments by the chairman of the Finance Committee. The explanation of why we have a $250 million earmark for the movie industry was that when we attempted to give them this earmark before, somebody took it out, and now we are going to put it back. The consequence, however, belies the fact that we are only doing this for 1 year. If it is something they deserve and it should be equal, why wouldn't it be there every year?

The second point is that the movie industry gets to take advantage of every depreciation out there that every other business has. There was some debate in the House last year on whether they were truly manufacturers. But they also now have $15 million for every movie in direct writeoffs above their depreciation if they produce 75 percent of those costs in this country. If they do it in a low employment area, they get another $20 million. To say we are righting something that was wrong before doesn't fit with common sense. If we are righting it, let's put it in forever—if that is what we are trying to do. But in this bill we do it for 2009 only.

The second point I will make is that this bill is without any sacrifice. When President Obama was elected, one of the things he campaigned on was an item-by-item look at the Federal budget, to get rid of programs that don't work, get rid of lower priority programs that might work but are not efficient and are not a priority.

Nowhere in this bill is there an elimination of one Government program—not one. There is no line by line. There is no attempt to do what we are asking Americans to do every day. Here is

what we are asking them to do: We are in tough financial straits. Go through your budget, figure out what you cannot afford, and eliminate it.

We have not done that at all with this bill. There is no attempt to make the Federal Government more efficient. This bill is filled with bloating bureaucracies, further lessening liberty and freedom by way of having bureaucracies decide what we will have to follow.

I am not against the movie industry. I love the movies they produce—the vast majority; some I abhor. But I enjoy their entertainment and the fact that they are profitable and viable. They have been very successful this last year. They had the best January in their history. For us to put a quarter of a billion dollars into an earmarked tax benefit for the movie industry at a time when Americans are struggling belies the honor and integrity of this institution.

With that, I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, there have been several characterizations of this provision. It is not an earmark. It is treating all industries in America the same, giving bonus depreciation to all American industries. It is treating them all the same.

A few years ago, this industry was taken out for inexplicable reasons. This bill puts them back in, in an attempt to treat all industries the same. It makes no sense to take out one industry, when other industries get the benefit. It makes good sense to keep it in the bill so that all industries are treated the same.

The Senator said this is 1 year, or a short period of time. That is true for all industries in this bill. The bonus depreciation provision we are talking about treats all industries equally, all for the same length of time. He suggests that if we put it in, why isn't it permanent? He is probably right. A lot of it should be permanent, but we have to pay for some of this. That is why it is not made permanent, as other provisions in the bill are not made permanent. So if all industries are treated the same, the film industry is like the auto industry and the steel industry, and other manufacturing industries; they are all the same. That is why this provision is in here, to correct a measure taken out a while ago—wrongly—which singled out an industry unfairly. This puts it back in so everybody is treated the same.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I ask the Senator, if I am a manufacturer and I don't have $15 million that I can come up with in bonus depreciation, do I still get to write off $15 million?

Mr. BAUCUS. There is in this legislation—first, this is treating all industries the same. Some industries are in a loss position and some industries are in a profit position. If a company is in a loss position, there are other provisions in the Tax Code—which, again, all industries should be treated the same. If you have a loss 1 year, you can benefit from the provisions, with the loss carryback provisions, and the legislation has credits, carrybacks.

Mr. COBURN. Mr. President, let me reclaim my time. The fact is, this is a tremendous advantage to them compared to other businesses. They already have a program from which they get $15 million. Then they can add another $20 million. The average cost for a film is less than 100 million bucks. We are writing off $35 million out of the Tax Code immediately before this provision even begins, and we are going to add another quarter of a billion dollars this year for just 2009, which would say we are going to treat them differently than we treat everybody else in this country.

The PRESIDING OFFICER. Time has expired.

Mr. BAUCUS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana has 30 seconds remaining.

Mr. BAUCUS. Mr. President, a very quick point. This section in the bill does provide a $15 million writeoff, but that is for small films. Under the provisions of the bill, the bonus depreciation cannot be taken up at the same time as the expensing provision. You get one or the other.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to Coburn amendment No. 109. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—52

Alexander	Brownback	Chambliss
Barrasso	Bunning	Coburn
Bayh	Burr	Cochran
Bennet	Byrd	Collins
Bennett	Carper	Corker
Bond	Casey	Cornyn
Crapo	Isakson	Risch
DeMint	Johanns	Roberts
Dorgan	Johnson	Sessions
Ensign	Kyl	Shelby
Enzi	Lieberman	Snowe
Feingold	Lugar	Specter
Graham	Martinez	Thune
Grassley	McCain	Udall (CO)
Hagan	McCaskill	Webb
Hatch	McConnell	Wicker
Hutchison	Murkowski	
Inhofe	Pryor	

NAYS—45

Akaka	Inouye	Nelson (NE)
Baucus	Kaufman	Reed
Begich	Kerry	Reid
Bingaman	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown	Landrieu	Schumer
Burris	Lautenberg	Shaheen
Cantwell	Leahy	Stabenow
Cardin	Levin	Tester
Conrad	Lincoln	Udall (NM)
Dodd	Menendez	Vitter
Durbin	Merkley	Voinovich
Feinstein	Mikulski	Warner
Gillibrand	Murray	Whitehouse
Harkin	Nelson (FL)	Wyden

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 109) was agreed to.

AMENDMENT NO. 104

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate prior to the vote on the Mikulski amendment.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, the time has now come to vote on the Mikulski amendment that gives a tax break to people who go buy a car on which they can take a tax deduction on their interest and on their sales tax. It actually creates jobs by having people buy a car, sell a car, service a car, and make a car.

Three million jobs are at stake in the automobile industry, and I urge the adoption of my amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I know the Senator from Maryland always thinks things through very well, but I am going to rise in opposition. I don't do it easily. But this is a time when we are in a recession. I know the motivation is to help us get out of a recession, but we have a massive amount of increase in consumer debt, and this is going to just encourage more consumer debt.

We have other things in the Tax Code that help people who buy hybrid cars and electric cars, and we have incentives for the automobile industry within TARP. So I have to oppose this, and in opposing it, I will do it this way, by raising the point of order against the Mikulski amendment pursuant to section 201(a) of Senate Concurrent Resolution 21 of the 110th Congress.

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I move to waive the applicable sections of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) was necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—-yeas 71, nays 26, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—71

Alexander	Feinstein	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Graham	Murray
Bennett	Hagan	Nelson (FL)
Bond	Hatch	Nelson (NE)
Boxer	Hutchison	Pryor
Brown	Inhofe	Reed
Brownback	Inouye	Reid
Burr	Isakson	Risch
Burris	Johanns	Roberts
Byrd	Kaufman	Sanders
Cardin	Klobuchar	Schumer
Chambliss	Kohl	Shaheen
Coburn	Landrieu	Shelby
Cochran	Lautenberg	Snowe
Collins	Leahy	Specter
Corker	Levin	Stabenow
Cornyn	Lieberman	Tester
Crapo	Lincoln	Thune
Dodd	Lugar	Vitter
Dorgan	Martinez	Webb
Durbin	McCain	Whitehouse
Ensign	McCaskill	Wicker
Feingold	Menendez	

NAYS—26

Akaka	Conrad	Merkley
Barrasso	DeMint	Rockefeller
Baucus	Enzi	Sessions
Bennet	Grassley	Udall (CO)
Bingaman	Harkin	Udall (NM)
Bunning	Johnson	Voinovich
Cantwell	Kerry	Warner
Carper	Kyl	Wyden
Casey	McConnell	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DURBIN. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 104.

The amendment (No. 104) was agreed to.

The Senator from Arizona.

Mr. KYL. Mr. President, I am not going to be laying down an amendment at this time but, rather, speaking generally about the legislation while another amendment is being prepared. I wanted to share some data that we became aware of today, a new Gallup poll, which confirms what some of us thought, which is the more the American people see about this stimulus bill, the angrier they are getting and the more they believe it is both wasteful and ineffective. It is interesting that only 38 percent of the American people support this bill as written, while 54 percent say it needs major changes or should be scrapped entirely. In other words, 54 percent of the American people are in agreement that this bill should not move forward as it is, that it needs major changes. That is what Republicans are proposing with the better ideas that we want to present during this debate.

It is interesting as well that Independents, who were queried by even greater numbers, believe the bill either needs major changes or should be rejected outright. Fifty-six percent of Independents concur with that. Most Americans said they think the stimulus package either will not have any effect on their personal lives or will have a negative effect on their personal lives. A mere 12 percent said it would make their lives a lot better. That is the point that many of us have been making. People need something that will make their lives better. They are hurting all over this country. It is a shame, when we have an opportunity to do something about it, to waste a trillion dollars that we do not have and that our children and grandchildren are going to have to pay back for something that will not achieve its objectives.

What I would like to do is speak to some of the problems with the bill that we believe will not work, will not stimulate the economy, will not create jobs, and some of the areas that are simply wasteful Washington spending.

We have heard of some of these items. Again, many of these items the bill spends money on have an argument for them. But it is our view they should go to the Appropriations Committee, and they should present these programs to compete with all of the other programs which may also have degrees of worthiness. When the Appropriations Committee says: Here is the top line of the budget for each of our Government departments, then compete within that line for the program you want to spend your money on. If you are worthy enough, then you will get funded. If you are not, you won't. This bill simply takes all comers and says: Let's put it in a so-called stimulus bill, whether it has any stimulative effect or not. I will give a couple examples.

More cars for government employees; this is another bailout for the auto industry. We are going to do trail maintenance for ATVs. Maybe that is a good idea. But that should probably compete in the budget that ordinarily it would be funded from. I know one of my colleagues is very strongly committed to the idea that we should provide some funding for Filipino veterans of World War II who assisted our troops. That may be a very worthy objective, but nobody can argue it belongs in this bill. Those are folks in the Philippines. It is not going to create American jobs or stimulate the American economy. We could go on and on with other examples. The point is, this is more wasteful Washington spending.

American taxpayers are not against paying taxes, not against having the Government spend money if necessary, but they don't want us to waste the money. When we have a crisis on our hands, when they need help, to have us then just take the 8 years' worth of things we would love to do and haven't been able to get approval for yet and tuck them into this bill as spending and call it stimulus is bad policy.

Abraham Lincoln had a great saying: If you call a tail a leg, how many legs does a dog have? Of course, the answer is four. Calling it a leg doesn't make it a leg. That is the point. Calling these things stimulus doesn't make them stimulus. They should not be in this bill.

There are other things that suggest the bill would not work. We have had experience with this before. The centerpiece of the tax item in the bill is a tax rebate. Never mind that 26 percent of the people who receive this tax rebate don't pay Federal income taxes. The problem is, the same kind of tax rebate in the amount of $600 last year did very little to stimulate the economy, even though that is why it was done. All economists agree that somewhere between 10 and 20 percent of the money got spent, and the rest of it was plowed into savings. The reality is, that is a good thing because Americans' personal budgets are overleveraged just as our businesses are. People have far too much debt on their credit cards, for example. They need to be getting that debt paid down and begin saving a little more. So it is no wonder they would take these tax rebates and put them in the bank or pay off a credit card rather than going out and spending. That is a good thing for them personally, and it is what we have to have happen for the recession to finally end.

But in terms of stimulating spending, it is not a good thing. It obviously does not stimulate spending. Martin Feldstein, who actually testified before the Finance Committee in favor of the last stimulus, has now written that, of course, the experts who predicted it would not work were correct, it did not work. He is now very much of the view that we should not repeat that mistake in trying to stimulate the economy. The problem is, we are talking about well over $100 billion which, therefore, will not achieve the purpose of stimulation.

So these are why, when the American people see money being spent on things that have no business in this bill—it is

more wasteful Washington spending—when they see huge amounts of money going toward an effort to create jobs that would not do that, they scratch their heads and say: Why are these politicians in Washington wasting an opportunity to help us? Why don't they really get to something that will help us?

There are things that can help. Republicans have some better ideas about how to craft this legislation so it will actually achieve the objective we want. The bottom line is, rather than spending $1.3 trillion on this bill, we should be providing tax incentives that will create jobs. We should use the Tax Code to encourage beneficial behavior to encourage people to work and save and invest and create jobs. That leads me to the next subject.

Our colleagues on the other side of the aisle like to say that a significant percentage, maybe 36 percent, of this bill is taxes. Again, what is tax relief? I don't think you can call tax relief rebates when they are scored by the joint legislative committee as spending. So we have a difference of opinion. Even if only a quarter of it is tax policy, what kind of tax policy is that? Mr. President, 2.3 percent of the amount of the total bill is spent on tax incentives for businesses so they can write off their equipment purchases and so on that might conceivably enable them to hire more people. That is inadequate. One of our better ideas is to enhance those current provisions, expand them so that more businesses will be able to hire more people and produce more and thus help us to get out of the recession.

There are a variety of ideas that will be presented as amendments. One of them is an idea that some of our House colleagues have: by simply reducing by 7 percentage points the tax that small businesses pay, we believe significant new jobs will be created because small businesses create the jobs. Big businesses are trying to hold their own right now, but they are losing jobs, and they have not been the job creators. It is the small businesses that have historically created jobs. We believe that reducing their tax liability just by this modest 7 points—talking about businesses with 500 or fewer employees—you will have thousands and thousands of employers who will be able to buy the new equipment, be able to market their product or in some way be incented to hire additional people. That is how we create more jobs.

We think we ought to focus on where this problem started and where a significant part of the problem remains, and that is in housing. In fact, housing values are continuing to decline. We know the collapse in the housing market is what started all of this. But there is nothing that goes to the heart of that problem which remains.

In Arizona, we continue to see housing values decline. I talked to realtors and others last weekend. In some cases, over 50 percent of what they are doing is foreclosures and short sales in anticipation of foreclosure. So the market is in very bad shape. One of the Republican ideas—in fact, we have a couple of different approaches—is trying to provide a floor so housing values don't decline any more, so that people are incented to either refinance their existing mortgage or to be able to afford a new mortgage, and at the same time that this would help individuals put more money in their pockets. Because of the savings they would achieve with a lower interest rate mortgage over 30 years, it would also help to clear up the problem we have all heard about in the secondary market, the so-called toxic assets backed by mortgage-backed securities, the value of which nobody apparently can figure out.

If most of the people would refinance their existing mortgages at a lower rate, say, 4.2 percent, all of the holders of those mortgages would be paid off. They would all have cash. They could either reloan it or they could prop up their balance sheets. All of this would be very helpful, and we would then know exactly what is left.

What is left are the toxic mortgages, and there are other programs that will be dealing with that. I believe the President's Treasury Secretary, Secretary Geithner, is poised to talk about that next week. There are other plans the FDIC and others have. Certainly, the TARP funding that has been voted on is supposed to help go to those toxic assets, the people who are allegedly underwater; that is to say, the value of their home is less than the amount they owe on their mortgage.

It is really a two-part problem. The Republican ideas are designed to get at that problem, the problem that caused this whole collapse in the first place. Most experts believe it has to be solved before we can genuinely begin to work our way out.

There is another problem with the bill; that is, there is bad policy in this bill. For example, on the infrastructure, we have Davis-Bacon requirements. This adds to the cost of all of these projects. I remember a few years ago in the little town of Sierra Vista in southeast Arizona there was a facility to help women with dependent children or families that needed aid. If they had built the structure to do this, they couldn't afford it because of the additional cost that Davis-Bacon imposes on wages to construct a building. So they bought a mobile home instead, and because they were buying a mobile home, it wasn't a construction cost. They saved thousands of dollars on the facility.

Was it best to have a mobile home for this facility? No, it wasn't. They should have had an actual building. That is the problem with this particular policy. I forget the amount of money that it cost, but it is significant.

On health policy, there is the comparative effectiveness research which, in an op-ed in the Washington Post last Friday, George Will commented would dramatically advance Government control and rationing of health care. This is not good policy.

There is the neighborhood stabilization plan, $2.25 billion. This is the same kind of funding that could go to entities like ACORN, which we stopped when we dealt with this last June in the housing legislation. But it is tucked into this legislation, it is a lot of money, it is bad policy, and it ought to be taken out.

The Washington Post, last Friday, editorialized about the education expenditures here. They said: Ordinarily, we would support more money to support education, but this is a wasted opportunity to reform education so that we can actually use this new money to better benefit. Otherwise, we are simply throwing more money at the problem. Part of the quotation from the Washington post was we ''will be wasting more than money.'' What they meant was the opportunity. There is an opportunity here to really do some good, and rather than just throw more money at a problem, why don't we take advantage of the opportunity to really do something to reform it?

This gets me back to the point with regard to how these bills should compete in the appropriations process. We have a process—it is well established in the House and in the Senate—to deal with competing appropriations. They go over these bills very carefully. Ordinarily, they have to make some tough choices, to say: This program will go into the bill, and this one, unfortunately, is going to have to wait for another year or it is going to have to be reformed before we are going to spend the money. That regular-order process is what we should be using in this case.

This bill creates something like 34 new Government programs. Now, those two are the kinds of things that are scrubbed carefully in the regular appropriations process. Ronald Reagan once said: The closest thing to immortality in Washington is a new Government program. Once created, it is awfully hard to get rid of.

Of course, there is a lot more mandatory spending in the bill, spending that allegedly exists for only 2 years, but actually we know there is no way after 2 years Congress is going to come back and cut. In fact, going back to the so-called make work pay credit—this $500-per-taxpayer rebate—most of the experts agree this temporary tax rebate is not going to change behavior and stimulate spending.

So what is the answer? Well, of course—wink, wink, nod, nod—it is

really going to be permanent. Now, nobody wants to put that on paper because the score, the cost, would be astronomical. This body would be embarrassed to pass it, and it would not pass it. But once it is in there for 2 years, do we think we are going to eliminate it? No. In fact, the authors of it justify it, saying: Well, it actually will work because it is not really going to be temporary. We are really going to make it permanent. That is what we have to be very careful of in this legislation—committing ourselves to hundreds of billions of new expenditures, ostensibly temporary—some not even ostensibly temporary; they are actually identified as mandatory spending for the next 10 years—but many of them ostensibly temporary but will, in fact, be a permanent program.

One of the reasons I believe the program will not work is because less than half of all the discretionary funding is spent by the year 2011. Now, I hope by the year 2011 this recession is over. But you cannot call it a stimulus when more than half of the discretionary spending does not even begin to be spent until the year 2011.

So another one of the Republican ideas, that of my colleague, JOHN MCCAIN, is to say: Look, you have to spend this within this period of time. If you do not, then that authority lapses, and we are not going to spend that money. I think that is a very sensible way to look at it.

Just one other comment on the tax title. We talk about the extension of these energy tax credits. Apparently, windmills did not get enough in the way of tax credits, so we are going to extend their tax credit for another 3 years. You can argue whether that is good policy, but you cannot very well argue that extending it beyond 1 year is immediate spending. By definition, you are talking about the second and third year.

On this point, Dr. Christina Romer, who is President Obama's head of the Council of Economic Advisors, and, by the way, at last count, about 320 other economists, including some Nobel laureates, has made the point that tax cuts are far more effective in this environment than is additional Government spending. To this, I just have to say, this appears to be a new concept here in trickle-down economics, where the Government will spend close to a trillion dollars—just get it out there—and hopefully some of it will trickle down to regular people. That is not the best way to help people who are hurting in this economy.

So we have talked about things that will not work in the bill. We have talked about excess spending in the bill. We have talked about things that are not going to really stimulate the economy or create more jobs. In fact, the cost of the jobs, if you just take the cost of the bill and the number of jobs created, according to estimates of the sponsors of the bill, for each Government job created, it is $646,000. That is a lot of money to create a job; in the private sector, $242,000. This is not an efficient, effective program, and I do not believe we can afford a $1.3 trillion mistake, especially since we are playing with the money our children and grandchildren are going to have to pay back.

Let's eliminate the wasteful spending, and let's deal with the things that have to be dealt with first, such as the housing crisis, and create tax policy that will make sense long into the future and will actually help businesses create more jobs to help the people of our country today.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Pennsylvania.

AMENDMENT NO. 101, AS MODIFIED, TO AMENDMENT NO. 98

Mr. SPECTER. Madam President, I call up amendment No. 101 and send a modification to the desk.

The PRESIDING OFFICER. Is there an objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DURBIN, proposes an amendment numbered 101, as modified, to amendment No. 98.

Mr. SPECTER. Madam President, I ask unanimous consent that reading of the modified amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To provide an additional $6,500,000,000 to the National Institutes of Health for biomedical research)

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*, That the amount under the heading 'STATE FISCAL STABILIZATION FUND' under the heading 'DEPARTMENT OF EDUCATION' in title XIV shall be decreased by $6,500,000,000.''.

Mr. SPECTER. The basic amendment calls for the addition of $6.5 billion to the National Institutes of Health, and the modification provides for an offset from the State Fiscal Stabilization Fund.

Before proceeding directly to the discussion on the amendment, a few observations about the bill generally: I believe an economic stimulus is necessary. We have seen the unemployment rate rise to 7.2 percent last month. Some 2.8 million people lost their jobs last year. Each day brings new reports of additional people losing their jobs. We know the safety net is failing. We know there is a need to liberalize bank credit, the foreclosure rate is very high, and there is a need to provide Government intervention to stop the foreclosures. In the midst of all of these issues, there is, admittedly, the need for a stimulus package.

I am concerned about the House bill in a number of respects. I believe, for example, there is insufficient money in infrastructure. Pennsylvania Governor Rendell has assured me that the spending on highways, bridges, and roads could begin within a period of some 6 months.

There needs to be more on the tax cut side, in my opinion. There are many programs in the stimulus package which are very good programs—programs which I have fought for during my tenure as chairman or ranking member of the Labor, Health and Human Services, and Education Subcommittee—but many of these belong, really, in the appropriations process as opposed to a stimulus.

It is my hope, as we work our way through the bill, that the bill will be improved. I would like to see a bill emerge from the Senate that would be really directed toward stimulus, a bill which I could enthusiastically support.

The amendment which is offered here today is for the National Institutes of Health, which has been starved recently. During the decade when I chaired the Subcommittee on Labor, Health and Human Services, and Education, with the support of the ranking member, Senator HARKIN—who is now chairman, and I am ranking member; and when Senator HARKIN and I shift chairmanship, it is a seamless transfer; we work together on a partnership, bipartisan basis—together we took the lead in increasing NIH funding from $12 billion to $30 billion. Some years, the increases were as high as $3 billion, $3.5 billion. Lately, with the budget crunch, that has been impossible to maintain.

The cost-of-living adjustments have not been made, and there have been across-the-board cuts, so there has been an actual decline of some $5.2 billion of NIH funding in the last 7 years. This $10 billion allocation, if enacted, would correct that. It would give a boost and would provide jobs, high-paying jobs, at a time when the passage of the amendment would kill two birds with one stone. It would stimulate the economy by producing good, high-paying jobs, and by reducing major illnesses, which I will specify in a few moments, it would cut the cost of health care. What better way to reduce health care costs than to prevent illness, prevent heart disease, reduce the

time of Alzheimer's, and cut back on the incidence of cancer? The statistics show there would be good-paying jobs created by this $10 billion. According to NIH Acting Director Dr. Raynard Kington, the $10 billion would result in the creation of some 70,000 jobs over the next 2 years. These funds could go out in a range of 6 to 9 months, and certainly in less than a year, so it has the impact of being very promptly disseminated.

The benefits are statistically demonstrable by the high costs associated with diseases which these funds are designed to cure or to ameliorate. For example, the annual cost associated with cardiovascular disease amounts to $448.5 billion a year; cancer, $219 billion a year; Alzheimer's, $148 billion; and so it goes on down the line.

The recent statistics show significant improvements on these maladies, I think attributable, fairly, to the advances by NIH research.

For example, between 1994 and the year 2004, the number of deaths from coronary heart disease declined by 18 percent and the stroke death rate fell by 24 percent. Were it not for groundbreaking research on the causes and treatment of heart disease, supported in large part by NIH, heart attacks would most probably account for an estimated 1.6 million deaths per year instead of the approximately 440,000 deaths experienced last year in 2008.

The absolute number of cancer deaths in the United States has declined 3 years in a row despite the growth and aging of our population, which is a truly unprecedented event in medical history. The 5-year survival rate for localized breast cancer has increased from 80 percent in the 1950s to 98 percent today. That is a pretty encouraging figure for people who have breast cancer or are fearful of getting breast cancer. For childhood cancers, the 5-year survival rate has improved from less than 50 percent in 1970 to 80 percent today. The 5-year survival rate for Hodgkin's lymphoma has increased from 40 percent in 1963 to more than 86 percent in the year 2003. For non-Hodgkin's lymphoma, the survival rate has increased from 31 percent in 1963 to 63.8 percent in 2003. Over the past 25 years, the 5-year survival rate for prostate cancer has increased from 69 percent to almost 99 percent. Now, if you take anybody who is in the category of breast cancer or prostate cancer or Hodgkins or non-Hodgkins, those survival figures are very encouraging. I didn't know—when I joined the Appropriations Committee and selected the Subcommittee on Labor, Health, Human Services and Education and led the fight with Senator HARKIN to increase NIH funding from $12 billion to $30 billion and to have the National Cancer Institute funded by $5 billion—I didn't know I would one day be standing on the floor of the Senate citing statistics which include me. When we talk about non-Hodgkins, that is ARLEN SPECTER. I was shocked in February of 2005 to find that I had non-Hodgkins; tough chemotherapy, recovery, lost all my hair, got it all back, and fine. Then, last year, I had a recurrence; more chemotherapy, more rehabilitation, maintained my Senate duties, was on the floor, presided over the confirmation hearings of two Supreme Court Justices in 2005, worked with Senator HARKIN, right down the line. So those are pretty important statistics if you are one of them—if you are one of them.

It is my opinion that it is scandalous in this country that we haven't done more by way of combating these illnesses. I requested an estimate from the cancer community of what it would take to make a major attack to virtually cure cancer. We can't talk about curing cancer, but the kind of a major attack which would reduce cancer very materially. We got back a figure of $335 billion over 15 years. Well, those are big numbers, but they would pay off in very substantial rewards when you consider the cost of cancer is over $200 billion a year. The cost of heart disease is almost $450 billion a year. There are ways and economies within the Federal budget to deal with those issues.

Today we are talking about a much lesser figure. We are talking about $10 billion. That would be a downpayment and a sign of a serious effort to go after these maladies. When you have a stimulus package of $819 billion in the House bill—it may go up higher than that—this is a relatively small sum. When we structured the original bill at $3.5 billion, we talked about what would be doable. We came up with $6.5 billion. I am not sure that we didn't make a mistake, that we ought to be looking for more of the $800 billion plus to deal with these maladies, but at any rate, that is where we are.

Senator HARKIN and I have a little difference of opinion on the funding as to whether there ought to be an offset. My view is it is a minor difference of opinion, but one which we are going to present to the body for a vote. In looking over the allocation of the entire budget, I found there is $79 billion in what is called a State fiscal stabilization fund. Well, I think there are limits as to how we ought to go on stabilizing the States' fiscal policy, but at any rate, included in that amount is $24.7 billion to be used for a wide range of public safety and other governmental services which may include education or may not include education. All of these funds are proposed to go out under a population-based formula, but are in no way targeted to States with the biggest economic problems or greatest budget shortfalls.

It is unclear what stimulating effect this funding would have, and the purposes of the funding are undefined. So when you have almost $25 billion with the purposes of the funding undefined, it seems to me it is a much better use of that money, about a quarter of it, to fund the $6.5 billion which is the subject of the amendment which I have just described.

Senator HARKIN and I have discussed this in an amiable way, as we always do. He is going to speak next and is going to propose a second-degree amendment so that there not be the offset. I have already stated my preference to have an offset because we are dealing with very serious deficit problems, and I thought that if it were possible to do this funding with an offset which was reasonable, it would be preferable than adding to the deficit. But if Senator HARKIN prevails on his second-degree amendment and there is no offset, so be it, and we will have reached the core principle of trying to get these funds into the National Institutes of Health.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, first, let me thank my friend and my colleague from Pennsylvania, Senator SPECTER, for his continued support of basic research, biomedical research in this country. Ever since I first got on this committee back in 1988, Senator SPECTER, of course, was chair and I was ranking member, and later I became chair and he became ranking member, and then he became chair and I became ranking member. It has passed back and forth a lot of times since 1988. But the one person who has always been consistent in his support of biomedical research and support for the National Institutes of Health has been my friend, ARLEN SPECTER of Pennsylvania.

I support his amendment, I wish to say right off the bat. Everything that is in it I support. We do have to bring NIH back up to its funding level. I say to my friend, one of my proudest achievements in the Senate was working with the Senator from Pennsylvania to double the funding of NIH over a 5-year period. To show my colleagues how bipartisan it was, it started under a Democratic President and ended under a Republican President. There was one change in there for a couple years when I was chair and the Senator from Pennsylvania was ranking member and then it went back and forth, but as the Senator said, that has always been kind of seamless in terms of passing the gavel back and forth. But doubling the funding for NIH over 5 years was a Herculean task and the Senator from Pennsylvania was a leader in that effort. We worked hard on that, and we got it done. That was in 2003.

Now, since 2003, we are 10 percent lower now in real funding for NIH than

we were in 2003. I am sure my friend from Pennsylvania would agree that we did not work hard on both sides of the aisle and with two different administrations to get this done only to have it sort of sit there static, and then come back 10 years later or something, and then have to double it again. Our goal was to get NIH back up to a funding level so that the number of peer-reviewed grants that were funded would be closer to the 1-in-3, 1-in-2, 1-in-3 area that it had been in the earlier days of NIH. By the time we got to the point where we started the doubling—and that was in 1998, if I am not mistaken; it might have been 1999, 1998—we were down to where 1 in 10, 1 in 8 peer-reviewed grants were being funded. Sad to say, we are right back almost to that situation again. We are down to where maybe somewhere between 1 in 6 and 1 in 10 grants are being funded.

Now, what does that mean? That means researchers at NIH—let me back up here. That means that researchers at the University of Pennsylvania, at the University of Iowa, at the University of California, at universities in New York State, universities in Florida, universities in Illinois, universities in Wyoming, universities in Arizona, every State in the Nation gets funding through the NIH for research. These are universities, basically. So this funding goes all over the country.

So what does that mean, that we are now back at the level where 1 out of 6 to 1 out of 10 peer-reviewed grants are being funded? Well, what it means is that young researchers—and these are people who are at the top of their class; these are the brightest of the bright; these are students who have gone through either medical school or genetics or biomedicine or biology, a lot of different disciplines involved here, and they have some ideas they want to pursue, some basic research they want to pursue. They are in their twenties. They spent a lot of money going to college. They want to pursue a field of inquiry. Now they are told that the average age for getting their first grant is 42 years of age.

Well, if you are a young person and you are just out of college, are you going to wait around until you are 42? No. You are probably going to go to work for the private sector, private industry some place.

So what we are doing is we are losing a lot of bright young researchers. When we doubled the funding for NIH, a lot of young researchers started there, and they are there now, but we are losing a whole other generation of these young researchers. So that is the effect of what has happened at NIH.

What it means also is that we are losing our preeminent role in the world as the leader in biomedical research. We have to maintain it. We have always been sort of—if you want to talk about a city on a hill, when it comes to biomedical research, we have always been that to the rest of the world. The rest of the world looks to NIH. Keep in mind it was through the NIH that we mapped and sequenced the entire human genome, mapped and sequenced the entire human gene. Guess what. It is out there for researchers all over the world. Any researcher anywhere in the world can tap into the database at NIH and find out all the information they want on the genetic structure and use that for their research. Guess what. It is free of charge. Free of charge. That was a great investment by the taxpayers of this country and already paying big dividends.

So it pains me, I know as it pains my friend from Pennsylvania, to now see NIH going back down again in terms of its support. As I said, right now, NIH funding has dropped more than 10 percent in real terms since 2003. That was at the end of the doubling period.

Some people might say, Well, what does this have to do with stimulus? Well, this does stimulate the economy, both in the short term and in the long term. As I have said many times about this stimulus bill, it is two things. One, it is to, yes, put people to work right away. That has to do with a lot of the construction projects that are in here. But there are a lot of other things in this bill that provide for a foundation for solid recovery down the pike—2 years, 5 years, 10 years from now. Now, every time in the short term, when we think about NIH in the short term, every time a researcher gets a grant, it supports an average of seven jobs. Let me repeat that. Every time a researcher gets a grant, on average, it supports seven jobs. So it is not just one researcher in a lab by himself or herself; it is lab technicians, post-operative fellows, research assistants, and on and on. So there is a great multiplier effect.

There is also a ripple effect from this research. Keep in mind this is basic research. These are asking the most fundamental of questions.

Well, maybe the grant has led to basic research that will lead to a new compound that a pharmaceutical company wants to develop into a new drug that helps save lives. Senator SPECTER talked about the research at NCI, National Cancer Institute, and the great strides they have made. The Senator is living proof of that. We watched the Senator go through a long hard period, and it is wonderful to see him here as healthy, vibrant, and determined as ever to make sure we fund NIH. He is living proof of the great strides we have made. So that has a ripple effect. If there is more money now in the economy, maybe an entrepreneur will use some breakthrough on research to form a spin-off company. That happens all the time, and that stimulates the economy.

As I said, this money goes to researchers all over the country, not just to Bethesda, MD, where the headquarters is. Very little of it goes there. It goes to every State—to 90 percent of all congressional districts. So it helps the entire country.

Now, that is in the short term. There is a longer term benefit, which is improving people's health. After all, that is the purpose of this research in the first place. It is called the National Institutes of Health, not the National Institutes of Biomedical Research. The goal is health. In the long term, it is going to be a healthier workforce, healthier people, cutting down on health care costs, making people more productive in their lives because of the research we do through NIH. We always say ''at,'' but it is ''through'' NIH. If our workers are healthier, they are going to be more productive.

Again, I support this amendment almost in its entirety—except for the way we are going to fund it. My friend spoke about that, and I have a small disagreement. The Senator's amendment would take the money as an offset out of what is called the State fiscal stabilization fund. Here is the problem as I see it.

The State fiscal stabilization fund provides critically needed funding for education. Just this afternoon, I had the presidents of most of the independent colleges in my State visiting me. A lot of this money will go to help them in their colleges. It will help our community colleges. A lot of money will go to community colleges to help retrain workers for the future. Our pre-K through 12th grade money comes from the stabilization fund. There is a lot of money in that stabilization fund that goes for public safety and other government services. We don't need to be laying off teachers. We need to keep our teachers hired.

That is what this money would go for. So I don't think we ought to be cutting into that fund. I strongly support Senator SPECTER's amendment—the main purpose of it—to increase funding for NIH. Again, I just have a slight difference on how it should be funded. Let's face it, this whole bill is emergency spending. We are up to about $900 billion right now. As I have said before, a lot of economists, both liberal and conservative, have said we are not doing enough. We had Milton Friedman, President Reagan's economist, a very conservative economist, who said we may not be doing enough; Alan Blinder, Mark Zandi—a broad spectrum of economists are saying this is one time when we should err on the upside not the downside.

If this whole bill is emergency spending, why, I ask, should the funding for NIH not be the same? Why would we want to take it out of education, take it out of public safety, out of other areas to pay for NIH. This whole bill is emergency spending. Quite frankly, I think it ought to be. We are in an

emergency. Things are going downhill very rapidly in this country—in my State, and I know in every other State. Companies are shedding jobs every day—9,000 every day.

Since the whole bill is emergency spending, I think NIH ought to be right in there with everything else. It is that important. I think it ought to be emergency funding, so I have a second degree that I will be offering to the amendment by the Senator from Pennsylvania that would basically make the funding for the amendment the same as everything else in this bill. I hope we will get support for that. Why discriminate against NIH? Don't do that. Put it in with everything else.

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I thank my distinguished colleague for his kind remarks and comments and a reaffirmation of what I said about the working relationship we had, the partnership, and the seamless transfer of the gavel.

AMENDMENT NO. 178 TO AMENDMENT NO. 101

Mr. HARKIN. If the Senator will yield, I thought the Senator's amendment was not yet at the desk. I am informed it is.

I send my second-degree amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 178 to amendment No. 101.

Mr. HARKIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 5, strike the following: ''Provided, further,'' through and including ''shall be decreased by $6,500,000,000''.

Mr. SPECTER. Madam President, to continue with the two amendments, perhaps we can have side-by-side votes. Is that satisfactory to the Senator?

Mr. HARKIN. I will check on that.

Mr. SPECTER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, just a very brief comment about the offset. The State fiscal stabilization fund does have substantial funding for education, as represented by the Senator from Iowa. But there is a portion of it—$24.7 billion—which is to be used for a wide range of governmental services, which may include education, or may not. In that $24.7 billion, there is wide discretion given to the States as to how they are going to handle it. Those funds go out under a population-based formula, in no way targeted to States with the biggest economic problems or the greatest budget shortfalls. The purposes of the funding are undefined, so there is a substantial amount of money which may not be used for what the Senator from Iowa has described, or education.

As I see it, it is a question of whether we are going to add to the deficit of $6.5 billion or whether we are going to establish a priority where the State has the discretion to use it with undefined purposes or use it for the three alternatives you have, which are to use the $6.5 billion for NIH, which we have described, or undefined purposes in the State fiscal stabilization fund, or add to the deficit. I think we ought not to add to the deficit. I think it is preferable to use them for NIH and not for the undefined purposes.

I thank the Chair and yield the floor.

AMENDMENT NO. 178, AS MODIFIED

Mr. HARKIN. Madam President, I ask unanimous consent that my amendment be modified with the changes I just sent to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 178), as modified, is as follows:

(Purpose: To provide an additional $6,500,000,000 to the National Institutes of Health for biomedical research).

On page 130, line 3, insert after the period the following: ''The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

Mr. HARKIN. I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

AMENDMENT NO. 179 TO AMENDMENT NO. 98

Mr. VITTER. Mr. President, I ask unanimous consent to call up the Vitter amendment which is at the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 179 to amendment No. 98.

Mr. VITTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate unnecessary spending)

At the appropriate place, insert the following:

SEC. ___. ELIMINATE SPENDING AND PRIORITIZE INVESTMENTS.

(a) ELIMINATE SPENDING.—

(1) FISH BARRIERS.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Management under the heading ''Resource Management'', and the amount made available under such heading is reduced by $20,000,000.

(2) CENSUS BUREAU.—None of the funds appropriated or otherwise made available in title II of division A for Bureau of the Census under the heading ''Periodic Censuses and Programs'', and the amount made available under such heading is reduced by $1,000,000,000.

(3) FEDERAL VEHICLES.—None of the funds appropriated or otherwise made available in title V of division A for General Services Administration under the heading ''Energy-Efficient Federal Motor Vehicle Fleet Procurement'', and the amount made available under such heading is reduced by $600,000,000.

(4) FBI CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A construction for Federal Bureau of Investigation under the heading ''Construction'', and the amount made available under such heading is reduced by $400,000,000.

(5) NIST CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A for National Institute of Standards and Technology under the heading ''Construction of Research Facilities'', and the amount made available under such heading is reduced by $357,000,000.

(6) COMMERCE HEADQUARTERS.—None of the funds appropriated or otherwise made available in title II of division A for National Oceanic and Atmospheric Administration under the heading ''Departmental Management'', and the amount made available under such heading is reduced by $34,000,000.

(7) DHS CONSOLIDATION.—None of the funds appropriated or otherwise made available in title VI of division A for Department of Homeland Security under the heading ''Office of the Undersecretary of Management'', and the amount made available under such heading is reduced by $248,000,000.

(8) USDA MODERNIZATION.—None of the funds appropriated or otherwise made available in title I of division A for Department of Agriculture under the heading ''Office of the Secretary'', and the amount made available under such heading is reduced by $300,000,000.

(9) STATE DEPARTMENT TRAINING FACILITY.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Diplomatic and Consular program'', and the amount made available under such heading is reduced by $75,000,000.

(10) STATE DEPARTMENT CAPITAL INVESTMENT FUND.—None of the funds appropriated

or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Capital Investment Fund'', and the amount made available under such heading is reduced by $524,000,000.

(11) DC SEWER SYSTEM.—None of the funds appropriated or otherwise made available in title V of division A for District of Columbia under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'' and the amount made available under such heading is reduced by $125,000,000.

(12) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM.—None of the funds appropriated or otherwise made available in title II of division A for Economic Development Administration under the heading ''Economic Development Assistance Programs'' , and the amount made available under such heading is reduced by $150,000,000.

(13) AMTRAK.—None of the funds appropriated or otherwise made available in title XII of division A for Federal Railroad Administration under the heading ''Supplemental Grants to the National Passenger Railroad Corporations'', and the amount made available under such heading is reduced by $850,000,000.

(14) DoD HYBRID VEHICLES.—None of the funds appropriated or otherwise made available in title III of division A for Procurement under the heading ''Defense Production Act Purchases'', and the amount made available under such heading is reduced by $100,000,000.

(15) NASA CLIMATE CHANGE.—None of the funds appropriated or otherwise made available in title II of division A for National Aeronautics and Space Administration under the heading ''Science'', and the amount made available under such heading is reduced by $500,000,000.

(16) NEIGHBORHOOD STABILIZATION.—None of the funds appropriated or otherwise made available in title XII of division A for Public Housing Capital Fund under the heading ''Neighborhood Stabilization Program'', and the amount made available under such heading is reduced by $2,250,000,000.

(17) HISTORIC PRESERVATION FUND.—None of the funds appropriated or otherwise made available in title VII of division A for National Park Service under the heading ''Historic Preservation Fund'', and the amount made available under such heading is reduced by $55,000,000.

(18) FISH AND WILDLIFE RESOURCE CONSTRUCTION.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Service under the heading ''Construction'', and the amount made available under such heading is reduced by $60,000,000.

(b) UNDER PRIORITIZED SPENDING THAT SHOULD BE BUDGETED FOR.—

(1) COMPARATIVE RESEARCH.—None of the funds appropriated or otherwise made available in title VIII of division A for Healthcare Research and Quality under the heading ''Agency for Healthcare Research and Quality'' may be available for comparative research, and the amount made available under such heading is reduced by $700,000,000.

(2) HEALTH IT.—Title XIII for Health Information Technology shall be null and void and none of the funds appropriated or otherwise made available in title VII of division A for Information Technology under the heading ''Office of the National Coordinator for Health Information Technology'' may be available for health information technology, and the amount made available under such heading is reduced by $5,000,000,000.

(3) PANDEMIC FLU.—None of the funds appropriated or otherwise made available in title VIII of division A for pandemic influenza under the heading ''Public Health and Social Services Emergency Fund'' may be available for pandemic flu and the amount made available under such heading is reduced by $870,000,000.

(4) SMART GRID.—None of the funds made available in this Act for Smart Grid shall be made available.

(5) BROAD BAND.—None of the funds appropriated or other made available in title II of division A for Broadband Technology Opportunities under the heading ''National Technology Opportunities Program'' may be available for broadband and the amount made available under such heading is reduced by $9,000,000,000.

(6) HIGH-SPEED RAIL CORRIDOR PROGRAM.—None of the funds appropriated or made available in title XII of division A for the High-Speed Rail Corridor projects under the heading High-Speed Rail Corridor Program may be available for the high-speed rail corridor and the amount made available under such heading is reduced by $2,000,000,000. Section 201 of title II of division A shall null and void.

(7) PRISON SYSTEM AND COURTHOUSES.—None of the funds appropriated or made available in title II of division A for prison buildings and facilities under the heading Federal Prison System may be available for buildings and facilities and the amount made available under such heading is reduced by $1,000,000,000.

(c) UNDER GENERAL PROVISIONS.—

(1) DAVIS-BACON ACT NOT APPLICABLE.—Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act.

(2) PROHIBITED USES.—None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or Mob Museum.

Mr. VITTER. Mr. President, this amendment is very simple and straightforward but basic and important. This would strike multiple cats and dogs, all-over spending provisions in the bill to try to begin to establish some spending discipline and get back to what this bill is supposed to be about: creating jobs, stimulating the economy, not just spending money and growing Government.

A lot of folks around the country have fundamental concerns about this bill, and the concerns are this is a huge amount of money and there is no real discipline and real focus in terms of spending that money. This amendment is one attempt to begin to correct that. It does not do everything we need to do, but it begins to correct it.

Let's start with the size of this bill. This bill is enormous. It is almost $1 trillion. As one of my colleagues has said, $1 trillion truly is a terrible thing to waste. We are in a crisis in terms of the economy, in terms of the budget, and in terms of the growth of the deficit and the debt, and we cannot waste $1 trillion.

This is so much money that if someone had begun spending $1 million a day—$1 million every day—when Christ was born, we would not yet be in 2009 to the full cost of this bill. That is how big this bill is. That is how much money we are talking about.

Of course, the argument is we face very dire economic times, we face a truly horrendous recession—and we do; I am not arguing against that fact—and that perhaps something that big and that dramatic is needed to help get us out of it. If that is true, let's look at what is in the bill and see exactly how focused it is on real job creation and real economic development and real stimulus. By that test, this bill fails. This bill is not focused. It is not focused on real job creation and real stimulus. It covers the waterfront. It is all about a traditional Washington-big-Government-spending program after program, touching virtually every part of the annual Federal budget rather than being disciplined and focused on items that can create jobs and pump up the economy immediately.

Why do I say that? Let's take some examples. Let's start with the truly ridiculous examples and then move on to other items that might be worthwhile spending programs but should be debated as traditional spending programs, not as job creation, economic stimulus, because they are not.

The truly ridiculous: How about fish barriers, because in this bill is $20 million for the removal of small and medium-sized fish passage barriers. I challenge anybody on this Senate floor to explain to us what this is. But certainly even if they can do that—and very few could—they could not explain how that is related to job creation and getting us out of this recession. We are not going to get out of this very serious recession by removing small and medium-sized fish passage barriers.

That is truly ridiculous, as it was ridiculous to have in this bill, until it was removed very recently, significant dollars for honeybee insurance. Again, I challenge this entire body, any Member, to come and explain what that provision was. But even if they could say what that provision was, what it represented, there is no way they could argue that is job creation, economic stimulus, getting us out of a very severe recession.

Or what about the $400 million that was in the bill until recently for the prevention of sexually transmitted diseases? We can all understand what that is, but we immediately know that is not job creation, that is not economic development or stimulus; it is not getting us out of this recession. Thankfully, that was taken out of the bill.

Let's move on. There are plenty of items that we can at least understand what they are, but they are not stimulus, they are not job creation. They are typical, run-of-the-mill, Washington-big-Government spending. They are items you find in the annual budget, and almost every major item you

find in the annual budget is in this bill. It is like creating a new budget year and sticking it in between 2009 and 2010.

We are going to spend $1 billion in this bill on the census. Mind you, we appropriated $210 million as part of our emergency appropriations bill last summer—$210 million—but this is a bottomless pit. So in this bill, we are going to spend $1 billion more on the upcoming decennial census. We do censuses. They are important. We can debate it another day, another time, another bill if spending $1 billion, throwing that at the problem is going to solve the problem. But it should be beyond debate that is it not job creation, that it is not economic stimulus, that it is not getting us out of this recession. That is run-of-the-mill, Washington-big-Government spending. Of course, there is line after line of that. Almost every major item in any Federal budget is in this bill.

There are all sorts of categories of traditional Washington-big-Government spending. That is about building but not building highways or roads or bridges, not building jobs but building Government.

FBI construction, NIST construction—not many people know what NIST is. It is the National Institute of Standards and Technology. We are going to spend $357 million in this bill on construction at NIST.

Commerce headquarters: Construction for the Commerce headquarters is another $34 million.

Department of Homeland Security consolidation: We are going to consolidate and, in my mind, that means cut, save, and trim. But for some reason that consolidation is going to cost $248 million in this bill.

USDA modernization: Again, we are building Government, we are growing Government $300 million.

We are going to build a State Department training facility, $75 million, and more State Department capital investment, another half a billion dollars.

The DC sewer system: We are going to spend an extraordinary amount on that system—$125 million, again in the home of the Federal Government. Nowhere else are those dollars figured but in the home of the Federal Government. And on and on.

Again, we may be building. We seem to be building big Government and Government buildings in Washington, DC, not anything else.

There are all sorts of line items that, again, are Government Washington programs, traditional spending, not in any way focused on job creation, on real economic stimulus, on getting us out of this recession.

DOD hybrid vehicles, $100 million. NASA climate change research; neighborhood stabilization; the Historic Preservation Fund; comparative research; spending for the pandemic flu, $870 million; broadband and the smart grid, and on and on.

Again, we can debate another time another bill whether these are reasonable spending items, but it is obviously beyond debate whether it is job creation, economic stimulus, getting us out of the recession. It is not that in any focused, disciplined way. It is just using this $1 trillion opportunity to throw money at every cat-and-dog Government program to use the opportunity to plus up somebody's pet projects, to build what they have been waiting to build at the Commerce Department for 10 years and have not gotten the money. Oh, this is a trillion-dollar opportunity; let's do it now. This bill is a laundry list of those spending programs, of those big Government cats and dogs. No discipline, no focus, no demand that it be economic development, economic stimulus, job creation.

In addition, there is another provision that will cost a lot of money and not produce any additional economic stimulus, and that is the Davis-Bacon language. The Davis-Bacon requirements in this bill, mandates, would require Federal construction contractors to pay their workers a wage far above the market rate in most places, and that wage is basically the union wage which is above free market wages and rates in most parts of the country. That has been estimated to cost an additional $17 billion.

Mind you, that is not a cost out of the Federal Government contained in this bill, but it is a true cost and it should be added to the calculations of the cost of this bill. It is not included in the CBO score, but it is an actual cost, a true cost that should be added—$17 billion. It does not produce any additional project. It does not build another bridge. It does not build another highway. It does not employ anybody else. It drives up the cost of those construction projects and goes above the market rate in almost every labor market in the country. My amendment would also strike those provisions.

All told, Mr. President, my amendment would strike almost $35 billion of this miscellaneous, cats-and-dogs spending that covers a whole spectrum of traditional big government Washington programs. It would also take out that Davis-Bacon language and thus save us another $17 billion on top of the $35 billion, for a total savings of well over $50 billion.

Now, we are faced, as I said, with almost a $1 trillion bill. If we started spending $1 million a day on the day Jesus Christ was born, we would not yet be, at that spending rate today, in 2009, to the full cost of this bill. So $50 billion doesn't do the whole job, but it is a start. And I think the American people are watching and waiting to see if we are even willing to start, if we are really going to go to the core of this bill and change the core of this bill and say, no, we are going to maintain some discipline. We are not going to allow this to be another spending Christmas tree on which everybody gets to hang their ornament. This isn't just a laundry list of big government Washington spending programs. This is something much more disciplined, much more focused.

That is what the American people are waiting to see, if we are going to do that. They know the bill before us, just as the House-passed bill, has no discipline. It is a laundry list. They are waiting to see if we are going to get serious on the floor of the Senate and fundamentally change that laundry list of government spending, the idea of spending everything across the spectrum in this bill.

Obviously, Mr. President, I hope we take that important first step by adopting this Vitter amendment. Let's begin to enforce some discipline in this process. Let's begin to shave and cut those miscellaneous spending items, some of which are outright ridiculous, others of which may be good programs but aren't economic stimulus, aren't job creation, and aren't going to get us out of this recession in the next several months.

So with that, Mr. President, I urge all my colleagues, Republicans and Democrats, to join me in supporting this amendment and taking an important crucial first step—only a first step but a very important first step—to get back to what this bill was supposed to be about: real economic stimulus, real job creation, with real focus and discipline, not just a laundry list of spending items.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 112 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I have an amendment at the desk, amendment No. 112, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Hearing no objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER, proposes an amendment numbered 112 to amendment No. 98.

Mrs. BOXER. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow the deduction for dividends received from controlled foreign corporations for an additional year, and for other purposes)

On page 514, between lines 16 and 17, insert the following:

PART X—INVEST IN THE USA

SEC. 1291. ALLOWANCE OF DEDUCTION FOR DIVIDENDS RECEIVED FROM CONTROLLED FOREIGN CORPORATIONS FOR ADDITIONAL YEAR.

(a) IN GENERAL.—Section 965 (relating to temporary dividends received deduction) is amended by adding at the end the following new subsection:

''(g) ALLOWANCE FOR DEDUCTION FOR AN ADDITIONAL YEAR.—

''(1) IN GENERAL.—In the case of an election under this subsection, subsection (f)(1) shall be applied by substituting 'January 1, 2010,' for 'the date of the enactment of this section'.

''(2) SPECIAL RULES.—For purposes of paragraph (1)—

''(A) EXTRAORDINARY DIVIDENDS.—Subsection (b)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Subsection (b)(3)(B) shall be applied by substituting 'October 3, 2009' for 'October 3, 2004'.

''(C) APPLICABLE FINANCIAL STATEMENT.—Subsection (c)(1) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003' each place it occurs.

''(D) DETERMINATIONS RELATING TO BASE PERIOD.—Subsection (c)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(E) REQUIREMENTS FOR INVESTMENT IN UNITED STATES.—Subsection (b)(4) shall be applied—

''(i) by inserting 'deposited in 1 or more United States financial institutions and' after 'amount of the dividend', and

''(ii) by striking subparagraph (B) thereof and inserting the following:

'''(B) provides for the reinvestment of such dividend in the United States (other than as payment for executive compensation) as a source of funding for only 1 or more of the following purposes:

'''(i) worker hiring and training,

'''(ii) research and development,

'''(iii) capital improvements,

'''(iv) acquisitions of business entities for the purpose of retaining or creating jobs in the United States, and

'''(v) clean energy initiatives (such as clean energy research and development, energy efficiency, clean energy start ups, and clean energy jobs).

For any purpose described in clause (i), (ii), or (iii), funding shall qualify for purposes of this paragraph only if such funding supplements but does not supplant otherwise scheduled funding for either taxable year described in subsection (f) by the taxpayer for such purpose. Such scheduled funding shall be certified by the individual and entity approving the domestic reinvestment plan.'.

''(3) AUDIT.—Not later than 2 years after the date of the election under this subsection, the Internal Revenue Service shall conduct an audit of the taxpayer with respect to any reinvestment transaction arising from such election.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 2010.

Mrs. BOXER. Mr. President, I am pleased to offer this amendment on behalf of myself and Senator ENSIGN. We have a number of cosponsors, so this is truly a bipartisan amendment, and I think it is worthy of everyone's consideration.

It is pretty simple what this amendment would accomplish. It provides an incentive for companies to bring back foreign earnings into the United States, and those foreign earnings must be invested in our U.S. economic recovery.

Right now there is about $800 billion sitting offshore because companies do not want to bring it in because it would be taxed at a 35-percent rate. This means, first and foremost, if you think about it, that our banks do not have any of these funds at a time when they are desperate for capital. This means that at a time that we want to inject dollars into this economy, those dollars are sitting offshore.

Now, we tried this once before. You are going to hear Senator LEVIN and others attack us for that last attempt. So to preempt that attack—I will have more to say about it later—I wish to show you what actually occurred last time that we did this.

We saw in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, before we passed our repatriation, all of these dollars, almost more than $350 billion, sitting offshore, not doing the American economy any good. When we passed this, those funds came back.

Now, what you are going to hear from some of my colleagues is that some of the companies did not live up to the spirit of the amendment. The spirit of the amendment was to bring the money home and invest it here at home in job-producing activity.

It is true. That is why, in this amendment we are offering, we have tightened the strings of what the companies can do, and we have required an audit of each and every company that takes this particular tax break. We have said that you only can use these funds to create or retain jobs, to make capital improvements in your business, to buy other businesses that will otherwise fail, to invest in clean technology.

We do not allow these companies to use any of these funds for golden parachutes or high CEO pay. We do not allow these funds to be used for dividends. We do not allow these funds to be used to buy stocks. Now, I can tell you a lot of the companies would like to see fewer strings. But Senator ENSIGN and I have agreed, in order to pass this, we are going to put some tough strings on it. That is what we have done.

Now, I do not have to go through the litany of job losses we have seen in our great Nation. Last month, there were 500,000 jobs lost. Laura Tyson, former Chairman of the Council of Economic Advisers under President Clinton, says:

In the current crisis, even credit-worthy and profitable companies face liquidity and credit constraints.

And she said, in essence, that the repatriation policies provide a short-run stimulus.

People, if you vote against this, know you are voting against a stimulus because those funds will be available to support the domestic operations of U.S. companies. If you do not want to listen to Laura Tyson, listen to Robert Shapiro, chairman of Sonecon, former Under Secretary of Commerce for Economic Affairs under Bill Clinton. See what he says:

$421 billion in foreign-sourced income currently held abroad could be repatriated. We project that nearly $97 billion of the $421 billion would go to retaining or creating employment.

And he goes on to say:

Additional funds used for employment could save or create an estimated 2.6 million jobs, including 2.1 million jobs in manufacturing.

That is a Democratic economist. Now, last time, everyone said: Oh, nothing is going to come back in. No taxes will be paid to the Government. That was wrong. As a result of this repatriation in 2004, $18 billion in revenue was received by the U.S. Treasury, six times what some experts predicted.

Now, 62 percent of the funds were spent on worker hiring and training, R&D, and capital investments. You are going to hear horror stories, and I say to my cosponsor from Nevada, you are going to hear a litany of horror stories.

Well, I am going to tell some of the good stories. Oracle, a California high-tech company, used the funds repatriated in 2004 to outbid foreign competitors to acquire two U.S. companies—one in California, the other in Minnesota, and to keep the companies and their intellectual property in the United States. Oracle has increased jobs at both firms.

Intel, another California company, used repatriated funds to help build new fabrication plants. Now, some of the things you are going to hear I do not like to hear. I do not like that some companies did not act in the spirit of the amendment. But the amendment was not tightly drawn.

Let me say, loudly and clearly, if any company or any individual in the United States of America does not live up to the law, they should be gone after by the IRS and have to pay their back taxes. That is what is going to happen to companies that disobey this law. That is clear in our amendment.

I tell you what we do, we guarantee that there will be an audit of these companies. Now, I would say to any of my colleagues who oppose it, show another case where we pass a tax break and we require every company that takes advantage of it to get audited. As a matter of fact, I think it is a fantastic precedent to set around here, so

maybe Chairman LEVIN does not have to hold hearings if the IRS did its job and go after the bad apples.

We address the issue of fungibility. We require that foreign funds must be spent in addition to the current spending level, not to displace money. We require that. We assure transparency and accountability.

I am proud that Senators ENSIGN, BAYH, SPECTER and INHOFE and I have come together across party lines. I am proud. This is a good amendment. I would ask my friends, where we have an opportunity such as this in the current environment, to inject $300, $400, $500, $600, up to $800 billion into this economy.

Now, people are going to say it costs money. Joint Tax says it is a few billion dollars over the first couple of years. Let me say, only in the Government would there be a cost of something that actually increases revenue. Those revenues were not coming in. We have proven it. These revenues sat out there all these years until we passed the bill. Then they came home and they paid their taxes.

I believe it brought in 16 billion—between 16 and 18 billion came into the Federal Government. So this amendment means job creation, it means funding for the banks that need capital injection. I am tired of voting for public money to fund banks. I did it. It was tough. Taxpayer money. I wish to see some of this money that is sitting out there get injected into the banks.

You are going to hear horror stories, you are going to hear populist arguments. I would put my populism to the test. I do not stand here every day and endorse tax breaks. I am very cautious. But common sense says, you have hundreds of billions of dollars sitting offshore, we are not being paid taxes on the money.

They will pay taxes on the money when it comes in. We have heavy strings attached. We require an audit. We have transparency attached. We have support from the National Taxpayers Union, from the U.S. Chamber of Commerce, we have support from industry. They very much would like to bring this back but do not want to bring it back in a circumstance where they are so heavily taxed.

So we have a choice: We can walk away from this amendment and we can let $800 billion sit offshore or we can learn from our experience the last time, where we did take in $18 billion into the Treasury.

But no question, we could have had some tighter strings. Senator ENSIGN, I have to thank him, because I am sure he had some other ideas for some of the uses, and I prevailed upon him. I said: Let's allow for a few uses.

I see that the Senator from New Hampshire is here. I wanted to close right now in this argument by telling you the uses that would be allowed because I think those are very important.

Here is the chart, folks. I ask Senator SHAHEEN to take a look at this: These are the sole permitted uses of repatriated funds. I hope my colleagues who stand and bash this tell me why these are not good.

Why is it not good to hire workers and train them? Why is it not good to do more research and development? Why is it not good to do capital improvements which will put people to work? Why is it not good to acquire distressed businesses to avoid layoffs, shutdowns or bankruptcy? Why is not good to allow these funds to be used for clean energy initiatives?

Now, I ask that rhetorically. Maybe the answer comes back, we do not trust these companies. Well, let me tell you, we have added an audit. Every company that does this has to be audited by the IRS. It is automatic. So I am very pleased to present this admendment tonight. I am looking forward to hearing from Senator ENSIGN. I know we have a debate for which we will stick around, but at this point I will yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, I wish to congratulate and thank my colleague from California, Senator BOXER. A few years ago, we worked on an amendment together. Not a lot of people knew about it. The first time it was voted on in the Finance Committee, most of the Republicans in the Finance Committee voted against it. I remember talking to Senator Nickles at the time. He was leading the charge with the Republicans against the amendment, frankly, because a lot of people did not understand it.

It does not sound right that someone who invested overseas can bring the money back for less than what they pay in the United States. But the problem is that companies, if they have to pay a 35-percent tax on the money to bring it back, as Senator BOXER and I recognized it is common sense, they are not going to bring the money back.

The chart Senator BOXER had clearly showed that. Very small amounts each year of the profits that companies made overseas actually came back into the United States, until we passed what we called, at the time, the Invest in the USA Act.

The outside economists got it. They understood it. They projected—Allen Sinai, who was the economist at the time, did the studies. He predicted between $300 and $400 billion would come back to the United States and it would actually produce tax revenues, it would produce jobs.

Guess what happened, $360 billion came back to the United States. The Congressional Budget Office, Joint Tax, they said only about $135 billion would come back, and it would lose revenue to the Federal Government.

Well, a minimum of $16 to $20 billion was paid in taxes on the money that was repatriated, so it only increases revenues to the Federal Government. It did not hurt the deficit; it actually helped the deficit. The economists have studied the indirect and the direct revenue effects of the jobs that were saved and the jobs that were created. The estimates are closer to $34 billion of additional revenue, tax revenue to the Federal Government from the last repatriation.

So the Invest in the USA Act, which Senator BOXER and I worked on in a bipartisan fashion, passed 75 to 25 in the Senate. It turned out to be a great success. So we are trying to put a new version of this on this bill. To our amazement, the outside economists again are predicting that $565 billion this time is going to come back to the United States.

There is about $800 billion sitting overseas. The companies are not bringing it back. It creates jobs overseas. That helps the banks that are overseas with their capital. They are not bringing it back because they have to pay up to a 35-percent corporate tax rate.

We want to bring foreign earnings back one time. If they bring the money back in the next 12 months, we charge them a 5.25-percent tax. Well, is not 5.25 percent on $565 billion better than 35 percent of zero?

This is common sense. That is going to help the deficit. We have to get real about this and put some commonsense thinking into this.

I commend to my colleagues two studies: One is by Allen Sinai and the other by Robert Shapiro and Aparna Mathur. By the way, Robert Shapiro, former Clinton adviser, liberal economist; Allen Sinai, by any stretch of the imagination, at best a moderate economist. These are not rightwing radical economists. These are not neoclassical economists who are talking about this.

I ask unanimous consent to have their conclusions printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USING WHAT WE HAVE TO STIMULATE THE ECONOMY: THE BENEFITS OF TEMPORARY TAX RELIEF FOR U.S. CORPORATIONS TO REPATRIATE PROFITS EARNED BY FOREIGN SUBSIDIARIES

(By Robert J. Shapiro and Aparna Mathur, Jan. 2009)

CONCLUSION

In this analysis, we have evaluated the economic effects of the 2004 American Jobs Creation Act, which provided one-year of favorable tax treatment for repatriated profits from foreign subsidiaries of U.S. corporations. Using newly-released data from the Internal Revenue Service on repatriated earnings by industry under this program, we examined the range of stimulus-related effects, including significant positive effects on employment, domestic capital spending and wages associated with the use of repatriated profits for purposes assigned under the legislation, as well as significant revenue gains for the federal government.

This report extends this analysis to estimate the effects of a comparable one-year policy in 2009. We conclude that a one-year policy of taxing repatriated foreign-source profits at a 5.25 percent rate, as in 2004–2005, would have substantial stimulative effects on the current recession and expand capital flows in the currently-constrained financial system. We estimate that such a policy would result in the repatriation of nearly $421 billion in foreign-source income held abroad, including nearly $340 billion repatriated by U.S. manufacturers. Under the permitted purposes of the 2004 Act, this policy in 2009 would result in an additional $97 billion for job creation or retention, $101 billion for new capital spending, and $52 billion to pay down domestic debt. The additional funds used for employment could create or save an estimated 2.6 million jobs, and the additional funds used for capital investments could lead to long-term average wage increases of nearly 1.3 percent. The policy could produce more than $22 billion in direct corporate tax revenues and another $22 billion in individual income tax revenues on wage income stimulated by the job creation and job retention and by the wage increases associated with the additional capital spending. We further estimate that the policy could produce or free up $52 billion used to reduce the domestic debt of companies repatriating foreign-source income, providing an infusion of new capital into the financial system equivalent to 21 percent of the $250 billion provided in 2008 for bank equity infusions under the current TARP program.

This analysis shows that a temporary policy of sharply reducing the tax on profits held abroad by foreign subsidiaries of U.S. companies can play a meaningful role in stabilizing and restoring U.S. employment, capital spending and wages in the current deep recession, and provide additional liquidity to the U.S. financial system.

MACROECONOMIC EFFECTS OF REDUCING THE EFFECTIVE TAX RATE ON REPATRIATED FOREIGN SUBSIDIARY EARNINGS IN A CREDIT- AND LIQUIDITY-CONSTRAINED ENVIRONMENT

(By Allen Sinai)

CONCLUDING PERSPECTIVES

All-in-all, repatriation of foreign subsidiaries' funds via a program similar to the American Jobs Creation Act (AJCA) of 2004 that allows an 85% dividends-received-deduction and provides a lift to the U.S. business sector and significantly improves the financial position of nonfinancial corporations. The program works through providing an exogenous lift in business cash flow and then through the uses of the new cash flows by increasing corporate condition through the uses of new cash flows for capital spending, R&D, jobs, and strengthening of corporate balance sheets. The overall economy gains in growth, jobs, and the lower unemployment rate as a result.

Increased liquidity, less need for credit, and much greater cash flow to nonfinancial corporations stimulate business capital spending and capital formation, R&D, and hiring to raise the growth and levels of real economic activity. This comes at the cost of only a slight increase for inflation. The federal government budget deficit actually improves, benefiting from the taxation of funds that would otherwise be untaxed and left abroad and from increased tax receipts because of a stronger economy.

Depending upon assumptions made with regard to repatriated funds later in the period, there may be no cost to the federal government, with net, ex-post new higher tax receipts and a lower budget deficit than otherwise from the stronger economy.

Essentially repeating the AJCA in the current context of a credit- and liquidity-constrained environment appears to be a "win-win" event for all, the exception being those countries from which U.S. funds are repatriated. The other cost, which is arguable, is the possibility of an incentive to keep earnings abroad, awaiting another one-time tax break for repatriation.

This cost would appear to be minimal compared with the benefit of repatriation to the economy, businesses and in the credit- and liquidity-constrained situation that currently exists.

Mr. ENSIGN. What their studies are showing today, as they showed before we acted in 2004, is that money is going to come back. The Treasury actually will be helped. Jobs will be created in the United States. And a side benefit is $565 billion comes into the banks in the United States to help capitalize the banks. What are we all talking about here? That our banks don't have enough capital. This, without a cost to the taxpayer, brings capital back.

But in the wisdom of Joint Tax, they actually say that this bill is going to cost money, that it is going to decrease revenues to the Federal Government, where all the evidence by outside economists as well as all the evidence by history shows otherwise. Look at this. Every year money being repatriated to the United States, pretty consistent down here, below $50 billion was brought back in each year. Guess what. We passed the Invest in USA Act in 2004. Repatriation shot up to $360 billion. Look what happened the next year. It went right back down, and it has been down since.

Mrs. BOXER. Will my colleague yield?

Mr. ENSIGN. I will.

Mrs. BOXER. I have been advised by my staff that Joint Tax today told us that in the first 2 years we will get revenues of $5 billion. Then they go off and speculate as to what is going to happen in 2017. So we can tell our friends here, in the first 2 years, Joint Tax tells us we are going to gain $5 billion. Obviously, they are off on that. We got $16 billion the last time. But even they are saying in the early years we gain revenue. I wanted to make sure my friend knew that.

Mr. ENSIGN. I was aware of the new numbers coming out of Joint Tax. But the outside economists say this will probably mean $45 billion in direct revenues, not including revenues produced when you actually have people in jobs and people paying taxes who are earning the money in those jobs. We have some great examples of what businesses did with that.

But let me quote Dr. Tyson, who was the chairman of President Clinton's Council of Economic Advisers. She recently wrote a report that said $565 billion would be repatriated. The money would be brought back to the United States. She believes it could raise $28 billion in investment in renewable energy projects alone, health care initiatives, and broadband deployment.

We have bipartisan economists saying this is going to work. The only people who don't seem to think this is going to work are the people somehow inside the walls here in Washington, DC who don't seem to get that if you have to pay a 35-percent tax, it is better to keep the money overseas.

One of the great American companies is Microsoft. Do you know that Microsoft has no exports from the United States. They have a lot of them from Ireland. Guess why. Ireland has a 12.5-percent corporate tax rate. If they pay that and they want to bring the profit back to the United States, they have to pay a lot of money, up to a 35-percent tax rate. So guess what they do. They keep the money in Ireland. They produce products in Ireland, and they export those products from Ireland instead of bringing the money back to the United States and creating jobs where they can have exports from the United States. From a commonsense perspective, it makes no sense to me to oppose this piece of legislation that will help capitalize our banks. It will help improve the capital structure of our businesses, because the money, as Senator BOXER so eloquently discussed, can only be used to hire and train workers. It can only be used for research and development, for capital improvements, for acquisition of businesses that may be distressed. That is certainly what Oracle did. Oracle bought two companies. They outbid a German company that was going to take 2,000 jobs outside the United States. Oracle buys them, keeps them in the United States, and then over the next few years increases employment at both places. Dell built a plant where they hired 1,800 workers. Those are good things to do with the money and more companies will do exactly this.

We look forward to the debate. I think it makes common sense. I thank my colleague from California, Senator BOXER, who has done great work this time as she did last time. I appreciate working with her.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this may sound like a good idea, but it isn't. There are a lot of reasons. First, it is a question of fairness, fairness to American companies that do their business in America compared with American companies that do their business in America and maybe significantly overseas. If you are an American company and you are doing business in America, let's say you are doing pretty well. You pay the standard 35-percent corporate rate; that is, if you are an American company. If you are an American company but you have significant overseas operations,

subsidiaries and businesses in the Cayman Islands and other offshore entities, under this bill you don't pay that 35-percent rate that the American company pays that is doing business. You pay a much lower rate under this bill and basically pay 5 percent. I think that is about it.

So on the first level, this is totally unfair. Here we are, an American company doing business in America. We have to pay the full 35-percent corporate tax rate compared with companies that have significant revenues overseas. They bring it back to the United States, and they only pay 5 percent. These are companies that are taking advantage of the current tax laws by bringing it home, especially bringing back home repatriated income.

Under our tax laws, income by an American company earned overseas, active income, is not taxed unless it is brought home to the United States. But when it is brought home, then it is taxed at the basic 35-percent rate. There are some who claim that that revenue overseas is trapped. It is trapped overseas. Because they are bringing it back home, where they have to pay our rate. That is a totally unfair mischaracterization. It is not trapped. It would be trapped if they had to pay a penalty to bring it back, say a 70-percent rate. They bring it back at the ordinary rate, the rate the other companies have to pay. So it is not trapped. It is just that companies want to take advantage of this argument that they have to do it to create jobs.

Data shows that the last time we enacted something such as this, there were virtually no new jobs created in the United States. Why is that? Because companies use this money for other purposes. If there were provisions in the law that they had to use to it create jobs—money is fungible. So they say: OK, we will use some of this to make our payroll. Then we will use the money to pay dividends, go pay stockholders, go do something else. It is so easy to get around the nominal putative provisions in this amendment.

I must say also this is expensive. This costs $30 billion over 10 years for no good reason. Sure, if I am an American company with significant overseas operations and I parked a lot of my, say, patent development over in the Cayman Islands—and that is what they do, many of them, they develop a patent in the United States and park it over in the Cayman Islands, enjoy a very low tax rate, and then send the revenue generated by that patent back to the United States, that is what they want to do under this amendment—sure, I would like to do that, if I were an American company. I don't want to pay taxes, compared with the garden variety American company that does have to pay taxes.

There are a lot of reasons why this is a bad idea. It will not create new jobs. In fact, there is no job creation according to a study, which I can put in the RECORD, done on the last repatriation provision. We also know from the IRS that most of the dividends in 2004 came from tax havens such as Bermuda and the Cayman Islands and other low tax jurisdictions such as Ireland and Switzerland. These companies took advantage. It is not illegal, but they took advantage of the law by parking their operations over in those countries.

I do not think we should be rewarding bad conduct by enacting this amendment. This is an enabling kind of amendment. It encourages and enables future conduct. Where companies would say they developed a U.S. patent, they would sell the patent, put the cash in an overseas subsidiary in the Cayman Islands, and that sub then buys the patent and the money is then repatriated back. It is very much at the expense of good, solid American companies doing business in America.

This amendment will not encourage business to reinvest in America. The last evidence shows it did not happen. Money is fungible. A lot of it went to stocks and dividend payments.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Before the distinguished chairman of the committee might leave the floor, he said some things that are not true, so I wish to point out to him that I am holding in my hand a report done by Robert J. Shapiro and Aparna Mathur. Robert Shapiro was a former Under Secretary of Commerce for Economic Affairs under Bill Clinton. He says that almost 2 million jobs were created the last time we brought the money home.

Let's take a look at that chart again, because I think it is worth looking at. He shows where they were created. Job creation or retention: 1.6 million manufacturing. They either retained it or created it. He goes through how many of them were food industry, paper, chemical.

I can tell you about Oracle, which was stated by my distinguished cosponsor, that Oracle went in and bought companies that were going downhill and were going to be bought up by a foreign company and saved those jobs. I can tell you, because we have the list of things that were done. We will take a look at Cisco.

And then my friend, the chairman of the committee, talks about these companies as if they are some terrible people. Cisco Systems, we should be proud of Cisco Systems. Intel, we should be proud of these companies. Cisco brought back $1.2 billion in 2004. They were right here. And it was used to create 1,200 R&D engineering jobs in the United States. Cisco says they have added 8,500 jobs in the United States, excluding employees added through acquisitions.

So my friends who are opposing this are going to stand up and throw out the horror stories and numbers. We have the studies. It doesn't take a degree—although I have one—in economics to understand that if money is sitting offshore and it isn't coming in in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, and then in 2005, it jumps up and comes in, gives $18 billion to the Treasury, and according to Robert Shapiro and Laura Tyson, we see millions of jobs saved, then you can stand up and demagog this thing to death. I could do it. They are going to demagog this to death. But I have the facts.

I also want to say that there were abuses the last time. The spirit of the law was not followed. The law was weak. That is why this is a very strong amendment. We tie down what they can spend. They have to have maintenance of effort. And any company that does this must be audited. It is in there. You show me another amendment that gives a tax break that does that kind of due diligence.

My friend can stand up there and say it didn't work the last time and it won't work this time. We have evidence to the contrary. We know what happened. Even Joint Tax says in the first 2 years we are going to make $5 billion. The whole notion that these companies are going to bring the money in out of the goodness of their hearts, I wish they would. Believe me, I wish they would. So you will hear more of this attack, and I hope you will put it into perspective, because the facts are otherwise.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Montana.

Mr. BAUCUS. Mr. President, I will speak briefly. I know others want to speak. I asked the Congressional Research Service to investigate this question, and I have a memorandum from them dated January of this year. It is from Jane Gravelle, senior specialist in economic policy. Jane Gravelle is a very respected analyst at the Congressional Research Service. This is an independent study. She has no ax to grind except to just get the facts.

Let me briefly indicate some of the findings they have. I will read here:

> The following is a list of firms with repatriations and job reductions—

Not job additions, ''job reductions''—

> along with the news source, in order of the size of the repatriations. The total in repatriations for these twelve firms is $140 billion, or one third of the total repatriations of $312 billion reported by the Internal Revenue Service.

First:

> Pfizer repatriated [in that period] $37 billion. According to a New York Times Editorial . . . [and lots of other sources] Pfizer planned to lay off—

''Lay off,'' not add, ''lay off''—

10,000 employees.

I might say, according to Michelle Lederer, of Slate Magazine, in an article entitled ''The $104 Billion Refund,'' dated April 13, 2008, Pfizer had a 106,000 job loss in 2005.

Merck repatriated $15.9 billion and announced layoffs of 7,000 workers. . . .

Not additions—layoffs.

Hewlett-Packard repatriated $14.5 billion with a layoff of 14,500 jobs.

Procter and Gamble repatriated $10.7 billion . . . and cut jobs by an unspecified amount. . . .

We do not know what that number is.

IBM repatriated $9.5 billion; it added only 400 jobs worldwide out of 345,000 [jobs] but eliminated 5 million square feet located in the United States. . . .

Pepsi Co. repatriated $7.5 billion and laid off 200 to 250 Frito Lay workers. . . .

The list goes on in descending order. The other amounts are not as great.

So there is ample documentation that companies that have repatriated did not add; they laid off. Why? It makes sense because the money that comes back is fungible. They can use it for any purpose—any purpose—they want. It is not going to create jobs. They would like to have it come back and say it creates jobs, but it does not.

Now, my good friend from California said: Well, Joint Tax scores this positively in the first 2 years. That is right. But over 10 years, it is negative $30 billion, and a positive score does not mean jobs. A positive score just means there is more money for Uncle Sam because they are paying a lower tax rate. But that begs the question: What are they going to do with those dollars? I submit, based upon the evidence we have from the Congressional Research Service, they do not use it for new jobs. Past experience indicates, if anything, it is that these companies, in fact, took this money and cut jobs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, first of all, there is not fungibility this time. Senator BOXER and I worked very closely to make sure there were very tight uses of the money, and there is going to be IRS audits afterward to make sure they use the money exactly how the bill specifies.

The other thing is the distinguished chairman of the Finance Committee was trying to point out the companies repatriated money and then laid off workers, and he was trying to point out that was somehow a causative effect. It had nothing to do with it. Ford repatriated $1 billion almost and laid off 30,000 to 40,000 employees. OK. Ford had a lot of other problems. These companies had a lot of other problems.

Hewlett-Packard had huge problems going on, and the repatriation made it a lot better, so they ended up in a short period of time laying off some people, but in the long run they ended up increasing American employment over the next several years because they were in a better financial position. That is the way our companies are today. You could take a lot of other companies during that same period of time that did not repatriate a dollar and laid off people. So what did repatriation have to do with anything?

Now, the chairman of the Finance Committee brought up that it is a question of fairness, that U.S. companies doing business overseas would only have to pay at a 5.25-percent tax rate on the money they made overseas, while companies in the United States pay a 35-percent corporate tax rate. Well, I will join you right now in lowering the corporate tax rate in the United States. I will join you hand in hand to lower it. By the way, if you lower it, you do not have to do the repatriation amendment. As a matter of fact, they tell us that at somewhere between a 20-percent and 25-percent corporate tax rate, you do not have to do repatriation because then money can flow where money would be used most efficiently, and a lot of this money would come back on its own to the United States. The problem is, the way the tax structure is set up today, it encourages companies in the United States that have invested overseas to keep the money there because it is too prohibitive to bring the money back to the United States.

So I ask the rhetorical question, once again: Is 5.25 percent of $560 billion better than 35 percent of zero or 35 percent of a small number? That is really what we are dealing with here. So whether it is CRS, whether it is Joint Tax, they just do not seem to get it. The outside economists get it. They understand it. That is why their studies show 2 million jobs will be created this time, maybe more than that. Actually, Shapiro actually says it will be about 2.6 million jobs created or saved with this amendment. So I think the facts are clearly on our side on this issue. Whether it is a fairness issue or whatever, the bottom line is we want to help the United States of America.

The last point I will make is, if you did nothing with this money—absolutely zero—if we required nothing except for the money to come back to the United States and come in to our banks, wouldn't that be a good thing right now? Common sense: Our banks need capital. We need liquidity in the United States. Let's try to follow this simple formula: In order to have employees, you must first have employers. OK. Are you with me so far? In order to have employers, you have to have capital.

Mr. President, $560 billion in capital leads to a lot of employees. That is capitalism, folks. You need capital to have employees. It is a simple formula. Let's get this right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I have been listening to this debate and I am kind of, let's say, astounded by the arguments of the proponents that somehow or other you can cite the Joint Tax Committee for how much money will come into the Treasury for the next 2 years and then trash the Joint Tax Committee for everything else they say. They are not outside economists, we are told; they are inside economists. Yet the facts that the Joint Tax Committee give us for the years 2009 and 2010 are cited as supporting the proponents' argument because it shows that money comes into the Treasury during those 2 years, but in order to sustain their position, they have to ignore all the rest of the Joint Tax's position, which is that this costs almost $30 billion in 10 years.

Is it just that the outside economists take over the Joint Tax for the last 8 years? This argument about outside economists, inside economists—there are economists who differ on things. We rely on Joint Tax. These are independent, objective economists whom we have to rely on, and do rely on, not just for some of the things they say, as some of the proponents want to have it, but for what they tell us about this amendment.

This amendment will cost us over the first 5 years, $3 billion—that is Joint Tax—over the 10 years, $28.6 billion. That is a major loss to the Treasury, and we cannot afford it. This is a tax gift to those companies that move operations overseas, and then produce overseas, and then have no tax on their profits because those taxes are deferred until they bring those profits home. Our tax structure says when you bring them home, you should pay the same tax as your competitors pay in the United States. The companies in the United States that do not move operations overseas, they pay up to a 35-percent tax.

By the way, the Senator from Nevada has an argument. The basic problem is the size of the tax that we impose on corporations. That is the fundamental issue. But what the proponents are doing is creating a competitive advantage for those companies that move operations overseas because they do not pay the 35-percent tax if they do not bring back those profits.

Then, we were told 5 years ago: Let's just, one time—we were assured just once—let them bring back this money and only hit them for 5 percent. We were assured it would be a one-time-only deal. It would not be repeated, to use the words of the conference report. Lo and behold, now the proponents—the same proponents—want to repeat this. And what has happened—and this is not just me saying this; this is the CRS saying this—is the companies wait for this opportunity believing that

once again we are going to allow this kind of repatriation at a much lower rate. They hold money overseas, awaiting the time when they can bring it back at a 5-percent rate instead of paying the same tax rate their domestic competitors pay, which is up to 35 percent. So this ends up—with this kind of repatriation, when we repeat it this way—being an incentive to keep the profits overseas, waiting for the time when they can be repatriated at the lower rate.

Now, I want to quote some other inside economists since the distinction seems to be important to the proponents, and they are in the CRS. What does the CRS say about the 2004 repatriation package that was passed? The chairman of the Finance Committee has quoted the CRS for some of the data, and I am not going to repeat that. It is pretty powerful as to the lack of impact in terms of jobs and in terms of investments from that repatriation. They are inside economists, yes, but objective economists, independent economists not paid by anybody else to make a study. You can get economists, I am sure, who are going to reach different conclusions on this issue. But these objective, independent economists, whom we rely upon—frankly, I rely on much more than outside economists who have all kinds of connections to all kinds of organizations, and no one knows exactly on whose payroll they are when they make studies—the Congressional Research Service, with independent, objective economists, what does it say about that 2004 bill?

They say: Imperial evidence is unable to show a corresponding increase in domestic investment or employment, that the repatriations did not increase domestic investment or employment. That is what they say. You cannot show any empirical evidence. Or put it this way—this is their conclusion, not mine—their conclusion: That empirical evidence does not show an increase in domestic investment or employment from what we did last time. Little evidence, they say, exists that new investment was spurred.

Some outside economists, Foley, Forbes, wrote the following: Repatriations—they are talking about in 2004—did not lead to an increase in investment, employment, or R&D, even for the firms that lobbied for the tax holiday stating those intentions. Instead, a one-dollar increase in repatriations was associated with an increase of approximately one dollar in payouts to shareholders.

Those are outside economists, for what that distinction is worth. When companies move jobs offshore and they make profits overseas, they have a competitive advantage frequently because labor might be cheaper, and that is something we should not encourage, that movement of jobs. Our Tax Code should not give an incentive to the movement of jobs overseas. It does right now because you defer the profit you make overseas and don't pay tax on it. That is already an incentive in the Tax Code which, frankly, I don't like, and there may be, hopefully, some effort to correct that with this administration and in this body. But at least when they bring back the profits, they ought to pay the same tax their competitors pay.

The argument is made that they are not going to bring back the profits, that we lose money to the Treasury. They, the proponents, cite a study—and I believe they are relying on a calculation from the Grant Thornton firm, although I am not sure; that name has not been used here. But I think this is the assessment that is being relied upon. Here is what Joint Tax said about that calculation:

It ignored the fact that a significant part of the $18 billion in revenues that it attributed to that 2004 Act would have been collected by Treasury in any event as dividends were paid in the ordinary course of business over the 10-year budget window. Thus, the calculation—

And this is Joint Tax speaking—

is not a revenue estimate at all.

When the Joint Committee on Taxation issued its revenue estimate in 2004 on the impacts of the 2004 repatriation—a projection of how much additional tax revenue would be generated or lost by that proposal—it projected $2.8 billion in additional revenue would be generated the first year, but the Joint Committee estimated that for the 5-year budget cycle, 2005 through 2009, the repatriation proposal would cost the Treasury money—a loss of $2 billion, to be exact. The revenue estimate for the 10-year budget cycle of 2005 through 2014 was estimated by the Joint Committee on Taxation to be a loss of $3.3 billion.

We have to rely on these independent experts. They may be in-house, they may be ours, we appoint them, but we have to rely on them. This distinction between inside and outside economists, it seems to me, if anything, should work to the advantage of the independent, objective, inside economists on whom we rely. These are nonpartisan experts we put in place to give us the very projections which we have in front of us tonight. Those projections are mighty clear. Those projections show, yes, year 1 and 2, there is going to be additional money coming into the Treasury, but then we start losing money big time, and we cannot afford to do that.

Finally, a lot has been said here about the fact that there are going to be audits of this—and, indeed, the amendment does provide for audits—to try to determine whether the money which comes back into the treasuries of these companies is spent for the purposes that are stated in the amendment. But what the amendment does not do is require that those funds be spent. There is no time limit saying that the funds must be spent in year 1 or year 2. What it does say is that if they are spent, an auditor is going to try to determine that they are spent for the enumerated purposes. But what it doesn't do is provide the requirement that those funds be spent in years 1 and 2, and that is the purpose of the stimulus package. The purpose of the stimulus package is to try to get money spent on job creation, and the amendment fails in that very fundamental way. It does not require the funds that are brought back to be spent for the identified purposes. It says if they are spent, it must be for those purposes, but it doesn't require that they be spent in year 1 or year 2 or year 3 or year 4 or whenever. When they are spent, they will be audited. That is an effort on the part of the proponents to avoid the problems discovered the last time we did this, but it doesn't address the fundamental purpose of a stimulus package.

So it costs us money—that is Joint Tax. The last time we did this, which was supposed to be the last time we would do this, according to CRS, it did not stimulate the creation of jobs, and it fails to pass the fundamental test that it is not required to be spent for the enumerated purposes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, there has been a generous amount of discussion and debate. In fact, I was sitting listening to it and curious that my friend from California described those who would speak in opposition as being engaged in demagoguery before she heard the opposition. So there is a clairvoyance here, I guess, before we have an opportunity to speak on these issues. I will not engage in demagoguery, but I will not disappoint her in my opposition to this piece of legislation.

Let me describe what this piece of legislation is. If you like the notion that we want to encourage companies to move their jobs from our country to other countries, then this is the legislation for you. This is an acceleration of what we have done for far too long and what some of us have tried to correct for a long time. There is an unbelievably pernicious provision in our tax laws that says: If you have two businesses right across the street from each other and one of them decides they are going to fire all of their workers and move to China, and they both make the same product and sell the same product in the United States, the only thing that is different once they have moved those jobs to China is the company that left our country and fired their workers ended up with a lower tax bill. What an unbelievable

thing to have in the middle of our Tax Code. I intend to try to correct that with another amendment, by the way. But this repatriation tax holiday amendment is kind of a cheerleader amendment for that proposition: Well, we like that; in fact, let's encourage more of it.

Let me straighten out a couple of things with facts. Everybody is entitled to their own opinion but not their own facts.

First of all, the corporate tax paid in this country is not 35 percent. That is a statutory rate. The effective tax rate paid by corporations in America is around 17 percent, not 35 percent. So when we talk about it, let's talk about what is real. All right. So big corporations on average pay 17 percent. But what we have in this piece of legislation is to say those corporations that have, in many cases, moved their plants overseas and made profits overseas with the full understanding in our tax laws that they will at some point repatriate those profits and then pay the corporate tax rate on those profits in our country, this amendment says no, that is not going to be the case. What we are going to try to do is say: If you bring them back, you get to pay a 5.25-percent tax rate—not a tax rate that ordinary folks pay, a tax rate that is almost one-half of the tax rate the lowest income folks pay. That is pretty unreasonable, in my judgment. Now, let me just say that in the ranks of bad ideas, the pantheon of bad ideas, this ranks way up there. It is tired, old, shopworn, and they try to slide it through here with a thick coat of legislative Vaseline, just sort of slip it all through here while we are debating how to promote economic recovery in this country.

Let me just turn to a few facts, if I might. This is the New York Times, Lynnley Browning talking about the one-time tax holiday—this isn't new; we have done this before—in 2004 that offered companies the chance to bring that money back at a reduced rate of 5.25 percent. Put another way, the tax break gave each company claiming it an average of $370 million in tax deductions.

So we are probably not at odds that the proposition is to give very big tax deductions to big companies. That is what this amendment is.

Now, the New York Times. The drugmakers were the biggest beneficiaries of the amnesty program—this is the 2004 program—repatriating about $100 billion in foreign profits and paying only minimal taxes. That is the purpose of this amendment. But the companies did not create many jobs in return. Instead, since 2005, the American drug industry has laid off tens of thousands of workers in this country.

I was part of that 2004 debate. I remember the claims that were made: Do this. Give a special deal to these companies. They will create jobs. Well, the biggest beneficiaries were the big drug companies. They didn't create jobs; they cut jobs in our country. A success or failure? It seems to me that is a failure, and now we have the same proposition back saying: Let's have another round of this.

Hewlett Packard: $14.5 billion in repatriated profits, 14,500 jobs cut. Colgate-Palmolive. Motorola. I could spend a lot of time, but I got rid of most of those charts, so just to show an example.

This is an editorial by the Chattanooga Times: It shouldn't escape Americans' attention—this is 2005—that U.S. companies have disclosed plans to repatriate some $206 billion in foreign profits—that is as a result of the 2004 legislation—under a one-time tax break allowed by Congress on the grounds—you guessed it—that such a big break would ignite a strong spurt in growth. The upshot, of course, is that no such job spurt appears to be materializing. Some have even announced plans to cut domestic operations and jobs.

Colgate-Palmolive repatriated $800 million in foreign profits and cut 4,450 jobs and shut a third of its plants over the next 4 years. Even the primary advocate—and I mention this because my colleague just mentioned Mr. Allen Sinai—even the primary advocate for the special one-time break, economist Allen Sinai, is now soft-pedaling his reduction of 660,000 new jobs over 5 years. He now says the efficacy of the tax break will be hard to prove.

Well, some other thoughts about this. Michael McIntyre, Wayne State University: There is no evidence that the tax amnesty added a single job to the U.S. economy.

Michael wrote a piece about this in December of 2008.

Again, Michael McIntyre: Most of the repatriated money was used to buy back corporate shares and for other expenditures favoring management. Not exactly something that fits very well in an economic recovery plan. One study found that repatriations did not lead to an increase in investment, employment, or R&D. Instead, a $1 increase in repatriations was associated with an increase of approximately $1 in payouts for shareholders.

So much for new jobs.

Professors Clemons and Kinney, Texas A&M research study: On average, firms appear to have responded to the opportunity to reap tax savings provided by the act but did not use the funds to increase domestic investment.

Finally, Robert Willens, tax and accounting authority, New York Times article: It was basically worked out to be one big giveaway. The law never took into account the fact that money is fungible.

That is the most important point. Money is fungible. You can say it will create jobs; it doesn't mean anything. It doesn't mean a whit.

So here we are in February of 2009, 5 years after the last time the proposal was made to give a very big tax break by saying to some corporations: You know what, we have tax rates that we want you to pay, but if you are big enough and if some of you move jobs overseas from our country, we will give you a 5.25-percent tax rate.

Now, this is the Bismarck, ND, phone directory. We are not a metropolis and we don't have the largest city in the country, but I could go through this phone directory and read some names. We have a lot of Olsens, by the way, and a lot of Schultzes because we are a lot of Scandinavians and Germans and so on. But I could go through all of these names and ask the question: Do you think Mr. Copeler would like to pay 5.25 percent income tax? I think so. I hope so. How about Mr. Clause? Would he be able to pay 5.25 percent? I am sure he would like it if we just cold-called him and said: What do you think about this? But no person I am aware of will be invited by this Senate to say: We would like to give you a 5.25-percent income tax rate—just the biggest companies in America, many of which move their jobs overseas, and we say: We will give you a big fat reward. We will claim that you are going to create jobs, but we know better because the studies are clear.

As for the studies that have been done about the cost of this, we don't have to debate that. This loses $29 billion in 10 years. There is no debate about that. We only have one entity that makes those estimates. This costs $29 billion in losses over 10 years.

But the major point—which I assume causes the gritting of teeth by those who believe it is demagoguery—is we have been fighting for years to say to American employers: For God's sake, stay here in this country. Don't go in search of 30-cent labor in Shenzhen; keep your jobs here. And many of them said: Tough luck. Take a hike. We are leaving. We are going to go produce Radio Flyer little red wagons in Shenzhen, China. Yes, it was produced in Chicago for decades, years, but tough luck, we are firing all of those folks and we are producing the little red wagon in China.

We are doing the same thing with Huffy Bicycles and with Etch A Sketch. I could talk about a hundred products that are all in China. We gave them all a tax break to leave. Isn't that something?

This now says to American companies that own the product that is now going to be produced in China: If you bring your money back here, we will cut your tax rate by 85 percent.

There is an old country saying, "There is no education in the second kick of a mule." We don't have to relearn what we knew in 2004. Some of us

made the case in 2004 that this was an unbelievably bad idea, that it rewards exactly the wrong thing. I am all for tax breaks. I would like to see on this bill a 15-percent investment tax credit that has an end date to it, which says if companies—small businesses and large businesses—make these investments now, before July 1 next year, they will get that. I would like to see a big investment tax credit and require investments in the early period. I am all for big tax breaks for consumers to buy cars and homes. I would like to see people start buying homes and cars again. I think that would help the recovery. I am not opposed to tax breaks. I want us to do things that provide incentives to keep jobs in this country, to create jobs, and we know—we don't have to guess—this amendment does exactly the opposite. I have heard numbers and studies discussed. This is not rocket science. We have the definitive analysis of what happened in 2004. We have an estimate of what this will cost now.

We lost jobs in 2004 and forward, and this will cost us $29 billion in lost income now. It will say to any other company, if you ever think about moving jobs overseas, understand there are enough people in Congress who in 2004 and 2009 will come up with another idea in 2014 and 2019 that will cut your tax rate to 5¼ percent some day and you will never have to pay your full measure of income tax on profits as an American corporation. This rewards all of the wrong things.

I don't accuse my opponents of demagoging. I think they are wrong and they are using bad facts. We disagree about that. I agree that there are very different opinions on this issue. One is wrong and one is right. Ours happens to be right. There is only one public interest here. The public interest is demonstrable here, not even a close question. I hope if we are talking tonight, on a day when 20,000 Americans lost their jobs—every day somebody comes home and says, ''Honey, I lost my job''—when we are trying to create jobs and restore jobs by creating an economic recovery package, we don't have people coming to the well of the Senate and saying count me in for providing a 85-percent tax cut to big companies that moved overseas, that we know will not create jobs and we know will further deepen the Federal budget deficit.

Mr. President, having given full measure and vent to my concern and interest, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I love this debate and I love my colleague from North Dakota. I am going to start off by saying I have a 9.2-percent unemployment rate in my State. People are struggling and suffering. That is why I support this amendment, which I was proud to work on with Senator ENSIGN, Senator BAYH, and Senator SPECTER.

First, my friend has it wrong. He has it absolutely wrong. We are bringing money home to America. We are not sending money out. It is already gone. Look what happened the last time we did this. The money came home. Now, you can argue theoretically in any way you want, but we have the proof. Here it is. We passed a law in 2004 and this money came home. I say to my friend from Michigan, eloquent on the point of defending the Joint Tax Committee—and I ask my friend from Nevada to back me up on this point. I say to my friend from Michigan, if I can get his attention, that we can worship at the altar of the Joint Tax Committee. I don't. I don't because they were wrong. They were wrong. It is not a theoretical argument. They were wrong.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. Yes.

Mr. ENSIGN. The opponents of this measure are saying the Joint Tax seems to be the experts we should trust. Is my friend from California aware, I wonder, that in 2004 when we were doing this debate, the Joint Tax Committee estimated this measure would decrease revenue by $3 billion? But is my friend from California aware this actually produced to the Federal Government a net of $16 billion in tax revenue? We were not hurting the Government revenue but helping it? I further ask, through the Chair, is my friend from California aware that the Joint Tax Committee, last year, scored this same measure at $18 billion? This year, they scored it $29 billion. Was last year's estimate right, or was this year's right? They were so wrong in 2004 when, by the way, the outside economists were right. The inside economists were wrong. Was my friend from California aware of those facts?

Mrs. BOXER. I was aware. The Senator is absolutely right. They said it would cost $3 billion from the Treasury and, in essence, $16 billion was added to the Treasury, and even now they are saying over the first 2 years there will be $5 billion added to the Treasury. My friends don't talk about that; they talk about the long range.

I also say to my friends who oppose us so vociferously, on the other side of this, you will find very respected economists who believe that the Boxer-Ensign-Bayh-Specter amendment makes sense. They are Alan Sinai—I don't know how my friend says he backtracked. He said this in December. Maybe he backtracked in the last 2 weeks. In December, he said that repatriation has spurred $280 billion in capital investments over a 5-year period, increased R&D development by $7 billion a year for 5 years, increased Federal revenue by $82 billion, and will create or save up to 425,000 jobs by 2012.

Mr. DORGAN. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. DORGAN. The Senator asked me about backtracking. He made the same prediction in 2004 and then backtracked. I predict he will do the same thing.

Mrs. BOXER. Joint Tax ought to backtrack. They were flat wrong. They said maybe $200 billion will come back, and $360 billion came back. They said we would lose money. We wound up with $16 billion added to the Treasury. So it is very easy to demagog. It is very easy. But my friend has it wrong.

Then my friend says that effectively the corporate rate is only 17 percent. Well, if that is true, then this is less of a tax break than he is making it out to be. You cannot have it both ways and say, look at this giant tax break and then say the effective rate is 17 percent. I suggest to my friend, as he went through the phone book in his State, thank goodness, because of the work of this Congress, people in the $40,000 to $50,000 range don't pay any taxes.

I will tell you something. I am rarely standing up here and saying a tax cut to the business community is stimulative. But this one is, because it was stimulative. We have it right here from Robert Shapiro, who worked for Bill Clinton. He said that jobs saved or created were 1.6 million from the last tax break. So my friends come here and quote Joint Tax as if we have to say they are right, when they were wrong—just wrong—wrong on estimating what would come back, wrong on estimating what would come into the Treasury. If you read these economists, whom I have heard colleagues on this side quote constantly—Laura Tyson, Alan Sinai, and Robert Shapiro—they are saying how to stimulate the economy, and this is one way to do it. To stand up here and be against it is fine. I don't mind that one bit. But to stand up here and be against it because you were for the fact that there are corporations that have earnings offshore, I abhor that, too. I want to bring them home. No matter what my colleagues say, guess what. This is a free marketplace, and they don't have to and they won't unless they have an incentive. That is a fact. We may wish it to be another way.

Look at this chart. Year after year after year, very little came back. When we took action, all of this came back. The reports are in from these economists—and most happen to be Democrats—that it worked.

Mr. ENSIGN. Mr. President, I ask my friend from California this question. It was brought up earlier that the money is going to come back anyway. The Senator from California has a chart in front of her. I ask her if she could explain the chart and that the money wasn't coming back until we lowered the tax rate. And then it went right back up after we lowered the tax rate.

Mrs. BOXER. My friend is so right to ask that. Sometimes debates are difficult to follow. They are confusing and complicated. This is not complicated. We know the way the corporations were acting before, and we know what happened when we took this chance. We got arguments from people here that money won't come back and it will not be spent here. By the way, this is a tight bill. My friend from Michigan argues that we don't force the companies to spend the money. We don't force them to spend the money. I don't even think that is constitutional. But I have to tell you this: Even if the money sat in American banks, I say to my friend from Nevada, who is my pal on this one, wouldn't that be in and of itself a reason to do this? We are breaking the backs of taxpayers to take $770 billion, I think it is, through TARP to capitalize our banks. As my friend says, if they don't spend the money right away, they let it sit in these banks that need this capital and, hopefully, they will start lending, which we hope will happen so we can get back to an orderly market. It will make the banks healthier.

My view is that this year there is more of a reason to do it than ever before—the terrible recession. We have a tight bill that will only allow this tax break to be utilized if the money is used to create jobs, where they bring the money home. That is it. Otherwise, they cannot get the break. We have a forced audit in here, and I defy my friends to find another piece of legislation that has such an audit—a forced audit.

Mr. ENSIGN. Will my friend yield for a question?

Mrs. BOXER. I am happy to, yes.

Mr. ENSIGN. A big deal has been made of which economists we can trust. I ask my friend from California, when Joint Tax scored this last time, not only were they wrong on revenue estimates, but they estimated that about $100 billion or so would come back to the United States. The outside economists estimated between $300 billion and $400 billion would come back to the United States. According to CRS this time, according to the study the chairman of the Finance Committee quoted, $360 billion came back and $312 billion was used according to the measures we put in the bill. Was she aware that the Joint Tax Committee was that far off on their estimates, not only on revenues produced but on how much money could come back?

Mrs. BOXER. Mr. President, that is right. My understanding is they were way off by more than $100 billion. So for us to say: Oh, my God, don't vote for the Boxer-Ensign amendment because Joint Tax says A, B, and C, I say to my friend, Joint Tax has been so out to lunch on this. They didn't even come close to what happened.

We can have lots of arguments, but I can tell you this: Nobody gains in America when that money sits offshore. They did not gain in 1997, 1998, 1999, 2001, 2002, 2003, and 2004. We had Oracle buying companies that were failing. We had Cisco Systems expanding. Yes, we know there were job layoffs. Of course, we know that. If Pfizer has a problem—let's just say they have a drug on the market that is causing a problem, they are going to lay off people. They are going to have problems.

We do not allow funds to be used for dividends. We do not allow funds to be used for any kind of golden parachutes or CEO pay. We do not allow buybacks of stock. We tighten it up very much.

I hope we can get to the 60 votes. I am very confident we will get a majority. I hope we get to the 60 votes. It sends a good message. The message is we do not like money sitting offshore. We want to bring it home and help the banks. We want to bring it home and help the workers. We want to bring it home and invest it in America. That is why it is called repatriation. You can get up and you can make every argument in the book, but when you do, I think you have to explain to people why economists such as Laura Tyson, Allen Sinai, Robert Shapiro are very clear, why they say that Joint Tax was off, why they say that even the last bill that was not as strong as this actually created and saved jobs, and why they predict that if we do this, it will stimulate the economy.

I know my friends would like to have a time agreement. I have no problem with that whatsoever. If there is to be a time agreement, Senator ENSIGN and I are very happy to agree to it as long as we have full measure to respond to speakers.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time until 8:15 p.m. be for debate with respect to the Boxer-Ensign amendment No. 112, with the time equally divided and controlled by Senators BOXER and BAUCUS or their designees, and that no amendment be in order to the amendment prior to a vote in relation to the amendment; further, that the Vitter amendment No. 179 not be divisible.

Mr. LEVIN. Reserving the right to object, I believe a point of order lies against this amendment. Does that preclude——

Mr. BAUCUS. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I might add, I ask unanimous consent that provided further, at 8:15 p.m., the Senate proceed to vote in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I don't understand what we are doing.

Mr. BAUCUS. We are going to vote at 8:15 p.m. and the time is equally divided.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I would agree to that, happily, if we can have 1 minute prior to the vote to restate.

Mr. BAUCUS. The Senator controls time so she can get that 1 minute. That is a gentleman's agreement, or gentlelady.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, part of this discussion has been what message does this amendment send. I will tell you what message it would send to me if we adopt this amendment. It sends a message to all corporations that do business overseas that they are never going to have to pay the regular corporate tax in this country on any earnings overseas. They are going to have to pay those on earnings in this country. If they keep a plant here and keep hiring people here, they are going to have to pay the regular corporate tax rate. But if they move those operations overseas, then they will be assured, with pretty good certainty, that every 4 or 5 years, Congress is going to come along and give them a 5.25-percent tax rate that they can bring those profits back with. I think that is a terrible message for us to be sending to U.S. corporations.

Part of the discussion has also been that U.S. corporations have to pay too much in taxes. I know Senator DORGAN said the effective tax rate, in his view, was 17 percent. I asked research to be done, and I want to show this chart so people can know what it says. The source for this information is the Organization for Economic Cooperation and Development, OECD. What this shows is that the effective corporate tax rate in this country—this is on profits generated in this country—the effective corporate tax rate is 13.4 percent. The average OECD corporate tax rate is 16.1 percent. We are way down on the list compared to most other industrial countries we compete against as far as the level of corporate tax we impose.

This amendment would say that this 13.4 percent is too high. What we need to do is say if you are going to generate your profits overseas, we are going to give you a special deal. As an incentive to put more of your operations overseas, we are going to give you a 5.25-percent tax rate on the profits you generate over there. To me that is just contrary to exactly what we are trying to do with this underlying legislation. The purpose of this legislation should be to stimulate job creation in this country. This amendment, to my mind, has the opposite effect. It promotes and incentivizes companies to move their jobs overseas.

I strongly oppose the amendment. I hope my colleagues will vote against it. I am one of those who voted for it the first time we did it because I believed what was said at that time, which was it was a one-time tax holiday. I did not realize that every 4 or 5 years we were going to be faced with another proposal to do the same thing.

If we want to redo the corporate tax rate, that is a good debate. We ought to have that debate. We ought to have it in the Finance Committee. But we should not be in a de facto way providing for a 5.25-percent corporate tax rate for anyone who is willing to earn their profits overseas.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield to Senator ENSIGN for as much time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I wish to make a couple points. Once again, I wish to get back to some common sense. Is it better for the money to be overseas, or is it better for the money to be in the United States? If it is overseas, it creates jobs. If it is in the United States, it can create jobs in the United States. That is the bottom line.

On the chart my friend from California showed earlier, the money was not coming back to the United States in any significant amounts until we passed the 2004 ''Invest in the USA Act.'' And then the next year, $360 billion came back to the United States. After that, it went back down as far as the money coming back into the United States.

By common sense, we have to know that the money is not going to come back to the United States. By doing this, we are not encouraging companies to go overseas. Quite frankly—and I said to my friend, the chairman of the Finance Committee—if he wants to lower the corporate tax rate, I would join him right now. As a matter of fact, I may be offering an amendment to do that because I believe that our corporate tax rate, being the second highest in the industrialized world, is too high, and it encourages other companies to go overseas. But we cannot do that. We do not have enough bipartisan support to do that.

Here we have a bipartisan measure. Very few things happen on this bill in a bipartisan way. This is truly bipartisan. The four sponsors of this amendment—two Democrats, two Republicans—are working together. The last time this bill passed the Senate was a 75-to-25 bipartisan vote. That should show us right now a lot of people looked at this and said it was a good idea, and a lot of people are looking at this again. It is a good idea because it makes common sense to bring money back into the United States to create jobs in the United States.

I will just say, if Joint Tax was wrong a few years ago, they are probably wrong again. As a matter of fact, I cannot even believe the last year they scored a repatriation bill with a larger scope at around $15.9 billion. This year they are scoring a more narrowly tailored version at almost $29 billion. In one year, they are that far off, and they were totally wrong back in 2004.

The outside economists are saying this is going to save or create over 2 million jobs. Isn't that what we are about, trying to create and save jobs in this bill? This particular amendment, even if it did cost the money Joint Tax is saying, creates more jobs for the dollar than anything else in this entire stimulus package.

We ought to adopt this amendment. It is common sense, and we ought to put common sense to work when we are trying to save the U.S economy.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Finance Committee chairman. Let me suggest to colleagues why this is not common sense, and I think experience tells us it is not common sense on this bill at this time, where the purpose is to create jobs and to try to get the maximum return on our investment of the American taxpayers' dollar.

The fact is, I voted for this, too, back in 2004. This was the America Jobs Creation Act of 2004. At the time, it was argued that this was going to create jobs. I, personally, believe in macro tax policy. If we were reforming tax policy, it might make sense to suggest that repatriated profits ought to be taxed at a lower rate as part of a broader tax reform and that policy of deferral ought to be revisited but not as part of this legislation.

The reason for that is very simple. During the 1-year period during which U.S. multinational corporations were able to bring profits back at a lower rate, the result was simply not what was promised by the supporters. Yes, it did result in a substantial increase in the repatriation, but it did not increase domestic investment or employment, and that is the measure by which we ought to be making a judgment.

The 2004 provision resulted in $312 billion being repatriated. In fact, one-third of all offshore earnings was repatriated. Ten firms accounted for about 42 percent of that repatriation.

The fact is that many of the firms that benefited from this during that period of time laid off workers after they brought that money back. They passed on the benefits to their shareholders. Pfizer repatriated approximately $37 billion and cut 3,500 jobs in 2005. Another company that benefited cut 7,000 jobs.

So the bottom line is, common sense tells you, if you tried something once and it didn't work, don't repeat the same mistake.

Secondly, with respect to what the Senator from New Mexico said, don't repeat a mistake so soon after you have already made it so that the message to everybody is: Oh, you can go overseas, you can create any company you want and, eventually, Congress is going to fold and wind up giving you a much lower tax rate when you bring it home.

Moreover, the provisions in here that suggest there is some limitation on how the money is going to be spent do not get the job done. One of the limitations is that you put it into research and development. You have an existing research and development entity that doesn't create a job, certainly not in the near term. You also can do acquisitions of a business entity for the purpose of retaining and creating jobs. That could be just about anything. You can argue that is the purpose, but it doesn't necessarily have the impact and there is absolutely no enforcement mechanism and no way to measure it.

At a time when we are fighting over diminished resources and what we are going to do, it seems to me this provision is simply not going to guarantee us the kind of provision of jobs we need. Past history shows that very few companies actually benefit.

I think having this tax holiday again so soon without broader tax reform is not the way we ought to be approaching this issue.

By almost every measurement, I suggest to my colleagues that common sense says this is not the time, this is not the piece of legislation, and this is not the plan to put people to work.

I yield back whatever time I have to the chairman.

Mrs. BOXER. Mr. President, can you tell me how much time remains on each side?

The PRESIDING OFFICER. The Senator from California has 10 minutes 6 seconds. The Senator from Montana has 5 minutes 34 seconds.

Mrs. BOXER. Mr. President, if you could tell me when I use 5 minutes, please.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. BOXER. Mr. President, people stand and argue against this amendment, and they say things that are not factual. They have every right to say it. I protect and defend their right to say it, but they are not factual.

Now, Senator KERRY said there is no proof that any jobs were created. Well, Allen Sinai, Robert Schapiro, and Laura Tyson have all said jobs were created and jobs will be created. Senator KERRY said, in his forceful argument against this amendment, that

companies simply didn't do anything, and now if they do R&D it will simply replace what R&D they were going to do. We don't allow this to happen. It has to be new spending, maintenance of effort must continue.

I want to call to my colleagues' attention to the report that was issued by Robert Schapiro, Under Secretary of Commerce under Bill Clinton, in which he points out that 1.6 million jobs were in fact created or retained, just in manufacturing; 102,000 jobs in wholesale and retail; in transportation he goes on and shows all the different jobs that were created for a total of 2.1 million jobs. Now, does that mean every company added jobs? No, some didn't, but it has nothing to do with this.

So the fact is, when my colleagues stand up and say, why are we doing this when it was such an utter failure, well, take your argument to Laura Tyson, take your argument to Allen Sinai, take your argument to Robert Schapiro and show them where they are wrong.

Then we are told Joint Tax has to be paid attention to. They were dead wrong the last time. I mean, they said maybe we would have $100 billion come in, maybe up to $200 billion. Well, $360 billion came in. They were way off on the revenues. The revenues they said would come in—it was $16 billion that came into Treasury. They said it would cost $3 billion. So they were wrong. So how can we stand here and try to defeat this measure?

Now, my friend from Massachusetts says this isn't the time or the place or the bill and so forth. This is a moment we can respond to this recession. We are going to do it in many other ways, and I will be supporting things and opposing things, but let me just read to you from Robert Schapiro's report—remember, a Bill Clinton Commerce Under Secretary.

As President Obama and Congress expand the catalogue of measures to help stabilize the financial system and address the economic decline, a major untapped resource sits on the balance sheets of the foreign subsidiaries of U.S. multinational corporations. These subsidiaries hold up to $1 trillion in past earnings because current U.S. law defers U.S. corporate tax on those profits until they repatriate. If those earnings were transferred to the parent companies in the United States, they could find substantial new capital investment and employment and provide additional liquidity to the strapped U.S. financial system as companies reduce their domestic debt. In principal, the earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for designated purposes.

So my friends stand here and make an argument about how horrible it is that these companies have money abroad, and I agree. I am upset about it. I was upset in 1997 about it. I was upset in 1998 about it. I was upset in 1999, 2000, 2001, 2002, and 2003. Finally, in 2004, Senator ENSIGN and I got together and we said: Let's see if we can get that money home. So for my colleagues who are lamenting the fact that this money is abroad, we say: Join with us; bring it home.

If you are saying the effective rate is 17 percent, if we can bring it in at 5.25 percent, that is less of a loss to the Treasury.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. I will take 1 more minute. Then I will retain.

So I love a debate, but I would like to debate on the facts. The facts are that this is what happened until we had the tax holiday. Now there is a new hue and cry: You did it in 2004; never do it again. Well, I think it is a good thing that Oracle bought up two or three companies that were going to go belly up and that were going to be bought out by a foreign competitor. I think that was good. I think it was good that Cisco Systems added so many jobs—more than 1,000 new jobs.

So when my friends stand and they lament the loss of jobs, I lament every job loss in this country. And I say to Cisco Systems: Good for you. You brought the money in and you did the right thing. Did every company do that? No. That is why we have tightened up this bill.

I thank the Chair, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I don't know what people are to think when they watch this or hear this debate—he said, she said, they said, we said. At the end, the question is, What is real? What are the facts? So let me see if I can uncomplicate this.

This isn't like trying to connect two plates of spaghetti. This is a place of public interest about what should we do to try to create jobs in this country. My colleagues say we are worried because there is so much foreign income overseas. That is not our worry. Our worry is that they have decided to take hundreds and hundreds of billions of overseas income that is required to pay an income tax when it comes back to this country and have said let's give those companies an 85-percent tax cut if they do what they had previously promised they were going to have to do anyway, and that is repatriate this income. That is what we are concerned about.

So let me see if I can put it in the frame of a company—Huffy bicycles. A lot of people worked at Huffy bicycles for a long time. They made $11 an hour making Huffy bicycles, sold in Wal-Mart, Sears, and Kmart, capturing 20 percent of the American bicycle market. But they all got fired. They all lost their job because that company moved to China in search of 30-cent labor in Shenzhen, China. The last day of work at the Huffy plant in Ohio, the workers, as they left their jobs and pulled out of their parking space, left a pair of empty shoes where their car used to park. Their jobs were gone, but it was the only way they could say to their employer, who moved their jobs to China: You can ship our jobs overseas, but, by God, you are not going to fill our shoes. That was the plaintiff cry of all the folks who lost their jobs who loved to make bicycles.

Guess what. Our Tax Code gives a tax break for shipping those jobs overseas. This amendment continues that very approach and says: By the way, if you ship your jobs overseas and then repatriate the income from what you have earned overseas, we will give you an 85-percent tax break.

I am telling you, it makes no sense. There is no evidence anywhere, no matter what charts you put up, that this created jobs in 2004. It did not. It cost jobs. Allen Sinai, noted economist, yes, he made the same claims then, and then backpedaled. He makes the same claims now. But let's talk a year or so from now, and he will backpedal again.

The fact is, this is a giant tax break to some of the largest companies that cut their tax bill by 85 percent without any evidence they will create jobs. In fact, exactly the opposite evidence exists because we have experienced it, and we lost jobs as a result. This also will cost the American taxpayers $29 billion in lost tax revenue at a time when we are up to our neck in debt.

So you know, let's think of what we are debating. We are debating an economic recovery program. We are going to promote recovery by dragging out a shop-worn, tired old argument that the way to do that is to give an 85-percent tax cut to companies that have earned income overseas, many of whom have fired their American workers and shipped the jobs overseas. I don't think that makes any sense at all.

In fact, if this happens—it happened 5 years ago—if it happens now and it happens 5 years from now, every company will understand, you can move jobs overseas and you will never ever have to pay the corporate tax rate when you bring foreign earnings back. You will always have somebody standing up to say we have a sweetheart deal for you.

Oh, it doesn't apply to the Joneses or the Olsens or the Larsons or the Christiansens, it just applies to the big companies that decided to park that income overseas. I say this: How about a 5.25-percent income tax rate for every American, rather than just a few of the biggest companies? How about all of us get a chance to get some of this 5.25 percent income tax rate? I don't think that is being proposed. Let me propose that.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mrs. BOXER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 3 minutes 59 seconds remaining.

Mrs. BOXER. We will call it 4, and I will take 2 and yield 2 to my friend, and we will close.

First of all, this isn't a shop-worn argument. This is an argument that is going to create jobs, if we win it. Who says it? Laura Tyson:

> Repatriation policy provides a short-run stimulus and would make funds available to support the domestic operations of U.S. companies quickly.

Robert Schapiro, Under Secretary of Commerce under Bill Clinton:

> The earnings currently held abroad would provide significant economic stimulus and financial market liquidity if a change in government policy could induce U.S. multinationals to promptly repatriate them and use them for certain purposes.

You know, here it is. If you want to get the break, these are the things you have to do. You have to hire workers. You have to use it for research and development, for capital improvements. You have to acquire distressed companies and clean energy investments.

Look, my friends. The world is the way the world is. I think Senator ENSIGN and I, Senator BAYH, and Senator SPECTER are realists. Yes, in many ways I would like to think I am an idealist. I don't like the fact that these companies are keeping their money abroad. But guess what. They are not going to bring the money back because BYRON DORGAN or BARBARA BOXER comes on the floor of the Senate and says: Please be good. Please be good. We need the capital in our banks. We need the capital to create jobs.

We need to make it profitable for them, and that is what we are doing. We did it before.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart that was done by Mr. Schapiro proving that 2.1 million jobs the last time were either created or saved.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3: EMPLOYMENT EFFECTS OF REPATRIATED FUNDS UNDER THE 2004 ACT

	Average annual wage	Job creation or retention
Manufacturing	$34,241	1,694,372
Food Manufacturing	26,497	153,100
Paper Manufacturing	39,215	36,284
Chemical Manufacturing	42,626	648,585
Basic Chemical	53,873	20,507
Pharmaceutical & Medicine	46,383	489,820
Plastic & Rubber Products	30,683	5,969
Primary Metal	41,589	2,648
Fabricated Metal Product	32,698	33,832
Machinery	36,371	33,851
Computer & Electronic Equipment	36,290	364,339
Computer & Peripheral Equipment	43,713	179,944
Semiconductor & Electronic Component	33,987	91,830
Electrical Equipment, Appliance & Component	31,564	29,880
Transportation Equipment	47,453	49,647
Wholesale and Retail Trade	28,857	102,504
Wholesale trade, Durables	36,496	29,261
Wholesale trade, Nondurables	30,775	29,226
Retail Trade	19,299	51,328
Transportation & Warehousing	31,971	6,605
Information	40,417	75,130
Software Publishers	69,782	27,213
Finance, Insurance, Real Estate, Rental & Leasing	29,620	92,524
Insurance & Related Activities	39,309	16,021
Professional, Scientific & Technical Services	31,073	20,281
Management of Companies	42,785	37,758
Other Services and Industries	22,679	115,747
Total	$32,705	2,144,921

Mrs. BOXER. Mr. President, I yield the remainder of my time to my colleague, Senator ENSIGN.

Mr. ENSIGN. Mr. President, how much time is on the opposition side?

The PRESIDING OFFICER. The opposition has 1½ minutes remaining.

Mr. BAUCUS. I will take it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, there is a parade of repentant sinners here. The Senator from New Mexico said he voted for it last time; it is a bad idea, and he is going to vote against it this time. I think the Senator from Massachusetts said the same thing: He voted for it last time, he learned it is a bad idea, it didn't work, and he is voting against it this time. I confess, Mr. President, I am in that same situation. I voted for this last time, it is a bad idea, it didn't work, and I am very much opposed to it this time.

Both the Senators from North Dakota and New Mexico have stated the fact that this amendment is going to encourage companies to go overseas. That is true. But the effect is even more pernicious than that. This amendment encourages companies to go to low-tax jurisdiction countries, such as the Cayman Islands and the Bahamas. Why? Because, currently, an American company that has operations overseas, say the U.K., it pays the U.K. tax. It does not pay the American tax until it is brought back, with the U.K. tax offsetting the American tax. That is standard law. Under this amendment, because the income coming back will be at a very low rate—5 percent—there is no incentive for these companies to go to a higher jurisdiction country because there is no need to offset. Rather, there is an incentive to go to the lower jurisdiction country—a low-tax jurisdiction country—because the tax rate is so low, such as the Cayman Islands or the Bahamas, and all that.

So not only does it encourage companies to go overseas, it encourages them to go to low income tax countries such as the Cayman Islands and the Bahamas. This is a bad amendment, and I urge its defeat.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, first of all, to set the record straight, Senators BINGAMAN and KERRY both voted no the last time.

Several other things. The Senator from North Dakota said he would like all Americans to pay a 5-percent income tax, such as in this bill. Well, that means that he would raise taxes on 40 million Americans who pay no income tax today. Let's get the facts clear. Last time, $360 billion came back into the country and created about 2 million jobs. This time, more money is going to come back. Almost double, about $565 billion the estimates are, is going to come back this time. We have to ask ourselves this commonsense question.

The opponents would argue the money came back last time and no jobs were created. From a commonsense perspective, if the companies did not do anything that they said they were going to do last time, if money is in the United States—you need capital to create jobs. Right now we have a banking system that does not have capital. Capital markets are shut down. Guess

what? Jobs are not being created because there is no capital to invest to create jobs.

If $360 billion came back last time and $565 billion is going to come back this time, doesn't anybody with any kind of common sense know jobs are going to be created with that? We have to get real. Put your thinking caps on. I don't care what Joint Tax says. I don't care what the CRS says. Put your commonsense thinking cap on, and we are going to have a good piece of legislation if we adopt this amendment.

I encourage all of us to vote in a bipartisan fashion for this bipartisan amendment. I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Michigan wishes to enter something in the RECORD.

Mr. LEVIN. Mr. President, I commend to the attention of my colleagues the Congressional Research Service report R40178, ''Tax Cuts on Repatriation Earnings as Economic Stimulus: An Economic Analysis,'' that indicates what little evidence there was about new investments from the 2004 decision, which is available at www.crs.gov.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending amendment violates the pay-as-you-go section of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mrs. BOXER. Mr. President, I move to waive the relevant section and ask for the yeas and nays.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to waive?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 42, nays 55, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—42

Akaka	Bond	Burr
Alexander	Boxer	Chambliss
Bayh	Brownback	Coburn
Bennett	Bunning	Cochran
Corker	Isakson	Reid
Cornyn	Johanns	Risch
Crapo	Kyl	Roberts
DeMint	Lieberman	Shelby
Ensign	Lugar	Specter
Feinstein	Martinez	Thune
Graham	McCain	Vitter
Hatch	McConnell	Voinovich
Hutchison	Nelson (NE)	Warner
Inhofe	Pryor	Wicker

NAYS—55

Barrasso	Gillibrand	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Reed
Bingaman	Inouye	Rockefeller
Brown	Johnson	Sanders
Burris	Kaufman	Schumer
Byrd	Kerry	Sessions
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Enzi	Merkley	
Feingold	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the ayes are 42, the nays are 55. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the status of the pending amendments offered by the Senator from Iowa and myself is a procedural snarl. I want to get the $6.5 billion appropriated for NIH. I am going to withdraw my amendment and join with Senator HARKIN on the amendment for $6.5 billion for NIH without an offset.

AMENDMENT NO. 101 WITHDRAWN

The PRESIDING OFFICER. Is the Senator seeking to withdraw his amendment at this time?

Mr. SPECTER. I am.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, what is the regular order?

AMENDMENT NO. 178

The PRESIDING OFFICER. The question is on agreeing to amendment No. 178, offered by Senator HARKIN of Iowa.

Mr. ENSIGN. Is it subject to a point of order? I believe it is, and I make a budget point of order.

The PRESIDING OFFICER. The current version, as modified, does contain the element the Senator asked about.

Mr. ENSIGN. I raise a point of order on this amendment.

Mr. HARKIN. Mr. President, I move to waive the relevant parts of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ENSIGN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the point of order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 178, as modified.

The amendment (No. 178), as modified, was agreed to.

Mr. SCHUMER. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, that was the last rollcall vote tonight. There will be a number of amendments offered tonight. In fact, it is my understanding that Senator FEINGOLD has an amendment he wants to offer regarding earmarks. The next Republican amendment will be an Isakson amendment regarding housing.

Tomorrow, we are going to be in session at 10:30 with no morning business. We will be in full operation. As some know, we have an appointment downtown. We will have the floor manned. There are a number of amendments already lined up to be offered tomorrow. We hope Senators will come aboard.

We have had a very good day. There have been some very good debates on various amendments. I hope tomorrow will be the same. We will work into tomorrow night. We are going to work Thursday, and, with a little bit of luck, we might be able to finish this bill this week.

I know there is a lot to do, but I hope people will understand where the votes

are lined up. We have had a number of votes that have been not dominated by Republicans or Democrats, a lot of mixture. We hope that as the debate continues, people will only offer those amendments they think will really help the bill and will help us work toward finishing this legislation.

Remember, we have another big step. At this stage, unless something goes untoward, Senator MCCONNELL and I think this matter should move to conference. We have two choices that we have done before. The House can send us a message, but that has created problems in the past. We hope we do have a conference. At this stage, unless something goes awry, that is what the Republican leader and I hope to do. We would appoint conferees when the bill is passed. We have to complete this legislation, including the conference, before we leave here for the Presidents Day recess. The mere fact we have a conference doesn't mean it is finished like that. This will be a conference where Democrats and Republicans will work toward what needs to be done.

I hope everyone will come tomorrow invigorated to proceed on this legislation. This legislation is extremely important. People have differing views as to what should be in it and what should not. That is what is going on now, to try to make that determination. The only ones who can decide that are us, the Senate. I would hope everyone would look toward when they want to get out of here, having done a decent job in completing this most important legislation.

AMENDMENT NO. 106 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. I ask unanimous consent to set aside the pending amendment for the purposes of calling up amendment No. 106.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 106 to amendment No. 98.

Mr. ISAKSON. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases)

Strike section 1006 of title I of Division B and insert the following:

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after December 31, 2008, and

''(B) before January 1, 2010.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section, the term 'qualified principal residence' means a single-family residence that is purchased to be the principal residence of the purchaser.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a qualified principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

AMENDMENT NO. 140 TO AMENDMENT NO. 98

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I have an amendment, No. 140, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, and Mr. COBURN, proposes an amendment numbered 140 to amendment No. 98.

Mr. FEINGOLD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide greater accountability of taxpayers' dollars by curtailing congressional earmarking and requiring disclosure of lobbying by recipients of Federal funds)

At the appropriate place, insert the following:

SEC. _____. CURTAILING CONGRESSIONAL EARMARKS AND LOBBYING DISCLOSURE.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''CONGRESSIONAL EARMARKS

''SEC. 316. (a) IN GENERAL.—On a point of order made by any Senator:

''(1) No unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b) POINT OF ORDER NEW LEGISLATION.—

''(1) SENATE MEASURE.—If a point of order under subsection (a)(1) against a Senate bill or amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) HOUSE MEASURE.—If a point of order under subsection (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT.—If the point of order against an amendment under subsection (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT BETWEEN THE HOUSES.—

''(1) SENATE.—If a point of order under subsection (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) HOUSE.—If a point of order under subsection (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) OTHER POINTS OF ORDER.—The disposition of a point of order made under any other rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subsection (a) with respect to the same matter.

''(f) SUPERMAJORITY.—A point of order under subsection (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) FORM OF POINT OF ORDER, MULTIPLE PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subsection (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

''(2) SUSTAINED POINT OF ORDER.—If the Presiding Officer sustains the point of order under paragraph (1) as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph.

''(3) MOTION TO WAIVE.—Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subsection (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

''(4) APPEAL.—After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) DEFINITION.—For purposes of this section, the term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV of the Standing Rule of the Senator—

''(1) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(2) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(i) CONFERENCE REPORTS.—

''(1) IN GENERAL.—On a point of order made by any Senator, no unauthorized appropriation may be included in any conference report on a general appropriation bill.

''(2) POINT OF ORDER SUSTAINED.—If the point of order against a conference report under paragraph (1) is sustained—

''(A) the unauthorized appropriation in such conference report shall be deemed to have been struck;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(C) when all other points of order under this subsection have been disposed of—

''(i) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(ii) the question shall be debatable; and

''(iii) no further amendment shall be in order; and

''(D) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(3) FURTHER POINTS OF ORDER.—The disposition of a point of order made under any other provision of this section, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under paragraph (1) with respect to the same matter.

''(4) SUPERMAJORITY.—A point of order under paragraph (1) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such

a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(5) SINGLE POINT OF ORDER.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate paragraph (1). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this subsection. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with paragraph (4), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.''.

(b) LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

Mr. FEINGOLD. I am pleased to be joined by the Senator from Arizona, Mr. MCCAIN; the Senator from Missouri, Mrs. MCCASKILL; the Senator from South Carolina, Mr. GRAHAM; the Senator from Connecticut, Mr. LIEBERMAN; and the Senator from North Carolina, Mr. BURR, as cosponsors of this amendment.

I now ask unanimous consent that the Senator from Oklahoma, Mr. COBURN, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. COBURN. Mr. President, one of the things the American people have not heard about is everything that is in this bill. I want to spend some time tonight outlining the situation we are in as a nation, the fact that we have never had a bill this large at any time, in any way, shape, or form.

I want to first start out by noting my experience as a physician. The greatest mistake physicians make is when they don't listen to the patient. One of the things we know is, if we don't listen to patients when they are sick, we end up making a lot of mistakes. The other thing we know as physicians is that if we treat just the symptoms of a disease, what we oftentimes do is worsen the disease. I want to use an example of pneumonia. I will relate to this example throughout the time I talk.

If you come to me as a physician and you have a cough, a pain in your chest, a fever, and you are ill, I can make your symptoms go away, but I won't cure the underlying pneumonia you have as a patient. I can give you a cough medicine to suppress your cough. I can give you an antipyretic to control your temperature. I can give you, with that cough medicine, something to control the pain in your chest. I can do all those things. But if I fail to diagnose your real problem, which is pneumonia, all I am doing is covering up the symptoms of the real disease.

I would contend with my colleagues and the American public that the bill we have before us is a bill that covers up the symptoms of the real disease. The real disease we have is the fact that housing and mortgages are in trouble. Everything we do that does not address that disease first, that does not attempt to solve that problem, everything we do that does not address the real disease we have is going to be wasted effort. It is not going to accomplish its purpose. As a matter of fact, there is not an economist out there right now who says if we pass this bill without fixing the mortgage problem, without fixing the housing problem—none of them agree that what we are going to do is going to have a significant impact. There is not one. You can't get one to come and testify unless you fix the real problem.

We as American citizens are on the hook for 31 million mortgages.

We have 31 million we now own—Fannie Mae and Freddie Mac—so whatever happens to those mortgages, the American people are going to pay for them. If they are upside down and they get worse or if they go worse underwater, if they get foreclosed upon, the American taxpayers are going to have to pay for them. Now, who is that American taxpayer? It is not us. We are going to be dead and gone when it comes time to pay off the massive amounts of borrowing we are putting forward in this bill. That American taxpayer is our kids and our grandkids. So we dare not make the mistake of treating just symptoms.

My contention is we are way too early with a stimulus bill. We can spend this $1.12 trillion by the time you add in the interest plus the six point some billion dollars we just added on top of it without paying for it. We can pass this bill. But we run the risk of doing exactly what the Japanese did in the 1990s. They passed eight separate stimulus bills, none of which addressed the real underlying disease of the Japanese economy. That is why it is called the ''lost decade'' in Japan. They now have a debt to GDP ratio of 150 percent of their GDP.

So what are we to do? Are we to continue down this path with a bill that is going to spend over $1 trillion or should we be about fixing the real disease, which is the housing and the mortgage problems this country faces?

Now, it is not easy to fix that. I know that. And I am not putting forward a definitive plan tonight to do that, although I think my side of the aisle is going to be offering one in the next few days that will address the real disease: housing and mortgages in this country.

We got here—and it is important to remember how we got here, how we got the ''pneumonia''—we got the ''pneumonia'' because we said we were going to socialize the risk on mortgages so people in this country could buy a home who really could not afford a home, and we were going to put that risk on the rest of the American taxpayers.

Well, that bill has come home. That bill now—besides the cost of actually being responsible for the 31-some million failed mortgages, of which probably 30 or 40 percent we are going to end up owning as American taxpayers; besides that cost, the cost in terms of lost jobs, the cost in terms of true, real pain to American citizens who are having trouble feeding their families, paying their bills, the real cost of that is enormous on our society.

What I want the American people to know is we caused that. We did that. We created Fannie Mae and Freddie Mac, and then we did not do the regulatory work we should have done. We encouraged them to be irresponsible. We encouraged them to have bonuses, by making more and more and more of the loans and guaranteeing them and packaging them and selling them throughout the world. We did that. The Congress did that. No President did that—not President Clinton, not President Bush, and not President Obama. We did it. So we ought to be about fixing the real problem.

Until we fix this problem, we are going to stay in a recession. We can pass a bill that spends $1.12 trillion, and we are still going to be in a recession because what the economists tell us this year is that home prices are going to decline another 11 to 12 percent, which is going to put millions more Americans and their mortgages in trouble. So we can pass a bill that spends $1.12 trillion or we can say

maybe we ought to address the real problem.

It is not going to be long until the Obama administration comes to this body and asks for $500 billion more to solve the problem with bank loans and mortgages. We ought to be doing that first. That is the real disease. There is not anybody in this body who will deny that the real disease is the housing and the mortgage failure in this country.

We are going to spend a week on this legislation. It is going to go to conference. It is going to come back. Most of the stuff we are able to take back is going to be added in conference because the power to do that is there, and it is incumbent on the other side of the aisle that they are going to take care of those who are on their team.

I want to make another point. In this bill we are talking about, we are making a fatal mistake. Let me tell you what that fatal mistake is. We are transferring the irresponsibility we have had over the last 6 years in this Congress—or last 8 years in this Congress—to the States because what we are telling them is: You do not have to be fiscally responsible. You do not have to live within your means because Uncle Sam is going to bail you out. That is what this bill says. We are going to bail them out.

So for the States, such as my State, that were smart enough and wise enough to create a rainy day fund and live within their means, we are going to ask all the taxpayers of all the States that have done that to pay for the exorbitant spending and growth in Government in all the rest of the States.

What is that going to do in the future? What is the signal that sends to the rest of the States? Here is what the signal says. Do not worry about it because if you get in trouble again, the Federal Government is going to bail you out.

Remember when New York City was going bankrupt? What did we do? Did we just pay for everything? Did we just send Federal money? No. We created an environment where they made the changes. We helped them. And I am not opposed to helping the States make the changes to put them back on a fiscal course to live within their means.

The other thing that is bad about this bill is every American family out there today—I do not care what their income is—they are reassessing every day what they need to do in terms of how to get by in the economic situation in which we find ourselves. They are making tough choices. There is not one tough choice in this bill. Let me explain what I mean by that.

President Obama campaigned on the fact that we ought to live within our means; that every program ought to be reviewed; that those that are not effective, those that have waste, those that have high fraud rates, those that are low priority ought to be eliminated. There is not one penny of effort placed in this bill that will get rid of less important Federal programs today.

We know there is at least $300 billion a year that is inefficiently, erroneously, and fraudulently spent by the Federal Government. We ask our children and our grandchildren to choke down $1.1 trillion more of debt when we have not done anything—not one thing—to lessen the waste, fraud, and abuse, the inefficiency, and to make choices on what is more important. What we are saying is everything we are doing now is important, everything we are doing is efficient, everything is working fine, and, by the way, we are going to add another $1.1 trillion.

I have this chart to show how we got in trouble—because we were spending money we did not have on things we do not need. That is how we got in trouble. This chart shows the deficits of the Federal Government from 2004, plus what CBO expects, without interest costs, by the way, as to what is going to happen to us.

We know, last year, under real accounting, accounting for the Social Security money we stole—and that is the only way you can say it; we stole about $160 billion out of the Social Security system—the real deficit, last year, set a record we have never seen. It was $609 billion. That is as of September 30. The estimate of CBO for this year is we are going to have—before we even talk about stimulus, before we do anything on stimulus, and before we account for the interest costs on stimulus—we are going to have a $1.2 trillion deficit.

Now, divide that out by 300 million Americans, and what you see is we are going to have a deficit of about $16,000 per family. For every family in this country, we are going to borrow $16,000 against their kids' future before we do this, before we even approach doing this. It does not get a lot better. Note these numbers: $1.4 trillion, if we add what the CBO expects to come out of this stimulus package, and only one-fourth of it is going to get spent this year.

Now, what do we know about stimulus packages in the past? Here is what we know. Only two times in our history—only two times in our history—have we ever had a stimulus package that was effective. Two times. John Fitzgerald Kennedy created a stimulus package that was effective, and Ronald Reagan, in the early 1980s, created a stimulus package that was effective. All of the others have been ineffective to fix what was ailing us.

If we do not fix the mortgage problem in this country, and housing, this money will be to no avail other than to shackle our children and our grandchildren for years to come. What does that mean when I say ''shackle''? It means stealing their future. Right now the average American has a 30-percent higher standard of living than the average European and the average Japanese. What we are about to do—and we have been doing—is to guarantee that 30-percent advantage in standard of living is going to go away.

Other people say: Well, you have to fix the finance, you have to fix the credit markets, you have to fix the liquidity markets. You cannot fix the credit markets, you cannot fix the liquidity problems we have by spending money. We have already spent $400 billion of the TARP money, and other than pulling us back from the precipice of an absolute collapse of our financial markets, we still have the credit markets tied up and frozen in this country.

I want to give you an example. I have a farmer friend who has been banking with a bank for 15 years. He has never missed a payment. He has been 100 percent on his payments every time. He has assets far in excess of what his loans are—far in excess—15, 20 times what his loans are. He was told this last week by his bank: We don't want your business anymore.

Now, this is a guy who is a premium credit risk. Why do they not want his business? Because they want the money in the bank rather than to have even a good loan outstanding.

Our credit problems are not getting better. They are getting worse. We have not solved the problem by putting money on the equity side of the balance sheets of the banks. The reason we have not solved the problem is because we have not approached and fixed the real disease, which is the mortgage markets and the mortgages that are underwater and the housing crisis in this country.

I want to spend a moment on another issue. A lot of the rhetoric we have heard in the last 3 or 4 months in this country goes after markets and capitalism. Market forces and capitalism in this country created the greatest country that has ever been or ever will be. When we hear market forces and capitalism criticized as the cause of all of our problems, we need to do a gut check.

Market forces and capitalism didn't cause this problem. Congress caused this problem, by our short-term thinking, by thinking, How do I look good politically, how do I do something that isn't based on markets? That is what Fannie Mae and Freddie Mac were all about. We were actually giving loans to people who couldn't afford them. It wasn't market capitalism that got us in trouble, it was short-term, politically expedient thinking that got us in trouble. So the next time you hear somebody attacking the very thing that generated liberty, that very thing that generated freedom, the very thing that generated the greatest standard of living in the world, you ought to ask the question: Is that true? Did market capitalism get us in this trouble?

What got us in this trouble was creating a socialized risk that abandoned the market principles and created a system of loans to people who could not afford the loans.

One of the questions I think we ought to ask—at least the American taxpayer ought to be asking every Member of Congress—is what guarantee do you have that passing this $1.12 trillion spending bill is going to solve the problem? You know what. There is not a guarantee out there. No Member of Congress can tell them that. We are going to treat the symptoms with this bill. We are going to solve some of the short-term problems. We are going to create dependency from the States. We are going to outline and do things we have no business doing. We are going to expand Federal bureaucracies. We are going to raise the baseline to $300 billion that will never go away. That is what we are going to do with this bill. We are going to emphasize and fund the most inefficient bureaucracies in the world, not on the basis of what is the best thing to do but because we will look good and we will help out somebody who needs our help right now.

I am not opposed to us helping people who are unemployed. I am not opposed to giving extra food stamps to people who find themselves, through no fault of their own, in a predicament they can't change, but that is not what this bill does. What this bill does is take a list of policy options that have been on the table for years and funds them in enormous, extravagant amounts, that will have no impact—zero impact—in terms of getting us out of a recession, and will have a 100-percent impact in guaranteeing we are going to lower the standard of living in this country and we are going to steal opportunity from our children.

Let's look at where we are right now as a Nation. At the end of this year, we will have an $11.6 trillion debt, probably an $11.8 trillion debt, very close to our total GDP. We have $95 billion in unfunded liabilities we are going to place on the backs of our children and our grandchildren through Medicare, Social Security, Medicaid, and Medicare Part D—things we are going to give people that they have not paid for or we have stolen the money that was there to pay for them, and we are going to transfer that to our children.

Last year, we paid, as Americans, $230 billion in interest. Do you know what it is going to be 2 years from now? It is going to be $450 billion. How many people think the interest rates we are seeing today are going to be stable and the same 5 years from now? All of the economists tell us they are not. As the world looks toward us and we continue to borrow—we have increased our debt by $5 trillion by the time you take what the Federal Reserve has done and what the Treasury has done—how many people think we are going to be able to borrow money for 10 years for 2.6 percent? No economist thinks that. They know it is going to rise 2 or 3 percent. So we are going to go from about 16 percent of our budget for interest payments to about 40 percent of our budget for interest payments. What are we going to do then? The very real important things we need to do—not the superfluous stuff; the important things the Constitution says we should be doing—what are we going to do then? Are we going to borrow more?

What happens when we borrow more? What happens when we borrow more is interest rates go up, inflation goes up, and we have one of two choices: We can file bankruptcy as a Nation or we can have hyperinflation and a marked devaluation of the value of the dollar. What does that mean? That means you won't be able to keep up with your payments, you won't be able to buy a home, the cost of any good that is imported in here will rise astronomically. This is Armageddon for us. While we are in this shape, how dare we think we can spend money we don't have now on things we don't need now and get out of a problem that was caused by the very same philosophy: It cannot happen and it will not happen.

Let me outline what we have done so far in terms of this ''economic downturn.'' Last April, we borrowed $160 billion from our grandkids and we gave everybody a tax credit under $75,000 a year or $150,000 for families. We didn't pay for a penny of it. We didn't get rid of one wasteful program. We didn't make one hard choice. What do the economists tell us we did with that? What was the net effect? The net effect was that 12 percent of it had an effect. Twelve percent. Now, crank that up to $1.1 trillion at 12 percent, which is what the estimate is of this bill in terms of what kind of effect it is going to have. We are going to have about $120 billion that is going to have a positive effect, and then we are going to have another $850 billion or $860 billion that is going to have no effect whatsoever except to steal the future from our kids and our grandkids.

We are going in exactly the wrong direction. We ought to be standing on the principles that made this country great. There ought to be a review of every program in the Federal Government that is not effective, that is not efficient, that is wasteful or fraudulent, and we ought to get rid of it right now. We ought to say, Gone, to be able to pay for a real stimulus plan that might, in fact, have some impact.

I would be remiss if I didn't remind everybody that next week we are going to hear from the Obama administration wanting another $500 billion. Outside of this, they are going to want another $500 billion to handle the banking system. Still not fixing the real disease—the pneumonia—we are going to treat the fever or treat the cough, but we are not going to treat the real disease. Until we treat the real disease, this is pure waste. It is worse than pure waste. It is morally reprehensible, because it steals the future of the next two generations.

I am going to wind up here and finish, but I wanted to spend some time to make sure the American people know what is in this bill. I think once they know what is in this bill, they are going to reject it out of hand. Let me read for my colleagues some of the things that are in this bill. The biggest earmark in history is in this bill. There is $2 billion in this bill to build a coal plant with zero emissions. That would be great, maybe, if we had the technology, but the greatest brains in the world sitting at MIT say we don't have the technology yet to do that. Why would we build a $2 billion powerplant we don't have the technology for that we know will come back and ask for another $2 billion and another $2 billion and another $2 billion when we could build a demonstration project that might cost $150 million or $200 million? There is nothing wrong with having coal-fired plants that don't produce pollution; I am not against that. Even the Washington Post said the technology isn't there. It is a boondoggle. Why would we do that?

We eliminated tonight a $246 million payback for the large movie studios in Hollywood.

We are going to spend $88 million to study whether we ought to buy a new ice breaker for the Coast Guard. You know what. The Coast Guard needs a new ice breaker. Why do we need to spend $88 million? They have two ice breakers now that they could retrofit and fix and come up with equivalent to what they needed to and not spend the $1 billion they are going to come back and ask for, for another ice breaker, so why would we spend $88 million doing that?

We are going to spend $448 million to build the Department of Homeland Security a new building. We have $1.3 trillion worth of empty buildings right now, and because it has been blocked in Congress we can't sell them, we can't raze them, we can't do anything, but we are going to spend money on a new building here in Washington. We are going to spend another $248 million for new furniture for that building; a quarter of a billion dollars for new furniture. What about the furniture the Department of Homeland Security has now? These are tough times. Should we be buying new furniture? How about using what we have? That is what a family would do. They would use what they have. They wouldn't go out and spend $248 million on furniture.

How about buying $600 million worth of hybrid vehicles? Do you know what I would say? Right now times are tough; I would rather Americans have new cars than Federal employees have

new cars. What is wrong with the cars we have? Dumping $600 million worth of used vehicles on the used vehicle market right now is one of the worst things we could do. Instead, we are going to spend $600 million buying new cars for Federal employees.

There is $400 million in here to prevent STDs. I have a lot of experience on that. I have delivered 4,000 babies. We don't need to spend $400 million on STDs. What we need to do is properly educate about the infection rates and the effectiveness of methods of prevention. That doesn't take a penny more. You can write that on one piece of paper and teach every kid in this country, but we don't need to spend $400 million on it. It is not a priority.

How about $1.4 billion for rural waste disposal programs? That might even be somewhat stimulative. New sewers. That might create jobs.

How about $150 million for a Smithsonian museum? Tell me how that helps get us out of a recession. Tell me how that is a priority. Would the average American think that is a priority that we ought to be mortgaging our kids' future to spend another $150 million at the Smithsonian?

How about $1 billion for the 2010 census? So everybody knows, the census is so poorly managed that the census this year is going to cost twice—in 2010 is going to cost twice what it cost 10 years ago, and we wasted $800 million on a contract because it was no-bid that didn't perform. Nobody got fired, no competitive bidding, and we blew $800 million.

We have $75 million for smoking cessation activities, which probably is a great idea, but we just passed a bill—the SCHIP bill—that we need to get 21 million more Americans smoking to be able to pay for that bill. That doesn't make sense.

How about $200 million for public computer centers at community colleges? Since when is a community college in my State a recipient of Federal largesse? Is that our responsibility? I mean, did we talk with Dell and Hewlett-Packard and say, How do we make you all do better? Is there not a market force that could make that better? Will we actually buy on a true competitive bid? No, because there is nothing that requires competitive bidding in anything in this bill. There is nothing that requires it. It is one of the things President Obama said he was going to mandate at the Federal Government, but there is no competitive bidding in this bill at all.

We have $10 million to inspect canals in urban areas. Well, that will put 10 or 15 people to work. Is that a priority for us right now?

There is $6 billion to turn Federal buildings into green buildings. That is a priority, versus somebody getting a job outside of Washington, a job that actually produces something, that actually increases wealth?

How about $500 million for State and local fire stations? Where do you find in the Constitution us paying for local fire stations within our realm of prerogatives? None of it is competitively bid—not a grant program.

Next is $1.2 billion for youth activities. Who does that employ? What does that mean?

How about $88 million for renovating the public health service building? You know, if we could sell half of the $1.3 trillion worth of properties we have, we could take care of every Federal building requirement and backlog we have.

Then there's $412 million for CDC buildings and property. We spent billions on a new center and headquarters for CDC. Is that a priority? Building another Government building instead of—if we are going to spend $412 million on building buildings, let's build one that will produce something, one that will give us something.

How about $850 million for that most ''efficient'' Amtrak that hasn't made any money since 1976 and continues to have $2 billion or $3 billion a year in subsidies?

Here is one of my favorites: $75 million to construct a new ''security training'' facility for State Department security officers, and we have four other facilities already available to train them. But it is not theirs. They want theirs. By the way, it is going to be in West Virginia. I wonder how that got there. So we are going to build a new training facility that duplicates four others that we already have that could easily do what we need to do. But because we have a stimulus package, we are going to add in oink pork.

How about $200 million in funding for a lease—not buying, but a lease of alternative energy vehicles on military installations? We are going to bail out the States on Medicaid. Total all of the health programs in this, and we are going to transfer $150 billion out of the private sector and we are going to move it to the Federal Government. You talk about backdooring national health care. Henry Waxman has to be smiling big today. He wants a single-payer Government-run health care system. We are going to move another $150 billion to the Federal Government from the private sector.

We are going to eliminate fees on loans from the Small Business Administration. You know what that does? That pushes productive capital to unproductive projects. It is exactly the wrong thing to do.

Then there is $160 million to the Job Corps Program—but not for jobs and not to put more people in the Job Corps but to construct or repair buildings.

We are going to spend $524 million for information technology upgrades that the Appropriations Committee claims will create 388 jobs. If you do the math on that, that is $1.5 million a job. Don't you love the efficiency of Washington thinking?

We are going to create $79 billion in additional money for the States, a ''slush fund,'' to bail out States and provide millions of dollars for education costs. How many of you think that will ever go away? Once the State education programs get $79 billion over 2 years, do you think that will ever go away? The cry and hue of taking our money away—even though it was a stimulus and supposed to be limited, it will never go away. So we will continue putting that forward until our kids have grandkids of their own.

There is about $47 billion for a variety of energy programs that are primarily focused on renewable energy. I am fine with spending that. But we ought to get something for it. There ought to be metrics. There are no metrics. It is pie in the sky, saying we will throw some money at it. Let me conclude by saying we are at a seminal moment in our country. We will either start living within the confines of realism and responsibility or we will blow it and we will create the downfall of the greatest Nation that ever lived. This bill is the start of that downfall. To abandon a market-oriented society and transfer it to a Soviet-style, government-centered, bureaucratic-run and mandated program, that is the thing that will put the stake in the heart of freedom in this country.

I hope the American people know what is in this bill. I am doing everything I can to make sure they know. But more important, I hope somebody is listening who will treat the ''pneumonia'' we are faced with today, which is the housing and mortgage markets. It doesn't matter how much money we spend in this bill. It is doomed to failure unless we fix that problem first. Failing that, we will go down in history as the Congress that undermined the future and vitality of this country. Let it not be so.

Mr. President, I appreciate the indulgence of you and the staff. With that, I yield the floor.

Mr. LEAHY. Mr. President, this week, the Senate is considering critical legislation to renew our economy and to renew America's promise of prosperity and security for all of its citizens. I have long held the view that American innovation can and should play a vital role in revitalizing our economy and in improving our Nation's health care system. I commend the lead sponsors of this legislation for making sure that the economic recovery package includes an investment in health information technology that also takes meaningful steps to protect the privacy of American consumers.

The privacy protections for electronic health records in the economic recovery package are essential to a successful national health IT system,

and these safeguards should not be weakened. In America today, if you have a health record, you have a health privacy problem. The explosion of electronic health records, digital databases, and the Internet is fueling a growing supply of and demand for Americans' health information. The ability to easily access this information electronically—often by the click of a mouse or a few keystrokes on a computer can be very useful in providing more cost-effective health care. But the use of advancing technologies to access and share health information can also lead to a loss of personal privacy.

Without adequate safeguards to protect health privacy, many Americans will simply not seek the medical treatment that they need for fear that their sensitive health information will be disclosed without their consent. And those who do seek medical treatment assume the risk of data security breaches and other privacy violations. Likewise, health care providers who perceive the privacy risks associated with health IT systems as inconsistent with their professional obligations will avoid participating in a national health IT system.

The economic recovery package takes several important steps to avoid these pitfalls and to protect Americans' health information privacy. First, the provisions give each individual the right to access his or her own electronic health records and the right to timely notice of data breaches involving their health information. The economic recovery bill also places critical restrictions on the sale of sensitive health data and requires that the Department of Health and Human Services educates and conducts outreach to American consumers and businesses regarding their privacy rights and obligations. Lastly, the bill enhances the enforcement tools available to the States, as well as to Federal authorities, to deter lax health information privacy. These key privacy safeguards must not be weakened as the Senate considers the economic recovery bill.

Of course, more can—and should—be done in the weeks and months ahead to further improve health information privacy, such as strengthening the rights of consumers to control their own electronic health records. In Vermont, we have formed a public-private partnership that is charged with developing Vermont's statewide electronic health information system, including a policy on privacy. I believe that in order for a national health IT system to succeed, we in Congress should follow Vermont's good example and work together for the long term with public and private stakeholders to ensure the privacy and security of electronic health records.

As the Senate considers the economic recovery package, we face many difficult challenges in our Nation. The challenge of finding the right balance between privacy and efficiency for a national health IT system is just one, but it is an important test that we must meet head on. Without meaningful privacy safeguards, our Nation's health IT system will fail its citizens. In his inaugural address, President Obama eloquently noted that in our new era of responsibility "there is nothing so satisfying to the spirit, so defining of our character than giving our all to a difficult task." The privacy safeguards in the economic recovery package take an important step toward tackling the difficult but essential task of ensuring meaningful health information privacy for all Americans.

Again, I commend the lead sponsors of the economic recovery bill and President Obama for their commitment to include meaningful health privacy protections in the bill. I also commend the many stakeholders, including the Center for Democracy & Technology, Consumers Unions, the American Civil Liberties Union, and Microsoft, that have advocated tirelessly for meaningful health IT privacy protections in this legislation. I urge all Members to support the health IT privacy protections in the bill, so that our national health care system will have the support and confidence of the American people.

I ask to have a copy of a February 1, 2009, editorial from the New York Times in support of funding protections for patients' privacy entitled, "Your E-Health Records," printed in the RECORD following my full statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 1, 2009]

YOUR E-HEALTH RECORDS

As part of the stimulus package, $20 billion will be pumped into the health care system to accelerate the use of electronic health records. The goal is both to improve the quality and lower the costs of care by replacing cumbersome paper records with electronic records that can be easily stored and swiftly transmitted.

The idea is sound, but it also raises important questions about how to ensure the privacy of patients. Fortunately, the legislation would impose sensible privacy protections despite attempts by business lobbyists to weaken the safeguards.

With paper records the opportunities for breaches are limited to over-the-shoulder glimpses or the occasional lost or stolen files. But when records are kept and transferred electronically, the potential for abuse can become as vast as the Internet.

Electronic health records that can be linked to individual patients are already protected by laws that apply primarily to hospitals, doctors, nursing homes, pharmacists, laboratories and insurance plans. The stimulus bill that has passed in the House, and a similar bill awaiting approval in the Senate, would strengthen the privacy requirements and apply them more directly to "business associates" of the providers, like billing and collection services or pharmacy benefit managers, that have access to sensitive data but are not readily held accountable for any misuse.

The potential for harm was spelled out by the American Civil Liberties Union in a recent letter to Congress. Employers who obtain medical records inappropriately might reject a job candidate who looks expensive to insure. Drug companies with access to pharmaceutical records might try to pressure patients to switch to their products. Data brokers might buy medical and pharmaceutical records and sell them to marketers. Unscrupulous employees with access to electronic records might snoop on the health of their colleagues or neighbors.

The bills pending in Congress would go a long way toward preventing such abuses. They would outlaw the sale of any personal health information without the patient's permission, mandate audit trails to help detect inappropriate access, and require that patients be notified whenever their records are lost or used for an unauthorized purpose. They would also beef up the penalties for noncompliance and allow state attorneys general to help enforce the rules—a useful backup in case the federal government falls down on the job. The House version would also encourage the use of protective technologies, like encryption, to protect personal medical information that will be transmitted.

Health insurance plans and some disease management groups are complaining that the new requirements would impose administrative burdens that could actually impede the use of electronic records and interfere with coordination of care. They want to ease the marketing restrictions, notify patients only if security breaches are harmful, and keep the attorneys general out of the enforcement role.

It should be possible through implementing regulations to fine-tune the privacy requirements so that they do not disrupt patient care. Congress must make every effort to ensure that patients' privacy is protected.

Mr. LEAHY. I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STIMULUS BILL

Mr. DURBIN. Mr. President, my colleague and friend Senator COBURN of Oklahoma spoke at length about our Nation's deficit. I share his concern about the impact of debt on future generations. It is an interesting moment in time when many of my friends from

that side of the aisle are raising the issue of deficits and debt. We are in one of the most serious economic crises of our time—maybe the most serious since the Great Depression. This President, recently inaugurated, 2 weeks ago, inherited the worst economic situation since Franklin Roosevelt in the Great Depression in 1933. He inherited a debt that was unimaginable 8 years ago when the previous President began his administration. When President Bush came to office, our national debt was in the range of $5 trillion. When he left office, he doubled that national debt to more than $10 trillion—in an 8-year period of time. The accumulated debt of the United States of America, from its inception to that moment, was $5 trillion; in 8 years President Bush doubled the national debt.

Many people believe it is going to continue to grow because of some of the decisions he made. One was to wage a war and not pay for it, adding almost $1 trillion to our national debt in the process. Many other decisions, such as cutting taxes at a time when our country couldn't afford it, and it turned out to be foolhardy and with little positive impact on our economy, President Obama inherited that. Now he is faced with not only that debt, which my colleague from Oklahoma has aptly described, but also an economic crisis that cannot be ignored.

We were told a week ago that the gross domestic product of the United States of America had declined precipitously for the first time in 25 years. It is an indication that our sense of economic decline has been borne out by the numbers and statistics. We see it in every State with increased unemployment. So President Obama is faced with a terrible situation: the largest deficit and debt in the history of the United States, left by the previous President, and the worst economic crisis in 75 years.

Well, my colleague who spoke is a medical doctor. He knows the first thing you have to do in the most serious trauma cases is to try to stabilize the patient, and that is what President Obama is trying to do, stabilize the economy. Every economist—virtually every one—liberal and conservative, agrees that you cannot stabilizes the economy by cutting spending. You have to do the opposite. You have to encourage economic activity, economic growth, business, jobs. Those are the things that have to be done, and the Government must spend money, even if it is in debt. Failing to do that will cause our economy to decline even further, and more suffering will be borne by the families and businesses across America.

So when the Senator from Oklahoma comes to the floor and says this is the wrong time to spend money, I have to tell him that there is no recourse but to try to get this economy moving forward by creating good-paying jobs in America, investing in our future, making sure we are moving toward energy independence, trying to prepare our educational resources for the 21st century by modernizing labs and libraries and classrooms, trying to bring the kind of changes to health care where technology will make health care more affordable and safer for patients across America. These are investments that will not only help us through the current recession but will pay off for decades to come.

We are clearly spending this money in a deficit situation because we have no choice. Across the Rotunda in the House of Representatives, when President Obama's recovery and reinvestment bill came forward, not a single Republican Representative would vote for it. That is unfortunate. The President reached out to them personally and asked them to join him in a bipartisan effort, both political parties cooperating and working together. Sadly, it didn't occur.

I hope that is not the case in the Senate. I trust that some Republican Senators will come forward and realize that we are making a good-faith effort to accommodate any reasonable change they want to make to the program. If they want to reduce spending in some areas, we are open to it. If they have ideas that are better than ours, we are open to them as well. I tried to make that clear. I think my colleagues on this side and the White House have tried to make that clear.

At the end of the day, we are going to have to face reality. We will be spending money now to try to stop this economic tailspin. Once we get the economy stabilized and start investing toward growth again so people have peace of mind about their jobs and businesses, savings, and the future, then we can address responsibly, as we must, the deficit and debt situation. I look forward to working with the Senator from Oklahoma when that day arrives. Right now, we have to stabilize the patient.

I say to my friend, Dr. COBURN, join us in this important effort, and then we can join hands together and try to find the way through the fiscal problems we are currently facing.

SITUATION IN SRI LANKA

Mr. LEAHY. Mr. President, The ethnic conflict in Sri Lanka that has waxed and waned for decades costing the lives of tens of thousands of people has exploded into a full scale war, and it is civilians who are bearing the brunt of the carnage.

The origins of the conflict arise from decades of the Sinhalese majority's systematic discrimination against the Tamil minority and its denial of the Tamils' meaningful participation in the political process. The Sri Lankan army is almost exclusively Sinhalese. Successive Sinhalese-dominated governments have failed to effectively address these longstanding injustices.

Over the years, peaceful demonstrations by Tamils have been met with violence by Sinhalese extremists, which has in turn fostered violent extremism on the Tamil side.

In recent weeks, as the Sri Lankan army has seized control of most of the northern strongholds of the Tamil Tigers, or LTTE as they are otherwise known, the situation has gone from dire to the verge of catastrophe for the estimated 250,000 vulnerable civilians who are trapped in a so-called ''safe zone.''

The LTTE has a history of suicide bombings and other indiscriminate attacks against civilians, using civilians as shields, and preventing civilians under their control from escaping to government areas. Several hundred local staff of the United Nations and international humanitarian organizations are reportedly trapped because the LTTE refuses to allow them to leave. The LTTE has been designated a foreign terrorist organization by the United States.

For its part, the Sri Lankan army insists it is targeting the LTTE, not civilians. But the army has also acted in ways that have blurred any meaningful distinction between itself and the LTTE. It has reportedly shelled areas populated by civilians, including hospitals, causing hundreds of casualties, summarily executed suspected LTTE sympathizers, and detained those who have fled LTTE areas, including women and children, in militarized camps where they are exposed to great hardship and danger.

The United Nations says a compound sheltering U.N. national staff inside the safety zone was shelled on January 24 and 25, killing at least 9 civilians and wounding more than 20. On January 26, another artillery attack reportedly narrowly missed UN local staff working in the safety zone but caused dozens of civilian deaths. The International Committee of the Red Cross has said that ''[h]undreds of patients need emergency treatment and evacuation to [a] hospital in the government-controlled area.''

In the past 2 days, another hospital was reportedly shelled multiple times, resulting in more civilian deaths and injuries.

Human Rights Watch reports that since last September, when the Sri Lankan government ordered the withdrawal of most UN and nongovernmental humanitarian organizations, as well as journalists, from the conflicted area, a grave humanitarian crisis has developed with acute shortages of food, shelter, medicine, and other humanitarian supplies.

The Sri Lankan government has a duty to respect the rights and protect

the safety of all Sri Lankan citizens, whatever their ethnic origin or political views. Instead, the government has embarked on a strategy to defeat the LTTE militarily and in doing so has shown disregard for the laws of war. Rather than protecting the Tamil people, the government has often contributed to their suffering. Its strategy has been to cordon off the area and blame everything, including its own violations, on the LTTE.

Since 1984, successive peace talks have failed, as both the LTTE and the Sri Lankan government have reneged on their agreements, and the government has failed to provide the vision and leadership necessary to build a multi-ethnic consensus. Both sides' extreme ethnic nationalist agendas have caused widespread human suffering. Both sides are accountable.

I have no sympathy for the LTTE, which has brought misery upon the Tamil people it professes to represent. But while the LTTE has been severely weakened, it is unlikely to disappear, and the cycle of violence may continue.

It is imperative that the government and the LTTE agree to an immediate cease-fire to avoid further loss of life, permit access to U.N. monitors and humanitarian organizations, and permit civilians to leave for areas of safety. The Obama administration, the British, Indian and other concerned governments, should be publicly urging the same.

Over the longer term, if lasting peace is to come to Sri Lanka, the government must effectively address, in negotiations which include all the main Tamil and Muslim parties, the core issues that have fueled the conflict including laws and policies that unfairly discriminate against Sri Lanka's minorities.

There is a related issue that needs to be mentioned, and that is the imprisonment for the past ten months of J.S. Tissainayagam, a journalist, and N. Jashiharan, a publisher, and his wife, V. Valamathy. They were arrested for articles critical of the government, and are being held in violation of their right to freedom of expression. Another of Sri Lankan's most respected journalists, Lasantha Wickrematunga, was gunned down in broad daylight a few weeks ago. According to Navi Pillay, the U.N. High Commissioner for Human Rights, "[t]he killing of . . . Wickrematunge . . . was the latest blow to the free expression of dissent in Sri Lanka. The searing article he wrote prophesying his own murder is an extraordinary indictment of a system corrupted by more than two decades of bloody internal conflict." The High Commissioner noted that there have not been any prosecutions of political killings, disappearances and other violations committed in recent years. That in itself speaks volumes about the Sri Lankan government's credibility.

For many years, the United States and Sri Lanka have enjoyed good relations. A close friend of mine, James Spain, was our Ambassador there years ago. He often told me of his deep affection for the Sri Lankan people, and of the country's extraordinary natural beauty.

When the tsunami crashed ashore in December 2004, a member of my staff was on the island. The American people responded generously to help Sri Lanka rebuild.

It has therefore been difficult for me to watch the conflict intensify, the LTTE abuse civilians and fail to live up to its commitments, and the government threaten to expel foreign diplomats, aid agencies and journalists, and refuse appeals to permit independent observers and aid workers access to areas where Tamil civilians are trapped. And as reputable, courageous journalists have been arrested on transparently political charges or assassinated.

The Sri Lanka government will one day want the respect and support of the United States. The same can be said of the LTTE, if and when it renounces violence and becomes a legitimate political party. How they respond to today's humanitarian appeals will weigh heavily on how the United States responds when that day comes.

60TH ANNIVERSARY OF THE IDAHO NATIONAL LAB

MR. CRAPO. Mr. President, today I wish to acknowledge a milestone of singular significance for Idaho and for the Nation. This month marks the 60th anniversary of the Idaho National Laboratory.

In February 1949, the Federal Government settled on a site in east central Idaho to host the National Reactor Testing Station—a place where scientists and engineers could come together to develop and test new ways to put the power of the atom to productive use for society. In short order, Experimental Breeder Reactor-I was designed, built and operating—producing the world's first usable amount of electricity from nuclear power and later, proving that reactors could produce, or breed, more fuel than they consume.

Breakthrough after breakthrough followed in the ensuing years, including significant contributions to national security with the development of the nuclear propulsion systems for U.S. Navy submarines and aircraft carriers. The Idaho testing station was the genesis of American civilian nuclear power, responsible for powering an American city for the first time with nuclear-generated electricity, as well as the design and construction of 52 pioneering nuclear reactors. The Idaho testing station was responsible for the development of world leading reactor safety codes and the operation of the Nation's premier materials testing device—the Advanced Test Reactor.

Building on its unsurpassed nuclear energy expertise and in recognition of its broader capabilities and unique assets, our Idaho "testing station" was formally designated a national laboratory in 1974. And the pace of innovation has only accelerated since. The lab's researchers have received dozens of R&D 100, Bright Light, Federal Laboratory Consortium and related awards for the development of technologies as diverse as concealed weapons detection systems and novel electrolyte batteries. The lab's central location within the Western Inland Energy Corridor—a band stretching from western Canada down through our nation's Intermountain and Rocky Mountain West—place it in a remarkable position to identify, assess and integrate the corridor's unmatched wind, biomass, hydropower, geothermal, conventional and unconventional fossil and uranium resources.

At 60, the Idaho National Lab's relevance to the Nation could not be greater. Its mission to "Ensure the nation's energy security with safe, competitive, and sustainable energy systems and unique national and homeland security capabilities," represents a pledge to serve by each of the lab's nearly 4,000 employees, as well as the management team and partners from institutions of higher education in Idaho and nationwide.

I congratulate the employees, management team and community partners of the Idaho National Lab on the occasion of its 60th anniversary and look forward to many more years of success, built on this matchless legacy of science and engineering innovation.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

First of all I appreciate all your efforts in this manner and hopefully some relief will become of them. Secondly this letter may be a bit different than most of the others you have received. I, like many others feel the burden of increasing fuel prices and wonder ''why'' prices have risen so much in the past few months. I also have deep concerns for the dependence of foreign oil this country is a slave to. However, we Americans are for the most part, myself included, are selfish, wasteful and will not give up our conveniences. Therefore I personally do not mind the higher price of fuel (but hopefully the prices will drop) in the aspect that hopefully it will encourage people to be a bit more conservative. I am fortunate that my wife and I live less than three miles from where we work (separate business) in the past we both have driven our vehicles. My personal vehicle is a Ford F250 that gets 10 mpg. I have been driving for the convenience, but recently we have begun riding together (we also have a Ford Escape at 25 mpg), walking that takes about 45 minutes, riding bicycles at about 15 minutes and I also have a motorcycle that gets 55 mpg that I have dusted off and begun to ride. So it is not all bad. I also realize most people are not that fortunate. The things that bother me the most are that in the land of plenty, our auto manufacturers are still producing vehicles that get under 15 mpg; it is way past time for that to change. Domestic oil production needs to be increased, but please do it sensibly. Consider the environmental impact and make sure U.S. oil stays in the U.S., and the fact that oil companies are reported to be making record profits. Everyone is entitled to make a profit, but profiteering is unacceptable.

Sorry for rambling on but as you hopefully can see, I feel the higher fuel prices are an opportunity for the American ingenuity to kick in with more fuel efficient vehicles, commuter options i.e., walking, carpooling, alternate transportation, and alternative fuels so we as Americans can reduce our dependence on oil and still satisfy our selfish lust for independence.

GREG HOSMAN, *Bellevue.*

There are many folks on the edge of losing jobs simply because they cannot afford the fuel to drive to work. Pairing job opportunities and increasing availability of affordable fuel makes sense. One tenth of one percent in a wilderness of 19 million acres is a smaller percentage per acre than a person leaves on one camping trip. It is a small price to pay. Please continue to support President Bush's desire to restore reasonable economics to our country. Thanks for standing up.

DELPHA BUSH, *Boise.*

I am strongly opposed to lifting the ban on off-shore drilling and strongly against drilling in our wild areas. I am also against the use of food crops for ethanol or any policy that reduces the availability of food to the world poor. I am very supportive of alternative energy and government funded research in these areas. I am strongly in favor of increased mileage requirements on vehicles. If Europe can get 50 miles to the gallon, we should be able to do so also. Thank you for your interest in this area.

LAURA and BILL ASBELL, *Post Falls.*

I moved to Idaho to go camping fishing day trips etc. . . . now because of the gas prices I stay in Nampa most of the time. I have a family and I work hard . . . I want to enjoy life in Idaho again. Please if you can do anything to help get life back the way it was that would be great. Thanks again.

ELBIE SEIBERT, *Nampa.*

Everytime I pass the gas station the price rises. Granted myself and my husband chose to have the vehicles that we drive, he drives a Chevrolet Duramax and I drive a Chevrolet Surburban, but these are the vehicles that accommodate our lifestyle of kids, dogs and camping. But when I see the oil companies making unheard-of profits in the first quarter of 2008 it infuriates me! I would not be as upset if the oil companies would be upfront with the price increase if they were only breaking even in their numbers. But making over a thirty billion dollar profit in the first three months of this year is just wrong. Family trips to Eastern Idaho to visit family has been cut back from monthly visits to once every couple of months. We are lucky that we are not in the situation of having to choose groceries over gas but if the cost of fuel keeps climbing we will also be in the same boat as other lower income families. I have worked too hard to have the lifestyle that my family has for it to be sucked away by greedy executives!!! My husband, my step-father and I all serve in the Idaho Army National Guard and we have soldiers that are having a hard time getting to their units due to the cost of fuel. Something must be done and I would not be taking ''no'' for an answer. $4.00 a gallon of fuel is insane. Nothing has been changed to the fuel to have our vehicles preform better and no one is getting a cost of living increase for this.

HEATHER.

I recently received an email from you requesting stories of how the rising gas prices are effecting Idaho families. We are a family of five trying to make ends meet on one income. The gas prices have made this virtually impossible. We are now looking at my husband either taking a second job or my going to work part time to make ends meet. My husband's commute to work is about 30 minutes and I drive the same distance to take my children to activities four days per week. We have a van and a truck and spend about $400 a month on gas. Buying other vehicles is not an option because they are paid for and we cannot afford a monthly car payment. Moving closer to work is also not an option given the current housing market. The other issue we have seen is the rising cost of groceries as a direct result of the rise in gas prices. It is getting harder to feed our family with the rising cost of groceries and we are having to change the way we eat as a result. We are now looking at cutting the extra-curricular activities for our kids to save on gas.

We are very encouraged by your desire to persuade Congress to start using the resources we have in our own country. It is time for a change towards becoming more independent as a country. We will continue to pray for success in your efforts.

MICHELLE ESQUIVEL, *Nampa.*

My 60-year-old daughter spent 23 years as an ''at will'' employee and was fired for no reason. She was a Medical Transcriptionist. After so many years the requirements changed and when looking for a new position, found she was no longer qualified. Longevity did not seem to matter. She drove 40 miles round trip from Caldwell at night to work in a small hospital in Boise. This did not last very long as another person got her job and worked at home, something that she would have done had she been aware that her employer would have agreed to it. Their sorry did not help. She then lived off of her retirement at the same time supporting her daughter and grandson. When she left her original job she lost her insurance benefits and has not been able to afford any. After her savings were exhausted she found a job delivering the Statesman newspaper. She is required to furnish her own car and gas. It so happens that her route is rural and covers over 35 miles per night. I help out with the gas as much as I can. As gas prices continue to rise she can hardly afford to go to work and the wear and tear on her car with all the stops and starts becomes another expense.

I am 86 years old. My family came to Boise in 1861. I am signing my name to this message but request it never be used.

UNSIGNED.

I want to encourage you to not support drilling in ANWR or any currently protected Alaska lands. The high gas prices and our dependence on foreign oil have been hard to stomach, but I believe there are necessary lessons learned for the public. We must decrease our insatiable thirst for natural resources in this country. High gas and fuel prices have made people think hard about changing their driving habits and some of their domestic habits as well. Idaho Power has been encouraging conservation for a few years now, much to their merit, but I do not know how successful their campaign has been. There have not been any great heating/cooling crises yet such as brown or black outs to push people to change.

Personally, I carpool to work with my husband just about every day, unless I am on call (I work in a hospital). Even though I work eight hour days and my husband works nine hour days, I either walk over to his office and wait for him to finish, I bring my running gear and take a run while waiting for him, or I find something else to keep me busy for that extra hour. Sure it's a little inconvenient. I have animals to feed, pastures, a yard, and a garden to water and tend to, and the usual chores one has waiting for them at the end of a work day. However, I believe this small sacrifice is one I can shoulder. Additionally, this means that I only have to fill my small truck once a month. On other days, I try to ride my bike to the store, post office, etc., rather than making an extra car trip. If I have errands to run in my car, I will combine trips into one big loop, on one day, to minimize the amount and time I need to be driving. As far as our consumption of energy at home, we are fortunate enough to have lots of shade trees, a well insulated house, blinds on all of our windows, and an efficient attic fan to keep our house relatively cool on hot days. Last summer during the extensive heat wave we experienced here in SW Idaho I charted the high temperature for the day and the time our AC came on for about 6 weeks. We keep our thermostat set at 79 degrees while we are at work and decrease it to 76 or 77 for the 6 pm to 10 pm time period. We were able to keep our house cool enough 99 percent of those over 100 degree days that the AC didn't come on until after 6 pm and ran only one to two cycles before we were able to open up our windows to cool to outside temps, which by 10 pm were usually below 77 degrees. Our energy bill remained low for the whole summer due to our conservation methods. I am doing the same this summer.

I would like to add that, although I oppose drilling in our last wilderness areas, I fully

support conservation incentives and ramping up research and support for alternative energy sources, including nuclear. I hope the proposed nuclear plant in Elmore County receives enough positive support from the public to go ahead. Nuclear energy technologies have advanced a lot since the 70's. I believe with some education for the general public about its increased safety nuclear energy can greatly reduce our dependency on hydrocarbon sources of energy.

ANGELA CALLAHAN, *Eagle.*

Fortunately, we have 2 Toyotas that get good gas mileage and last fall I was transferred to work at St. Als, which is very close to my home. So gas expenses for me have not been as much of an issue as for others. However, in my work at the outpatient pharmacy we have many customers who come from Nampa, Caldwell, even Mountain Home, and for them to make that drive is quite a hardship. Usually, it is specifically to come to the doctor and/or pharmacy only; if they were not coming for that they would not be coming to Boise at all. We have had some prescriptions transferred out to pharmacies in those communities because people cannot afford to drive into Boise. So, it is hurting our business.

I would like to see a better Treasure Valley-wide transportation system to help people get to where they need to go without having to spend a fortune. For some of these people the choice is between medicine or food, and this is not some exaggerated sob story. It is fact. I would also like to see more being done to encourage and fund alternative energy sources, more emphasis on hybrid cars, or even those that run on no gasoline, but on something else that is less expensive, less polluting, and easier to produce. The initial cost of such a changeover would be enormous, but the long term benefits would more than make up for this total makeover of our energy sources.

CHERYL ESSARY, *Boise.*

First, I express my appreciation for your willingness to be in Washington to not only represent Idaho but to help ensure that we have men of high moral integrity making decisions about the future of our beloved United States of America.

With respect to high energy prices, I am very disappointed that our Federal Congress has shamefully neglected their responsibility to find a way to develop a national energy policy before we arrived at this rather extreme condition. Having worked as an oil and gas geologist in Houston, Texas before returning to Idaho, I know that it has never been a secret that our addiction to oil and natural gas was leading us into trouble as the opportunities to explore for large reserves continued to decline.

As a nation, we have been so negligent about seeing past the next election that our policies do not seem capable of meeting the challenges of a world that is now interdependent in so many ways. It has been and still is ridiculous to remove so many regions of offshore from oil and gas exploration and development. ANWR, in my opinion should be developed and if we are successful in finding additional resources there, use that for strategic reserves because we all understand that it is not likely to be significantly large in and by itself. Why is it so hard to communicate to those who are extreme (including John McCain) in their environmentalist/preservationist theologies that oil companies can explore and develop resources with such a small footprint that the ecological impacts are essentially negligible?

At the same time that I hear many in Congress calling for the rights to explore in additional areas, I really have not heard anything addressing the need to increase our refinery capacity or to deal with the myriad of gasoline blends that are required by EPA that reduce efficiencies in refining, nor does there seem to be anything coming to rural America to help with public transportation initiatives.

The Federal Government's overzealous effort to promote biofuels at the expense of food production seems to have been a huge mistake. Why was a similar effort of support not provided for oil shale or coal gasification etc.? With new EPA regulations governing carbon output it seems that we have added so much uncertainty into the business side of developing alternative resources that the risks may outweigh the potential successes.

Also, information I have received from the American Geologic Institute indicates that if the value of the dollar had kept pace with the Euro and other world currencies, oil prices would be in the $60 to $70 dollar range instead of the >$130 level. It seems clear that we must find a way to stop the declining value of the American dollar!

You have an incredibly difficult job ahead of you as you try to find a path that will lead to lower energy costs and improved economic prosperity for all of the citizens of our country. Our prayers are with you.

MARK D. LOVELL, *Rexburg.*

ADDITIONAL STATEMENTS

SIOUX FALLS COUGARS

• Mr. THUNE. Mr. President, I wish to recognize the University of Sioux Falls Cougars men's football team for winning the 2008 National Association of Intercollegiate Athletics, NAIA, National Championship and for finishing at the top of the NAIA Coaches' Top 25 Postseason Poll. This was USFs third consecutive trip to the National Championship and second championship victory in that time.

The University of Sioux Falls men's football team has a long history of success, including 3 National Championships from 1996 to 2008 and 16 Great Plains Athletic Conference titles. This season proved to be yet another outstanding performance by the Cougars, as they finished with a perfect record of 14 to 0 and defeated Carroll College, 23 to 7, in the NAIA National Championship game. Their excellent performance throughout the season was awarded by receiving all 18 possible first place votes in the NAIA Coaches' Top 25 Postseason Poll.

The 2008 Cougars were led to the championship thanks to the combination of a powerful offense and a dominating defense. The Cougars averaged nearly 37 points per game while giving up only 6. The defense ranked first in the Nation in numerous statistical categories, including scoring defense and total defense. The team effort displayed each week by this group of men is a tribute to the countless hours of training and preparation that preceded this great accomplishment.

Certainly this season would not have been possible without the coaches and players themselves. The coaching staff, in alphabetical order, is as follows: Ross Cimpl, Al Christensen, Kalen DeBoer, Jeff Fitzgerald, Ryan Grubb, Al Hansen, Eric Inama, Dan Moe, and Kurtiss Riggs.

The team, in alphabetical order, is as follows: Blake Andersen, Brandon Andersen, Alex Anderson, Drew Anderson, Eric Anderson, Anthony Baldassari, Jeremy Barnes, Bret Beachner, Travis Beaver, Nick Benedetto, Tony Benedetto, Dustin Bergmeier, Quintin Biermann, Brandon Boe, Lorenzo Brown, Tyson Brown, Doug Carlson, Jordan Carlson, Cody Cavender, Erik Cimpl, Jacob Crowl, Kyle Cummings, Drew DeGroot, Josh Dorr, Dane Driscoll, Trevor Engelson, Nathan Everett, Eric Fjeldheim, Shawn Flanagan, Dylan Fritz, Stanley Green, Jake Hahne, Adam Halseth, Mike Hartley, Brad Hartzler, Michael Hill, Trevor Holleman, Lavell Jackson, Eric James, Maxon Keating, Taylor Klein, Brandon Koolstra, Kyle Lancaster, Jade Larson, Scott LeBrun, Landon Leveranz, Matt Lindgren, Marlon Lobban, Adam Lopez, Ryan Lowmiller, Mitch Lupkes, Brad Maag, Justin Meidinger, Joe Moen, Tyler Mousel, Tyler Newman, Eric Page, Mike Patterson, Tony Pedri, Casey Peters, Kristian Porter, Nick Ramstad, Jim Rawhouser, Jared Redding, T.J. Ross, Jon Ryan, Spencer Sailors, Sean Santiago, Mark Sayler, Mark Schaffer, Dan Schmeichel, Shawn Schnabel, Andrew Schoenfelder, Ryan Schuler, Ismael Small, Eric Smith, Kyle Staudt, Dominic Studzinski, Rene Velasquez, Jared Vlotho, Tim Voegeli, Demetrius Washington, Kyle Wasson, and T.J. Wendt.

While the Cougars' success was truly a team effort, I would like to recognize the team's head coach Kalen DeBoer for being honored as the 2008 American Football Coaches Association NAIA Coach of the Year. This is the second time that he has received this honor since taking the helm for the Cougars in 2005. In only 4 years of Cougar leadership, Coach DeBoer has amassed a daunting record of 52 to 3. He has led the Cougars to the NAIA Championship game three times. The Cougars' continued success is a testament to Coach DeBoer's ability to motivate his players to perform and succeed at a high level of competition.

The coaching staff and student-athletes of the University of Sioux Falls men's football team should be very proud of all of their accomplishments this season. On behalf of the Sioux Falls community and the State of South Dakota, I am pleased to say congratulations to the Cougars on another remarkable season. You have made us all very proud.•

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. KOHL):

S. 364. A bill to provide for the review of agricultural mergers and acquisitions by the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. 365. A bill to establish in the Department of Justice the Nationwide Mortgage Fraud Task Force to address mortgage fraud in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY:

S. 366. A bill to amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries; to the Committee on Finance.

By Mr. LEVIN:

S. 367. A bill for the relief of Perlat Binaj, Almida Binaj, Erina Binaj, and Anxhela Binaj; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 368. A bill for the relief of Alemseghed Mussie Tesfamical; to the Committee on the Judiciary.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. DURBIN, and Mr. BROWN):

S. 369. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mr. DEMINT, Mr. THUNE, Mr. ROBERTS, and Mr. COBURN):

S. 370. A bill to prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes; to the Committee on Armed Services.

By Mr. THUNE (for himself and Mr. VITTER):

S. 371. A bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LEAHY, Mr. KENNEDY, Mr. CARPER, Mr. PRYOR, and Ms. MIKULSKI):

S. 372. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 373. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. Res. 26. A resolution recognizing and honoring Ralph Wilson, Jr. and Bruce Smith on being selected to the 2009 Pro Football Hall of Fame class; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself, Mr. VOINOVICH, Mr. BAYH, Mr. MARTINEZ, Mr. KYL, and Mr. MENENDEZ):

S. Con. Res. 4. A concurrent resolution calling on the President and the allies of the United States to raise the case of Robert Levinson with officials of the Government of Iran at every level and opportunity, and urging officials of the Government of Iran to fulfill their promises of assistance to the family of Robert Levinson and to share information on the investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 117

At the request of Mr. KOHL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 117, a bill to protect the property and security of homeowners who are subject to foreclosure proceedings, and for other purposes.

S. 162

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 162, a bill to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes.

S. 234

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 234, a bill to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the ''Colonel John H. Wilson, Jr. Post Office Building''.

S. 249

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless youth who are students for purposes of low income tax credit.

S. 295

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 295, a bill to amend title XVIII of the Social Security Act to improve the quality and efficiency of the Medicare program through measurement of readmission rates and resource use and to develop a pilot program to provide episodic payments to organized groups of multispecialty and multilevel providers of services and suppliers for hospitalization episodes associated with select, high cost diagnoses.

S. 325

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 325, a bill to amend section 845 of title 18, United States Code, relating to explosives, to grant the Attorney General exemption authority.

S. 332

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 332, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 333

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 333, a bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction against individual income tax for interest on indebtedness and for State sales and excise taxes with respect to the purchase of certain motor vehicles.

AMENDMENT NO. 101

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 101 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 102

At the request of Ms. LANDRIEU, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of amendment No. 102 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 104

At the request of Ms. MIKULSKI, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Michigan (Ms. STABENOW), the Senator from Ohio (Mr. BROWN), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. BENNETT) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 104

proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 366. A bill to amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries; to the Committee on Finance.

Mr. KERRY. Mr. President, each year an estimated 500,000 people are treated for burn injuries, with 40,000 requiring hospitalization. It is time that we do more to aid those who suffer from disabling burns, which is why I am introducing the Social Security and Medicare Improved Burn Injury Treatment Access Act of 2009. I am pleased to join my colleague from Massachusetts, Congressman RICHARD NEAL, who introduced similar legislation in the House of Representatives.

This legislation provides a waiver of the 24-month waiting period now required before an uninsured individual becomes eligible for Medicare coverage for disabling burn injuries. It also provides a waiver for the five-month waiting period for Social Security disability benefits. This will help provide greater assistance to those who suffer from burn injuries and much needed support for the burn centers that treat them. Burn care is highly specialized and expensive. Since approximately 40 percent of burn victims are uninsured, this places a great financial strain on burn centers, causing some of them to close.

At a time when we are asking burn centers to be prepared to deal with catastrophic cases, and expand their capacity, we also must provide the support they need. Chemical fires, explosions, terrorist attacks, and major accidents are scenarios where burn centers play a critical role in public health. Over one-third of those hospitalized in New York following the September 11 terrorist attacks had severe burn injuries.

This legislation will provide immediate Medicare coverage for uninsured patients suffering serious, disabling burn injuries. It follows an approach already taken with other conditions such as End Stage Renal Disease, ESRD, and amyotrophic lateral sclerosis ALS or Lou Gehrig's disease, both of which result in waivers of the 24-month waiting period for Medicare eligibility.

This legislation has important cost containment measures. To prevent shifting the burden of care, no one with public or private insurance at the time of their burn injury will be eligible for the 24-month waiver, and state public insurance programs will not be allowed to restrict coverage for burn patients as a way to shift the responsibility to Medicare. Each individual's disability status is required to be reevaluated at least once every three years to ensure that those who have made a full recovery are not allowed to stay on Medicare indefinitely.

We cannot allow our Nation's burn centers to continue closing due to a lack of financial resources. They are a vital resource and through them, we have the opportunity to give burn victims the best possible chance at recovery. I ask all my colleagues to support this legislation.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Mr. DURBIN, and Mr. BROWN):

S. 369. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce, with Senators GRASSLEY, FEINGOLD, DURBIN and BROWN, the Preserve Access to Affordable Generics Act. Our legislation will prevent one of the most egregious tactics used to keep generic competitors off the market, leaving consumers with unnecessarily high drug prices. The way it is done is simple—a drug company that holds a patent on a brand-name drug pays a generic drug maker to not sell a competing product. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company. The only losers are the American people, who continue to pay unnecessarily high drug prices for years to come.

Our legislation is basically very simple it will make these anti-competitive, anti-consumer patent payoffs illegal. We will thereby end a practice seriously impeding generic drug competition, competition that could save consumers literally billions of dollars in health care costs. When we first introduced this legislation to ban these pay-off settlements in 2007, it had broad support from those concerned with rising health care costs, including the AARP. The New York Times editorialized in January 2007 in support of legislation to ban the pay-off settlements, pointing out that the settlements "are a costly legal loophole that needs to be plugged by Congressional legislation."

Despite the opposition of the Federal Trade Commission to these anti-competitive patent settlements, two 2005 appellate court decisions have permitted these backroom payoffs. And the effect of these court decisions has been stark. In the two years after these two decisions, the FTC has found, half of all patent settlements involved payments from the brand name from the generic manufacturer in return for an agreement by the generic to keep its drug off the market. In the year before these decisions, not a single patent settlement reported to the FTC contained such an agreement.

When brand name drugs lose their patent monopoly, this opens the door for consumers, employers, third-party payers, and other purchasers to save billions—30 percent to 80 percent on average—by using generic versions of these drugs. A recent study released by the Pharmaceutical Care Management Association showed that health plans and consumers could save $26.4 billion over 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

The urgency of the need for this legislation was highlighted just yesterday, when the FTC filed an antitrust case challenging the latest "pay for delay" settlement. The FTC's Complaint alleges that Solvay, the brand name manufacturer of a hormone-boosting drug, entered into an agreement with two generic companies to delay the entry of their generic version of the drug for nine years. The FTC alleged that Solvay agreed in 2006 to share its profits with the generic competitors as long as they did not launch their generic versions until 2015. If these allegations are true, this is exactly the anti-consumer, anti-competition agreement that would be rendered illegal by our bill.

We introduced this bill in the last Congress and it passed out of the Judiciary Committee without a dissenting vote. Nonetheless, we heard from some in the generic drug industry that on occasion these patent settlements may not harm competition. That is why this year's version of the legislation includes a new provision not contained in the bill introduced in the last Congress. This new provision would permit the Federal Trade Commission the guardians of competition in this industry to exempt from this amendment's ban certain agreements if the FTC determines such agreements would benefit consumers. This provision will ensure that our amendment does not prevent any agreements which will truly benefit consumers.

It is also important to note that—contrary to the arguments made by some—our amendment will not ban all patent settlements. In fact, our bill will not ban any settlement which does not involve an exchange of money. This legislation will do nothing to prevent parties from settling patent litigation with an agreement that a generic will delay entry for some period of time in return for ending its challenge to the validity of the patent. Only the egregious pay-off settlements in which the

brand name company also pays the generic company a sum of money to do so will be banned.

In closing, we cannot profess to care about the high cost of prescription drugs while turning a blind eye to anticompetitive backroom deals between brand and generic drug companies. It is time to stop these drug company payoffs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort by supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserve Access to Affordable Generics Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) prescription drugs make up 10 percent of the national health care spending but for the past decade have been 1 of the fastest growing segments of health care expenditures.

(2) 67 percent of all prescriptions dispensed in the United States are generic drugs, yet they account for only 20 percent of all expenditures;

(3) generic drugs, on average, cost 30 to 80 percent less than their brand-name counterparts;

(4) consumers and the health care system would benefit from free and open competition in the pharmaceutical market and the removal of obstacles to the introduction of generic drugs;

(5) full and free competition in the pharmaceutical industry, and the full enforcement of antitrust law to prevent anticompetitive practices in this industry, will lead to lower prices, greater innovation, and inure to the general benefit of consumers.

(6) the Federal Trade Commission has determined that some brand name pharmaceutical manufacturers collude with generic drug manufacturers to delay the marketing of competing, low-cost, generic drugs;

(7) collusion by pharmaceutical manufacturers is contrary to free competition, to the interests of consumers, and to the principles underlying antitrust law;

(8) in 2005, 2 appellate court decisions reversed the Federal Trade Commission's longstanding position, and upheld settlements that include pay-offs by brand name pharmaceutical manufacturers to generic manufacturers designed to keep generic competition off the market;

(9) in the 6 months following the March 2005 court decisions, the Federal Trade Commission found there were three settlement agreements in which the generic received compensation and agreed to a restriction on its ability to market the product;

(10) the FTC found that ½ of the settlements made in 2006 and 2007 between brand name and generic companies, and over ⅔ of the settlements with generic companies with exclusivity rights that blocked other generic drug applicants, included a pay-off from the brand name manufacturer in exchange for a promise from the generic company to delay entry into the market; and

(11) settlements which include a payment from a brand name manufacturer to a generic manufacturer to delay entry by generic drugs are anti-competitive and contrary to the interests of consumers.

(b) PURPOSES.—The purposes of this Act are—

(1) to enhance competition in the pharmaceutical market by prohibiting anticompetitive agreements and collusion between brand name and generic drug manufacturers intended to keep generic drugs off the market;

(2) to support the purpose and intent of antitrust law by prohibiting anticompetitive agreements and collusion in the pharmaceutical industry; and

(3) to clarify the law to prohibit payments from brand name to generic drug manufacturers with the purpose to prevent or delay the entry of competition from generic drugs.

SEC. 3. UNLAWFUL COMPENSATION FOR DELAY.

(a) IN GENERAL.—The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 28 the following:

''SEC. 29. UNLAWFUL INTERFERENCE WITH GENERIC MARKETING.

''(a) It shall be unlawful under this Act for any person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim in which—

''(1) an ANDA filer receives anything of value; and

''(2) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

''(b) Nothing in this section shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

''(c) In this section:

''(1) The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

''(2) The term 'agreement resolving or settling a patent infringement claim' includes, any agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) The term 'ANDA filer' means a party who has filed an ANDA with the Food and Drug Administration.

''(5) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.''.

(b) REGULATIONS.—The Federal Trade Commission may, by rule promulgated under section 553 of title 5, United States Code, exempt certain agreements described in section 29 of the Clayton Act, as added by subsection (a), if the Commission finds such agreements to be in furtherance of market competition and for the benefit of consumers. Consistent with the authority of the Commission, such rules may include interpretive rules and general statements of policy with respect to the practices prohibited under section 29 of the Clayton Act.

SEC. 4. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 3155 note) is amended by—

(1) striking ''the Commission the'' and inserting ''the Commission (1) the''; and

(2) inserting before the period at the end the following: ''; and (2) a description of the subject matter of any other agreement the parties enter into within 30 days of an entering into an agreement covered by subsection (a) or (b)''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises

between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. 5. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 29 of the Clayton Act or'' after ''that the agreement has violated''.

By Mr. AKAKA (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. LEVIN, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. LEAHY, Mr. KENNEDY, Mr. CARPER, Mr. PRYOR, and Ms. MIKULSKI):

S. 372. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I rise to reintroduce the Whistleblower Protection Enhancement Act. I am pleased that Senators COLLINS, GRASSLEY, LEVIN, LIEBERMAN, VOINOVICH, LEAHY, KENNEDY, CARPER, PRYOR, and MIKULSKI have joined as cosponsors of this bill.

I have been a long-time proponent of strengthening the rights and protections of federal whistleblowers. Last year, my bill, the Federal Employee Protection of Disclosures Act, S. 274, passed the Senate by unanimous consent in December 2007. A similar House bill, the Whistleblower Protection Enhancement Act, also passed in March 2008. Unfortunately, we were not able to reconcile the two bills and enact whistleblower protections before the 110th Congress adjourned.

The need for strengthened whistleblower protections is clear. In this time of economic crisis, we cannot wait to act on measures to make sure the government uses tax dollars efficiently and effectively. Indeed, President Obama emphasized the need for improved accountability in his inaugural address, stating:

> Those of us who manage the public's dollars will be held to account—to spend wisely, reform bad habits, and do our business in the light of day—because only then can we restore the vital trust between a people and their government.

This legislation will help us hold those who manage the public's dollars accountable by strengthening protections for Federal workers who shed light on Government waste, fraud, and abuse. Our bill also will contribute to public health and safety, civil rights and civil liberties, national security, and other valuable interests. Federal employees often are in the best position to observe and disclose Federal Government wrongdoing that can affect every aspect of our economy and our lives, and fewer employees will have the courage to disclose wrongdoing without meaningful whistleblower protections.

The Whistleblower Protection Act, WPA, was intended to shield Federal whistleblowers from retaliation, but the Federal Circuit and the Merit Systems Protection Board repeatedly have issued decisions that misconstrue the WPA and scale back its protections. Federal whistleblowers have prevailed on the merits of their claims before the Federal Circuit Court of Appeals, which has sole jurisdiction over federal employee whistleblower appeals, only three times in hundreds of cases since 1994. That is why further action is necessary.

I will highlight a few of the important provisions in this bill. Our bill would eliminate a number of restrictions that the Federal Circuit has read into the law regarding when disclosures are covered by the WPA. In light of the Federal Circuit's restrictive reading of the WPA, it would establish a pilot program to allow whistleblower appeals to be filed in the appropriate regional Federal Court of Appeals for five years, and would require a Government Accountability Office review of that change 40 months after enactment. This bill would bar agencies from enforcing a nondisclosure policy, revoking an employee's security clearance, or investigating an employee in retaliation for a protected disclosure.

This bill also includes a few improvements in whistleblower protection that were not in S. 274. It would expand the coverage of the Whistleblower Protection Act to include employees of the Transportation Security Administration. Additionally, it would make clear that disclosures of censorship of scientific information that could lead to gross government waist or mismanagement, a substantial and specific danger to public health or safety, or a violation of law are protected.

Congress has a duty to provide strong protections for Federal whistleblowers. Only when Federal employees are confident that they will not face retaliation will they feel comfortable coming forward to disclose information that can be used to improve government operations, our national security, and the health of our citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) SHORT TITLE.—This Act may be cited as the ''Whistleblower Protection Enhancement Act of 2009''.

(b) CLARIFICATION OF DISCLOSURES COVERED.—

(1) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(A) in subparagraph (A)—

(i) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of'';

(ii) in clause (i), by striking ''a violation'' and inserting ''any violation''; and

(iii) by striking ''or'' at the end;

(B) in subparagraph (B)—

(i) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of'';

(ii) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''; and

(iii) in clause (ii), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(C) any disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is direct and specific evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

''(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

''(III) an employee of Congress who has the appropriate security clearance and is authorized to receive information of the type disclosed.''.

(2) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—

(A) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214, in subsections (a), (e)(1) and (i) of section 1221, and in subsection (a)(2)(C)(i) of 2302 by inserting ''or 2302(b)(9) (B) through (D)'' after ''section 2302(b)(8)'' or ''(b)(8)'' each place it appears.

(B) OTHER REFERENCES.—Title 5, United States Code, is amended in subsection (b)(4)(B)(i) of section 1214 and in subsection

(e)(1) of section 1221 by inserting ''or protected activity'' after ''disclosure'' each place it appears.

(c) DEFINITIONAL AMENDMENTS.—

(1) DISCLOSURES.—Section 2302(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (B)(ii), by striking ''and'' at the end;

(B) in subparagraph (C)(iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) 'disclosure' means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

''(i) any violation of any law, rule, or regulation; or

''(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.''.

(2) CLEAR AND CONVINCING EVIDENCE.—Sections 1214(b)(4)(B)(ii) and 1221(e)(2) of title 5, United States Code, are amended by adding at the end the following: ''For purposes of the preceding sentence, 'clear and convincing evidence' means evidence indicating that the matter to be proved is highly probable or reasonably certain.''.

(d) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows:

''This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that they have disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.''.

(e) PERSONNEL ACTIONS AND PROHIBITED PERSONNEL PRACTICES.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

''(xii) a suspension, revocation, or other determination relating to a security clearance or any other access determination by a covered agency;

''(xiii) an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; and''

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling'; or

''(14) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section.''.

(f) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency; and

''(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

(g) DISCIPLINARY ACTION.—Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

''(3)(A) A final order of the Board may impose—

''(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

''(ii) an assessment of a civil penalty not to exceed $1,000; or

''(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under paragraph (8) or (9) of section 2302(b) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

(h) REMEDIES.—

(1) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking ''agency involved'' and inserting ''agency where the prevailing party is employed or has applied for employment''.

(2) DAMAGES.—Sections 1214(g)(2) and 1221(g)(1)(A)(ii) of title 5, United States Code, are amended by striking all after ''travel expenses,'' and inserting ''any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs).'' each place it appears.

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b)(1) of title 5, United States Code, is amended to read as follows:

''(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2), a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

''(B) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2009, a petition to review a final order or final decision of the Board in a case alleging a violation of paragraph (8) or (9) of section 2302(b) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2).''.

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

''(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2009, this paragraph shall apply to any review relating to

paragraph (8) or (9) of section 2302(b) obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting paragraph (8) or (9) of section 2302(b). If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(j) MERIT SYSTEM PROTECTION BOARD REVIEW OF SECURITY CLEARANCES.—

(1) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

''§ 7702a. Actions relating to security clearances

''(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance or access determination, the Merit Systems Protection Board or any reviewing court—

''(1) shall determine whether paragraph (8) or (9) of section 2302(b) was violated;

''(2) may not order the President or the designee of the President to restore a security clearance or otherwise reverse a determination of clearance status or reverse an access determination; and

''(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

''(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regard to a security clearance or access determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall conduct a review of that suspension, revocation, access determination, or other determination, giving great weight to the Board or court judgment.

''(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, access determination, or other determination was made in violation of paragraph (8) or (9) of section 2302(b), the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, other determination, or access determination. A report under this paragraph shall include any proposed agency action with regard to the security clearance or access determination.

''(c) An allegation that a security clearance or access determination was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.

''(d) For purposes of this section, corrective action may not be ordered if the agency demonstrates by a preponderance of the evidence that it would have taken the same personnel action in the absence of such disclosure.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

''7702a. Actions relating to security clearances.''.

(k) PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(A) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(B) by inserting after section 2303 the following:

''§ 2304. Prohibited personnel practices affecting the Transportation Security Administration

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

''(1) the provisions of section 2302(b)(1), (8), and (9);

''(2) any provision of law implementing section 2302(b) (1), (8), or (9) by providing any right or remedy available to an employee or applicant for employment in the civil service; and

''(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and by inserting the following:

''Sec. 2304. Prohibited personnel practices affecting the Transportation Security Administration.
''Sec. 2305. Responsibility of the Government Accountability Office.
''Sec. 2306. Coordination with certain other provisions of law.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section.

(l) DISCLOSURE OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.—

(1) DEFINITIONS.—In this section—

(A) the term ''applicant'' means an applicant for a covered position;

(B) the term ''censorship related to research, analysis, or technical information'' means any effort to alter, misrepresent, or suppress research, analysis, or technical information;

(C) the term ''covered position'' has the meaning given under section 2302(a)(2)(B) of title 5, United States Code;

(D) the term ''employee'' means an employee in a covered position; and

(E) the term ''disclosure'' has the meaning given under section 2302(a)(2)(D) of title 5, United States Code.

(2) PROTECTED DISCLOSURE.—

(A) IN GENERAL.—Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information shall come within the protections of section 2302(b)(8)(A) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation; or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) the disclosure and information satisfy the conditions stated in the matter following clause (ii) of section 2302(b)(8)(A) of title 5, United States Code; and

(iii) shall come within the protections of section 2302(b)(8)(B) of title 5, United States Code, if—

(I) the conditions under clause (i) of this subparagraph are satisfied; and

(II) the disclosure is made to an individual referred to in the matter preceding clause (i) of section 2302(b)(8)(B) of title 5, United States Code, for the receipt of disclosures.

(B) APPLICATION.—Paragraph (1) shall apply to any disclosure of information by an employee or applicant without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties.

(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.

(m) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: ''For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.''.

(n) ADVISING EMPLOYEES OF RIGHTS.—Section 2302(c) of title 5, United States Code, is amended by inserting '', including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures'' after ''chapter 12 of this title''.

(o) SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action brought in a court of the United States related to any civil action brought in connection with section 2302(b) (8) or (9), or subchapter III of chapter 73, or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) or subchapter III of chapter 73 and the impact court decisions would have on the enforcement of such provisions of law.

''(2) A court of the United States shall grant the application of the Special Counsel to appear in any such action for the purposes described in subsection (a).''.

(p) SCOPE OF DUE PROCESS.—

(1) SPECIAL COUNSEL.—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting ", after a finding that a protected disclosure was a contributing factor," after "ordered if".

(2) INDIVIDUAL ACTION.—Section 1221(e)(2) of title 5, United States Code, is amended by inserting ", after a finding that a protected disclosure was a contributing factor," after "ordered if".

(q) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.".

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

(r) REPORTING REQUIREMENTS.—

(1) GOVERNMENT ACCOUNTABILITY OFFICE.—

(A) IN GENERAL.—

(i) REPORT.—Not later than 40 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives on the implementation of this Act.

(ii) CONTENTS.—The report under this paragraph shall include—

(I) an analysis of any changes in the number of cases filed with the United States Merit Systems Protection Board alleging violations of section 2302(b)(8) or (9) of title 5, United States Code, since the effective date of the Act;

(II) the outcome of the cases described under clause (i), including whether or not the United States Merit Systems Protection Board, the Federal Circuit Court of Appeals, or any other court determined the allegations to be frivolous or malicious; and

(III) any other matter as determined by the Comptroller General.

(B) STUDY ON REVOCATION OF SECURITY CLEARANCES.—

(i) STUDY.—The Comptroller General shall conduct a study of security clearance revocations of Federal employees at a select sample of executive branch agencies. The study shall consist of an examination of the number of security clearances revoked, the process employed by each agency in revoking a clearance, the pay and employment status of agency employees during the revocation process, how often such revocations result in termination of employment or reassignment, how often such revocations are based on an improper disclosure of information, and such other factors the Comptroller General deems appropriate.

(ii) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the results of the study required under this subparagraph.

(2) MERIT SYSTEMS PROTECTION BOARD.—

(A) IN GENERAL.—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

(i) Information relating to the outcome of cases decided during the applicable year of the report in which violations of section 2302(b)(8) or (9) of title 5, United States Code, were alleged.

(ii) The number of such cases filed in the regional and field offices, the number of petitions for review filed in such cases, and the outcomes of such cases.

(B) FIRST REPORT.—The first report described under subparagraph (A) submitted after the date of enactment of this Act shall include an addendum required under that subparagraph that covers the period beginning on January 1, 2009 through the end of the fiscal year 2009.

(s) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of enactment of this Act.

By Mr. NELSON, of Florida:

S. 373. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal; to the Committee on Environment and Public Works.

Mr. NELSON of Florida. Mr. President, I rise today to discuss exotic pythons and the devastating impact they are having on wildlife in my home state. To combat this deadly nonnative nuisance, I am also filing a bill that will ban the interstate commerce and importation of these snakes.

Pythons were first discovered in the Everglades in the mid–1990s, and now have a rapidly-growing breeding population within the boundary of Everglades National Park. They impact almost seventy endangered species living in the Everglades and threaten to upset the natural balance that we are spending billions of dollars to restore. When I toured the Everglades with Environment and Public Works Committee Chairman BARBARA BOXER, we witnessed firsthand the damage pythons are causing, and the efforts researchers are making to eradicate them from the wild.

These snakes were brought to Florida to be sold as pets, and were introduced into the wild by owners who could no longer handle them. They eat animals ranging from songbirds to white ibises, as well as endangered and threatened species such as the Key Largo woodrat. Pythons can grow to be 23 feet long and weigh up to 200 pounds, and there is currently no effective way of eradicating them in the wild.

They can consume animals many times their size, and recently, researchers also found cougar parts in the stomachs of captured pythons. This development could signal a new threat to the endangered Florida panther, which we have been working so hard to save.

Python populations have also been discovered in Big Cypress National Preserve to the north, Miami's water management areas to the northeast, Key Largo to the southeast, and many state parks, municipalities, and public and private lands in the region.

Because climate range projections from the U.S. Geological Survey show that pythons may soon expand their range to include much of the southern third of the United States, getting their populations under control is even more pressing.

In the last year, the State of Florida has taken some actions to address the problems created by owners who release their pythons into the wild, and I applaud these efforts. The State now requires owners of animals they call "Reptiles of Concern"—a category that includes two species besides pythons—not only to obtain permits for their animals, but also to implant a tracking microchip in larger pythons.

I believe federal action is also needed. That is why today I am introducing a bill that would amend the Lacey Act to ban the importation and interstate commerce of the python. This step is needed to reduce the number of pythons released into the wild by pet owners who don't understand the responsibility caring for a python entails. In 2007, preeminent environmentalist and former assistant secretary of the Interior Nathaniel Reed wrote, "The dramatic increase in the number of snakes in the Park and Big Cypress call into question why it has

taken so long for the Service to utilize its powers under the Lacey Act to prevent importation of the snake into an ecosystem where escapees and rejects have built a sustainable population.''

If we do not take action now, we will let python populations in Florida continue to grow and further ravage the already-fragile Everglades, as well as risk letting them spread throughout the Southern portion of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPORTATION OR SHIPMENT OF INJURIOUS SPECIES.

Section 42(a)(1) of title 18, United States Code, is amended in the first sentence by inserting ''; of the constrictor snake of the species Python genera'' after ''polymorpha''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 26—RECOGNIZING AND HONORING RALPH WILSON, JR. AND BRUCE SMITH ON BEING SELECTED TO THE 2009 PRO FOOTBALL HALL OF FAME CLASS

Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 26

Whereas Ralph Wilson, Jr. was born in Columbus, Ohio on October 17, 1918 and grew up in Detroit, Michigan;

Whereas Ralph Wilson, Jr. is a graduate of the University of Virginia and attended the University of Michigan Law School;

Whereas Ralph Wilson, Jr. bravely served in the United States Navy during World War II;

Whereas Ralph Wilson, Jr.'s first involvement in professional football was as a minority owner of the National Football League's (NFL) Detroit Lions;

Whereas on October 28, 1959, Ralph Wilson, Jr. created the Buffalo Bills, the seventh American Football League (AFL) franchise;

Whereas under Ralph Wilson, Jr.'s leadership and with the legendary players Jack Kemp, Cookie Gilchrist, Billy Shaw, and Tom Sestak, the Buffalo Bills were AFL champions in 1964 and 1965;

Whereas Ralph Wilson, Jr., head Coach Marv Levy, and outstanding talented players, including Jim Kelly, Bruce Smith, Thurman Thomas, and Andre Reed, led the Buffalo Bills to Super Bowls XXV, XXVI, XXVII, and XXVIII;

Whereas in 1998, the Buffalo Bill's home stadium was named ''Ralph Wilson Stadium'' to honor the team's owner;

Whereas at 90 years old, Ralph Wilson, Jr. is still a champion for his team;

Whereas Bruce Smith was born in Norfolk, Virginia on June 18, 1963;

Whereas Bruce Smith attended Virginia Polytechnic Institute and State University and is one of the most-celebrated football players of his alma mater, having been nicknamed ''The Sack Man'';

Whereas Bruce Smith was drafted to the Buffalo Bills in 1985 as the number one draft pick overall;

Whereas Bruce Smith was a member of the Buffalo Bills for Super Bowls XXV, XXVI, XXVII, and XXVIII;

Whereas Bruce Smith was first selected to play in the Pro Bowl in 1987, and was selected 10 additional years during which he was a Buffalo Bill;

Whereas Bruce Smith boasts numerous professional football recognitions, including Pro Bowl Most Valuable Player, Associated Press NFL Defensive Player of the Year, Newspaper Enterprise Association Defensive Player of the Year, United Press International Defensive Player of the Year, and American Football Conference (AFC) Defensive Player of the Year; and

Whereas Bruce Smith completed his career as a Washington Redskin in 2003 after 19 seasons and a record 200 sacks: Now, therefore, be it

Resolved, That the Senate recognizes and honors Ralph Wilson, Jr. and Bruce Smith on being selected to the 2009 Pro Football Hall of Fame class.

SENATE CONCURRENT RESOLUTION 4—CALLING ON THE PRESIDENT AND THE ALLIES OF THE UNITED STATES TO RAISE THE CASE OF ROBERT LEVINSON WITH OFFICIALS OF THE GOVERNMENT OF IRAN AT EVERY LEVEL AND OPPORTUNITY, AND URGING OFFICIALS OF THE GOVERNMENT OF IRAN TO FULFILL THEIR PROMISES OF ASSISTANCE TO THE FAMILY OF ROBERT LEVINSON AND TO SHARE INFORMATION ON THE INVESTIGATION INTO THE DISAPPEARANCE OF ROBERT LEVINSON WITH THE FEDERAL BUREAU OF INVESTIGATION

Mr. NELSON of Florida (for himself, Mr. VOINOVICH, Mr. BAYH, Mr. MARTINEZ, Mr. KYL, and Mr. MENENDEZ) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 4

Whereas United States citizen Robert Levinson is a retired agent of the Federal Bureau of Investigation, a resident of Florida, the husband of Christine Levinson, and father of their 7 children;

Whereas Robert Levinson traveled from Dubai to Kish Island, Iran, on March 8, 2007;

Whereas, after traveling to Kish Island and checking into the Hotel Maryam, he disappeared on March 9, 2007;

Whereas neither his family nor the United States Government has received further information on his fate or whereabouts;

Whereas March 9, 2009, marks the second anniversary of the disappearance of Robert Levinson;

Whereas the Government of Switzerland, which has served as Protecting Power for the United States in the Islamic Republic of Iran in the absence of diplomatic relations between the United States Government and the Government of Iran since 1980, has continuously pressed the Government of Iran on the case of Robert Levinson and lent vital assistance and support to the Levinson family during their December 2007 visit to Iran;

Whereas officials of the Government of Iran promised their continued assistance to the relatives of Robert Levinson during the visit of the family to the Islamic Republic of Iran in December 2007; and

Whereas the President of the Islamic Republic of Iran, Mahmoud Ahmadinejad, stated during an interview with NBC News broadcast on July 28, 2008, that officials of the Government of Iran were willing to cooperate with the Federal Bureau of Investigation in the search for Robert Levinson: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the Embassy of Switzerland in Tehran and the Government of Switzerland for the ongoing assistance to the United States Government and to the family of Robert Levinson, particularly during the visit by Christine Levinson and other relatives to Iran in December 2007;

(2) expresses appreciation for efforts by Iranian officials to ensure the safety of the family of Robert Levinson during their December 2007 visit to Iran, as well as for the promise of continued assistance;

(3) urges the Government of Iran, as a humanitarian gesture, to intensify its cooperation on the case of Robert Levinson with the Embassy of Switzerland in Tehran and to share the results of its investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation;

(4) urges the President and the allies of the United States to engage with officials of the Government of Iran to raise the case of Robert Levinson at every opportunity, notwithstanding other serious disagreements the United States Government has had with the Government of Iran on a broad array of issues, including human rights, the nuclear program of Iran, the Middle East peace process, regional stability, and international terrorism; and

(5) expresses sympathy to the family of Robert Levinson during this trying period.

Mr. NELSON of Florida. Mr. President, since we have a moment, I will tell you about S. Con. Res. 4. Two years ago, an American went to Kish Island, which is part of Iran. The Iranian island is in the Persian Gulf and a visa is not required to get there. We have the records that Bob Levinson, a retired FBI agent, checked out of his hotel, which subsequently has been confirmed by the taxi driver who drove him to the airport and deposited him. At that point, Bob Levinson disappeared and has left a wife and seven children. They happen to reside in the State of Florida. But it doesn't make any difference where the State is. We have a number of Senators who have joined with me on this resolution to keep up the pressure.

I want you to know that under the reasonable man test, all of the evidence we have suggests that Bob Levinson is in Iran and is being held against his will. First, there was an Iranian press story about 6 weeks after Levinson's disappearance that indicated he would be released, that he was in custody. This report comes from PRESS TV, which is an Iranian Government press operation.

In addition, there was a fellow he met with on Kish Island named Belfield, who is a fugitive from American justice. Belfield now resides in Iran and has stated publicly that he met with Bob Levinson. The meeting was suddenly interrupted by people who arrested Belfield. This fellow, Belfield, has said that Levinson is being held in Iran. We have also had the statement by the President of Iran, Ahmadinejad, who says he doesn't know anything about Levinson's location in Iran, but that the Government of Iran would do everything to cooperate.

Thus far, in innumerable contacts from this Senator and Mrs. Levinson including during her visit a year ago to Tehran and to Kish Island, the Government of Iran has not been forthcoming or willing to cooperate.

The reasonable man test says he is held in Iran. I can tell you that this Senator believes he is being held and he is being held in a secret prison. We do know that, from time to time, in several diplomatic sessions, whenever this has been brought up to an Iranian official, first, he says, ''We don't know anything about Levinson,'' and then they immediately change the subject to talk about the Iranians who were picked up by the U.S. Government in Erbil, Iraq. Whether they are suggesting an exchange, we simply don't know. But I can tell you that the Government of the United States, now under the new administration, specifically with the Secretary of State, who has been briefed on details in the Bob Levinson case, is pressing forward.

In conclusion, if there is a new chapter in the relationship between the United States and Iran, what better way for that new chapter to open than for Iran to make a humanitarian gesture by returning this father, this husband, to his family, his wife and seven children.

AMENDMENTS SUBMITTED AND PROPOSED

SA 106. Mr. ISAKSON (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

SA 107. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 108. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 109. Mr. COBURN (for himself, Mr. ENZI, Mr. MCCAIN, and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 110. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL, of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, Mr. SCHUMER, Mr. BYRD, Mr. MENENDEZ, Mr. CARPER, and Mr. TESTER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 111. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 112. Mrs. BOXER (for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 113. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 114. Mr. KERRY (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. MENENDEZ, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 115. Mr. INHOFE (for himself and Mr. BENNET, of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 116. Mr. CARDIN (for himself, Mr. ENSIGN, and Mr. UDALL, of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 117. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 118. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 119. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 120. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 121. Mrs. BOXER (for herself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 122. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 123. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 124. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 125. Mrs. MCCASKILL (for herself, Mr. SANDERS, Mrs. HAGAN, Mr. HARKIN, Ms. MIKULSKI, Ms. KLOBUCHAR, Mr. NELSON, of Nebraska, Mr. BEGICH, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 126. Mrs. MCCASKILL (for herself, Mr. BOND, Mr. BINGAMAN, and Mr. UDALL, of New Mexico) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 127. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 128. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 129. Mr. CARPER (for himself, Mr. VOINOVICH, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 130. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 131. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 132. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 133. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 134. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 135. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 136. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 137. Mr. REID (for Mr. KENNEDY (for himself, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mr. WHITEHOUSE, and Mrs. SHAHEEN)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr.

BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 138. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 139. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 140. Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 141. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 142. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 143. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 144. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 145. Mr. DODD submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 146. Mr. CARPER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 147. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 148. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 149. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 150. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 151. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 152. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 153. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 154. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 155. Ms. KLOBUCHAR (for herself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 156. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 157. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 158. Mr. MARTINEZ (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 159. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 160. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 161. Mr. BOND (for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 162. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 163. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 164. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 165. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 166. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 167. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 168. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 169. Mr. BOND (for himself, Mrs. BOXER, Mr. INHOFE, Mr. BAUCUS, Mr. COCHRAN, Mr. VOINOVICH, Mr. CRAPO, Mr. BAYH, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 170. Mr. CARPER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 171. Mr. CARPER (for himself, Mrs. BOXER, Mr. SCHUMER, Mr. LAUTENBERG, Ms. STABENOW, Mrs. GILLIBRAND, Mr. KERRY, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 172. Mr. UDALL of Colorado (for himself, Mr. BEGICH, and Mr. KAUFMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 173. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. CARDIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 174. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 175. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 176. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 177. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 178. Mr. HARKIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 179. Mr. VITTER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 180. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 181. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 182. Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 183. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 184. Mr. LEAHY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 185. Mr. SCHUMER (for himself, Mr. SPECTER, Mr. LAUTENBERG, Mr. MENENDEZ,

and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 186. Mr. UDALL of Colorado (for himself and Mr. BENNETT of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 187. Mr. UDALL of Colorado (for himself, Mr. KERRY, Mr. BINGAMAN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 188. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 189. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 190. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 191. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 192. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 193. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 194. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 195. Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. WYDEN, Mr. KERRY, Mr. TESTER, Mr. UDALL of New Mexico, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 196. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 197. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 198. Mr. INHOFE (for himself and Mr. THUNE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 199. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 200. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 201. Ms. KLOBUCHAR (for herself, Mr. HATCH, Mr. BENNETT, and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 202. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 203. Mr. SANDERS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 204. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 205. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 206. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 106. Mr. ISAKSON (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1006 of title I of Division B and insert the following:

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after December 31, 2008, and

''(B) before January 1, 2010.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section, the term 'qualified principal residence' means a single-family residence that is purchased to be the principal residence of the purchaser.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a qualified principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 107. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. ___. PROHIBITION ON USE OF FUNDS BY OR FOR ACORN.

None of the funds appropriated or otherwise made available by this Act may be used directly or indirectly to fund the Association of Community Organizations for Reform Now (ACORN).

SA 108. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, beginning on line 12, strike ''$4,600,000,000'' and all that follows through ''powerplant(s): *Provided further*'' on line 15, and insert ''$2,600,000,000: *Provided*''.

SA 109. Mr. COBURN (for himself, Mr. ENZI, Mr. MCCAIN, and Mr. DEMINT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 475, beginning on line 1, strike through page 477, line 17.

SA 110. Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. REID, Mr. DURBIN, Mr. DODD, Mrs. BOXER, Mr. LEAHY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, Mr. LEVIN, Mr. BROWN, Mr. CARDIN, Mr. SANDERS, Mr. LIEBERMAN, Ms. CANTWELL, Mr. UDALL of Colorado, Mr. WHITEHOUSE, Mr. BEGICH, Mr. SCHUMER, Mr. BYRD, Mr. MENENDEZ, Mr. CARPER, and Mr. TESTER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

Beginning on page 118, line 4, strike ''$6,400,000,000, to remain available'' and all that follows through ''$2,000,000,000 shall be for'' and insert in-lieu thereof ''$13,400,000,000, to remain available until September 30, 2010, of which $10,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $3,000,000,000 shall be for''.

On page 232, line 16, insert ''and other surface transportation'' prior to the word ''investment'', ''

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$40,060,000,000''.

On page 239, line 24, strike ''$8,400,000,000'' and insert $10,400,000,000''.

On page 242, after line 10, insert the following:

SUPPLEMENTAL GRANTS FOR FIXED GUIDEWAY MODERNIZATION

For an additional amount for capital expenditures authorized under section 5309(b)(2), $2,000,000,000, to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337(a)(7) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SUPPLEMENTAL FUNDS FOR CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'' as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $1,000,000,000, to remain available through September 30, 2011: *Provided*, That in awarding grants with funding provided under this heading, the Secretary shall give priority to projects that the grant funding can expedite their completion and their entry into revenue service: *Provided further*, That such funding shall be allocated without regard to the requirements of section 5309(m)(2)(A)(i) of title 49, United States Code: *Provided further*, That the federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Capital Investment Grants account.

Each amount provided in this amendment is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 111. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. FHA LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), notwithstanding any other provision of law, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

SEC. 1608. GSE CONFORMING LOAN LIMITS FOR 2009.

(a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2009, if the limitation on the maximum original principal obligation of a mortgage that may purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)), respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during 2009, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

SEC. 1609. FHA REVERSE MORTGAGE LOAN LIMITS FOR 2009.

For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150 percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

SA 112. Mrs. BOXER (for herself, Mr. ENSIGN, Mr. BAYH, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was order to lie on the table; as follows:

On page 514, between lines 16 and 17, insert the following:

PART X—INVEST IN THE USA

SEC. 1291. ALLOWANCE OF DEDUCTION FOR DIVIDENDS RECEIVED FROM CONTROLLED FOREIGN CORPORATIONS FOR ADDITIONAL YEAR.

(a) IN GENERAL.—Section 965 (relating to temporary dividends received deduction) is amended by adding at the end the following new subsection:

''(g) ALLOWANCE FOR DEDUCTION FOR AN ADDITIONAL YEAR.—

''(1) IN GENERAL.—In the case of an election under this subsection, subsection (f)(1) shall be applied by substituting 'January 1, 2010,' for 'the date of the enactment of this section'.

''(2) SPECIAL RULES.—For purposes of paragraph (1)—

''(A) EXTRAORDINARY DIVIDENDS.—Subsection (b)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Subsection (b)(3)(B) shall be applied by substituting 'October 3, 2009' for 'October 3, 2004'.

''(C) APPLICABLE FINANCIAL STATEMENT.—Subsection (c)(1) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003' each place it occurs.

''(D) DETERMINATIONS RELATING TO BASE PERIOD.—Subsection (c)(2) shall be applied by substituting 'June 30, 2009' for 'June 30, 2003'.

''(E) REQUIREMENTS FOR INVESTMENT IN UNITED STATES.—Subsection (b)(4) shall be applied—

''(i) by inserting 'deposited in 1 or more United States financial institutions and' after 'amount of the dividend', and

''(ii) by striking subparagraph (B) thereof and inserting the following:

'' '(B) provides for the reinvestment of such dividend in the United States (other than as payment for executive compensation) as a source of funding for only 1 or more of the following purposes:

'' '(i) worker hiring and training,

'' '(ii) research and development,

'' '(iii) capital improvements,

'' '(iv) acquisitions of business entities for the purpose of retaining or creating jobs in the United States, and

'' '(v) clean energy initiatives (such as clean energy research and development, energy efficiency, clean energy start ups, and clean energy jobs).

For any purpose described in clause (i), (ii), or (iii), funding shall qualify for purposes of this paragraph only if such funding supplements but does not supplant otherwise scheduled funding for either taxable year described in subsection (f) by the taxpayer for such purpose. Such scheduled funding shall be certified by the individual and entity approving the domestic reinvestment plan.'.

''(3) AUDIT.—Not later than 2 years after the date of the election under this subsection, the Internal Revenue Service shall conduct an audit of the taxpayer with respect to any reinvestment transaction arising from such election.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after January 1, 2010.

SA 113. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. _____. ADDITIONAL AMOUNT FOR COMPETITIVE GRANT PROGRAM FOR CONSTRUCTION OF RESEARCH SCIENCE BUILDINGS.— (a) IN GENERAL.—The amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'' is increased by $100,000,000.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'', as increased by subsection (a), $100,000,000 shall be available for the competitive grant program for construction of research science buildings that is authorized by sections 13 through 15 of the National Institute of Standards and Technology Act (15 U.S.C. 278c–278e).

(c) REQUIREMENT OF TIMELY AWARD OF GRANTS.—Competitive grants using amounts

appropriated or otherwise made available by this title under the heading ''CONSTRUCTION OF RESEARCH FACILITIES'' shall be awarded not later than 120 days after the date of the enactment of this Act (or, in the case of appropriations not available upon such date of enactment, not later than 120 days after the appropriation becomes available for obligation).

SA 114. Mr. KERRY (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. MENENDEZ, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, line 22, before the period at the end, insert the following: '': *Provided further*, That the Secretary of Energy shall increase the ceiling on energy savings performance contacts entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) prior to December 1, 2008, to ensure that projects for which a contractor has been selected under the contracts are concluded in a timely manner''.

SA 115. Mr. INHOFE (for himself and Mr. BENNET of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 14, before the period, insert the following: '': *Provided further*, That a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)) shall be eligible to obtain a loan guarantee under section 1702(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(b)(2)) with funds made available under this heading for capital expenditures necessary to comply during the 3-year period beginning on the date of enactment of this Act with environmental requirements imposed by a Federal agency''.

SA 116. Mr. CARDIN (for himself, Mr. ENSIGN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsections (a) and (b) of section 1006 of division B and insert the following:

(a) EXTENSION.—

(1) IN GENERAL.—Section 36(h) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENT.—Section 36(g) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) WAIVER OF RECAPTURE.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before January 1, 2010—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

SA 117. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Each amount appropriated or otherwise made available in the matter under the heading entitled ''DEPARTMENT OF DEFENSE—CIVIL'' of title IV is increased by 100 percent.

(b) Notwithstanding any other provision of this Act, each amount provided by each matter under the headings entitled ''ENERGY EFFICIENCY AND RENEWABLE ENERGY'' and ''FOSSIL ENERGY RESEARCH AND DEVELOPMENT'' under the heading entitled ''ENERGY PROGRAMS'' under the heading entitled ''DEPARTMENT OF ENERGY'' of title IV is reduced by the pro rata percentage required to carry out subsection (a).

SA 118. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ______. (a) Each amount appropriated or otherwise made available in the matter under the heading entitled ''DEPARTMENT OF DEFENSE—CIVIL'' of title IV is increased by 100 percent.

(b) Notwithstanding any other provision of this Act, the amount provided by the matter under the heading entitled ''DEFENSE ENVIRONMENTAL CLEANUP'' under the heading entitled ''ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES'' under the heading entitled ''ATOMIC ENERGY DEFENSE ACTIVITIES'' of title IV is reduced by $4,890,000,000.

SA 119. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for the purposes; which was ordered to lie on the table; as follows:

On page 122, after line 23, add the following:

Subtitle B—Expedited Lease Sales

SEC. 711. SHORT TITLE.

This subtitle may be cited as the ''Drill Now Act of 2009''.

SEC. 712. DEFINITIONS.

In this subtitle:

(1) OPENED AREA.—The term ''opened area'' means any area of the outer Continental shelf that—

(A) before the date of enactment of this Act, was closed to oil or gas leasing; and

(B) as of the date of enactment of this Act, is made available for leasing pursuant to section 713(a) and the amendments made by that section.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 713. LEASING ON OUTER CONTINENTAL SHELF.

(a) OPENING NEW OFFSHORE AREAS TO OIL AND GAS DEVELOPMENT.—

(1) IN GENERAL.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

(2) EASTERN GULF OF MEXICO.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended to read as follows:

''SEC. 104. DESIGNATION OF NATIONAL DEFENSE AREAS.

''The United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).''.

(b) EXPEDITED LEASING.—The Secretary may conduct leasing, preleasing, and related activities for any opened area before June 30, 2012, notwithstanding the omission of the opened area from the Outer Continental Shelf leasing program developed pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) for the period ending June 30, 2012.

(c) NO SURFACE OCCUPANCY.—Any lease issued by the Secretary pursuant to section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for any submerged land of the outer Continental Shelf in any opened area lying within 25 miles of the coastline of any State shall include a provision prohibiting permanent surface occupancy under that lease within that 25-mile area.

(d) DISPOSITION OF REVENUES FROM OUTER CONTINENTAL SHELF AREAS OPENED UNDER THIS SECTION.—

(1) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, the Secretary of the Treasury shall deposit rentals, royalties, bonus bids, and other sums due and payable

from any leased tract within an opened area, and from all other leased tracts in any other area for which leases are entered into after the date of enactment of this Act, as follows:

(A) 50 percent in the general fund of the Treasury.

(B) 50 in a special account in the Treasury, for allocation by the Secretary among the States in accordance with paragraph (2).

(2) ALLOCATION.—

(A) IN GENERAL.—For fiscal year 2009 and each fiscal year thereafter, the amount made available under paragraph (1)(B) shall be allocated among States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between—

(i) the point on the coastline of each State that is closest to the geographical center of the applicable leased tract; and

(ii) the geographical center of the leased tract.

(B) PROHIBITION ON RECEIPT OF AMOUNTS.—No State shall receive any amount under this paragraph from a leased tract if the geographical center of that leased tract is more than 200 nautical miles from the coastline of that State.

(3) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

(A) be made available, without further appropriation, in accordance with this section;

(B) remain available until expended; and

(C) be in addition to any amounts appropriated under—

(i) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); or

(iii) any other provision of law.

(e) JUDICIAL REVIEW.—

(1) FILING OF COMPLAINT.—

(A) DEADLINE.—Subject to subparagraph (B), any complaint seeking judicial review of any provision of this section or any action of the Secretary under this section or relating to areas opened under the amendments made by subsection (a) shall be filed in any appropriate United States district court—

(i) except as provided in clause (ii), not later than the end of the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after that period, not later than 90 days after the date on which the complainant knew or reasonably should have known of the grounds for the complaint.

(B) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this section or relating to areas opened under subsection (a) may be filed only in the United States Court of Appeals for the District of Columbia.

(C) LIMITATION ON SCOPE OF CERTAIN REVIEW.—

(i) IN GENERAL.—Judicial review of a decision of the Secretary to conduct a lease sale for areas opened under the amendments made by subsection (a), including the environmental analysis relating to such a decision, shall be—

(I) limited to whether the Secretary has complied with the terms of this section and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(II) based upon the administrative record of that decision.

(ii) PRESUMPTION.—In any judicial review described in clause (i), the identification by the Secretary of a preferred course of action to enable leasing to proceed, and the analysis of the Secretary of any environmental effects of that course of action, shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(2) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(f) REPEAL OF RESTRICTION ON OIL SHALE LEASING.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 120. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for the purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. ADDITIONAL AMOUNT FOR ECONOMIC ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—The amount appropriated or otherwise made available under title II of this division under the heading ''ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'' is hereby increased by $50,000,000.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available under title II of this division under the heading ''ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'', as increased by subsection (a), $50,000,000 shall be available for economic adjustment assistance pursuant to section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149). The amount available for economic adjustment assistance under this subsection shall be in addition to any other amounts available for such assistance under title II of this division.

SA 121. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 452, between lines 18 and 19, insert the following:

PART III—RIGHT START CHILD CARE AND EDUCATION

SEC. 1021. INCREASE IN EMPLOYER-PROVIDED CHILD CARE CREDIT.

(a) INCREASE IN CREDITABLE PERCENTAGE OF CHILD CARE EXPENDITURES.—Paragraph (1) of section 45F(a) is amended by striking ''25 percent'' and inserting ''35 percent''.

(b) INCREASE IN CREDITABLE PERCENTAGE OF RESOURCE AND REFERRAL EXPENDITURES.—Paragraph (2) of section 45F(a) is amended by striking ''10 percent'' and inserting ''20 percent''.

(c) INCREASE IN MAXIMUM CREDIT.—Subsection (b) of section 45F is amended by striking ''$150,000'' and inserting ''$225,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1022. INCREASE IN DEPENDENT CARE CREDIT.

(a) INCREASE IN INCOMES ELIGIBLE FOR FULL CREDIT.—Paragraph (2) of section 21(a) is amended by striking ''$30,000'' and inserting ''$20,000''.

(b) INCREASE IN PERCENTAGE OF EXPENSES ALLOWABLE.—Paragraph (2) of section 21(a) is amended—

(1) by striking ''35 percent'' and inserting ''50 percent'', and

(2) by striking ''20 percent'' and inserting ''35 percent''.

(c) INCREASE IN DOLLAR LIMIT ON AMOUNT CREDITABLE.—Subsection (c) of section 21 is amended—

(1) by striking ''$3,000'' in paragraph (1) and inserting ''$6,000'', and

(2) by striking ''$6,000'' in paragraph (2) and inserting ''$12,000''.

(d) CREDIT TO BE REFUNDABLE.—

(1) IN GENERAL.—Section 21 is hereby moved to subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) and inserted after section 36A.

(2) TECHNICAL AMENDMENTS.—

(A) Section 21, as so moved, is redesignated as section 36B.

(B) Paragraph (1) of section 36B(a) (as redesignated by paragraph (2)) is amended by striking ''this chapter'' and inserting ''this subtitle''.

(C) Paragraph (1) of section 23(f) is amended by striking ''21(e)'' and inserting ''36B(e)''.

(D) Paragraph (6) of section 35(g) is amended by striking ''21(e)'' and inserting ''36B(e)''.

(E) Subparagraph (C) of section 129(a)(2) is amended by striking ''section 21(e)'' and inserting ''section 36B(e)''.

(F) Paragraph (2) of section 129(b) is amended by striking ''section 21(d)(2)'' and inserting ''section 36B(d)(2)''.

(G) Paragraph (1) of section 129(e) is amended by striking ''section 21(b)(2)'' and inserting ''section 36B(b)(2)''.

(H) Subsection (e) of section 213 is amended by striking ''section 21'' and inserting ''section 36B''.

(I) Subparagraph (H) of section 6213(g)(2) is amended by striking ''section 21'' and inserting ''section 36B''.

(J) Subparagraph (L) of section 6213(g)(2) is amended by striking ''section 21,'' and inserting ''section 36B,''.

(K) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''36B,'' after ''36A,''.

(L) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36A and inserting the following:

''Sec. 36B. Expenses for household and dependent care services necessary for gainful employment.''

(M) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(e) CERTAIN PRIOR AMENDMENTS TO CREDIT MADE PERMANENT.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the amendments made by section 204 of such Act.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1023. 3-YEAR CREDIT FOR INDIVIDUALS HOLDING CHILD CARE-RELATED DEGREES WHO WORK IN LICENSED CHILD CARE FACILITIES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. RIGHT START CHILD CARE AND EDUCATION CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is an eligible child care provider for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of $2,000.

''(b) 3-YEAR CREDIT.—

''(1) IN GENERAL.—The credit allowable by subsection (a) for any taxable year to an individual shall be allowed for such year only if the individual elects the application of this section for such year.

''(2) ELECTION.—An election to have this section apply may not be made by an individual for any taxable year if such an election by such individual is in effect for any 3 prior taxable years.

''(c) ELIGIBLE CHILD CARE PROVIDER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible child care provider' means, for any taxable year, any individual if—

''(A) as of the close of such taxable year, such individual holds a bachelor's degree in early childhood education, child care, or a related degree and such degree was awarded by an eligible educational institution (as defined in section 25A(f)(2)), and

''(B) during such taxable year, such individual performs at least 1,200 hours of child care services at a facility if—

''(i) the principal use of the facility is to provide child care services,

''(ii) no more than 25 percent of the children receiving child care services at the facility are children (as defined in section 152(f)) of the individual or such individual's spouse, and

''(iii) the facility meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

Subparagraph (B)(i) shall not apply to a facility which is the principal residence (within the meaning of section 121) of the operator of the facility.

''(2) CHILD CARE SERVICES.—The term 'child care services' means child care and early childhood education.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Right Start Child Care and Education Credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1024. INCREASE IN EXCLUSION FOR EMPLOYER-PROVIDED DEPENDENT CARE ASSISTANCE.

(a) IN GENERAL.—Subparagraph (A) of section 129(a)(2) (relating to dependent care assistance programs) is amended by striking ''$5,000 ($2,500'' and inserting ''$7,500 ($3,750''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SA 122. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 451, between lines 13 and 14, insert the following:

SEC. ____. INCREASE IN LIMITATIONS ON OFFSETTING ORDINARY INCOME WITH CAPITAL LOSSES.

(a) IN GENERAL.—Section 1211(b)(1) is amended by striking ''$3,000 ($1,500'' and inserting ''$15,000 (one-half of such amount''.

(b) INFLATION ADJUSTMENT.—Section 1211 is amended by adding at the end the following new subsection:

''(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, the dollar amount contained in subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 123. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 86(a) (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new flush sentence:

''This paragraph shall not apply to any taxable year beginning in 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the amendment made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

SA 124. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 484, after line 24, add the following:

The preceding sentence shall not apply to any taxpayer with respect to losses attributable to the modification of any personal residence indebtedness.

SA 125. Mrs. MCCASKILL (for herself, Mr. SANDERS, Mrs. HOGAN, Mr. HARKIN, Ms. MIKULSKI, Ms. KLOBUCHAR, Mr. NELSON of Florida, Mr. BEGICH, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Limits on Executive Compensation

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the ''Cap Executive Officer Pay Act of 2009''.

SEC. 1552. LIMIT ON EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no person who is an officer, director, executive, or other employee of a financial institution or other entity that receives or has received funds under the Troubled Asset Relief Program (or ''TARP''), established under section 101 of the Emergency Economic Stabilization Act of 2008, may receive annual compensation in excess of the amount of compensation paid to the President of the United States.

(b) DURATION.—The limitation in subsection (a) shall be a condition of the receipt of assistance under the TARP, and of any modification to such assistance that was received on or before the date of enactment of this Act, and shall remain in effect with respect to each financial institution or other entity that receives such assistance or modification for the duration of the assistance or obligation provided under the TARP.

SEC. 1553. RULEMAKING AUTHORITY.

The Secretary shall expeditiously issue such rules as are necessary to carry out this subtitle, including with respect to reimbursement of compensation amounts, as appropriate.

SEC. 1554. COMPENSATION.

As used in this subtitle, the term ''compensation'' includes wages, salary, deferred compensation, retirement contributions, options, bonuses, property, and any other form of compensation or bonus that the Secretary of the Treasury determines is appropriate.

SA 126. Mrs. MCCASKILL (for herself, Mr. BOND, Mr. BINGAMAN, and Mr. UDALL of New Mexico) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

The third proviso under the matter under the heading ''(INCLUDING TRANSFERS OF FUNDS)'' under the heading ''STATE AND TRIBAL ASSISTANCE GRANTS'' under the heading ''ENVIRONMENTAL PROTECTION AGENCY'' in title VII is amended by striking ''principal and negative interest loans'' and inserting ''principal, negative interest loans, and grants''.

SA 127. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1518 and insert the following:

SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety;

(4) an abuse of authority related to the implementation or use of covered funds; or

(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)—

(i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or

(ii) submit a report under paragraph (1).

(B) EXTENSION.—If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(3) BURDEN OF PROOF.—

(A) DISCLOSURE AS CONTRIBUTING FACTOR IN REPRISAL.—

(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal.

(ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including—

(I) evidence that the official undertaking the reprisal knew of the disclosure; or

(II) evidence that the reprisal occurred within a period of time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal.

(B) PRESUMPTION THAT REPRISAL WARRANTS CORRECTIVE ACTION.—Except as provided in subparagraph (C), if a reprisal is affirmatively established under subparagraph (A), the appropriate inspector general shall recommend in the report under paragraph (1) that corrective action be taken under subsection (c).

(C) OPPORTUNITY FOR REBUTTAL.—The inspector general may not recommend corrective action under subparagraph (B) with respect to a reprisal that is affirmatively established under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the action constituting the reprisal in the absence of the disclosure.

(4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.—

(A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the complete investigation file of the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the ''Privacy Act''). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction.

(B) CIVIL ACTION.—In the event the person alleging the reprisal brings suit under subsection (c)(2)(a), the person alleging the reprisal and the contractor shall have access to the complete investigative file of the Inspector General in accordance with the Privacy Act.

(5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency or a court of competent jurisdiction.

(2) CIVIL ACTION.—

(A) IN GENERAL.—If the head of an agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(B) BURDENS OF PROOF.—In any action under subparagraph (A), the establishment of the occurrence of a reprisal shall be governed by the provisions of subsection (b)(3)(A), including with respect to burden of proof, and the establishment that an action alleged to constitute a reprisal did not constitute a reprisal shall be subject to the burden of proof specified in subsection (b)(3)(C).

(3) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court

may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys fees and costs.

(4) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

(d) RULES OF CONSTRUCTION.—

(1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(2) WAIVER OF SOVEREIGN IMMUNITY AS CONDITION FOR RECEIPT OF FUNDS.—State and local governments, as a condition for receipt of covered funds, may not raise sovereign immunity as an affirmative defense to an action under this section.

(e) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—Notwithstanding any other provision of law and except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—Notwithstanding any other provision of law and except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.

(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.

(f) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.—Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.

(g) DEFINITIONS.—In this Act:

(1) ABUSE OF AUTHORITY.—The term ''abuse of authority'' means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons.

(2) COVERED FUNDS.—The term ''covered funds'' means any contract, grant, or other payment received by any non-Federal employer if—

(A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

(B) at least some of the funds are appropriated or otherwise made available by this Act.

(3) EMPLOYEE.—The term ''employee'' means an individual performing services on behalf of an employer.

(4) NON-FEDERAL EMPLOYER.—The term ''non-Federal employer'' means any employer—

(A) with respect to any contract, grant, or direct payment issued by the Federal Government—

(i) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, grantee, or recipient is an employer;

(ii) any professional membership organization, certification or other professional body, any agency or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Federal funds; or

(B) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government.

(5) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Is Lands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

SA 128. Mr. BAYH submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 16, insert '', which may include constructing new facilities,'' after ''education facilities''.

On page 162, line 19, insert '', which may include constructing new facilities,'' after ''or repair facilities''.

On page 164, line 11, insert '', including construction of new facilities,'' after ''projects''.

On page 164, line 23, insert ''or'' after the semicolon.

On page 165, line 6, strike ''; or'' and insert a period.

On page 165, strike line 7.

SA 129. Mr. CARPER (for himself, Mr. VOINOVICH, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, strike lines 15 through 24, and insert the following:

(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including—

(i) the required level of Federal funding;

(ii) expectations for regional, State, and private investment;

(iii) the expected contributions by volunteers to activities for the utilization of such records; and

(iv) the resources needed to establish or expand education programs in medical and health informatics and health information management to train health care and information technology students and provide a health information technology workforce sufficient to ensure the rapid and effective deployment and utilization of health information technologies.

SA 130. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, lines 11 through 15, strike ''and not less than $6,000,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140:'' and insert ''of which not less than $6,000,000,000 shall be used for construction, repair, and alteration of Federal buildings for projects that will create the greatest impact on energy efficiency and conservation:''.

SA 131. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

Notwithstanding any other provision of this division, any funds made available under this division to carry out a program or service under the title I of Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) shall be available to provide for the equitable participation in the program or service of children enrolled in private schools in the same manner as such participation is provided under section 1120 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6320) or under the Individuals with Disabilities Education Act, respectively.

SA 132. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

SA 133. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REDUCTION IN 10-PERCENT AND 15-PERCENT RATE BRACKETS FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new subparagraph:

''(3) REDUCTIONS FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(A) IN GENERAL.—Each of the tables under subsections (a), (b), (c), (d), and (e) (as in effect after the application of paragraphs (1) and (2)) shall be applied —

''(i) by substituting '5 percent' for '10 percent', and

''(ii) by substituting '10 percent' for '15 percent'.

''(B) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(i) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Clause (ii) of section 1(i)(3)(B) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

SA 134. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. ELIMINATION OF TAX ON CAPITAL GAINS AND DIVIDENDS PAID TO MIDDLE CLASS TAXPAYERS IN 2009 AND 2010.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxpayer with an adjusted gross income which does not exceed $75,000 ($150,000 in the case of a joint return) in any taxable year beginning in 2009 or 2010, paragraph (1)(C) shall be applied by substituting '0 percent' for '15 percent'.''.

(b) ALTERNATIVE MINIMUM TAX.—Section 55(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxpayer with an adjusted gross income which does not exceed $75,000 ($150,000 in the case of a joint return) in any taxable year beginning in 2009 or 2010, paragraph (3)(C) shall be applied by substituting '0 percent' for '15 percent'.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 135. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REDUCTION IN 15-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new subparagraph:

''(3) REDUCTIONS FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, each of the tables under subsections (a), (b), (c), (d), and (e) (as in effect after the application of paragraphs (1) and (2)) shall be applied by substituting '10 percent' for '15 percent'.''.

(b) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 136. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. _____. RESCISSION OF UNSPENT FUNDS.

Amounts made available by this Act for fiscal year 2010 that remain unobligated after September 30, 2010, are rescinded.

SA 137. Mr. REID (for Mr. KENNEDY (for himself, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mr. WHITEHOUSE, and Mrs. SHAHEEN)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 203. (a)(1) Notwithstanding any existing or proposed regulation and subject to paragraph (2), the Secretary of Commerce—

(A) shall adopt a final interim rule that will carry out the recommendations described in section 9g of the summary of motions for the meeting of the New England Fishery Management Council held on September 4, 2008, in Providence, Rhode Island; and

(B) may not implement any provision of the proposed rule published on January 16, 2009 (74 Fed. Reg. 2959; relating to the Northeast Multispecies Fishery) that is inconsistent with the recommendations referred to in paragraph (1).

(2) The final interim rule required by paragraph (1)(A) shall require that if the total allowable catch for any stock described in such section 9g is exceeded during the effective period described in subsection (b), the amount of the excess shall be deducted from the total allowable catch for that stock during the period beginning May 1, 2010 and ending April 30, 2011.

(b) The final interim rule described in subsection (a) shall be in effect for the period beginning on May 1, 2009 and ending on April 30, 2010.

(c) The Secretary of Commerce shall publish the final interim rule required by subsection (a)(1)(A) in the Federal Register.

SA 138. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle C of title XV of division A, and insert the following:

Subtitle C—Reports of the Council of Economic Advisers

SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of Economic Advisers shall submit to the Committees on Appropriations of the Senate and House of Representatives quarterly reports based on the reports required under section 1551 that detail the impact of programs funded through covered funds on employment, estimated economic growth, and other key economic indicators.

(b) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted not later than 45 days after the end of the first full quarter following the date of enactment of this Act.

(2) LAST REPORT.—The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1521.

Subtitle D—Reports on Use of Funds

SEC. 1551. REPORTS ON USE OF FUNDS.

(a) SHORT TITLE.—This section may be cited as the ''Jobs Accountability Act''.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) RECIPIENT.—The term ''recipient''—

(A) means any entity that receives recovery funds (including recovery funds received through grant, loan, or contract) other than an individual; and

(B) includes a State that receives recovery funds.

(3) RECOVERY FUNDS.—The term ''recovery funds'' means any funds that are made available—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from an agency shall submit a report to that agency that contains—

(1) the total amount of recovery funds received from that agency;

(2) the amount of recovery funds received that were expended or obligated to projects or activities; and

(3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

(A) the name of the project or activity;

(B) a description of the project or activity;

(C) an evaluation of the completion status of the project or activity; and

(D) an analysis of the number of jobs created and the number of jobs retained by the project or activity.

(d) AGENCY REPORTS.—Not later than 30 days after the end of each calendar quarter, each agency that made recovery funds available to any recipient shall make the information in reports submitted under subsection (c) publicly available by posting the information on a website.

SA 139. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORTING BONUSES TO PROTECT TAXPAYERS.

(a) REPORTS REQUIRED.—Any person that receives emergency economic assistance from any Federal financial entity shall report to such Federal financial agency, all bonuses paid to any officer, director, or other employee of that person, including the name of such officer, director, or employee and the amount of the bonus paid.

(b) TIMING.—The reports required under subsection (a) shall be submitted to the Federal financial entity—

(1) not later than 30 days after the date of enactment of this Act, in the case of any person receiving emergency economic assistance from the Federal financial entity before the date of enactment of this Act, with respect to all bonuses paid during 2008;

(2) not later than 30 days after the date on which a person applies for emergency economic assistance from the Federal financial entity on and after the date of enactment of this Act, with respect to all bonuses paid during 2008 and the calendar year during which the application is made; and

(3) monthly in updated form while any obligation arising from such assistance remains outstanding.

(c) TRANSMISSION TO CONGRESS; PUBLIC AVAILABILITY.—Each Federal financial entity that provides emergency economic assistance shall promptly compile and transmit all reports received under this section to Congress, and shall make such reports publicly available via the Internet.

(d) DEFINITION.—As used in this section, the term ''Federal financial entity'' means—

(1) the Secretary of the Treasury;

(2) each member of the Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303); and

(3) the Federal Housing Finance Agency.

SA 140. Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BURR, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. CURTAILING CONGRESSIONAL EARMARKS AND LOBBYING DISCLOSURE.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''CONGRESSIONAL EARMARKS

''SEC. 316. (a) IN GENERAL.—On a point of order made by any Senator:

''(1) No unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b) POINT OF ORDER NEW LEGISLATION.—

''(1) SENATE MEASURE.—If a point of order under subsection (a)(1) against a Senate bill or amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) HOUSE MEASURE.—If a point of order under subsection (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT.—If the point of order against an amendment under subsection (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d) POINT OF ORDER UNAUTHORIZED APPROPRIATIONS IN AMENDMENT BETWEEN THE HOUSES.—

''(1) SENATE.—If a point of order under subsection (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) HOUSE.—If a point of order under subsection (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this section have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) OTHER POINTS OF ORDER.—The disposition of a point of order made under any other rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subsection (a) with respect to the same matter.

''(f) SUPERMAJORITY.—A point of order under subsection (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding

Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) FORM OF POINT OF ORDER, MULTIPLE PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subsection (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

''(2) SUSTAINED POINT OF ORDER.—If the Presiding Officer sustains the point of order under paragraph (1) as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph.

''(3) MOTION TO WAIVE.—Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subsection (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

''(4) APPEAL.—After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) DEFINITION.—For purposes of this section, the term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV of the Standing Rule of the Senator—

''(1) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(2) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(i) CONFERENCE REPORTS.—

''(1) IN GENERAL.—On a point of order made by any Senator, no unauthorized appropriation may be included in any conference report on a general appropriation bill.

''(2) POINT OF ORDER SUSTAINED.—If the point of order against a conference report under paragraph (1) is sustained—

''(A) the unauthorized appropriation in such conference report shall be deemed to have been struck;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(C) when all other points of order under this subsection have been disposed of—

''(i) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(ii) the question shall be debatable; and

''(iii) no further amendment shall be in order; and

''(D) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(3) FURTHER POINTS OF ORDER.—The disposition of a point of order made under any other provision of this section, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under paragraph (1) with respect to the same matter.

''(4) SUPERMAJORITY.—A point of order under paragraph (1) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(5) SINGLE POINT OF ORDER.—Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate paragraph (1). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this subsection. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with paragraph (4), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.''.

(b) LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

SA 141. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RESCISSION OF UNSPENT FUNDS.

Amounts made available by this Act for fiscal year 2009 that remain unobligated after September 30, 2010 are rescinded.

SA 142. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, beginning on line 19, strike ''$180,500,000'' and all that follows through ''facility in the United States'' on line 23 and insert ''$105,500,000, to remain available until September 30, 2010, of which up to $45,000,000 shall be available for passport and visa facilities and systems''.

SA 143. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. BIPARTISAN SUPPORT FOR THE PLAN BY THE PRESIDENT TO CHANGE THE WASTEFUL SPENDING HABITS OF THE FEDERAL GOVERNMENT.

(a) FINDINGS.—Congress finds the following:

(1) The national debt now exceeds $10,600,000,000,000.

(2) The share of each United States citizen of the national debt is more than $34,800.

(3) Each cent that the United States Government borrows and adds to such debt is money stolen from future generations of United States citizens and from senior citizens who depend on Social Security.

(4) Congress has repeatedly demonstrated its inability to prioritize spending.

(5) In the first month of 2009, the Senate authorized nearly $50,000,000,000 in new Government spending.

(6) 59 percent of people in the United States worry that Congress and President Barack Obama will increase spending too much, according to a poll conducted by Rasmussen Reports on January 21 and 22, 2009.

(7) As a candidate, President Obama pledged to restore fiscal discipline to Washington.

(8) As part of the ''Plan for Restoring Fiscal Discipline'' by President Obama, the President pledged to ''require new spending commitments or tax changes to be paid for by cuts to other programs or new revenue''.

(9) This Act contains tax changes that would reduce Federal revenue by $252,500,000,000 and increase spending by $632,000,000,000, without any corresponding new revenue or spending cuts.

(10) The ''Plan for Restoring Fiscal Discipline'' by President Obama vowed an ''end to wasteful government spending''.

(11) This Act spends billions of dollars on programs that are riddled with significant amounts of waste, fraud, abuse, and mismanagement.

(12) The ''Plan for Restoring Fiscal Discipline'' by President Obama promised to ''cut pork barrel spending''.

(13) This Act contains a number of congressional earmarks, including the most expensive ''pork'' project in history, $2,000,000,000 for a near-zero emissions power plant for FutureGen Industrial Alliance.

(14) To limit the abuse of no-bid Federal contracts, the ''Plan for Restoring Fiscal Discipline'' by President Obama pledged ''that federal contracts over $25,000'' will be awarded by competitive bidding.

(15) This Act steers billions of dollars to pre-selected entities that will not have to compete for such Federal contracts.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) because the power of the purse belongs to Congress, it is irresponsible for Congress to increase spending without first reducing lower-priority spending elsewhere within the Federal budget; and

(2) in the spirit of bipartisanship and common sense, Congress should adopt those aspects of the ''Plan for Restoring Fiscal Discipline'' by President Barack Obama that require that all new spending be paid for with reductions in lower-priority spending elsewhere within the Government.

SA 144. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 17 and 18, insert the following:

LIMITATION ON USE OF FUNDS

Notwithstanding any other provision of this Act, none of the funds made available under this heading shall be expended unless the expenditure of funds directly reduces the deferred maintenance backlog of the National Park Service, as determined by the Secretary of the Interior.

SA 145. Mr. DODD submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, between lines 10 and 11, insert the following:

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1201. Section 257 of the National Housing Act (12 U.S.C. 1715z-23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), is amended—

(1) in subsection (e)(1)(B), by inserting after ''being reset,'' the following: ''or has, due to a decrease in income,'';

(2) in subsection (k)(2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''shall, upon any sale or disposition of the property to which the mortgage relates, be entitled to 25 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the eligible mortgage refinanced under this section.'';

(3) in subsection (i)—

(A) by inserting '', after weighing maximization of participation with consideration for the solvency of the program,'' after ''Secretary shall'';

(B) in paragraph (1), by striking ''equal to 3 percent'' and inserting ''not more than 2 percent''; and

(C) in paragraph (2), by striking ''equal to 1.5 percent'' and inserting ''not more than 1 percent''; and

(4) by adding at the end the following:

''(x) AUCTIONS.—The Board shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

''(y) COMPENSATION OF SERVICERS.—To provide incentive for participation in the program under this section, each servicer of an eligible mortgage insured under this section shall be paid $1,000 for performing services associated with refinancing such mortgage, or such other amount as the Board determines is warranted. Funding for such compensation shall be provided by funds realized through the HOPE bond under subsection (w).''.

At the end of division B, add the following:

TITLE VI—FORECLOSURE PREVENTION

SEC. 6001. MANDATORY LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended—

(1) by striking the last sentence;

(2) by striking ''To the extent'' and inserting the following:

''(1) IN GENERAL.—To the extent''; and

(3) by adding at the end the following:

''(2) LOAN MODIFICATIONS REQUIRED.—

''(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

''(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than $50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

''(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

''(i) loan guarantees and credit enhancements;

''(ii) the reduction of loan principal amounts and interest rates;

''(iii) extension of mortgage loan terms; and

''(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

''(D) DESIGNATION AUTHORITY.—

''(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

''(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

''(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

''(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

''(i) upon development of the plan required by this paragraph, a report describing such plan; and

''(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.''.

SA 146. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVII—POSTAL SERVICE RETIREE HEALTH BENEFITS

SEC. 1701. POSTAL SERVICE RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Section 8906(g)(2)(A) of title 5, United States Code, is amended by striking ''shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.'' and inserting ''shall through September 30, 2008, be paid by the United States Postal Service, shall through September 30, 2010, be paid from the Postal Service Retiree Health Benefits Fund, shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.''.

(b) MONTHLY REPORTING TO POSTAL OVERSIGHT COMMITTEES.—

(1) IN GENERAL.—The United States Postal Service shall submit a monthly report summarizing its financial condition and outlook to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives. Each report under this subsection shall provide sufficiently detailed data and narrative information for the committees to understand the Postal Service's current and projected financial condition, including how its financial outlook and budget targets for the

fiscal year has changed since the previous report, and the Postal Service's progress toward achieving its budget targets for the current fiscal year.

(2) SUBMISSION DATES.—Monthly reports under this subsection shall be submitted within 30 days after the end of each month, for each fiscal year in which retiree health benefit premiums are paid by the Postal Service Retiree Health Benefits Fund.

SA 147. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE RELATING TO THE USE OF CERTAIN EXCESS FEDERAL FUNDING FOR TAX REBATES.

It is the sense of the Senate that any Federal funds provided to States under this Act in excess of the amount needed to balance a State's budget should be used to provide a tax rebate to citizens of the State.

SA 148. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ______. ELIGIBILITY FOR CDBG FUNDS.

Notwithstanding any other provision of law or this Act, any unit of general local government that was eligible for community development block grant assistance under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) as of January 1, 2009, shall remain eligible for any such additional community development block grant assistance made available under this Act or any other Act for fiscal year 2009.

SA 149. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 604, between lines 10 and 11, insert the following:

(D) INCREASED FLEXIBILITY.—Notwithstanding any COBRA continuation provision, an assistance eligible individual may, not later than 30 days after the date on which the individual makes the election under paragraph (3), elect to enroll in any health insurance coverage offered by the employer (or employee organization) involved, in any health insurance coverage offered in the individual market in the State involved, in a high deductible plan, or in coverage offered through a high risk pool administered by the State involved, and such coverage (or plan) shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision and this section.

SA 150. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. PROHIBITION ON CONSIDERATION OF REVENUE PROVISIONS WITHOUT CERTIFICATION OF TAX BURDEN EFFECTS.

(a) IN GENERAL.—It shall not be in order to consider a bill, resolution, amendment, or conference report that proposes any provision amending the Internal Revenue Code of 1986 or affecting the application of such Code unless the Joint Committee on Taxation provides a written certification that such provision does not increase the net yearly tax burden for any family whose taxable income for any taxable year to which such provision applies is less than $250,000.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—A point of order raised under subsection (a) may be waived or suspended in the Senate only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''family'' means a married couple filing jointly or an individual filing as a head of household.

SA 151. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

''SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain or loss on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(3) WRITTEN DOCUMENTATION REQUIREMENT.—Paragraph (1) shall apply only with respect to indexed assets for which the taxpayer has written documentation of the original purchase price paid or incurred by the taxpayer to acquire such asset.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) common stock in a C corporation (other than a foreign corporation), or

''(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

''(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) stock of a foreign investment company,

''(ii) stock in a passive foreign investment company (as defined in section 1296),

''(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

''(iv) stock in a foreign personal holding company.

''(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1⁄10 of 1 percentage point.

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

''(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

''(2) SHORT SALES.—

''(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

''(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

''(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

''(ii) the average of the fair market values of all assets held by such company at the close of each such month.

''(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

''(ii) the fair market value of all assets held by such trust at the close of such quarter.

''(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

''(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

''(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

''(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

''(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

''(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

''(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss

in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking the item relating to section 1023 and by inserting after the item relating to section 1022 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.

''Sec. 1023. Cross references.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indexed assets acquired by the taxpayer after December 31, 2008, in taxable years ending after such date.

SA 152. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 451, after line 22, add the following:

SEC. _____. REPEAL OF SUNSETS FOR 2001 AND 2003 TAX RELIEF PROVISIONS.

(a) ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX.

(b) JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.—The Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

SA 153. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 477, strike line 18 and insert the following:

(d) 100 PERCENT EXPENSING FOR PROPERTY ACQUIRED IN 2009.—Section 168(k) is amended by adding at the end the following new paragraph:

''(5) EXPENSING OF PROPERTY ACQUIRED IN 2009.—

''(A) IN GENERAL.—The cost of any qualified expensing property shall be treated as an expense which is not chargeable to a capital account and shall be allowed as a deduction in the taxable year in which such property is placed in service.

''(B) QUALIFIED EXPENSING PROPERTY.—For purposes of this paragraph, the term 'qualified expensing property' means qualified property, as defined in paragraph (2), determined by substituting 'December 31, 2008' for 'December 31, 2007' each place it appears therein.''.

(e) EFFECTIVE DATES.—

SA 154. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 450, after line 18, strike the quotation marks and the last period and insert the following:

''(8) APPLICATION TO ELEMENTARY AND SECONDARY EXPENSES.—In applying this section with respect to the Hope Scholarship Credit—

''(A) term 'qualified tuition and related expenses' shall include expenses for tuition incurred in connection with the enrollment or attendance of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an elementary or secondary school student at a public, private or religious school (within the meaning of section 530(b)(3)), and

''(B) in the case of an individual who is enrolled in a public, private, or religious school (within the meaning of section 530(b)(3)), subsection (b)(1) shall be applied without regard to whether such individual is an eligible student and subsection (b)(2)(B) shall not apply.''.

SA 155. Ms. KLOBUCHAR (for herself and Mr. UDALL of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 456, after line 24, insert the following:

SEC. 1104. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45R. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the renewable electricity integration credit for any taxable year is an amount equal to the product of—

''(1) the intermittent renewable portfolio factor of an eligible taxpayer, multiplied by

''(2) the number of kilowatt hours of renewable electricity purchased or produced by such taxpayer and sold by such taxpayer to an unrelated person during the taxable year.

''(b) INTERMITTENT RENEWABLE PORTFOLIO FACTOR.—The intermittent renewable portfolio factor for an eligible taxpayer shall be determined as follows:

''In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:	**The intermittent renewable portfolio factor is:**
less than 4 percent	0 cents
at least 4 percent but less than 12 percent	0.10 cents
at least 12 percent but less than 19 percent	0.30 cents
at least 19 percent	0.50 cents

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means an electric utility company (as defined in section 1262(5) of the Public Utility Holding Company Act of 2005).

''(2) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated by—

''(A) a facility using wind to produce such electricity, and

''(B) a facility using solar energy to generate such electricity.

''(3) INTERMITTENT RENEWABLE ELECTRICITY PERCENTAGE.—The term 'intermittent renewable electricity percentage' means the percentage of an electric utility's total sales to native load customers that is derived from renewable electricity, whether purchased or produced by the taxpayer.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended—

(1) by striking ''plus'' at the end of paragraph (34),

(2) by striking the period at the end of paragraph (35) and inserting '', plus'', and

(3) by adding at the end the following new paragraph:

''(36) the renewable electricity integration credit determined under section 45R(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

Sec. 45R. Renewable electricity integration credit.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced or purchased after December 31, 2008.

SA 156. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 9, insert ''(and an additional amount of $25,000,000)'' before '', which''.

On page 124, line 24, strike ''and''.

On page 125, strike line 7 and insert the following:

sequential service strategy; and

(7) $25,000,000 for programs of veterans' workforce investment activities under section 168 of WIA:

SA 157. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, strike lines 15 and 16 and insert the following:

134(e)(2) and (3) of the WIA, and for the programs of veterans' workforce investment activities carried out under section 168 of the WIA: *Provided*, That not less than $25,000,000 of the funds made available under this paragraph shall be used for such programs under section 168 of the WIA: *Provided further*, That a priority use of the remaining funds made available under this paragraph shall be services to individ-

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SA 158. Mr. MARTINEZ (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. TEMPORARY EXTENSION OF LOAN LIMIT INCREASE.

(a) FANNIE MAE AND FREDDIE MAC.—Section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110-185, 122 Stat. 619) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) FHA LOANS.—Section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110-185, 122 Stat. 620) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

SA 159. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—FORECLOSURE MITIGATION

SEC. 6001. SHORT TITLE.

This title may be cited as the ''Keep Families in Their Homes Act of 2009''.

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the Act'' means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 6003;

(9) the term ''Office'' means the Office of Aggrieved Investor Claims established under section 6004(a); and

(10) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 6003(b).

SEC. 6003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the Act, to make payments to eligible servicers in an amount not to exceed an aggregate of $10,000,000,000, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the Act, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed $60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including

short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

SEC. 6004. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this title; and

(B) damages described in subsection (d)(4), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this title;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this title for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this title by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this title that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Secretary under this section may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of Columbia, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Secretary.

(3) STANDARD.—The decision of the Secretary incorporating the findings of the Secretary shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection with a claim submitted under this section, fees in excess of 10 percent of the amount of any payment on the claim.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than $10,000.

(k) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3716 of title 31, United States Code, shall not apply to any payment under this section.

(l) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f), and annually thereafter, the Secretary shall submit to Congress a report that describes the claims submitted under this section during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this section.

(m) GAO AUDIT.—The Comptroller General of the United States shall conduct an annual audit on the payment of all claims made under this section and shall report to the Congress on the results of this audit beginning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to $1,700,000,000, to remain available until expended.

SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

SEC. 6006. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

SA 160. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

For an appropriations report:

On page 251, strike beginning from ''Provided'' on line 19 through ''funding:'' on line 22.

Insert on page 252, after line 21 the following:

''CHILDHOOD DEVELOPMENT CENTERS''

''For an amount for ''Childhood Development Centers'', $400,000,000, to remain available until September 30, 2001: Provided, Further, That these funds shall be made available competitively from the Secretary of Housing and Urban Development for the construction or rehabilitation of early childhood development centers serving households that qualify as low-income: Provided further, That all funds shall be obligated with 120 days and expended no later than 12 months after the date of enactment of this Act: Provided further, That the Secretary shall allocate funds on a geographic basis with an appropriate balance based on the needs of rural and urban areas: Provided further, That there is no required federal match: Provided further, That failure to expend funds as provided under heading shall result in the redistribution of such funds by the Secretary.''.

SA 161. Mr. BOND (for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

GAP FUNDING FOR LOW INCOME TAX CREDIT PROJECT

On page 253, line 1, strike ''$2,250,000,000'' and insert in lieu thereof ''$250,000,000'', and insert the following account after line 13 on page 257:

''For an additional amount for capital investments in low income housing tax credit projects, $2,000,000,000, to remain available until September 30, 2011: *Provided*, That the funds shall be allocated to States under the HOME program under this Heading shall be made available to State housing finance agencies in an amount totaling $2,000,000,000, subject to any changes made to a State allocation for the benefit of a State by the Secretary of Housing and Urban Development for areas that have suffered from disproportionate job loss and foreclosure: *Provided further*, That the Secretary, in consultation with the States, shall determine the amount of funds each State shall have available under HOME: *Provided further*, That the State housing finance agencies (including for purposes throughout this heading any entity that is responsible for distributing low income housing tax credits) or as appropriate as an entity as a gap financer, shall distribute these funds competitively under this heading to housing developers for projects eligible for funding (such terms including those who may have received funding) under the low income housing tax credit program as provided under section 42 of the I.R.C. of 1986, with a review of both the decision-making and process for the award by the Secretary of Housing and Urban Development: *Provided further*, That funds under this heading must be awarded by State housing finance agencies within 120 days of enactment of the Act and obligated by the developer of the low income housing tax credit project within one year of the date of enactment of this Act, shall expend 75 percent of the funds within two years of the date on which the funds become available, and shall expend 100 percent of the funds within 3 years of such date: *Provided further*, That failure by a developer to expend funds within the parameters required within the previous proviso shall result in a redistribution of these funds by a State housing finance agency or by the Secretary if there is a more deserving project in another jurisdiction: *Provided further*, That projects awarded tax credits within 3 years prior to the date of enactment of this Act shall be eligible for funding under this heading: *Provided further*, That, as part of the review, the Secretary shall ensure equitable distribution of funds and an appropriate balance in addressing the needs of urban and rural communities with a special priority on areas that have suffered from excessive job loss and foreclosures: *Provided further*, That State housing finance agencies shall give priority to projects that require an additional share of Federal funds in order to complete an overall funding package, and to projects that are expected to be completed within 3 years of enactment: *Provided further*, That any assistance provided to an eligible low income housing tax credit project under this heading shall be made in the same manner and be subject to the same limitations (including rent, income, and use restrictions) as an allocation of the housing credit amount allocated by the State housing finance agency under section 42 of the I.R.C. of 1986, except that such assistance shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing finance agency applicable to such agency: *Provided further*, That the State housing finance agency shall perform asset management functions to ensure compliance with section 42 of the I.R.C. of 1986, and the long term viability of buildings funded by assistance under this heading: *Provided further*, That the term basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: *Provided further*, That the Secretary shall collect all information related to the award of Federal funds from state housing finance agencies and establish an internet site that shall identify all projects selected for an award, including the amount of the award as well as the process and all information that was used to make the award decision.''.

SA 162. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 241, strike ''HIGH-SPEED'' on line 7 and all that follows through ''paragraph'' on line 19.

SA 163. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 203. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for a purpose as follows:

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

SA 164. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to

the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

EXTENSION OF PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 603. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

SA 165. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

RESTRICTION ON USE OF FUNDS

SEC. 603. None of the funds made available in this Act may be used to enter into a contract with a person that does not participate in the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

SA 166. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

EXTENSION OF PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 603. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS RELATED TO PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 604. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Appropriations, the Committee on Finance, and the Committee on the Judiciary of the Senate; and

(B) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(2) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program carried out under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) FUNDING UNDER AGREEMENT.—For each fiscal year after fiscal year 2008, the Commissioner and the Secretary shall enter into an agreement that—

(1) provides funds to the Commissioner for the full costs of carrying out the responsibilities of the Commissioner under the pilot program, including the costs of—

(A) acquiring, installing, and maintaining technological equipment and systems to carry out such responsibilities, but only the portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest tentative nonconfirmations provided by the confirmation system established pursuant to the pilot program;

(2) provides such funds to the Commissioner quarterly, in advance of the applicable quarter, based on estimating methodology agreed to by the Commissioner and the Secretary; and

(3) requires an annual accounting and reconciliation of the actual costs incurred by the Commissioner to carry out such responsibilities and the funds provided under the agreement that shall be reviewed by the Office of the Inspector General in the Social Security Administration and in the Department of Homeland Security.

(c) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) CONTINUATION OF PREVIOUS AGREEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the agreement required under subsection (b) for a fiscal year is not reached as of the first day of such fiscal year, the most recent previous agreement between the Commissioner and the Secretary to provide funds to the Commissioner for carrying out the responsibilities of the Commissioner under the pilot program shall be deemed to remain in effect until the date that the agreement required under subsection (b) for such fiscal year becomes effective.

(B) ANNUAL ADJUSTMENT.—If the most recent previous agreement is deemed to remain in effect for a fiscal year under subparagraph (A), the Director of the Office of Management and Budget is authorized to modify the amount provided under such agreement for such fiscal year to account for—

(i) inflation; or

(ii) any increase or decrease in the number of individuals who require services from the Commissioner under the pilot program.

(2) NOTIFICATION OF CONGRESS.—If the most recent previous agreement is deemed to remain in effect under paragraph (1)(A) for a fiscal year, the Commissioner and the Secretary shall—

(A) not later than the first day of such fiscal year, submit to the appropriate committees of Congress a notification of the failure to reach the agreement required under subsection (b) for such fiscal year; and

(B) once during each 90-day period until the date that the agreement required under subsection (b) has been reached for such fiscal year, submit to the appropriate committees of Congress a notification of the status of negotiations between the Commissioner and the Secretary to reach such an agreement.

STUDY AND REPORT OF ERRONEOUS RESPONSES SENT UNDER THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 605. (a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the erroneous tentative nonconfirmations sent to individuals seeking confirmation of employment eligibility under the pilot program established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(b) MATTERS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of—

(1) the causes of erroneous tentative nonconfirmations sent to individuals under the pilot program referred to in subsection (a);

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and agencies and departments of the United States.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance and the Committee on the Judiciary of the Senate and the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives a report on the results of the study required by this section.

STUDY AND REPORT OF THE EFFECTS OF THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION ON SMALL ENTITIES

SEC. 606. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SMALL ENTITY.—The term ''small entity'' has the meaning given that term in section 601 of title 5, United States Code.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the effects of the pilot on small entities.

(c) MATTERS TO BE STUDIED.—

(1) IN GENERAL.—The study required by subsection (b) shall include an analysis of—

(A) the costs of complying with the pilot program incurred by small entities;

(B)(i) the description and estimated number of small entities enrolled in and participating in the pilot program; or

(ii) why no such estimated number is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of the pilot program that apply to small entities;

(D) the factors that impact enrollment and participation of small entities in the pilot program, including access to appropriate technology, geography, and entity size and class; and

(E) the actions, if any, carried out by the Secretary of Homeland Security to minimize the economic impact of participation in the pilot program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The study required by subsection (b) shall analyze, and treat separately, with respect to small entities—

(A) any direct effects of compliance with the pilot program, including effects on wages and time used and fees spent on such compliance; and

(B) any indirect effects of such compliance, including effects on cash flow, sales, and competitiveness of such compliance.

(3) DISAGGREGATION BY ENTITY SIZE.—The study required by subsection (b) shall analyze separately data with respect to—

(A) small entities with fewer than 50 employees; and

(B) small entities that operate in States that require small entities to participate in the pilot program.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by subsection (b).

SA 167. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DAVIS-BACON ACT NOT APPLICABLE.

Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act).

SA 168. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REDUCTION IN CORPORATE MARGINAL INCOME TAX RATES.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''and'' at the end of subparagraph (A),

(2) by striking ''but does not exceed $75,000,'' in subparagraph (B) and inserting a period,

(3) by striking subparagraphs (C) and (D), and

(4) by striking the last 2 sentences.

(b) PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) of such Code is amended by striking ''35 percent'' and inserting ''25 percent''.

(c) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking ''35 percent'' and inserting ''25 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 2. REDUCTION IN INDIVIDUAL MARGINAL INCOME TAX RATES.

(a) IN GENERAL.—Paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) REDUCTION IN RATES AFTER 2008.—In the case of taxable years beginning after 2008, the tables under subsections (a), (b), (c), (d), and (e) shall be applied—

''(A) by substituting '25%' for '28%' each place it appears, and

''(B) without regard to—

''(i) the rates on taxable income in excess of the amount with respect to which the 25 percent rate (determined after the application of subparagraph (A)) applies, and

''(ii) any limitation on the amount of taxable income to which the 25 percent rate (determined after the application of subparagraph (A)) applies.''.

(b) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 101 of such Act (relating to reduction in income tax rates for individuals).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. REPEAL OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

''No tax shall be imposed by this section for any taxable year beginning after December 31, 2008, and the tentative minimum tax for any such taxable year of any taxpayer which is a corporation shall be zero for purposes of this title.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 4. PERMANENT REDUCTIONS IN INDIVIDUAL CAPITAL GAINS AND DIVIDENDS TAX RATES.

Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (relating to sunset of title) is repealed.

SEC. 5. ESTATE TAX RELIEF AND REFORM AFTER 2009.

(a) RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 (relating to general rule for unified credit against gift tax), after the application of subsection (f), is amended by striking ''(determined as if the applicable exclusion amount were $1,000,000)''.

(b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT EQUAL TO $5,000,000.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended to read as follows:

''(c) APPLICABLE CREDIT AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

''(2) APPLICABLE EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is $5,000,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2009, the $5,000,000 amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(c) FLAT ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended to read as follows:

''(c) TENTATIVE TAX.—The tentative tax is 15 percent of the amount with respect to which the tentative tax is to be computed.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (1) and (2) of section 2102(b) of such Code are amended to read as follows:

''(1) IN GENERAL.—A credit in an amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $60,000 shall be allowed against the tax imposed by section 2101.

''(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit allowed under this subsection shall not be less than the proportion of the amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $175,000 which the value of that part of the decedent's gross estate which at the time of the decedent's death is situated in the United States bears to the value of the decedent's entire gross estate, wherever situated.''.

(B) Section 2502(a) of such Code (relating to computation of tax), after the application of subsection (f), is amended by adding at the end the following flush sentence:

''In computing the tentative tax under section 2001(c) for purposes of this subsection, 'the last day of the calendar year in which the gift was made' shall be substituted for 'the date of the decedent's death' each place it appears in such section.''.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Code of 1986 (relating to computation of tax) is amended by striking ''if the provisions of subsection (c) (as in effect at the decedent's death)'' and inserting ''if the modifications described in subsection (g)''.

(B) MODIFICATIONS.—Section 2001 of such Code is amended by adding at the end the following new subsection:

''(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

''(1) the tax imposed by chapter 12 with respect to such gifts, and

''(2) the credit allowed against such tax under section 2505, including in computing—

''(A) the applicable credit amount under section 2505(a)(1), and

''(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).

For purposes of paragraph (2)(A), the applicable credit amount for any calendar year before 1998 is the amount which would be determined under section 2010(c) if the applicable exclusion amount were the dollar amount under section 6018(a)(1) for such year.''.

(2) GIFT TAX.—Section 2505(a) of such Code (relating to unified credit against gift tax) is amended by adding at the end the following new flush sentence:

''For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

(f) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

(1) IN GENERAL.—The following provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such provisions, are hereby repealed:

(A) Subtitles A and E of title V.

(B) Subsection (d), and so much of subsection (f)(3) as relates to subsection (d), of section 511.

(C) Paragraph (2) of subsection (b), and paragraph (2) of subsection (e), of section 521.

The Internal Revenue Code of 1986 shall be applied as if such provisions and amendments had never been enacted.

(2) SUNSET NOT TO APPLY TO TITLE V OF EGTRRA.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(3) REPEAL OF DEADWOOD.—

(A) Sections 2011, 2057, and 2604 of the Internal Revenue Code of 1986 are hereby repealed.

(B) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2011.

(C) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2057.

(D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604.

SEC. 6. INCREASE IN CHILD TAX CREDIT MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 201 (relating to modifications to child tax credit) and 203 (relating to refunds disregarded in the administration of federal programs and federally assisted programs) of such Act.

SEC. 7. BASE BROADENING.

(a) IN GENERAL.—Section 63 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(h) RESTRICTION OF ITEMIZED DEDUCTIONS AFTER 2008.—In the case of any taxable year beginning after 2008, no itemized deductions shall be allowed under this chapter other than—

''(1) the deduction for qualified residence interest (as defined in section 163(h)(3)), and

''(2) the deduction allowed under section 170.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SA 169. Mr. BOND (for himself, Mrs. BOXER, Mr. INHOFE, Mr. BAUCUS, Mr. COCHRAN, Mr. VOINOVICH, Mr. CRAPO, Mr. BAYH, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In Title XII, on page 227 line 5, strike ''OFFICE OF THE SECRETARY'' and all that follows through page 230, line 3.

On page 232, line 20, strike ''$27,060,000,000'' and insert ''$32,560,000,000''.

On page 233, line 5, after ''Public Law 110–161:'', strike ''*Provided*'' and all that follows in this and the following 2 related provisos through ''extension:'' on page 233, line 20.

On page 240, line 15, strike ''*Provided further*,'' and all that follows in this and the following 2 provisos through ''extension:'' on page 241, line 3.

SA 170. Mr. CARPER (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 517, beginning on line 3, strike through page 523, line 9, and insert the following:

''SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after October 31, 2008, or

''(ii) which is acquired by the taxpayer if the original use of such eligible property commences with the taxpayer after October 31, 2008, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(4) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

''(c) DEFINITIONS.—

''(1) QUALIFYING ADVANCED ENERGY PROJECT.—

''(A) IN GENERAL.—The term 'qualifying advanced energy project' means a project—

''(i) which re-equips, expands, or establishes a manufacturing facility for the production of property which is—

''(I) designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

''(II) designed to manufacture fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

''(III) designed to manufacture electric grids to support the transmission of intermittent sources of renewable energy,

''(IV) designed to capture and sequester carbon dioxide emissions,

''(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies), or

''(VI) otherwise determined by the Secretary, after consultation with the Secretary of Energy, to be new or significantly improved advanced energy technology as compared to commercial technologies in service in the United States at the time of the certification of the project under subsection (d), and

''(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

''(B) EXCEPTION.—Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is part of a qualifying advanced energy project and is necessary for the production of property described in paragraph (1)(A)(i).

''(d) QUALIFYING ADVANCED ENERGY PROJECT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

''(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed $2,000,000,000.

''(2) CERTIFICATION.—

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during

the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

''(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

''(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

''(3) SELECTION CRITERIA.—

''(A) IN GENERAL.—In determining which qualifying advanced energy projects to certify under this section, the Secretary shall consult with the Secretary of Energy and shall take into consideration only those projects where there is a reasonable expectation of commercial viability.

''(B) PRIORITY.—The Secretary shall give priority under this section to projects that—

''(i) can create the greatest number of jobs in the United States, and

''(ii) can begin before January 1, 2011.

''(4) REVIEW AND REDISTRIBUTION.—

''(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

''(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

''(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

''(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

''(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.''.

SA 171. Mr. CARPER (for himself, Mrs. BOXER, Mr. SCHUMER, Mr. LAUTENBERG, Ms. STABENOW, Mrs. GILLIBRAND, Mr. KERRY, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 16, strike ''$300,000,000'' and insert ''$550,000,000''.

SA 172. Mr. UDALL of Colorado (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 430, strike lines 14 through 23 and insert the following:

SEC. 1605. With respect to funds in titles I though XVI of this division made available to State, or local government agencies, the Governor, mayor, or other chief executive, as appropriate, shall certify that the investment of such funds has received the full review and vetting required by law and that the chief executive accepts responsibility that the investment is an appropriate use of taxpayer dollars and results in the creation of jobs or economic improvement. A State or local agency may not receive funds made available in this Act unless the certification required by this section is made.

SA 173. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. CARDIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, lines 24 and 25, strike ''$190,000,000, to remain available until September 30, 2010'' and insert ''$215,000,000, to remain available until September 30, 2010, of which not less than $50,000,000 shall be used for habitat restoration''.

On page 120, between lines 10 and 11, insert the following:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for ''Environmental Programs and Management'' $300,000,000, to remain available until September 30, 2010, to be used for environmental clean-up programs, including ecosystem restoration and remediation activities, funded under this heading during the 3 fiscal years preceding the date of enactment of this Act: *Provided*, That the Administrator of the Environmental Protection Agency may waive any cost-sharing requirements for the use of funds provided under this heading.

SA 174. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 121, strike lines 17 through 21 and insert the following:

through the ''Indian Health Facilities'' account.

SA 175. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. LIMIT ON FUNDS.

None of the amounts appropriated or otherwise made available by this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, stadium, community park, museum, theater, arts center, or highway beautification project, including renovation, remodeling, construction, salaries, furniture, zero-gravity chairs, big screen televisions, beautification, rotating pastel lights, and dry heat saunas.

SA 176. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

PROHIBITION ON NO-BID CONTRACTS AND EARMARKS

SEC. 1607. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(b) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient.

SA 177. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 110, line 23, insert before the colon '', including construction to upgrade Level I Trauma Centers in target areas to mitigate health consequences related to potential damage from all hazards''.

SA 178. Mr. HARKIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 2, line 5, strike the following: '': *Provided, further,''* through and including ''shall be decreased by $6,500,000,000''.

SA 179. Mr. VITTER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. ELIMINATE SPENDING AND PRIORITIZE INVESTMENTS.

(a) ELIMINATE SPENDING.—

(1) FISH BARRIERS.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Management under the heading ''Resource Management'', and the amount made available under such heading is reduced by $20,000,000.

(2) CENSUS BUREAU.—None of the funds appropriated or otherwise made available in title II of division A for Bureau of the Census under the heading ''Periodic Censuses and Programs'', and the amount made available under such heading is reduced by $1,000,000,000.

(3) FEDERAL VEHICLES.—None of the funds appropriated or otherwise made available in title V of division A for General Services Administration under the heading ''Energy-Efficient Federal Motor Vehicle Fleet Procurement'', and the amount made available under such heading is reduced by $600,000,000.

(4) FBI CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A construction for Federal Bureau of Investigation under the heading ''Construction'', and the amount made available under such heading is reduced by $400,000,000.

(5) NIST CONSTRUCTION.—None of the funds appropriated or otherwise made available in title II of division A for National Institute of Standards and Technology under the heading ''Construction of Research Facilities'', and the amount made available under such heading is reduced by $357,000,000.

(6) COMMERCE HEADQUARTERS.—None of the funds appropriated or otherwise made available in title II of division A for National Oceanic and Atmospheric Administration under the heading ''Departmental Management'', and the amount made available under such heading is reduced by $34,000,000.

(7) DHS CONSOLIDATION.—None of the funds appropriated or otherwise made available in title VI of division A for Department of Homeland Security under the heading ''Office of the Undersecretary of Management'', and the amount made available under such heading is reduced by $248,000,000.

(8) USDA MODERNIZATION.—None of the funds appropriated or otherwise made available in title I of division A for Department of Agriculture under the heading ''Office of the Secretary'', and the amount made available under such heading is reduced by $300,000,000.

(9) STATE DEPARTMENT TRAINING FACILITY.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Diplomatic and Consular program'', and the amount made available under such heading is reduced by $75,000,000.

(10) STATE DEPARTMENT CAPITAL INVESTMENT FUND.—None of the funds appropriated or otherwise made available in title XI of division A for Administration of Foreign Affairs under the heading ''Capital Investment Fund'', and the amount made available under such heading is reduced by $524,000,000.

(11) DC SEWER SYSTEM.—None of the funds appropriated or otherwise made available in title V of division A for District of Columbia under the heading ''Federal Payment to the District of Columbia Water and Sewer Authority'' and the amount made available under such heading is reduced by $125,000,000.

(12) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAM.—None of the funds appropriated or otherwise made available in title II of division A for Economic Development Administration under the heading ''Economic Development Assistance Programs'' , and the amount made available under such heading is reduced by $150,000,000.

(13) AMTRAK.—None of the funds appropriated or otherwise made available in title XII of division A for Federal Railroad Administration under the heading ''Supplemental Grants to the National Passenger Railroad Corporations'', and the amount made available under such heading is reduced by $850,000,000.

(14) DoD HYBRID VEHICLES.—None of the funds appropriated or otherwise made available in title III of division A for Procurement under the heading ''Defense Production Act Purchases'', and the amount made available under such heading is reduced by $100,000,000.

(15) NASA CLIMATE CHANGE.—None of the funds appropriated or otherwise made available in title II of division A for National Aeronautics and Space Administration under the heading ''Science'', and the amount made available under such heading is reduced by $500,000,000.

(16) NEIGHBORHOOD STABILIZATION.—None of the funds appropriated or otherwise made available in title XII of division A for Public Housing Capital Fund under the heading ''Neighborhood Stabilization Program'', and the amount made available under such heading is reduced by $2,250,000,000.

(17) HISTORIC PRESERVATION FUND.—None of the funds appropriated or otherwise made available in title VII of division A for National Park Service under the heading ''Historic Preservation Fund'', and the amount made available under such heading is reduced by $55,000,000.

(18) FISH AND WILDLIFE RESOURCE CONSTRUCTION.—None of the funds appropriated or otherwise made available in title VII of division A for United States Fish and Wildlife Service under the heading ''Construction'', and the amount made available under such heading is reduced by $60,000,000.

(b) UNDER PRIORITIZED SPENDING THAT SHOULD BE BUDGETED FOR.—

(1) COMPARATIVE RESEARCH.—None of the funds appropriated or otherwise made available in title VIII of division A for Healthcare Research and Quality under the heading ''Agency for Healthcare Research and Quality'' may be available for comparative research, and the amount made available under such heading is reduced by $700,000,000.

(2) HEALTH IT.—Title XIII for Health Information Technology shall be null and void and none of the funds appropriated or otherwise made available in title VII of division A for Information Technology under the heading ''Office of the National Coordinator for Health Information Technology'' may be available for health information technology, and the amount made available under such heading is reduced by $5,000,000,000.

(3) PANDEMIC FLU.—None of the funds appropriated or otherwise made available in title VIII of division A for pandemic influenza under the heading ''Public Health and Social Services Emergency Fund'' may be available for pandemic flu and the amount made available under such heading is reduced by $870,000,000.

(4) SMART GRID.—None of the funds made available in this Act for Smart Grid shall be made available.

(5) BROADBAND.—None of the funds appropriated or other made available in title II of division A for Broadband Technology Opportunities under the heading ''National Technology Opportunities Program'' may be available for broadband and the amount made available under such heading is reduced by $9,000,000,000.

(6) HIGH-SPEED RAIL CORRIDOR PROGRAM.—None of the funds appropriated or made available in title XII of division A for the High-Speed Rail Corridor projects under the heading High-Speed Rail Corridor Program may be available for the high-speed rail corridor and the amount made available under such heading is reduced by $2,000,000,000. Section 201 of title II of division A shall be null and void.

(7) PRISON SYSTEM AND COURTHOUSES.—None of the funds appropriated or made available in title II of division A for prison buildings and facilities under the heading Federal Prison System may be available for buildings and facilities and the amount made available under such heading is reduced by $1,000,000,000.

(c) UNDER GENERAL PROVISIONS.—

(1) DAVIS-BACON ACT NOT APPLICABLE.—Notwithstanding any other provision of law, the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall not apply to any construction projects carried out using amounts made available under this Act or the amendments made by this Act.

(2) PROHIBITED USES.—None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, or Mob Museum.

SA 180. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, and Mr. BROWN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for

other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 2____. Section 136(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(b)) is amended by striking ''30 percent'' and inserting ''90 percent''.

SA 181. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 2____. Section 136(d)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking ''$25,000,000,000'' and inserting ''$50,000,000,000''.

SA 182. Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. SCHUMER, and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

FEDERAL AVIATION ADMINISTRATION

NEXTGEN ACCELERATION

For grants or other agreements to accelerate the transition to the Next Generation Air Transportation System by accelerating deployment of ground infrastructure for Automatic Dependent Surveillance—Broadcast, by accelerating development of procedures and routes that support performance-based air navigation, to incentivize aircraft equipage to use such infrastructure and procedures and routes, and for additional agency administrative costs associated with the certification and oversight of the deployment of these systems, $550,000,000, to remain available until September 30, 2010: *Provided*, That the Administrator of the Federal Aviation Administration shall use the authority under section 106(l)(6) of title 49, United States Code, to make such grants or agreements: and *Provided further*, That, with respect to any incentives for equipage, the Federal share of the costs shall be no more than 50 percent.

SA 183. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ———. AVIATION PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Federal Aviation Administration Extension Act of 2009''.

(b) EXTENSION OF AVIATION PROGRAMS FOR FY 2009.—

(1) EXTENSION OF AVIATION TAXES.—The Internal Revenue Code of 1986 is amended by striking ''March 31, 2009'' and inserting ''September 30, 2009'' each place it appears in each of the following sections:

(A) Section 4081(d)(2)(B).

(B) Section 4261(j)(1)(A)(ii).

(C) Section 4271(d)(1)(A)(ii).

(2) EXTENSION OF EXPENDITURE AUTHORITY.—

(A) Such Code is amended by striking ''April 1, 2009'' each place it appears in each of the following sections:

(i) Section 9502(d)(1).

(ii) Section 9502(e)(2).

(B) Paragraph (1) of section 9502(d) of such Code is amended by inserting ''or the Federal Aviation Administration Extension Act of 2009'' before the semicolon at the end of subparagraph (A).

(3) EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.—

(A) Paragraph (6) of section 48103 of such title is amended to read as follows:

''(6) $3,900,000,000 for fiscal year 2009.''.

(B) Section 47104(c) of such title is amended by striking ''March 31, 2009,'' and inserting ''September 30, 2009,''.

(4) EXTENSION OF EXPIRING AUTHORITIES.—

(A) Title 49, United States Code, is amended by striking the date specified in each of the following sections and inserting ''September 30, 2009'':

(i) Section 40117(l)(7).

(ii) Section 44303(b).

(iii) Section 47107(s)(3).

(iv) Section 47141(f).

(v) Section 49108.

(B) Section 44302(f)(1) of such title is amended—

(i) by striking ''March 31, 2009'' and inserting ''September 30, 2009''; and

(ii) by striking ''May 31, 2009'' and inserting ''December 31, 2009''.

(C) Section 47115(j) of such title is amended by striking ''2008, and the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(D) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking ''before April 1, 2009,''.

(E) Section 186(d) of such Act (117 Stat. 2518) is amended by striking ''2008, and for the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2009.

SA 184. Mr. LEAHY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ________. WAIVER OF MATCHING REQUIREMENT UNDER COPS PROGRAM.

Section 1701(g) of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3796dd(g)) shall not apply with respect to funds appropriated in this Act or any other Act making appropriations for fiscal year 2009 or 2010 for Community Oriented Policing Services authorized under part Q of such Act of 1968.

SA 185. Mr. SCHUMER (for himself, Mr. SPECTER, Mr. LAUTENBERG, Mr. MENENDEZ, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 239, line 24, strike ''$8,400,000,000'' and insert ''$10,400,000,000''.

On page 240, line 15, after ''promptly:'' insert ''*Provided further*, That the Secretary of Transportation shall make such funds available to pay for operating expenses to the extent that a transit authority demonstrates to his or her satisfaction that such funds are necessary to continue current services or expand such services to meet increased ridership:''.

On page 242, after line 10, insert the following:

CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'', as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309 (d) and (e) of such title, $2,500,000,000: *Provided*, That such amount shall be allocated without regard to the limitation under section 5309(m)(2)(A)(i): *Provided further*, That in selecting projects to be funded, priority shall be given to projects that are able to obligate 50 percent of the appropriated funds within 180 days of enactment of this Act: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That applicable chapter 53 requirements shall apply, except that notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall remain available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an additional amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code,

$2,000,000,000 to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion the funding provided under this heading using the formula set forth in subsection 5337 of such Act: *Provided further*, That the Federal share of the costs for which a grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account.

SA 186. Mr. UDALL of Colorado (for himself and Mr. BENNET of Colorado) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 121, line 4, before the period, insert the following: '': *Provided further*, That no State matching funds are required: *Provided further*, That funding priority shall be given to areas that are experiencing high levels of insect and disease infestations''.

SA 187. Mr. UDALL of Colorado (for himself, Mr. KERRY, Mr. BINGAMAN, Mr. WHITEHOUSE, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, lines 14 through 16, strike ''$14,398,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*,'' and insert ''$17,298,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*, That $3,400,000,000 shall be for additional grants for State Energy Programs under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) with the States prioritizing the grants, to the maximum extent practicable, toward funding energy efficiency and renewable energy programs, especially for the purpose of retrofitting residential and commercial buildings to reduce energy consumption: *Provided further*,''.

SA 188. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. ACCELERATION OF PHASEIN OF DOMESTIC PRODUCTION ACTIVITIES DEDUCTION.

(a) IN GENERAL.—Subsection (a) of section 199 is amended to read as follows:

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to 9 percent of the lesser of—

''(1) the qualified production activities income of the taxpayer for the taxable year, or

''(2) taxable income (determined without regard to this section) for the taxable year.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 199(d) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsection (a)(2)''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. —. RESTORATION OF FULL DOMESTIC PRODUCTION ACTIVITIES DEDUCTION FOR OIL RELATED PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Section 401 of the Energy Improvement and Extension Act of 2008 is repealed.

(b) EFFECTIVE DATE; ADMINISTRATION OF CODE.—

(1) EFFECTIVE DATE.—The repeal made by this section shall apply to taxable years beginning after December 31, 2008.

(2) ADMINISTRATION OF CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if section 401 of the Energy Improvement and Extension Act of 2008, and the amendments made by such section, had not been enacted.

SA 189. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 192, after line 21 insert the following:

SEC. 807. ELIMINATION OF FUNDING PROHIBITION. Notwithstanding section 803(d)(2)(C), section 803(d)(2)(C) shall have no effect.

SA 190. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 535, after line 17, add the following:

SEC. ______. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

(a) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

(b) PERIOD FOR TREATING GO ZONES AS DIFFICULT DEVELOPMENT AREAS.—Section 1400N(c)(3)(A) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2012''.

SA 191. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 122, after line 23, add the following:

SEC. ____. ENVIRONMENTAL CERTIFICATION REQUIREMENT.

Before any funds made available under this Act to carry out a project may be obligated for the project, the head of the Federal agency responsible for the project shall certify that all reviews and consultations required by law that are intended to protect human health or the health of the natural environment have been completed, including those required by—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (including all required consultations under that Act); and

(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SA 192. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 16, insert ''renewable energy construction grants under section 803 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17282), geothermal energy programs and grants under sections 613, 614, 615, and 625 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17192, 17193, 17194, 17204) and the marine and hydrokinetic renewable energy technologies program established under section 633 of that Act (42 U.S.C. 17212), and for'' after ''available for''.

On page 70, line 22, strike ''That the remaining $2,100,000,000'' and insert ''That, of the remaining $2,100,000,000, $180,000,000 shall be available for renewable energy construction grants under section 803 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17282), geothermal energy programs and grants under sections 613, 614, 615, and 625 of that Act (42 U.S.C. 17192, 17193, 17194,

17204), and the marine and hydrokinetic renewable energy technologies program established under section 633 of that Act (42 U.S.C. 17212) and $1,920,000,000''.

SA 193. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 22, insert '', to remain available for expenditure only until September 30, 2010,'' after ''$2,100,000,000''.

SA 194. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 1, insert ''for expenditure only'' after ''remain available''.

SA 195. Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. WYDEN, Mr. KERRY, Mr. TESTER, Mr. UDALL, of New Mexico, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 122, after line 23, add the following:

SEC. 70__. (a) In addition to amounts made available by this title, there shall be made available—

(1) for ''Operation of the National Park System'', $142,000,000;

(2) for ''National Park Service Construction'', $811,000,000;

(3) for ''Historic Preservation Fund'', $45,000,000;

(4) for ''Land Acquisition and State Assistance'', $100,000,000 to be derived from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) to provide financial assistance to States in accordance with section 6 of that Act (16 U.S.C. 4601–8), subject to subsection (b);

(5) for ''United States Fish and Wildlife Service Resource Management'', $110,000,000;

(6) for ''United States Fish and Wildlife Service Construction'', $15,000,000;

(7) for ''State and Tribal Wildlife Grants'', $50,000,000 for wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for the development and implementation of programs for the benefit of wildlife and wildlife habitat, including species that are not hunted or fished;

(8) for ''Bureau of Land Management Management of Lands and Resources'', $350,000,000;

(9) for ''Bureau of Land Management Wildland Fire Management'', $20,000,000;

(10) for ''Forest Service Capital Improvement and Maintenance'', $50,000,000;

(11) for ''Forest Service Wildland Fire Management'', $850,000,000, of which $250,000,000 shall be available for work on State and private land; and

(12) for ''Bureau of Indian Affairs Operations'', $15,000,000.

(b) Amounts made available under subsection (a)(4) shall not be used for land acquisition.

(c) Amounts made available under subsection (a)—

(1) shall remain available until September 30, 2010; and

(2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

(d) Amounts made available by this title for ''Forest Service Capital Improvement and Maintenance'' may be—

(1) used for reconstruction, improvement, decommissioning, and maintenance of roads, trails, bridges, and dams; and

(2) transferred to the ''National Forest System'' account and other appropriate accounts of the Forest Service.

(e) Amounts made available by this title for ''Forest Service Wildland Fire Management'' may be—

(1) used for forest, rangeland, and watershed rehabilitation and restoration activities; and

(2) transferred to the ''National Forest System'' account, the ''State and Private Forestry'' account, and other appropriate accounts of the Forest Service.

SA 196. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, after line 23, insert the following:

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For an additional amount for the Recovery, Accountability, and Transparency Website established under section 1551, $30,000,000: *Provided*, That this amount is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

On page 422, strike lines 4 through 14, and insert the following:

(4) The website shall include a link to the website established and maintained by the Office of Management and Budget under section 1551.

On page 422, line 15, strike ''(6)'' and insert ''(5)''.

On page 422, line 18, strike ''(7)'' and insert ''(6)''.

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Recovery, Accountability, and Transparency Website

SEC. 1551. ESTABLISHMENT OF THE RECOVERY, ACCOUNTABILITY, AND TRANSPARENCY WEBSITE.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall establish and maintain the Recovery, Accountability, and Transparency Website to foster greater accountability and transparency in the use of covered funds.

(b) DATE OF ESTABLISHMENT.—The Director shall establish the website required under this section not later than 30 days after the date of enactment of this Act.

SEC. 1552. WEBSITE.

(a) PURPOSE.—The website established and maintained under section 1551 shall be a publicly available portal or gateway to provide the public full transparency and accountability of covered funds with timely availability of information and accounting of covered funds expended at the Federal, State, and local level.

(b) CONTENT AND FUNCTION.—In establishing the website established and maintained under section 1551, the Director of the Office of Management and Budget shall ensure the following:

(1) The website shall include information on relevant, economic, financial, grant, and contract information in user-friendly visual presentations.

(2) At a minimum, the website shall include detailed information on government contracts and grants, including Federal, State, and local contracts and grants and any subsequent subcontracts, including those made by 1 private entity to another, that expend covered funds to include—

(A) information about the competitiveness of the contracting process;

(B) notification of solicitations for contracts to be awarded;

(C) information about the process that was used for the award of contracts;

(D) information about the recipient of the contract to include the scope and statement of work under the contract;

(E) the dollar value of the contract;

(F) an estimate of the jobs sustained or created through execution of the contract including an explanation of the estimate;

(G) an estimate of the start date for any project using covered funds and a corresponding end date for the project;

(H) information confirming the certification required under section 1605 for the receipt of any covered funds; and

(I) any other information as the Director determines necessary.

(3) The website shall be fully available to the public.

(4) Information included on the website shall be available in printable formats, to include information on covered funds obligated in each State and each congressional district.

(5) The website shall provide the information required under paragraph (2) not later than 30 days after the obligation or award of funds.

(6) The website shall be searchable by project type, geographic region, level of government executions and as otherwise determined necessary by the Director.

(7) The website shall include appropriate links to other Government websites with information concerning covered funds including, at a minimum, the Board website established under section 1519.

(c) COMPLIANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, as a condition of receipt of funds under this Act, each agency shall require any recipient of such funds, whether from a Federal, State, or local contract or grant or otherwise, to provide the information required under subsection (b)(2).

(2) INFORMATION PROVIDED BY RECIPIENTS.—All information required to be made by recipients of covered funds under paragraph (1) shall be—

(A) provided not later than 30 days after the receipt of such funds; and

(B) updated not later than 30 days after any material changes in the execution of such funds.

(3) USER-FRIENDLY MEANS FOR COMPLIANCE.—In coordination with agencies and State and local governments, the Director of the Office of Management and Budget shall provide for user-friendly means for recipients of covered funds to meet the requirements of this subsection.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security.

SEC. 1553. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 to carry out this subtitle.

SA 197. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Recovery Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—TAX PROVISIONS

SEC. 100. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

SEC. 101. 10 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 5 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(A) is amended by inserting ''(5 percent in the case of any taxable year beginning in 2009 or 2010)'' after ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 102. 15 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 10 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REDUCTION IN 15 PERCENT RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, '10 percent' shall be substituted for '15 percent' in the tables under subsections (a), (b), (c), (d), and (e). The preceding sentence shall be applied after application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Alternative Minimum Tax Relief For Individuals

SEC. 111. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended—

(1) by striking ''or 2008'' and inserting ''2008, 2009, or 2010'', and

(2) by striking ''**2008**'' in the heading thereof and inserting ''**2010**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 112. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNTS FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($69,950 in the case of taxable years beginning in 2008)'' in subparagraph (A) and inserting ''($55,000 in the case of taxable years beginning in 2009 or 2010)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($38,750 in the case of taxable years beginning in 2009 or 2010)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle C—First-Time Homebuyer Credit

SEC. 121. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT.

(a) EXTENSION OF CREDIT.—Subsection (i) of section 36 (as redesignated by subsection (d)) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) REPEAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 is amended by striking ''an individual who is a first-time homebuyer of a principal residence'' and inserting ''an individual who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Section 36(b)(1)(A) is amended by inserting ''with respect to any taxpayer for any taxable year'' after ''subsection (a)''.

(B) Section 36(c) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(C) The heading of section 36 (and the item relating to such section in the table of sections for subpart C of part IV of subchapter A of chapter 1) are amended by striking ''**FIRST-TIME HOMEBUYER**'' and inserting ''**HOMEBUYER**''.

(c) REPEAL OF RECAPTURE RULES.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008—

''(i) paragraph (1) shall not apply, and

''(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(d) DOWNPAYMENT REQUIREMENT.—Section 36 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DOWNPAYMENT REQUIREMENT.—No credit shall be allowed under subsection (a) to any taxpayer with respect to the purchase of any residence unless such taxpayer makes a downpayment of not less 5 percent of the purchase price of such residence. For purposes of the preceding sentence, an amount shall not be treated as a downpayment if such amount is repayable by the taxpayer to any other person.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to residences purchased after December 31, 2008.

(2) DOWNPAYMENT REQUIREMENT.—The amendment made by subsection (d) shall apply to residences purchased after the date of the enactment of this Act.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 131. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 132. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 136. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 137. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

SEC. 141. DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of a qualified small business for a taxable year beginning in 2009 or 2010, 20 percent of the lesser of—

''(i) the qualified small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—

''(1) QUALIFIED SMALL BUSINESS.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business' means any taxpayer for any taxable year if the annual average number of employees employed by such taxpayer during such taxable year was 500 or fewer.

''(B) AGGREGATION RULE.—For purposes of subparagraph (A), any person treated as a single employer under subsection (a) or (b) of section 52 (applied without regard to section 1563(b)) or subsection (m) or (o) of section 414 shall be treated as 1 taxpayer for purposes of this subsection.

''(C) SPECIAL RULE.—If a taxpayer is treated as a qualified small business for any taxable year, the taxpayer shall not fail to be treated as a qualified small business for any subsequent taxable year solely because the number of employees employed by such taxpayer during such subsequent taxable year exceeds 500. The preceding sentence shall cease to apply to such taxpayer in the first taxable year in which there is an ownership change (as defined by section 382(g) in respect of a corporation, or by applying principles analogous to such ownership change in the case of a taxpayer that is a partnership) with respect to the stock (or partnership interests) of the taxpayer.

''(2) QUALIFIED SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business income' means the excess of—

''(i) the income of the qualified small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of a qualified small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 146. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

SEC. 151. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED HEALTH INSURANCE COSTS OF INDIVIDUALS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. COSTS OF QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount paid during the taxable year for coverage for the taxpayer, his spouse, and dependents under qualified health insurance.

''(b) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means insurance which constitutes medical care; except that such term shall not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(c) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a). Any amount taken into account in determining the credit allowed under section 35 shall not be taken into account for purposes of this section.

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence the following new paragraph:

''(22) COSTS OF QUALIFIED HEALTH INSURANCE.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and inserting before such item the following new item:

''Sec. 224. Costs of qualified health insurance.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income

SEC. 161. TEMPORARY EXCLUSION OF UNEMPLOYMENT COMPENSATION FROM GROSS INCOME.

(a) IN GENERAL.—Section 85 is amended by adding at the end the following new subsection:

''(c) EXCLUSION OF AMOUNTS RECEIVED IN 2008 AND 2009.—Subsection (a) shall not apply to any unemployment compensation received in 2008 or 2009.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 2007.

Subtitle G—No Impact on Social Security Trust Funds

SEC. 171. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) ESTIMATE BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i).

(b) TRANSFER OF FUNDS.—If, under subsection (a), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS

SEC. 200. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers Act''.

SEC. 201. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 201(a) of the Assistance for Unemployed Workers Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 202. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''Additional Eligibility Requirements

''(g)(1) IN GENERAL.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act for any week—

''(A) in the case of any individual described in paragraph (2), that such individual—

''(i) have a secondary school diploma or its recognized equivalent; or

''(ii) be making satisfactory progress in a program that leads to a secondary school diploma or its recognized equivalent; and

''(B) in the case of any individual described in paragraph (3), that such individual participate in reemployment services or in similar services (or, if such services were ongoing as of when such individual most recently exhausted regular compensation before seeking emergency unemployment compensation, that such individual continue to participate in such services), unless the State agency charged with the administration of the State law determines that—

''(i) such individual has completed such services as of a date subsequent to the commencement of emergency unemployment compensation; or

''(ii) there is justifiable cause for such individual's failure to participate in such services.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1)(A) APPLIES.—The requirements of paragraph (1)(A) shall apply in the case of any individual who was under age 30 at the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation.

''(3) INDIVIDUALS TO WHOM PARAGRAPH (1)(B) APPLIES.—The requirements of paragraph (1)(B) shall apply in the case of any individual who, as of the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation, was identified under the State profiling system (described in section 303(j) of the Social Security Act) as being a claimant who—

''(A) was likely to exhaust regular compensation; and

''(B) would need job search assistance services to make a successful transition to new employment.

''(4) EFFECTIVE DATE.—This subsection shall apply in the case of any individual filing an initial application for emergency unemployment compensation after the end of the 3-month period beginning on the date of the enactment of this subsection.''.

SEC. 203. SPECIAL TRANSFERS.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''Special Transfer in Fiscal Year 2009 for Benefits

''(f)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the Federal unemployment account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(2) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(B) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

TITLE III—NO TAX INCREASES TO PAY FOR SPENDING

SEC. 301. NO TAX INCREASES TO PAY FOR SPENDING.

(a) FINDINGS.—The Congress finds that—

(1) according to the economic forecast released by the non-partisan Congressional Budget Office on January 7, 2009, unemployment in the United States is expected to be above the level estimated for calendar year 2008 until the year 2015, and

(2) raising taxes on families and employers during times of high unemployment delays economic recovery and the creation of new jobs.

(b) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) outlays from the Treasury of the United States that occur as a result of any provision of this Act shall not be offset through the enactment of new legislation that results in increases in revenues to the Treasury of the United States, but, if such outlays are offset, such offsets shall be through the enactment of legislation that results in a reduction in other outlays, and

(2) the effective rate of tax imposed on individuals or businesses shall not be increased, whether by operation of a provision of existing law or the enactment of new legislation, during any year in which unemployment is projected to exceed the level of unemployment for calendar year 2008.

SA 198. Mr. INHOFE (for himself and Mr. THUNE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for any of the following purposes:

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

SA 199. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. EXTENSION OF REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201(b)(1) is amended by striking ''1 year after such date'' and inserting ''3 years after such date''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 1201(b)(3) is amended by striking ''1 year after such date'' and inserting ''3 years after such date''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. —. EXTENSION OF TIMBER REIT MODERNIZATION AND MODIFCATION OF PROHIBITED TRANSACTION RULES FOR TIMBER PROPERTY.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended—

(1) by striking ''the taxpayer's first taxable year'' and inserting ''the taxpayer's third taxable year'', and

(2) by striking ''1 year after such date'' and inserting ''3 years after such date''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. —. EXTENSION OF QUALIFICATION OF MINERAL ROYALTY INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2)(I) is amended by inserting '', second, or third'' after ''the first''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 200. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and (L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes) is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SA 201. Mrs. KLOBUCHAR (for herself, Mr. HATCH, Mr. BENNETT, and Mr. KOHL) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 359, line 22, insert ''In promulgating such regulations, the Secretary shall not require that data be de-identified or require valid authorization for use or disclosure for activities described in paragraph (1) of the definition of health care operations under such section 164.501.'' after ''disclosure.''.

On page 360, line 6, insert at the end the following: ''Nothing in this subsection may be construed to supersede any provision under subsection (e) or section 13406(a).''.

SA 202. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 2 and 3, insert the following:

SEC. 12____. Amounts made available under this title for distribution by the Federal Highway Administration for surface transportation projects shall not be subject to section 133(c) of title 23, United States Code, or any other provision of law that restricts the use of those funds for projects relating to local or rural roads or bridges.

SA 203. Mr. SANDERS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 228, line 19, strike ''$20,000,000'' and insert $1,000,000''.

SA 204. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, may be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

SA 205. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, line 16, strike ''$427,000,000'' and insert ''$627,000,000''.

On page 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 62, line 3, insert ''*Provided further*, That not less than $1,000,000,000 of the funds provided shall be provided for large-scale aquatic ecosystem restoration:'' after ''assistance:''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, shall be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

On page 114, line 24, strike ''$190,000,000'' and insert ''$215,000,000''.

On page 115, line 4, insert before the period at the end the following: '', of which not less than $50,000,000 shall be used for habitat restoration projects (including grant programs for wetlands restoration)''.

On page 120, between lines 10 and 11, insert the following:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for ''Environmental Programs and Management,'' $1,000,000,000, for existing large-scale aquatic ecosystem programs and related activities: *Provided*, That funds provided under this heading shall be used only for programs, projects, or activities that, as of the date of enactment of this Act, receive funds provided in Acts making appropriations available for the Department of the Interior, the Environmental Protection Agency, and related agencies: *Provided further*, That the Administrator of the Environmental Protection Agency may waive cost-sharing requirements for the use of funds made available under this heading.

SA 206. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 22, strike ''$2,000,000,000'' and insert ''$4,000,000,000''.

On page 62, line 3, insert ''*Provided further*, That not less than $1,000,000,000 of the funds provided shall be provided for large-scale aquatic ecosystem restoration:'' after ''assistance:''.

On page 63, line 21, strike ''$500,000,000'' and insert ''$1,000,000,000''.

On page 65, line 4, strike ''$1,900,000,000'' and insert ''$3,800,000,000''.

On page 65, line 23, insert ''*Provided further*, That in any case in which restoration or storm protection benefits are available through the beneficial use of dredged material produced by an operation and maintenance activity, that use, up to an additional 15 percent of least-cost disposal, shall be required as part of the operation and maintenance activity and budget:'' after ''complete:''.

On page 67, line 15, strike ''$50,000,000'' and insert ''$250,000,000''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, February 10, 2009, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on a majority staff draft for a Renewable Electricity Standard proposal.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Gina_Weinstock@energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224–2209 or Gina Weinstock at (202) 224–5684.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources. The hearing will be held on Thursday, February 12, 2009, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the current state of the Department of Energy Loan Guarantee Program, authorized under Title 17 of the Energy Policy Act of 2005, and how the delivery of services to support the deployment of clean energy technologies might be improved.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachelpasternack@energy.senate.gov.

For further information, please contact Mike Carr at (202) 224–8164 or Rachel Pasternack at (202) 224–0883.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Lacee Oliver of my Finance Committee staff be granted the privileges of the floor during the first session of the 111th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Vishal Patel and Samantha Harvell, two fellows in my office, be granted the privilege of the floor during the pendency of H.R. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING USE OF THE ROTUNDA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 27 at the desk, just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 27) authorizing the use of the rotunda of the Capitol for the ceremony in honor of the bicentennial of the birth of President Abraham Lincoln.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 27) was agreed to.

Mr. DURBIN. Mr. President, this resolution, incidentally, authorizes the use of the Capitol Rotunda on February 12, 2009, on the 200th birthday of Abraham Lincoln. We originally thought a smaller venue would be adequate, but interest in this event has grown. I hope people across America realize that as we celebrate here, there will be celebrations in Springfield, IL, and many other venues.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96–388, as amended by Public Law 97–84, appoints the following Senator to the United States Holocaust Memorial Council for the 111th Congress: the Senator from Utah (Mr. HATCH).

The Chair, on behalf of the President pro tempore, pursuant to Public Law 94–118, Section 4 (a) (3), appoints the Senator from Alaska (Ms. MURKOWSKI) to the Japan-United States Friendship Commission.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, appoints the Senator from Mississippi (Mr. COCHRAN) as a member of the Board of Regents of the Smithsonian Institution.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 111th Congress: the Honorable CHRIS DODD of Connecticut; the Honorable SHELDON WHITEHOUSE of Rhode Island; the Honorable TOM UDALL of New Mexico; and the Honorable JEANNE SHAHEEN of New Hampshire.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 111th Congress: the Honorable SAXBY CHAMBLISS of Georgia and the Honorable SAM BROWNBACK of Kansas.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senator as Chairman of the Senate Delegation to the Canada-U.S. Interparliamentary Group conference during the 111th Congress: the Honorable AMY KLOBUCHAR of Minnesota.

ORDERS FOR WEDNESDAY, FEBRUARY 4, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow, Wednesday, February 4; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, tomorrow the Senate will resume consideration of the economic recovery legislation. Additional amendments are going to be offered and debated during tomorrow's session. Rollcall votes are expected to occur in the late afternoon hours. Senators will be notified when the votes are scheduled.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:45 p.m., adjourned until Wednesday, February 4, 2009, at 10:30 a.m.

EXTENSIONS OF REMARKS

HONORING THE MEMORY OF COACH KAY YOW

HON. HEATH SHULER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. SHULER. Madam Speaker, I rise today to honor the memory of Kay Yow, one of the highest-achieving college basketball coaches in the history of the sport. One of only six Division I head women's basketball coaches to achieve 700 career victories, Coach Yow led the women's basketball team at North Carolina State University from 1975 to 2009. She continued her winning coaching career even as she faced a 22-year battle with breast cancer.

In 1975, Yow was hired as the head coach of the women's basketball program at NC State as well as the head coach of both the softball and volleyball teams and the coordinator of women's sports. A female leader amidst a mostly male coaching staff, Yow found immediate success as she took her first squad to the Women's National Invitation Tournament and completed the season with a 19–7 record. Since then, Yow has coached some of the nation's most well known players, including WNBA All-Stars like Andrea Stinson, Chasity Melvin (NC State's all-time leading scorer), Genia Beasley, and current Assistant Coach, Trena Trice-Hill.

Yow is part of an elite group of eight Olympic coaches chosen to lead USA Basketball in the pursuit of an Olympic gold medal in women's basketball. Yow served as an Assistant Coach on the 1984 gold medal-winning coaching staff and three more gold medal-winning teams, including the 1979 World University Games, the 1983 Pan American Games, and the 1984 R. Williams Jones Cup. Yow also was part of the 1983 World Championship club that earned a silver medal.

She served as Head Coach of the 1988 gold medal-winning Olympic team in Seoul, Korea as well as the gold medal winners at the 1981 World University Games, the 1986 Goodwill Games and the 1986 World Championship Games. She was the first coach to win two Olympic gold medals since women's basketball was first included in the Olympics in 1976.

In April of 2008, Coach Yow received the Mildred "Babe" Zaharias Didrikson Courage Award from the United States Sports Academy, recognizing her achievements in the face of serious personal challenges. Yow missed 16 games during the 2007 season to receive treatment for the cancer that was first diagnosed in 1987. Upon her return to the team in 2007, she led the Wolfpack on an inspirational run to the ACC Championship game and to the Sweet 16 in the NCAA tournament.

Cancer took the life of Coach Kay Yow on January 24, 2009. Throughout her life, Coach Yow sacrificed to continuously be a mentor and friend to her players and make them the best players they could be. Madame Speaker, I ask my colleagues to join me in expressing remorse at the passing of one of North Carolina's greatest coaches, a woman who was one of the most admired and respected coaches on the national and international scenes. Her perseverance and dedication in the face of a deadly battle with cancer is an inspiration to us all.

TRIBUTE TO ANN SWENSON

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Ann Swenson of Norwalk Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Ann Swenson on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Ann in the United States Congress, and I wish her continued success.

HONORING THE WORK OF SUPERVISOR MIKE REILLY

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. WOOLSEY. Madam Speaker, I rise today along with my colleague, Congressman MIKE THOMPSON, to honor one of our districts' most hard working public servants, Mike Reilly of Forestville, California, who has recently retired from the Sonoma County Board of Supervisors.

For twelve years as County Supervisor, Mike represented Sonoma County's 5th District a vast rambling, and fantastically beautiful place that encompasses the entire 53 miles of Sonoma County's coast, redwood forests, vineyards, the Russian River, and the western edge of our largest city, Santa Rosa. Known as "West County," the 5th District is Sonoma County's most progressive with a vibrant and diverse population of ethnicity, sexual orientation and economic backgrounds. Mike Reilly, with his intelligence, people skills and encyclopedic knowledge of politics represented every one of his constituencies.

Mike is a Bay Area native born on May 27, 1944 in San Mateo, California. Always interested in politics, his first office was senior class president at Hayward High and later, student body president at Chabot College. Mike was an Army volunteer and served two years in Okinawa. The young veteran returned to the Bay Area after completing his tour of duty and began working as a youth counselor. He became one of the founders and eventually Executive Director of the Hayward-based Project Eden, a non-profit organization that offered drug counseling to the city's "street kids."

In 1977, Mike moved to Sonoma County to begin working for the county's drug and alcohol program, again as a counselor to youth. Mike settled in Forestville and soon became active in west county politics, no doubt influenced by his neighbor, Ernie Carpenter, who became the 5th District Supervisor in 1978.

From 1981 to 1985, Mike served as Administrative Assistant to state Assemblyman Dan Hauser, whose 1st District ran from Sonoma County to the Oregon border. During his tenure with Hauser, Mike was a key player in the designation of the Lost Coast Sinkyone Wilderness Area for public use, drafting initial legislation banning oil and gas development in Northern California state waters, the restoration of the Point Arena Pier, and regional issues pertaining to fishing and timber extraction.

In 1986 Mike Reilly became Executive Director of West County Community Services, a non-profit that grew from a 70's era all volunteer "River Switchboard," to an organization offering a variety of services for people of all ages. Under Mike's leadership, West County Community Services developed an excellent drug and alcohol abuse programs, led in the establishment of the Russian River Senior Center and the Sebastopol Teen Center and opened a homeless shelter. For thirteen years, Mike also served as a trustee for the Forestville Elementary School District and the West County High School District.

When Supervisor Carpenter announced his retirement from public office in 1995, Mike Reilly embarked on a grueling eighteen month campaign to successfully succeed him. Mike's hard fought campaign and subsequent service allowed him to coast to two unopposed re-election victories in the years ahead. These were not years without challenges, however, including huge floods on the lower Russian River in 1997 and 1999, years of underfunded services in rural areas and the heavily urbanized Roseland area in the district, and a

sometimes lonely role as an environmental advocate on the Board of Supervisors.

Despite these difficulties Mike was able to forge agreements that led to county support of home elevation program on the flood prone Russian River, the formation of the Russian River Redevelopment District, and ordinances regulating forest conversions and vineyard grading, as well as untangling hundreds of county problems for his constituents. Mike was also a powerful presence on the County's Open Space and Agricultural Preservation District, and instrumental in protecting thousands of acres of land under county ownership or conservation easements.

During the same 12 years, Mike also served on the California Coastal Commission, including two years as the Commission's Chair. He has been recognized by statewide environmental groups as having the strongest conservation record of any of the publically elected members of the Commission.

I would also note that Mike Reilly is a key player in moving forward the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act, a bill that would provide permanent protection for the entire Sonoma Coast. Mike led successful efforts to endorse the bill by both the Sonoma County Board of Supervisors and the California Coastal Commission. With our new Administration these efforts will result in passage.

This year Mike is celebrating another 12-year anniversary, his marriage to Judi, which took place on January 25, 1997, in a home in Guerneville in the midst of a flood emergency. Mike and Judi, their three daughter's, Kimberly, Sheri and Kelly, as well as Kelly's husband Stewart and their son, Stetson, and Sheri's fiancée, Will, make up a loving and supportive family with great political energy and philosophies.

Although Mike has retired from the Board of Supervisors, we will not let him leave us. He continues to serve as a board member of Coastwalk, California's unique coastal education program and on New Ways to Work, a national non-profit that is finding ways to train youth for the new economy. Knowing of Mike's energy, his intelligence and his savvy, his can-do attitude, we expect that although Mike will be able to play more golf now, he will continue to exert his powerful and positive influence on our community and our world.

Thank you, Mike Reilly.

THE LAST DOUGHBOY TURNS 108

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. POE. Madam Speaker, this week, Madam Speaker, the very last American doughboy, Mr. Frank Buckles, turned 108 years old.

Of the 4.7 million Americans that were mobilized during the First World War, Frank Buckles is the very last of his generation.

His remarkable life began in Bethany, Missouri where he was born in 1901, during the administration of the 25th President of the United States, President McKinley. At the tender age of 16, Mr. Buckles fibbed his way into the Army when he enlisted to fight in the First World War. He was rejected by several recruiters, but he was not deterred until he finally found a recruiter that would take him. He joined the United States Army, and he drove an ambulance in Europe during World War I.

Throughout his life, Mr. Buckles served in the First World War and was held as a prisoner of war by the Japanese for three years during World War Two.

At the incredible age of 108, Mr. Buckles has lived through 46 percent of our nation's history.

Today he resides on the family farm he purchased near Charles Town, West Virginia after the war.

Mr. Buckles is one of the forgotten veterans of a forgotten war. He is the lone survivor.

During WWI nearly 116,000 U.S. warriors gave their lives for this country. The service and sacrifice of those men and women changed the tide of that stalemate war and ensured victory for the Allies. But when they returned to the United States there were no parades or major memorials established to honor them.

Despite the fact that WWI was the first war to be fought on three continents and was the first industrialized conflict, it remains a largely forgotten war.

Today we have three memorials to the major wars in modern U.S. history on the National Mall: the Vietnam Memorial, the Korean Memorial, and the World War II Memorial, but no national memorial for WWI.

World War I should not be forgotten because there are few photographs and no blockbuster movies to tell the story.

That's why I introduced the Frank Buckles World War I Memorial Act. My bill would restore the District of Columbia's World War I Memorial and expand it to also serve as the location for a national World War I Memorial.

After 90 years, of no national recognition it's time these doughboys were given the thanks that they are due—after all they are the ''Father's of the greatest generation.''

Madam Speaker, it's time to honor the Lone Survivor of World War I and the other doughboys that went to war in the forgotten war to end all wars.

And that's just the way it is.

TRIBUTE TO BRIGADIER GENERAL MARK ZIRKELBACH

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise to recognize the retirement of Brigadier General Mark Zirkelbach, the Deputy Adjutant General of the Iowa Army National Guard, and to express my appreciation for his dedication and commitment to his state and country.

For the last 39 years, BG Zirkelbach has served faithfully and honorably. BG Zirkelbach enlisted in the Iowa Army National Guard in the Non-ROTC College Student State OCS Program at Iowa State University in 1970. He earned a Bachelor of Science degree in Agricultural Business from Iowa State University in 1970 and graduated from the United States Army War College in 1998.

In 1972, BG Zirkelbach was commissioned and qualified as Field Artillery and Signal Corps and commanded in both branches. He served as Commander, 67th Troop Command, Iowa Army National Guard and entered the Title 32 AGR Program in 1985. BG Zirkelbach also served as Chief of Staff, Iowa Army National Guard, where he directed and supervised the activities of the State Area Command, Iowa Army National Guard Staff.

BG Zirkelbach has a long list of military awards and decorations which include the Legion of Merit, Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, Army Reserve Component Achievement Medal, National Defense Service Medal, Humanitarian Service Medal, Armed Forces Reserve Medal, Army Service Ribbon, and Army Reserve Components Overseas Training Ribbon.

I commend Brigadier General Mark Zirkelbach for his many years of loyalty and service to our great nation. It is an immense honor to represent BG Zirkelbach, and it has been a pleasure working with him during my time in the United States Congress. I wish him a happy retirement from the Iowa Army National Guard and all the best in his future endeavors.

HONORING PAMELA A. KINDIG OF NAPA COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. THOMPSON of California. Madam Speaker, I rise today to recognize Pamela Kindig on the occasion of her retirement as Auditor-Controller of Napa County. Pam has served her community honorably and the voters rewarded her by re-electing her five times to her post.

Mrs. Kindig began her career in public service as Auditor-Controller when she was elected in June of 1986. Six terms and 22 years later, she is retiring as one of the preeminent public figures in the Napa Valley. She has been a leader amongst her peers, serving as President, 1st Vice President, 2nd Vice President and Bay Area Chair of the California State Association of County Auditors.

Mrs. Kindig is known around Napa County as a superlative mentor to family and friends; a lover of reading, fine dining, golf, and above all, her grandchildren. By all accounts, Mrs. Kindig is the epitome of what a public servant should be: a tireless worker, a pillar of integrity, and someone with the utmost respect for the people she serves.

For the past 22 years Mrs. Kindig has given back to the community by serving on the boards of Napa-Solano United Way, Napa Emergency Women's Services, First Napa Federal Credit Union and Soroptimist International. She also hosts a monthly book review program on a local radio station, is a member of the Napa Valley Symphony and a

founding member of the Covenant Presbyterian Church.

Madam Speaker, it is appropriate at this time that we thank Pamela Kindig for her years of dedication on behalf of the people of Napa Valley. She has been a model citizen and leader in Napa County and her presence there has enriched the lives of everyone in the community. I join her husband Russ, daughters Kimberly and Kirstin and three grandchildren in thanking her for her service and wishing her a lifetime of fulfillment.

TRIBUTE TO JENNIFER AXNESS

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Jennifer Axness of Southeast Webster—Grand Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Jennifer Axness on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Jennifer in the United States Congress, and I wish her continued success.

HONORING PURPLE HEART RECIPIENT WILLIAM W. PRIOR, SR. OF BROOKSVILLE, FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor an American hero and Purple Heart recipient, William W. Prior, Sr. of Brooksville, Florida. Wounded by an enemy torpedo during an engagement in the Aleutian Islands of Alaska, Mr. Prior's service to our Nation will forever be remembered by this Congress.

Born in Tampa, Florida, Mr. Prior spent the early part of his career as a commercial fisherman and was one of five brothers who joined the military during World War II. As someone who loved the sea, when it looked like America might become involved in the war, Mr. Prior joined the United States Navy. Two of his brothers joined the Army, and two joined him in the Navy. While he was hoping to be stationed on a small boat, Mr. Prior was assigned as an aviation radioman and went to Seattle, Washington to begin his service. From there he and his crew were sent to Dutch Harbor, Alaska.

After just a few months on the job, the Japanese bombed Pearl Harbor and the Alaska military members were placed in the midst of some Pacific Coast fighting. While many Americans are not aware of this fact, part of the Aleutian Island chain in Alaska was occupied by the Japanese during World War II. On August 30, 1942, Mr. Prior's ship the USS *Casco* was anchoring in harbor at Nazan Bay close to an island under control of the Japanese. It was at that time that his ship was struck by a torpedo, and Mr. Prior was wounded by shrapnel and knocked unconscious. His former squadron commander found him and flew Mr. Prior back to Dutch Harbor, where he received surgery to save his leg from amputation. Eventually sent to a naval hospital in California, Mr. Prior was discharged in 1943 from the Navy because of the severity of his wounds.

Madam Speaker, soldiers like William W. Prior, Sr. should be recognized for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Prior with his long overdue Purple Heart. His family, friends and loved ones should know that we truly consider him one of America's heroes.

REMEMBERING ALMONT TOWNSHIP FIRE CHIEF PAUL WILCOX

HON. CANDICE S. MILLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mrs. MILLER of Michigan. Madam Speaker, I rise today to remember the life of Almont Township Fire Chief Paul Wilcox who sadly passed away on Thursday, January 8th after a hard fought battle with cancer. I offer my deepest sympathy and condolences to all his family members and friends and hope they can find comfort and ease during this very difficult time.

As a former township and State elected official, I had the pleasure and opportunity to meet and work with Chief Wilcox on several issues. I know his leadership, integrity and community service will be greatly missed throughout Lapeer County and the entire State of Michigan. He truly was a great person.

Chief Wilcox amazingly fought fires in the Almont area for over 40 years and served as chief for 23 years. But he took his call of public duty beyond the walls of the fire station by serving in numerous roles such as an instructor at the Lapeer County Fire Academy during the 1970s, Almont and Imlay Township building inspector, member of the 9-1-1 Committee, Lapeer County EMS Committee, National Volunteer Fire Council and as President of the Michigan Fire Chief's Association just to name a few.

Again, I cannot stress enough how great of a loss this is for not only Almont but both Lapeer County and Michigan. Chief Wilcox was an innovative leader and faced any challenge head on. I can remember recently visiting the station and meeting with him and fellow firefighters about a year and a half ago to present a FEMA grant. There wasn't anything he wouldn't do to help the community. He always sought to improve the departments' services and resources for the residents he so proudly served. He was a tireless advocate for the volunteer fire service and took his message and mission to the national level. He raised the bar and set high standards which all future chiefs and firefighters will now need to live up to.

I am extremely grateful to have known Chief Wilcox and for the chance to have called him a friend. Chief Wilcox had announced his intention to retire this spring but unfortunately wasn't afforded that opportunity. Without question, he will be greatly missed but rest assured certainly not forgotten. I offer my sincere gratitude and thanks for his lifetime of dedicated work and service. My thoughts and prayers go out to all of those who knew Chief Wilcox and may he receive eternal rest.

TRIBUTE TO GRETCHEN CONWAY

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Gretchen Conway of Decorah Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K-12 schools.

I congratulate Gretchen Conway on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Gretchen in the United States Congress, and I wish her continued success.

INTRODUCTION OF THE CLUSTER-BASED ECONOMY ENHANCEMENT ACT OF 2009

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. MCHUGH. Madam Speaker, I rise today to introduce legislation, the Cluster-Based Economy Enhancement Act of 2009. This proposal is designed to stimulate collaborative interactions between businesses in regional economies to produce innovation and create jobs.

"Clusters" are geographic concentrations of competing, complementary, or interdependent business entities or industries that do business with one another and have common needs for talent, technology, and infrastructure. The bill recognizes that such clusters boost competitiveness and growth of a region as a whole.

As the recent economic turmoil has highlighted, American industries must become better equipped to thrive in the increasingly competitive global economy. Rather than continuing to see skilled workers move abroad, we need to take actions conducive to the creation of new employment, both through traditional means of expansion and in-sourcing of foreign jobs. As we do so, we must be mindful that there are regions within America, like Central and Northern New York, that continue to struggle disproportionately demanding we seek ways to overcome those challenges to economic development they face.

In response, this legislation would authorize up to $50 million for cluster-based economic development grants to state and local governments, colleges and universities, and nonprofit economic development organizations to further enhance economic development. Of note, this initiative would make those entities within the five regional development commissions, authorized in the Food, Conservation, and Energy Act of 2008 (P.L. 110–246) eligible to apply for such grants. It is important to note that these recently created bodies are configured to encompass some of our nation's poorest areas. In addition to the Northern Border Regional Development Commission, which I worked to create, the other commissions include the Delta Regional Authority, the Northern Great Plains Regional Authority, the Southeast Crescent Regional Commission, and the Southwest Border Regional Commission.

Madam Speaker, this legislation would not only help increase America's economic competitiveness, it would also create new opportunities in areas like Northern and Central New York, that are particularly in need of economic opportunities. Accordingly, I ask my colleagues to join with me as I work to enact the Cluster-Based Economy Enhancement Act of 2009.

NYU'S JOHN BRADEMAS AWARDED HONORARY DEGREE BY UNIVERSITY OF BARCELONA

HON. JOE DONNELLY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. DONNELLY. Madam Speaker, I am pleased to take note of an honor received last month by former Member of Congress, John Brademas, who served for 22 years in the House of Representatives from the then Third District of Indiana.

He was awarded, by the University of Barcelona, the honorary degree of doctor of laws, his 54th honorary degree.

A Democrat, John Brademas was, during the Administrations of six Presidents of the United States, an active member of the House Committee on Education and Labor where he authored or co-authored legislation to support schools, colleges and universities; support for libraries and museums; and programs for children, the elderly and the disabled.

In his last four years in Congress, John Brademas was Majority Whip of the House of Representatives.

Defeated in his campaign for reelection in 1980, John Brademas was shortly thereafter invited to become president of New York University, the largest private, or independent, university in the United States. John Brademas led the transformation of New York University from a regional—New York, New Jersey, Connecticut—commuter institution into a national and international residential research university.

John Brademas graduated from Harvard University, with a B.A., with high honors, in 1949; then went on to Oxford University, England, as a Rhodes Scholar, for three years, 1951–1953. At Oxford he earned a Ph.D. with a dissertation on the anarcho-syndicalist movement in Spain from the mid-1920s through the first year of the Spanish Civil War, 1936. The anarchist movement in Spain was centered in Catalonia and, therefore, the research brought him to Barcelona on a number of occasions. His study was published in Spanish, in Barcelona, in 1974 by Ariel under the title, "Anarcosindicalismo y revolución en España, 1930–37," in a translation by Dr. Joaquín Romero Maura.

In presenting the degree, Professor Mercedes Vilanova spoke of John Brademas' service in the U.S. House of Representatives and of his legislative record there as well as of his leadership at New York University, now, she said, "one of the premier universities in the world, a rival of Ivy League universities like Harvard or Yale". She added that John Brademas had been named "one of the four most important persons in American higher education".

Presiding at the ceremony was the Rector of the University, Dr. Dídac Ramírez i Sarrió.

Said John Brademas, "To receive an honorary degree from one of the outstanding universities of Europe, indeed, the world, is profoundly gratifying.

I am especially appreciative of this honor because of my interest throughout most of my life in Spain and, in particular, Catalonia.

Madam Speaker, I am sure that John Brademas' former colleagues and his many friends will be most pleased at this latest honor he has received.

I ask consent to insert at this point in the RECORD the text of John Brademas' remarks on receiving the honorary degree of Doctor of Laws from the University of Barcelona on December 1, 2008. His statement follows:

Rector Ramirez, Professor Vilanova, members of the faculty and students of the University of Barcelona, and friends, to receive a grado honoris causa from one of the outstanding universities of Europe, indeed, the world, is, of course, profoundly gratifying.

This honor comes from a country, Spain, and a region, Catalonia, to which I have devoted considerable scholarly attention and so is particularly meaningful for me.

You have been told, in the generous words of Professor Vilanova, about my life—my education, my career as a Member of the Congress of the United States and as President of New York University—and of my activities in a variety of organizations dedicated to the arts and the humanities.

But, of course, I am especially appreciative of this honor because of my interest throughout most of my life in Spain and, in particular, Catalonia.

I had the good fortune, as you have been told, of studying at two of the greatest universities in the world, Harvard and Oxford. While in grade school, I read a fascinating book about Mayan civilization. I started learning Spanish, then as a high school senior hitchhiked to Mexico and, as a Harvard undergraduate, spent a summer with other college men working in Aztec Indian villages in rural Mexico. I wrote my senior honors thesis at Harvard on the Sinarquista movement, a far right-wing peasant movement important in Mexico in the late 1930s and early '40s.

ANARCHO-SYNDICALIST MOVEMENT IN SPAIN

At Oxford, I wrote a doctoral dissertation on Spain and, by way of preparation, reading the seminal book by Gerald Brenan, The Spanish Labyrinth, on the origins of the Spanish Civil War, I learned that Spain was the only country with a mass working-class movement, based not on the ideas of Karl Marx but of Bakunin and Kropotkin, the anarchist theorists.

So I wrote to Brenan, then living in Málaga, to ask his advice on how to go about studying the anarchist movement in Spain. He responded that I should see the headwaiter of a Spanish restaurant in the West End of London, an anarchist, who in turn put me in touch with the headquarters of the Confederación Nacional del Trabajo, the anarcho-syndicalist organization, then in exile in Paris. This was in 1952, I remind you, and Franco was in power. I was warmly received by the officials of the CNT in Paris.

Indeed, they arranged meetings for me in Toulouse and Bordeaux with Federica Montseny, the anarchist leader, and José Peirats, the historian of Spanish anarchism.

My interviews with Montseny and Peirats were immensely helpful to me and opened doors to others here in Barcelona as well as to an important collection of materials on anarchism in Spain, located in The Netherlands, in Amsterdam, at the International Institute for Social History.

My supervisor when I wrote my dissertation was the British historian of Spain, Raymond Carr.

Here I must note, as you have been told, that my study of the anarcho-syndicalist movement was published, in Spanish, in 1974 in Barcelona, by Ariel, under the title, Anarcosindicalismo y revolución en España (1930–1937). The translation was done by my friend, also a scholar at Oxford, Joaquín Romero Maura, descendant of the respected Spanish leader, Miguel Maura.

SERVICE IN CONGRESS

I like to say that although I studied anarchism, I did not practice it! For only months after I completed my study and returned from Oxford to my hometown in Indiana, I became the nominee of the Democratic Party for election to Congress from my native constituency. I lost that first race, in 1954, then served on the Presidential campaign staff of Adlai Stevenson in 1956, a year when both Stevenson and I lost a second time. But I ran a third time, and in 1958 was first elected to the United States House of Representatives. I was then ten times reelected and so served in Congress for 22 years.

A member of the Committee with responsibility for writing education legislation, I took part in writing all the laws enacted during those years, 1959 to 1981, during the Administrations of six Presidents—three Republicans: Eisenhower, Nixon and Ford; and three Democrats: Kennedy, Johnson and Carter—laws to assist schools, colleges and universities; students who attend them; the arts and the humanities; libraries and museums; and measures to help children, the elderly, the disabled.

You will not be surprised that as a member of the Democratic Party in my country and, indeed, as a citizen, I rejoice in the election last month of Barack Obama as President of the United States and of Democratic majorities in both the Senate and House of Representatives.

Defeated for reelection in Ronald Reagan's landslide victory in 1980, I was shortly thereafter invited to become president of New York University, the largest independent, or private, university in the United States, with some 50,000 students.

Given my background I directed particular attention at NYU—as we call the University—to encouraging the study of other countries, and I established a Center for Japan-U.S. Business & Economic Studies in our School of Business; a Remarque Institute for European and Mediterranean Studies; a Skirball Department of Hebrew and Judaic Studies; with help from the Alexander S. Onassis Foundation, a professorship in Hellenic Studies; and, with funds from CITGO, the U.S. branch of Venezuelan Petroleum, a chair in Latin American Studies in the name of Andrés Bello, the Venezuelan leader and tutor of Simón Bolivar.

And there is also now a Center of Islamic Studies at NYU.

In addition, there are thousands of students from countries all over the world attending classes in New York City, and particularly important, New York University now has a number of centers abroad—in London, Paris, Prague, Florence and Ghana. We have just celebrated the 50th anniversary of NYU in Madrid, an opportunity that enabled me recently to have the privilege of an audience with His Majesty, King Juan Carlos I of Spain. And we are now opening campuses in Abu Dhabi, Buenos Aires and Shanghai and before long will do so in Mexico.

KING JUAN CARLOS I OF SPAIN CENTER AT NYU

But, of course, I take particular pride in the creation at NYU of the King Juan Carlos I of Spain Center, a Center for the study of modern Spain, a Center I dedicated just ten years ago in the presence of His Majesty, the King; Her Majesty, Queen Sofía, of the Greek Royal Family; and the then First Lady of the United States, Hillary Rodham Clinton.

Here I note that we have established a foundation to raise funds to support the activities of the Center. I am President of the Foundation; His Majesty, King Juan Carlos, has graciously agreed to serve as Honorary President; Jesús Sainz Muñoz, of Promo Madrid, is Vice President.

In 1983, I had the privilege of awarding an honorary degree to His Majesty and announcing the creation of a professorship in his name under which we have invited leading scholars of modern Spain to lecture at New York University, including Raymond Carr, Francisco Ayala, José María Maravall, Hugh Thomas, Jon Juaristi, Estrella de Diego, Victor Pérez-Díaz, Juan Goytisolo and Baltasar Garzón.

The founding Director of the Center was Professor James Fernández, who served with great dedication from 1995 until 2007; he was succeeded by another outstanding scholar of Spanish culture, Professor Jo Labanyi. I here must also salute the Director of the King Juan Carlos Center office in Madrid, John Healey, who has known Spain for many years.

Another distinguished leader who has lectured at our King Juan Carlos I of Spain Center is a longtime friend, someone well known to all of you and with whom I met only weeks ago in New York City, the distinguished former Mayor of Barcelona and President of the Generalitat, Pasqual Maragall i Mira. I also saw Mayor Maragall, by the way, at the Queen Sofía Spanish Institute, of which I am a trustee, where we were hosted by another friend of many years, president of the Institute, Inmaculada de Habsburgo.

Pasqual's contribution to the King Juan Carlos I of Spain Center was consolidated in 1998 when he spent a semester as Distinguished Visiting Fellow at the Center. Under his direction, the Center organized an international symposium, ''A World of Cities,'' attended by mayors and other urban leaders from Latin America as well as Spain and the United States.

As you can see, my relationship with Catalonia does not end with my study of anarchism. An important chapter revolves around the University of Barcelona, as I shall explain.

CATALAN STUDIES AT NYU

When in 1981 I became president of New York University, I was approached by Xavier Rubert de Ventós and the then new Mayor of Barcelona, Pasqual Maragall, together with the Rector of the University of Barcelona, Dr. Antoni Badia i Margarit, and Mary Ann Newman, at the time an NYU graduate student. They all urged me to create the Cátedra Barcelona-Nova York, a program of Catalan Studies and educational exchange between our two institutions. The City Hall of Barcelona and the U.S.-Spain Fulbright Commission financed the project.

In the first years of the Cátedra, which lasted from 1983 to 1986, NYU hosted, among others, Martí de Riquer, Xavier Rubert de Ventós, Eugenio Trías, Lluís Izquierdo, Pep Subirós, Mary Nash and Jordi Llovet.

Anthony Bonner offered a four-part seminar on Ramón Llull to coincide with the publication by Princeton University Press of his groundbreaking translation, Selected Works by Ramón Llull. There were also lectures by Miguel Roca, David Rosenthal and, I am pleased to say, Mercé Vilanova. By the way, I must here note an excellent article by Professor Vilanova, ''Anarchism, Political Participation and Illiteracy in Barcelona Between 1934 and 1936'', published in the American Historical Review.

The Catalan language classes at NYU also bore fruit. One of the most prominent North American specialists in Catalan art, Professor Robert Lubar of the Institute of Fine Arts at NYU, studied Catalan in his program. He has been the mentor of a generation of Catalan experts, including two NYU professors, Jordana Mendelson and Miriam Basilio, and the curator of the current exhibition on Joan Miró at the Museum of Modern Art, Dr. Anne Umland.

Two years ago, the office of President Maragall of the Generalitat earmarked funds to establish the Catalan Center at New York University through the Institute Ramón Lull, which also provided funds to teach Catalan language and culture in our Department of Spanish and Portuguese.

The Catalan Center at New York University, led most ably by Mary Ann Newman, has proved to be a dynamic partner in the NYU Center for European and Mediterranean Studies and a close partner of our King Juan Carlos I of Spain Center.

For example, the Catalan Center, organized two years ago, has sponsored the following events:

''A Mediterranean Mirror,'' an exhibition of books on Catalan law, an opening attended by President Ernest Benach of the Parliament of Catalonia, and Director of the Institut Ramón Llull, Josep Bargalló.

The Catalan Center has also sponsored a symposium titled, ''Exalted by the Old, in Love with the New'', to accompany the exhibition at the Metropolitan Museum, ''Barcelona and Modernity: Gaudí, Picasso, Dalí''.

The Catalan Center has collaborated as well with the Museum of Modern Art in New York City on three events involving Catalan culture: a Pere Portabella film series; an exhibition on Salvador Dalí, ''Art and Film''; and the current exhibition on Joan Miró.

Last September, The Catalan Center also co-hosted a conference on ''The New Mediterranean,'' in cooperation with the European Institute of the Mediterranean (IEMed), an institution based in Barcelona that promotes research and dialogue on the North-South relationship in the Mediterranean.

Only weeks ago, I add, Professor Vilanova joined us in New York for a symposium on the distinguished Catalan novelist, Mercedes Rodoredo.

And last month, by way of illustrating our efforts to cooperate with other relevant organizations, the King Juan Carlos I of Spain Center hosted, with the Abraham Lincoln Brigade Archives, which promotes discussion of the Spanish Civil War, ''La Despedida'', an event to recall how the people of Barcelona, in October 1938, bade farewell to the volunteers from many nations who came to defend the Republic.

So you can see from what I have told you that our university has made a serious, indeed, deep, commitment to the study of Catalonia and of Spain.

I trust you will understand, therefore, from what I've said, why I am so profoundly moved by the honor that the University of Barcelona has done me today.

I accept this honor not solely for myself but for my colleagues at New York University who share my dedication to the study of Spain and the study of Catalonia.

De tot el que us he explicat es desprèn que la nostra Universitat ha assumit un compromís seriós i, de fet, profund amb l'estudi de Catalunya i d'Espanya.

Per tant, espero que entendreu, per tot el que he dit, per què em sento tan profundament emocionat per l'honor que la Universitat de Barcelona m'ha atorgat avui.

Accepto aquest honor no nomes per a mi, sinó també per als meus companys de la Universitat de Nova York, que comparteixen la meva dedicació a l'estudi d'Espanya i a l'estudi de Catalunya.

¡Muchas gracias!

Moltes gràcies!

TRIBUTE TO SHANNON DYKSTRA

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Shannon Dykstra of Nora

Springs-Rock Falls Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Shannon Dykstra on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Shannon in the United States Congress, and I wish her continued success.

HONORING THE WORK OF SUPERVISOR MIKE REILLY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. THOMPSON of California. Madam Speaker, I rise today along with my colleague, Congresswoman LYNN WOOLSEY, to honor one of our districts' most hard-working public servants, Mike Reilly of Forestville, California, who has recently retired from the Sonoma County Board of Supervisors.

For twelve years as County Supervisor, Mike represented Sonoma County's 5th District, a vast rambling, and fantastically beautiful place that encompasses the entire 53 miles of Sonoma County's coast, redwood forests, vineyards, the Russian River, and the western edge of our largest city, Santa Rosa. Known as "West County," the 5th District is Sonoma County's most progressive with a vibrant and diverse population of ethnicity, sexual orientation and economic backgrounds. Mike Reilly, with his intelligence, people skills and encyclopedic knowledge of politics represented every one of his constituencies.

Mike is a Bay Area native born on May 27, 1944 in San Mateo, California. Always interested in politics, his first office was senior class president at Hayward High and later, student body president at Chabot College. Mike was an Army volunteer and served two years in Okinawa. The young veteran returned to the Bay Area after completing his tour of duty and began working as a youth counselor. He became one of the founders and eventually Executive Director of the Hayward-based Project Eden, a non-profit organization that offered drug counseling to the city's "street kids."

In 1977, Mike moved to Sonoma County to begin working for the county's drug and alcohol program, again as a counselor to youth. Mike settled in Forestville and soon became active in west county politics, no doubt influenced by his neighbor, Ernie Carpenter, who became the 5th District Supervisor in 1978.

From 1981 to 1985, Mike served as Administrative Assistant to state Assemblyman Dan Hauser, whose 1st District ran from Sonoma County to the Oregon border. During his tenure with Hauser, Mike was a key player in the designation of the Lost Coast Sinkyone Wilderness Area for public use, drafting initial legislation banning oil and gas development in Northern California state waters, the restoration of the Point Arena Pier, and regional issues pertaining to fishing and timber extraction.

In 1986 Mike Reilly became Executive Director of West County Community Services, a non-profit that grew from a 70's era all volunteer "River Switchboard," to an organization offering a variety of services for people of all ages. Under Mike's leadership, West County Community Services developed an excellent drug and alcohol abuse programs, led in the establishment of the Russian River Senior Center and the Sebastopol Teen Center and opened a homeless shelter. For thirteen years, Mike also served as a trustee for the Forestville Elementary School District and the West County High School District.

When Supervisor Carpenter announced his retirement from public office in 1995, Mike Reilly embarked on a grueling eighteen month campaign to successfully succeed him. Mike's hard fought campaign and subsequent service allowed him to coast to two unopposed re-election victories in the years ahead. These were not years without challenges, however, including huge floods on the lower Russian River in 1997 and 1999, years of underfunded services in rural areas and the heavily urbanized Roseland area in the district, and a sometimes lonely role as an environmental advocate on the Board of Supervisors.

Despite these difficulties Mike was able to forge agreements that led to county support of home elevation program on the flood prone Russian River, the formation of the Russian River Redevelopment District, and ordinances regulating forest conversions and vineyard grading, as well as untangling hundreds of county problems for his constituents. Mike was also a powerful presence on the County's Open Space and Agricultural Preservation District, and instrumental in protecting thousands of acres of land under county ownership or conservation easements.

During the same 12 years, Mike also served on the California Coastal Commission, including two years as the Commission's Chair. He has been recognized by statewide environmental groups as having the strongest conservation record of any of the publically elected members of the Commission.

I would also note that Mike Reilly is a key player in moving forward the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act, a bill that would provide permanent protection for the entire Sonoma Coast. Mike led successful efforts to endorse the bill by both the Sonoma County Board of Supervisors and the California Coastal Commission. With our new Administration these efforts will result in passage.

This year Mike is celebrating another 12-year anniversary, his marriage to Judi, which took place on January 25, 1997, in a home in Guerneville in the midst of a flood emergency. Mike and Judi, their three daughters, Kimberly, Sheri and Kelly, as well as Kelly's husband Stewart and their son, Stetson, and Sheri's fiance, Will, make up a loving and supportive family with great political energy and philosophies.

Although Mike has retired from the Board of Supervisors, we will not let him leave us. He continues to serve as a board member of Coastwalk, California's unique coastal education program and on New Ways to Work, a national non-profit that is finding ways to train youth for the new economy. Knowing of Mike's energy, his intelligence and his savvy, his can-do attitude, we expect that although Mike will be able to play more golf now, he will continue to exert his powerful and positive influence on our community and our world.

HONORING WILLIAM MARK FELT

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. WOOLSEY. Madam Speaker, I rise to honor the memory of a singular American who helped our democracy triumph in one of our darkest moments.

I speak of William Mark Felt, a former Associate Director of the Federal Bureau of Investigation (FBI), who was instrumental in uncovering the great abuse of presidential power known as Watergate. Mark Felt died on December 18, 2008, in Santa Rosa, California in my district, more than 30 years after retiring from a career that included major roles in the turbulent and sometimes troubling history of the FBI.

It was Mark Felt's role of whistleblower in the Watergate affair that led to the resignation of President Nixon that will forever ensure his place in history. For Mark Felt was "Deep Throat" the inside informant of Bob Woodward of the Washington Post. Mark was the person who that lent credibility and verification to Woodward's and Carl Bernstein's investigation of what lay behind the 1972 break-in at the Democratic National Committee's headquarters at the Watergate Hotel.

Over the next two years, Americans learned that the Watergate break-in was conducted by the same team of burglars who had attempted to discredit another whistleblower, Daniel Ellsberg, who had leaked revelations about government lies about the Vietnam War to the New York Times. Through the press and congressional investigations they discovered that the President of the United States had his own illegal slush fund which his subordinates used to bankroll political espionage; that high ranking executive department officials were privy to these illegalities, that a presidential "enemies list" existed, and that the executive branch used its powers to punish those enemies through tax audits and extra-legal investigations.

We had a president that had set himself above the law, a man who abused the trust of the people of the United States and his own oath of office. Fortunately, Mark Felt stood up and decided not to allow the FBI to be a tool in these dark schemes. In the shadowy cavern of a parking garage in Washington, DC, Mark Felt, risking his job, his reputation, his personal liberty (in a time before whistleblower

protection laws) told Bob Woodward what the FBI had uncovered about Watergate, ensuring that its findings would not be suppressed.

In the late summer of 1974 when President Nixon's own party leaders in the Senate told him that impeachment was inevitable, he resigned, ending what had become an imperial presidency. The ship of state had righted itself; the system worked, however imperfectly.

Mark Felt's moment in history has a lesson for us. One man standing up to tyranny can make a difference, and the truth can indeed set us free.

TRIBUTE TO JULIE FITZGERALD

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Julie Fitzgerald of West Des Moines Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Julie Fitzgerald on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Julie in the United States Congress, and I wish her continued success.

IN HONOR OF DIANE YOUNG

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. FARR. Madam Speaker, I rise today to celebrate the life of Diane Young of Pajaro, California. Diane passed away on January 28, 2009 at the age of sixty-five, after leaving the Pajaro community a better place to live and work. She was an extraordinary community leader who needed no official title to make a significant difference in the lives of every resident of Pajaro.

Diane was born on November 25, 1943 in Minneapolis, Minnesota. She graduated from Southwest High School in Minneapolis. After meeting her late husband Pete, they both embarked on a path that would lead them to a small Central Coast community that could greatly benefit from their generosity of heart and tireless commitment to helping others achieve their dreams, particularly the youth of Pajaro.

In 1983, she launched Young's Tire Service with her husband and son in Pajaro, California. Diane Young prided herself on the family business, which she maintained and participated in throughout her illness. Her old school business habits were rooted in an unshakable work ethic. Because she did not rely on computers for her business operations, Young's Tire Service was able to continue serving the community through the 1989 Loma Prieta earthquake and a massive flood in 1995. There was never a shortage of customers congregating at the shop, and the influx of well wishers following her death speaks to how Diane touched the hearts of everyone she met.

It was Diane's business that became the catalyst for her lifelong community activism. After three violent killings, one of which occurred right outside her store, Diane decided she wanted to see a safer community, one filled with happiness and pride, not fear. She organized Together in Pajaro to accomplish this goal. TIP is a nonprofit organization that is dedicated to community improvement and safety. Diane, along with her late husband Pete, founded Boy Scout Troop 505 15 years ago, to provide constructive alternatives for youth in Pajaro. These two organizations are just a small measure of Diane's dedication and contributions to making her community, as well as the lives of those who live in it, not only better but more meaningful.

Madam Speaker, Diane Young touched the hearts of everyone she came into contact with, and was a pillar of her community. I am certain I speak for the entire House in extending our heartfelt sympathy to Diane's two children, her son Pete Young of Pajaro, California and daughter Sheliah Young of Oakley, California.

REGARDING IRAN'S ENDORSEMENT OF ANOTHER HOLOCAUST DENIAL CONFERENCE

HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mrs. BACHMANN. Madam Speaker, I rise to share my profound disappointment in the continued extraordinary anti-Israel rhetoric and policies of Iranian President Mahmoud Ahmadinejad. He is again endorsing a conference that denies the horror—indeed, the existence—of the Holocaust and that places blame for much of the world's woes with the people of Israel.

Tehran's Sharif University of Technology conference, entitled Holocaust? A Sacred Lie by the West, is in and of itself disturbing. It is evidence that the hatred that underlies the violence in the Middle East is, regrettably, alive and well. But, for the head of a nation to lend the imprimatur of government support to such an event is real cause for alarm. President Ahmadinejad, in his statement of support for the conference, stated that the "Zionist regime is the 'illegitimate child' of the Holocaust phenomenon." This is dangerous rhetoric.

There are millions of peace-loving peoples in the Middle East—Israelis, Palestinians, Iranians, Iraqis; indeed from every nation of the region. They will never be able to experience peace and security as long as hatred like this is spoken, taught, and endorsed by the leaders of the region.

Mahmoud Ahmadinejad has just announced his intention to run for another term as Iran's President. I am hopeful that the people of Iran will send him a message that they want to live in peace with their neighbors and that they want to put an end to the cycle of violence and hatred that conferences like this one epitomize.

TRIBUTE TO LIZABETH FOX

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Lizabeth Fox of Decorah Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Lizabeth Fox on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Lizabeth in the United States Congress, and I wish her continued success.

ON THE INTRODUCTION OF THE FERS RE-DEPOSIT ACT OF 2009

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. MORAN of Virginia. Madam Speaker, I rise today to reintroduce the FERS Re-Deposit Act, which will help incentivize former federal employees to return to the civil service by allowing them to buy back into the Federal Employee Retirement System.

In no short time, the federal government will face a serious workforce shortage crisis. In ten years, 90 percent of our nation's civil service federal executives will be over the age of 50 and many will be nearing retirement. This coming brain drain threatens the stability and functioning of essential government functions. At a time when the American people are demanding efficient and effective government—from the implementation of public programs to the oversight of the Iraq war—we are about to lose many of our dedicated and most knowledgeable professionals.

The FERS Re-Deposit Act will begin to help with the coming workforce shortage. The

FERS Redeposit Act would allow individuals who left the federal government, and received a refund of their Federal Employees Retirement System (FERS) contributions, to re-enter government service without losing their accrued annuity. Instead of forfeiting credit earned during their prior service, returning employees would be able to redeposit their cashed out annuity upon re-employment. This benefit is already available to federal employees who are registered under the older Civil Service Retirement System (CSRS).

I have received many letters of former federal employees who work in the private sector, but would like to return to civil service. Many of these well-qualified men and women are choosing to remain in the private workforce because the costs to re-entering the federal workforce are too high. In an economy where people will change jobs many times over the course of their careers, a reinvestment option under FERS will make government service more competitive, incorporating the flexibility and mobility that are so common in the private sector and in businesses of the new economy.

As more and more FERS employees leave the federal government and later wish to re-enter federal service, a redeposit option would provide the incentive needed to bring these individuals back into government service.

Madam Speaker, now is the time to act before the workforce shortage hits our civil service the hardest. I urge my colleagues to join me in this effort to make federal service more attractive by supporting the FERS Re-Deposit Act.

IN COMMEMORATION OF MR. SANTONIO HOLMES

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. HASTINGS of Florida. Madam Speaker, I rise today to commemorate the achievement of Mr. Santonio Holmes, who on February 1, 2009 was named the Most Valuable Player of Super Bowl XLIII.

Mr. Holmes was born in Belle Glade, FL, a part of my Congressional district. Mr. Holmes came from humble roots and through hard work and dedication, he made it to the National Football League (NFL). Mr. Holmes' athletic prowess and entrepreneurship developed from an early age; as a young boy growing up in Belle Glade, he would catch rabbits by hand and sell them. Mr. Holmes attended Glades Central High School in Belle Glade, where he excelled in football, basketball and track. He went on to attend College at Ohio State from 2003 to 2005, where he starred as a wide receiver. In 2006 he was picked 25th in the first round of the NFL draft.

Mr. Holmes' performance in the Pittsburgh Steelers' victory over the Arizona Cardinals was nothing short of tremendous. He caught 9 receptions for a total of 131 yards. It was his last reception, however, that was most significant. With less than a minute remaining, the Steelers trailed the Cardinals 23–20. Steelers quarterback Ben Roethlisberger, in an improvised play, lofted the ball toward the right corner, over the hands of three defenders. Mr. Holmes leaped to get it and managed to drag both feet in bounds, his toes barely scraping the grass before he tumbled out of bounds. This touchdown and the subsequent conversion gave the Steelers a winning margin of 27–23.

Madam Speaker, Mr. Holmes' recognition as the Most Valuable Player of Super Bowl XLIII is well deserved. Mr. Holmes' personal story also highlights the promise and opportunity of our great nation, that all Americans, even those from the most humble of backgrounds, may achieve tremendous things. I am extremely proud to congratulate Mr. Holmes and encourage my colleagues to join me in doing so as well.

TRIBUTE TO DR. THOMAS GREENBOWE

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Dr. Thomas Greenbowe of Iowa State University, who has been named the 2008 Iowa Professor of the Year by the Council for Advancement and Support of Education (CASE) and The Carnegie Foundation for the Advancement of Teaching.

The U.S. Professors of the Year is a prestigious program that honors outstanding college and university instructors across the country. National and state U.S. Professors of the Year Awards are given each year to teachers across the country that have touched and elevated the lives and careers of their students. Dr. Greenbowe has an accomplished history as a Professor of Chemistry at Iowa State which began in 1990.

I congratulate Dr. Thomas Greenbowe on his well-deserved Iowa Professor of the Year Award, and I'm certain that he will continue to improve Chemistry and Science education for many years to come. It is a great honor to represent Dr. Greenbowe in the United States Congress, and I wish him continued success.

THE MILITARY DOMESTIC AND SEXUAL VIOLENCE RESPONSE ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. SLAUGHTER. Madam Speaker, I am proud to reintroduce the Military Domestic and Sexual Violence Response Act. This important piece of legislation will ensure greater protections for service members and their families if they become victims of violence. It also will strengthen programs to prevent violence against fellow soldiers and military families.

Unfortunately, sexual assault and domestic violence are pervasive and serious problems throughout all branches of the military. In March 2008, the Department of Defense (DoD) released their fourth annual sexual assault report, which stated that there were 2,688 reports of sexual assault in 2007. Although this is down from the 2,947 allegations of sexual assaults reported in 2006, the DoD changed their reporting requirements from calendar year to fiscal year, so there is no way to tell if this reflects a decrease in sexual assaults or not. In 2006, there was a 24 percent increase in reported sexual assaults compared to 2005. In 2004, the DoD reported 9,000 incidents of spousal abuse. A 2005 Sexual Harassment and Assault Survey of the Service Academies found six percent of females and one percent of males said they were sexually assaulted in 2004–2005, and less than half the females who experienced sexual assault reported it. In this same survey, 60 percent of female cadets indicated sexual harassment was about the same as when they first enrolled at their academy.

While the DoD has been making efforts to improve its prevention and response to domestic and sexual violence, victim services remain incomplete and inconsistent among the various branches. There have been reports that victims advocates, charged with protecting the victim's rights, have been denied resources to do their job, and in some instances been forced off the base all together. Furthermore, DoD policies are not codified in the Uniform Code of Military Justice (UCMJ) and do not offer the same level of rights and protections afforded to civilian victims. Perhaps most importantly, victims are unable to seek confidential counseling and treatment without fear that their records might become public if they press charges against their assailant.

My bill, the Military Domestic and Sexual Violence Response Act, seeks to bring military law up to par with civilian laws by establishing a comprehensive approach for the military to address domestic violence and sexual assault among our soldiers. Specifically, this bill will:

Establish an Office of Victims Advocate (OVA) within DoD, bring the Family Advocacy Program under OVA, and create a Director of OVA to oversee and coordinate efforts to prevent and respond to cases of family violence, domestic violence, sexual assault, and stalking with the military and among military families

Codify rights, restitution policies, treatment and other services for victims within the UCMJ, including creating comprehensive confidentiality protocols to protect the rights of victims within military law

Strengthen policies for reporting, prosecuting and treating perpetrators of violence

Create counseling and treatment programs through the Department of Veterans Affairs

The military should be at the forefront of prosecuting assailants and setting the highest standards for treatment of service men and women, or military family members, victimized by sexual assault and domestic violence. Our Armed Forces must be able to guarantee the most basic protections to ensure these victims can receive necessary counseling, treatment, and justice.

If a victim cannot access essential care for fear of stigma, threats to their career, or because they just do not know what resources are available, the military will continue to lose valuable female and male soldiers. These men and women who serve our country in uniform

put themselves in harms way to protect our nation from threats at home and abroad. They deserve the same rights and protections as the civilians whose freedoms they protect. My bill ensures service members are adequately protected when dealing with the horrible tragedy of sexual assault or domestic violence.

Do not allow our brave service members to be victimized twice, once by their perpetrator and then again by the military's lack of appropriate, compassionate, and confidential treatment and response.

Madam Speaker, I encourage all Members to join me in cosponsoring the Military Domestic and Sexual Violence Response Act.

TRIBUTE TO ELIZABETH LORENTZEN

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LATHAM. Madam Speaker, I rise today to recognize the excellence in education in the 4th Congressional District of Iowa, and to specifically congratulate Elizabeth Lorentzen of Decorah Community School District, who earned the National Board Certification—the highest level of certification in the teaching profession.

National Board Certification is a voluntary assessment program designed to recognize and reward great teachers. National Board Certified Teachers (NBCTs) have successfully demonstrated advanced teaching knowledge, skills and practices. Certification is achieved through a rigorous, performance-based assessment that typically takes one to three years to complete. Certification is offered in 25 different subjects, covering 97 percent of the subjects taught in K–12 schools.

I congratulate Elizabeth Lorentzen on her well-deserved certification, and I'm certain that she will continue to touch the lives of many youth in her community. It is a great honor to represent Elizabeth in the United States Congress, and I wish her continued success.

IN REMEMBRANCE OF BUDDY HOLLY, RITCHIE VALENS, J.P. "THE BIG BOPPER" RICHARDSON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. KUCINICH. Madam Speaker, I rise today in remembrance of those who lost their lives on what would become known as "The Day the Music Died." Fifty years ago today, on February 3, 1959, a plane crashed near Clear Lake, Iowa, killing Buddy Holly, Ritchie Valens, J.P. "The Big Bopper" Richardson, and the pilot of the plane Roger Peterson. These musicians individually and collectively influenced a generation.

Charles Hardin Holley, the singer known as Buddy Holly was born on September 7, 1936 and was a pioneer in rock-'n'-roll. He was raised in a musical family and found his calling in rock-'n'-roll in 1955. Buddy Holly shared the stage with many of the artists who were influenced by his work, such as Bob Dylan, Paul Simon, The Beatles, and the Rolling Stones, prior to his untimely death at the age of 22.

Ritchie Valens, born Richard Stevens Valenzeula, was equally influential in his brief musical career. Born of Mexican decent, Valens was raised on mariachi and flamenco guitar music. He later used this influence to develop the unique Spanish language rock so many grew to love, such as in his hit "La Bamba," which was originally a Mexican Folk song.

Jiles Perry Richardson, Jr., known as "The Big Bopper", was a disk jockey, singer and songwriter who thrilled fans with classic recordings such as "Chantilly Lace," and wrote such as "White Lightnin" for George Jones and "Running Bear" for Johnny Preston. Fifty years later after their death, their songs continue to grace the airways and influence many musicians today.

Madam Speaker and colleagues, please join me in celebrating the lives of Buddy Holly, Ritchie Valens and J.P. "The Big Bopper" Richardson for their lives were cut tragically short but whose music will continue to live on.

CELEBRATING THE LIFE OF GERALD SCHOENFELD

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. NADLER of New York. Madam Speaker, I rise today to celebrate the life of Gerald Schoenfeld, who, as chairman of the Shubert Organization for more than 3 decades, was instrumental in revitalizing theater in New York and in making Broadway a national brand.

The Shubert Organization owns and operates theaters in New York, Boston, Philadelphia, and Washington, DC. On Broadway, where it is preeminent in theatrical influence, the organization owns 17 theaters, most of which are in my Congressional District. Additionally, the Shubert Foundation provides major support to nonprofit theaters and dance companies across the country.

Gerry Shoenfeld believed that the Shubert Organization was much more than a custodian of theaters. In fact, the organization invested in and produced many significant plays and musicals, winning numerous Tony Awards. With his friend and business partner Bernard Jacobs, Gerry Schoenfeld was involved in presenting or producing everything from popular blockbusters, like Cats and Phantom of the Opera, to critically acclaimed productions like The Life & Adventures of Nicholas Nickleby, Amadeus, Dreamgirls, Sunday in the Park With George, The Real Thing, and The Heidi Chronicles. Again with Jacobs, Schoenfeld was instrumental in moving A Chorus Line from the New York Shakespeare Festival to Broadway, where it ran for 15 years.

Gerry Schoenfeld knew all the players, big and small, in the Broadway theatrical community and in the world beyond it. His dedication to Shubert employees was legendary. He knew everyone from the box office workers to the backstage crewmembers by name, and often spent his Saturdays making the rounds of the Shubert theaters, personally ensuring that things were running the way he wanted them to.

Perhaps one of his most important contributions lay in his tireless efforts to demonstrate how powerful an economic engine the theater industry is, not only for New York, but also for the nation. Still another achievement was his success in spearheading the effort to make New York's theater district and the surrounding Times Square area family-friendly destinations.

A native New Yorker, Schoenfeld attended local public schools, graduated from the University of Illinois, served in the Army during World War II, and earned a law degree from New York University's School of Law. He was a member of the American Academy of Arts and Sciences and a faculty member of Columbia University's School of the Arts. American theater suffered a true loss with the death of Gerald Shoenfeld on November 25, 2008 at the age of 84.

Madam Speaker, it is fitting that Gerald Schoenfeld, who left such an important legacy to Broadway and to America, be remembered and honored.

INTRODUCTION OF THE FAMILY AND MEDICAL LEAVE ENHANCEMENT ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mrs. MALONEY. Madam Speaker, Nearly 16 years ago, President Clinton signed into law the Family and Medical Leave Act (FMLA, PL 103–3), legislation that allows employees to take time off from work to care for a new baby or sick family member. Because of this landmark legislation, tens of millions of Americans have been able to take up to 12 weeks of unpaid leave without the risk of losing their jobs.

Building on the successes of the FMLA, today I will introduce legislation that would allow more workers to take leave to care for their family members and allow parents to take leave for parent-teacher conferences and family members' doctor's appointments.

The Family and Medical Leave Enhancement Act would broaden protections under the FMLA to allow employees in companies with more than 25 employees to take family or medical leave. Current law applies only to companies with 50 or more employees. The legislation would also provide up to 24 hours per year of unpaid Parental Involvement and Family Wellness leave, which will allow parents and grandparents to attend parent-teacher conferences or to take their children, grandchildren or other family members to the doctor for regular medical or dental appointments. In these trying economic times, it is more important than ever that family members be able to take time off of work to care for each other, without the risk of losing their jobs.

Then-presidential candidate Obama endorsed this concept in a June, 2008 speech in

Albuquerque, NM, saying, "With more and more households headed by two working parents—or a single working parent—it's also time to dramatically expand the Family and Medical Leave Act. Since more Americans are working for small businesses, I'll expand FMLA to cover businesses with as few as 25 employees—this will reach millions of American workers who aren't covered today. . . . We'll allow parents to take 24 hours of annual leave to join school activities with their kids."

On behalf of America's families, I urge my fellow colleagues to join me in support of the Family and Medical Leave Enhancement Act.

COMMEMORATING STONY BROOK FIRE DEPARTMENT'S 100TH ANNIVERSARY

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. BISHOP of New York. Madam Speaker, I rise today to mark an important milestone in the civic life of Stony Brook, New York, a picturesque college town on the shores of Long Island Sound. In 1909, a small group of volunteers founded the Stony Brook Fire Department, beginning a tradition of service that has continued uninterrupted for 100 years.

The job of volunteer firefighting has changed significantly in the past century. Fire alarms in Stony Brook are no longer broadcast with church bells, and the Fire Department's original hand-drawn chemical firefighting apparatus has been replaced with state-of-the-art equipment.

However, Madam Speaker, the spirit of volunteer firefighters remains undiminished, and is as vital today as ever before. I join their neighbors in thanking the Stony Brook Fire Department for 100 years of protecting the community and wish them the best as they enter a second century of service.

TRIBUTE TO FOUR FLORIDA VETERANS

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

MR. MEEK of Florida. Madam Speaker, today I rise to pay tribute to the lives and legacies of the late Ernest Holman, John Joseph Sweet, Nathaniel Henry Winger, and Pedro Aguero. Following years of courageous, dutiful and patriotic service to their country while serving in the United States Army, these four men found themselves homeless and without families.

After dedicating years of their lives, these four brave and patriotic men answered the call of duty by risking their lives to serve and protect our Nation. As citizens we owe these men an overabundance of gratitude and respect for their compassion, commitment, and dedication in safeguarding our freedoms. As a result of their bravery and the bravery of so many other Americans, millions have enlisted in the American Armed Forces.

Veterans such as Messrs. Holman, Sweet, Winger, and Aguero suffered from a complex set of factors that affect all homeless individuals—an extreme shortage of affordable housing, a livable income, limited access to health care, which is exacerbated by a lack of family and social support networks. The Department of Veterans Affairs estimates nearly 196,000 veterans are homeless on any given night and approximately 400,000 veterans experience homelessness during the year. Homeless veterans are in dire need of housing, nutritional meals, physical health care, substance abuse aftercare, and mental health counseling. Messrs. Holman, Sweet, Winger, and Aguero are quintessential examples of the deeply tragic treatment dealt to our Nation's homeless veterans.

In July of 2007, the then Senator Barack Obama stated, "As long as there are veterans or veteran family members searching for shelter on the streets . . . we have failed in our duty to honor our commitment of the brave men and women who chose to serve." I am confident that President Barack Obama's administration will sympathize with the plight of homeless veterans and correct these injustices.

Messrs. Holman, Sweet, Winger, and Aguero inspired our Nation with their dedication and heroic efforts during their respective tenures in the Armed Forces. They will forever be recognized for their honorable services.

Madam Speaker, I ask that my distinguished colleagues join me in recognizing Ernest Holman, John Joseph Sweet, Nathaniel Henry Winger, and Pedro Aguero for their contributions to the United States of America and safeguarding its freedoms.

INTRODUCTION OF THE NANOTECHNOLOGY ADVANCEMENT AND NEW OPPORTUNITIES ACT

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. HONDA. Madam Speaker, I rise today to discuss the introduction of the Nanotechnology Advancement and New Opportunities (NANO) Act.

The NANO Act is a comprehensive bill to promote the development and responsible stewardship of nanotechnology in the United States. The legislation draws upon the work of the Blue Ribbon Task Force on Nanotechnology, a panel of California nanotechnology experts with backgrounds in established industry, startup companies, consulting groups, nonprofits, academia, government, medical research, and venture capital that I convened with during 2005.

Nanotechnology has the potential to create entirely new industries and radically transform the basis of competition in other fields, and I am proud of my work with former Science Committee Chairman Sherry Boehlert on the Nanotechnology Research and Development Act of 2003 to foster research in this area.

But one of the things I have heard from experts in the field is that while the United States is a leader in nanotechnology research, our foreign competitors are focusing more resources and effort on the commercialization of those research results than we are.

In its report Thinking Big About Thinking Small, which can be found on my website, the Blue Ribbon Task Force on Nanotechnology made a series of recommendations for ways that the nation can promote the development and commercialization of nanotechnology. The NANO Act includes a number of these recommendations.

In addition, the bill addresses concerns that have been raised about whether the federal government is doing enough to address potential health and safety risks associated With nanotechnology. The NANO Act requires the development of a nanotechnology research strategy that establishes research priorities for the federal government and industry that will ensure the development and responsible stewardship of nanotechnology. This strategy will help to resolve the uncertainty that is one of the major obstacles to the commercialization of nanotechnology—uncertainty about what the risks might be and uncertainty about how the Federal government might regulate nanotechnology in the future.

The NANO Act also includes a number of provisions to create partnerships, raise awareness, and implement strategic policies to resolve obstacles and promote nanotechnology. It will: create a public-private investment partnership to address the nanotechnology commercialization gap; establish a tax credit for investment in nanotechnology firms; authorize a grant program to support the establishment and development of nanotechnology incubators; establish a Nanoscale Science and Engineering Center for "nano-CAD" tools; establish grant programs for nanotechnology research to address specific challenges in the areas of energy, environment, homeland security, and health; establish a tax credit for nanotechnology education and training program expenses; establish a grant program to support the development of curriculum materials for interdisciplinary nanotechnology courses at higher education institutions; direct NSF to establish a program to encourage manufacturing companies to enter into partnerships with occupational training centers for the development of training to support nanotechnology manufacturing; and call for the development of a strategy for increasing interaction on nanotechnology interests between DOE national labs and the informal science education community.

I look forward to working with Science and Technology Committee Chairman GORDON to incorporate these provisions as his committee works to reauthorize the Nation's nanotechnology research and development program.

THE THOMASVILLE BULLDOGS ARE SUPER

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. COBLE. Madam Speaker, while the Super Bowl may be over, we cannot close the

books on this football season without mentioning a high school in my district that truly defines the word super. On behalf of the citizens of the Sixth District of North Carolina, we wish to congratulate the varsity football team of Thomasville High School for winning the North Carolina 1–AA, championship. The Bulldogs won the title on December 13, 2008, with a convincing 42–13 win over East Bladen High. This adds to the winning history at Thomasville High, which will place an 8th championship trophy in its collection.

This year's championship, which was won at Carter-Finley Stadium in Raleigh, North Carolina, meant that the Bulldogs, who were led by Head Coach Allen Brown, completed an undefeated 16–0 season. The Bulldogs are accustomed to winning; Thomasville has won 4 of the last 5 State championships in their division.

While there were many strong efforts, the championship win was a team effort led by seniors Chris Brooks, D.J. McLendon, Brad Wilkes, Dujuan Ingram, Brandon Moss, Heath Stroud, Martez Wilson, Vince Sanders, Alex Parham, David Coard, Desmond Hare, Robert Benjamin, Darius Baxter, Thomas McLendon, and Roberto Duhart, juniors De'arius Dow, Jonathan Hinson-Brady, Malcolm Ivory, Brandon Lucas, Ralph Woods, C.J. Campbell, Tywon Little, Demonte Kearse, Brandon Royall, Vince Gobble, Mark Green, Tariq Camp, Joe Baranowski, and Kevin Green, along with sophomores Isaiah Williams, Robert Davis, Ian Flowers, John Campbell, Devonte Gordon-Hunter, Lawson Hodges, Lawrence Thomas, Steven Stanly, Jaquan Daniels, Sherrod Young, Kesean Green, and James Boyd.

Also assisting the team during this incredible season were assistant coaches Roger Bryant, Sam Captain, Heath Williamson, Nick Sweitzer, Jaz Tate, Tyler Tobin, Stan Baranowski, Brandon Staton, and Richard Herman, community coaches Vince Brown, Ed Courtney, Kemp Harvey, Don Osborne, and Benjie Brown, trainer Kenney Coker, AV Crew Travis Leonard, Wade Loftin, Casey Medlin, and Adam Oakley, middle school head coach Kelvin Carraway, and team doctors David Williams and Robin Williams.

Again, on behalf of the Sixth District, we would like to congratulate Principal Dirk Gurley, Athletic Director Woody Huneycutt, Head Coach Allen Brown, and everyone affiliated with the Thomasville High School Bulldogs on having another great season and for winning the North Carolina 1–AA football championship yet again. The Bulldogs are super once more.

IN RECOGNITION OF MR. RICHARD D. BURNS

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. NADLER of New York. Madam Speaker, I rise today in recognition of Mr. Richard D. Burns, Executive Director of New York City's Lesbian, Gay, Bisexual & Transgender (LGBT) Community Center. Mr. Burns proudly serves as the longest-serving Executive Director of any LGBT organization in the United States.

A graduate of Hamilton College and the Northeastern University School of Law, Mr. Burns has built a long and distinguished career of public service, diligently leading a number of important service and advocacy organizations through the years.

This year, while celebrating its 25th anniversary, the Center has grown to become the largest LGBT multi-service organization on the East Coast and the second-largest LGBT community center in the world. More than 6,000 people and 300 groups meet there every week. As a mark of his achievements, Mr. Burns was inducted into OMB Watch's Public Interest Hall of Fame at their 25th Anniversary celebration in September 2008.

Before joining The LGBT Center in December of 1986, Mr. Burns acted as President of the Board of Directors and as Managing Editor of the Gay Community News in Massachusetts.

Mr. Burns has served on the Board of Directors of the Non-Profit Coordinating Committee since 1987. In addition, he is an active member and past Co-Chair of CenterLink, an association of LGBT Community Centers which he co-founded in 1994. Today, CenterLink is the national voice for nearly 150 LGBT community centers across the country as a result of his dedication.

Mr. Burns also serves on the Citizen's Advisory Committee of New York City's Human Resources Administration and is the founder of the New York State LGBT Health and Human Services Network. And Mr. Burns is a member of the Steering Committee of the National LGBT Executive Directors Leadership Institute, a member of the National Gay and Lesbian Task Force's National Policy Roundtable.

Today I rise to recognize and congratulate Richard D. Burns for 22 years of outstanding and dedicated service to the lesbian, gay, bisexual and transgender population of New York, and for his groundbreaking work as Executive Director of The LGBT Center.

RECOGNIZING BRIGADIER GENERAL MARK ZIRKELBACH

HON. BRUCE L. BRALEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. BRALEY of Iowa. Madam Speaker, I rise today to recognize the Deputy Adjutant General of the Iowa Army National Guard, Brigadier General Mark Zirkelbach, and to express gratitude for his many years of extraordinary service and leadership. General Zirkelbach is retiring after almost four decades of service with the National Guard. He enlisted in the Iowa Army National Guard in 1970, and has served as the Deputy Adjutant General of the Iowa Army Guard since August 2001. As Deputy Adjutant General, he's helped lead the Iowa Guard through the transformation from a strategic reserve to an operational force, and has overseen the deployment of thousands of Iowa National Guard members to combat zones like Iraq and Afghanistan. General Zirkelbach has been a strong advocate for Iowa National Guard members, and has no doubt made an incredible difference in the lives of many Iowa Guard members and their families during this challenging time. He's also served as an incredible resource for me and my staff. It's been my privilege to work with General Zirkelbach on issues of importance to the Iowa National Guard, including ensuring that soldiers who served in Iraq received the education benefits they deserved, and working to ensure that they receive the respite leave benefits that they are owed from the Pentagon. I thank General Zirkelbach for his invaluable service to the National Guard, the state of Iowa, and the United States, and wish him the best of luck in retirement.

ACTION IN COMMUNITY THROUGH SERVICE

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize Action in Community Through Service (ACTS) as an exceptional community organization, setting a high standard of service for individuals and organizations in Prince William County.

Established on November 1, 1969, ACTS is guided by the mission to alleviate hunger, homelessness, and domestic violence, and help people achieve self-support in the Prince William area. A small group of dedicated volunteers and clergymen founded ACTS in response to the need for coordinated community action. ACTS now serves over 45,000 people a year. The organization's growth is a testament to the effectiveness of its programs and ability of its staff and volunteers.

ACTS opened the area's first food bank and first dedicated homeless shelter. In 2008, two new facilities opened to accommodate the success of ACTS programs. The Eastern Prince William Safe House provides refuge for victims of domestic violence, and the new Family Services Center offers job counseling and life skills classes to women, children and families struggling with the hardships of homelessness. These facilities will help to restore hope and opportunity to those whom otherwise would endure pain and isolation.

ACTS continually receives top marks for program efficiency and delivers results that genuinely change lives. Citizens hoping to improve their community and the lives of their neighbors have a capable partner in ACTS.

Madam Speaker, I ask my esteemed colleagues to join me in expressing our gratitude for this organization's accomplishments and their steadfast commitment to charity.

HONORING JOHN REAP, THE 2008 METROCREST CHAMBER OF COMMERCE ''CITIZEN OF THE YEAR''

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. MARCHANT. Madam Speaker, I rise today to honor and pay tribute to John Reap, the 2008 Metrocrest Chamber of Commerce "Citizen of the Year." John's dedication and contributions to the Metrocrest community, which consists of Addison, Carrolton and Farmers Branch, have been both dynamic and exceptional. The Metrocrest Chamber of Commerce presents the award on January 30, 2009, and I would like to extend my sincere congratulations to John for the deserved award and his many years of selfless service.

John is the current President and Chief Executive Officer of Town North Bank, N.A., in Dallas. He also serves on the Board of Directors for the Bank. John has been at Town North Bank for twenty-eight years, the last fourteen serving in his current position.

An active community member, John has served with a variety of civic organizations including the American Heart Association, the Cotton Bowl Athletic Association, the Metrocrest Senior Adult Services, the Carrollton Farmers Branch Independent School District Educational Foundation, the University of Arkansas Alumni Association, and the North Texas Region Committee for the University of Arkansas Campaign for the 21st Century. John served for seventeen years in both local and state capacities for the American Heart Association in Texas, and was Chairman of the Board of the American Heart Association, Texas Affiliate, Inc., from 1992 until 1993.

John earned a banking graduate degree from the University of Virginia in 1977, a master's degree in Business Administration from Southern Methodist University in 1971, and an undergraduate degree from the University of Arkansas in 1970. He also served as a faculty member for several years at the Southwestern Graduate School of Banking at Southern Methodist University.

Madam Speaker, it is with great pride that I join the Metrocrest Chamber of Commerce in applauding the merits and commitment John Reap has displayed to our community. John's tireless passion for community service has contributed greatly to the betterment of those around him, and I am extremely grateful for his service. On behalf of the 24th Congressional District of Texas, I salute John for his achievement as the 2008 Metrocrest Chamber of Commerce "Citizen of the Year" and wish him many years of continued success.

A TRIBUTE TO DR. E.B. TURNER

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. MCINTYRE. Madam Speaker, I rise today to pay tribute to a giant among giants, a friend of all citizens from all walks of life, and a man whose hand was always extended to those who wanted to reach for their dreams—Dr. E.B. Turner of Lumberton, Robeson County, NC.

Dr. Turner, who passed away October 5, 2008, was an inspirational leader, dedicated public servant, and renowned pastor for generations of Robesonians. Sixty years earlier in 1948, Dr. Turner, who had just finished divinity school at Shaw University, made the trip south down I–95 to Lumberton to become pastor at First Baptist Church in South Lumberton. Never planning to make Lumberton his home or become involved in public service, Turner was challenged by the opportunity to make a difference. And through wisdom, perseverance, and drive, he truly did. From housing to infrastructure to economic development to education, Dr. Turner made a lasting impact on the future and quality of life for hundreds of thousands of citizens.

In addition to his public contributions, Dr. Turner faithfully served the First Baptist Church for 57 years as Pastor. Through his love of God and his willingness to share the good news with all, Dr. Turner not only changed lives, he changed hearts.

I knew Dr. Turner personally. He and my father, Dr. Douglas C. McIntyre, served on the City Council together in the 1970s. Later, Dr. Turner and I served together on the board of the newly chartered Lumberton Economic Advancement for Downtown, Inc, to help revitalize the downtown of our city. He and I were involved in many political activities together, and he appointed me to serve on the Robeson County Human Relations Commission. He encouraged me when I first ran for Congress to "do something that people can see and feel and touch." And, indeed I have kept those words in my mind and heart throughout the years as an inspiration when working on projects and programs to help folks back home in southeastern North Carolina.

Madam Speaker, a few weeks ago, our nation inaugurated our country's first African-American President, Barack Obama. President Obama, and the next generation of political leaders, stand on the shoulders of men like Dr. E.B. Turner who paved the way for their success.

May God's blessings continue to shine upon Dr. Turner, his wife Georgia, daughters Andrea and Rosalind, and all of his extended family.

IN HONOR OF RICHARD T. BORKOWSKI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. KUCINICH. Madam Speaker and Colleagues, I rise today in honor and recognition of United States Veteran Richard T. Borkowski as he receives the 2008 Veteran of the Year Award by the Joint Veterans' Commission of Cuyahoga County.

Mr. Borkowski began his service in the United States Army Infantry Division in 1950, the first year of the Korean War. Following the war, he married Evelyn, and together they raised two children—a daughter and son. He worked for nearly thirty years at the Standard Oil Company. Though his military tenure had ended years earlier, Mr. Borkowski never forgot the soldiers who served with him, and he always felt a kinship with the men and women who would serve after him.

For the past sixteen years, Mr. Borkowski has dedicated more than 5,000 volunteer hours at the Louis Stokes VA Medical Center. Mr. Borkowski helps disabled veterans get to religious services on Sundays, delivers snacks and treats to bed-bound veterans, and compassionately listens and talks to veterans about past military service and life experiences that form common bonds of friendship and understanding. Mr. Borkowski is a life member of the Parma Veterans Center, American Legion, Veterans of Foreign Wars and Korean War Veterans.

Madam Speaker and Colleagues, please join me in honor of Richard T. Borkowski, upon his selection as the 2008 Veteran of the Year by the Joint Veterans' Commission of Cuyahoga County. Mr. Borkowski's commitment to the welfare of the veterans of our community brings an element of hope, light and friendship to the lives of those he serves—thereby strengthening the foundation of our entire community.

A BILL TO ENSURE ADEQUATE AIRLINE COMPETITION BETWEEN UNITED STATES AND EUROPE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. OBERSTAR. Madam Speaker, in the past year, our attention in aviation policy has been trained on the survival of the U.S. airline industry, battered by reduced demand, and volatile fuel prices. This emphasis has been entirely appropriate. But we must not lose sight of the longer term issue of ensuring that when the airlines return to financial viability there will be enough competition to offer consumers good service at reasonable prices.

I have become increasingly concerned with the decline of competition in international markets, particularly between the United States and Europe. These markets used to be served by independent carriers from most European countries, and by a number of U.S. carriers. Increasingly, the market has come under control of three alliances composed of one or more U.S. carriers and several European carriers.

The alliances began with ''code sharing'' in which one airline would sell tickets on the flights of another airline as though the flight was its flight. These arrangements have been defended as providing better and more convenient service for consumers.

In recent years, the airlines in alliances have worked to take the process to the next level, asking the Department of Transportation, DOT, and the Department of Justice, DOJ, to grant the members of the alliance antitrust immunity to jointly plan services and fares over international markets served by the

alliance. When immunity is granted, there will not be competition between the immunized carriers in the markets involved.

Antitrust immunity has been granted for a number of alliance operations, and requests are pending for antitrust immunity for most other significant alliance operations. If these requests are granted, competition in the U.S. to Europe markets will be largely reduced to competition among three alliances.

I believe that the time has come to reassess the wisdom of allowing the continuation of the reduced level of competition, which results from antitrust immunity for alliances. I am introducing legislation to require a major study of whether the benefits to consumers of alliances with antitrust immunity outweigh the adverse effects of the resulting loss of competition. Following this study, DOT will be required to review its policies and make any needed changes. There may also be a need for further legislation.

After any new laws and policies are in place, all grants of antitrust immunity for alliances will be reviewed for conformity with those laws or policies. This review is now permitted under the terms on which immunity was granted. When DOT granted immunity for alliances, it wisely reserved the power to amend, modify, or revoke the immunity at any time. My legislation provides that no antitrust immunity for alliances may continue beyond three years from date of enactment of the legislation, unless DOT affirmatively decides that the immunity should continue under any new laws and policies.

A more detailed consideration of U.S.-European aviation trade shows that this market is now dominated by three major alliances: Star (United/Lufthansa), SkyTeam (Delta-Northwest/Air France/KLM) and oneworld (American/British Airways). These alliances have strong market power. Combined, the Star, SkyTeam and oneworld alliances account for almost 80 percent of the total world airline capacity, 78 percent of world revenue passenger kilometers, and 73 percent of passengers carried. These three alliances control over 87 percent of the traffic between the United States and Europe.

The DOT has the primary responsibility to review proposed airline alliance agreements and antitrust immunity applications for international operations. The DOT typically grants immunity if the parties to the agreement would not otherwise go forward without it and it finds that the immunity is in the public interest. One other major factor that also drives DOT's analysis is whether an Open Skies agreement exists between the United States and the country of the foreign air carrier. The DOJ, though a party in the antitrust immunity process, does not have a primary role in reviewing alliance/antitrust applications. However, the DOJ does make recommendations, and supplies data and policy input to DOT on these issues.

In 2008, the DOT granted the SkyTeam alliance antitrust immunity to coordinate schedules and prices, and operate as though they were one carrier. Since the granting of the SkyTeam application, Continental Airlines has filed an application to join the already antitrust-immunized Star alliance, and American Airlines and British Airways filed an antitrust immunity application for the oneworld alliance.

Once antitrust immunity is granted, the airlines involved are removed as competitors in highly traveled international markets. As DOT noted in the SkyTeam decision:

> Upon implementation, the 4-way JV [joint venture] will bring all transatlantic services offered by the venture participants under the control of the venture. Committee and working groups, composed of senior representatives from each airline will jointly plan and manage capacity, pricing and financial settlement. The 4-way JV attempts to align the economic incentives of the participants to create what is known in the airline industry as "metal neutrality." Instead of competing among themselves for a greater share of revenue by trying to carry passengers on their own metal (aircraft), the participants agree to pool revenues and costs so that they become indifferent as to which carrier operates the service.

In essence, the granting of antitrust immunity is a de facto merger of these airlines over the routes involved. Evidence also suggests that when immunity is granted to an alliance, there is a decline in competition from carriers not in the alliance. Case in point: in 1990, the New York JFK–Paris market had six competing airlines, today there are only three. Of the three remaining carriers in the market—Air France and Delta, which are part of the immunized SkyTeam alliance—have approximately 75 percent of the market share. Another major market, Chicago to Frankfurt, is dominated by Star members United and Lufthansa, which control an 85 percent share; the Amsterdam-Atlanta market will now be controlled by newly immunized SkyTeam members Delta and KLM.

The Committee on Transportation and Infrastructure received testimony in May 2008, which indicated that domestic competition could be hampered by immunized alliances. Concerns were expressed that U.S. members of immunized alliances could use the profits realized as a result of anticompetitive behavior to subsidize domestic flying.

In addition, fares in markets dominated by alliances have increased. In a summary of its 2005 study on immunized alliances, the Brattle Group noted that "there is evidence that immunized alliances have undertaken actions that raise their rivals' costs of interlining at certain alliance-dominated hubs. The decline in competition at these hubs is further evidence of market power: immunized alliances have gained market share at their respective European hubs even as their fares have risen." The Brattle Group also expressed concern that even if "inter-alliance competition is sufficient to discipline fares to destinations that can be served through more than one hub, it cannot do the same for destinations better served through a particular hub. Passengers to those destinations may be 'captive' to the dominant alliance at the hub, in the absence of non-alliance competition."

As early as 1999, the Transportation Research Board (TRB), in its study Entry and Competition in the U.S. Airline Industry, expressed concern about the impact that global alliances with antitrust immunity may have on competition. The TRB stated that "although some travelers in connecting markets might benefit from these alliances, the potential gains to travelers in mainline markets—gateway to gateway routes where allied airlines were once main competitors—are not evident, and it is possible that these travelers are losing out."

The TRB also expressed concern about the long-term impact of alliances on unaffiliated U.S. carriers, noting that the effect of such alliances could be exclusionary and "ultimately forcing some unaffiliated U.S. airlines out of international markets by diverting their feed traffic and weakening their overall route structure to the detriment of domestic competition."

We cannot afford to be complacent about the threat to competition posed by these immunized airline alliances. To begin the discussion, I am introducing legislation that calls upon the Government Accountability Office, GAO, to study:

(1) The legal requirements and policies followed by the DOT in deciding whether to approve alliances and grant exemptions from the antitrust laws under 49 U.S.C. §§ 41308 and 41309;

(2) Whether there should be any changes to those policies or the legislative authority under which DOT determines whether to grant antitrust immunity; and

(3) Whether the DOT should exercise the right it has reserved to amend, modify or revoke any antitrust immunity previously granted.

Importantly, this legislation would sunset all immunity grants three years after the date of enactment. This is necessary to ensure that if the GAO finds that policy changes are needed, DOT will have the time to examine and implement them. U.S. and foreign air carriers can then reapply for antitrust immunity under any new policies adopted.

The GAO study will focus on the impact of immunized alliances on competition and customer service. It is important to assess whether these immunized alliances have resulted in a reduction of competition, increase in prices or other adverse effects or have used their market power to foreclose rival airlines from competing at alliance dominated hubs. Moreover, the GAO will be tasked with analyzing whether network size plays a role in adversely affecting competition and whether there is sufficient competition among immunized alliances to ensure consumers will receive benefits similar to those conferred by non-immunized alliances.

In addition, the bill directs the GAO to determine whether DOT's and DOJ's different regulatory and antitrust responsibilities for international alliances have created any significant conflicting agency recommendations and whether, from an antitrust standpoint, requests for antitrust immunity should be treated as mergers, and subject to a traditional merger analysis by the DOJ.

As the Brattle Group noted, the "move towards alliances has brought increased concentration to the transatlantic market, which highlights the importance of competition among alliances. This argues for caution on the part of regulatory officials in evaluating proposals likely to result in further increases in concentration. At a minimum, any substantial expansion in the scope of antitrust immunity offered to particular alliances (or combinations of alliances) should require compelling evidence that there are economic efficiencies that would justify the expanded immunity and that could not be achieved absent the immunity."

This bill is an important step forward in determining whether DOT's antitrust policies are sound and whether the DOT gives appropriate consideration to the impact that the granting of antitrust immunity might have on competition here and abroad.

As the evidence indicates, these immunized alliances hold great market power and have the potential for exercising that power to the exclusion of non-immunized carriers, thereby reducing competition in the international marketplace, as well as disrupting domestic competition. If these immunized mega-alliances are allowed to proceed unchecked, the end result may be trading government control in the public interest for private monopoly control in the interests of the industry.

INTRODUCTION OF THE ''HATE CRIMES STATISTICS IMPROVEMENT ACT''

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mrs. MALONEY. Madam Speaker, today, along with Representatives RAÚL GRIJALVA, HENRY WAXMAN, BARBARA LEE, LYNN WOOLSEY, FORTNEY PETE STARK, and ELIJAH CUMMINGS, I am reintroducing the ''Hate Crimes Statistics Improvement Act'' which will ensure that hate crimes motivated by gender are accounted for by the FBI and local law enforcement agencies. With accurate data, local communities can identify gender-based hate crimes in their area, ensure that the prosecution of such crimes is a priority, and chart their progress toward eliminating them.

In states with gender-based hate crimes laws, prosecutors typically must present concrete evidence that the criminal act was committed due to gender bias. Because not all crimes against women are gender-based crimes, prosecutors should have discretion in identifying what constitutes a gender-based hate crime. By collecting data on gender-based hate crimes, we send the message that we will not tolerate the violence targeted toward women throughout our country.

I urge my colleagues to support this important legislation.

HONORING MR. GERALD BORDERS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, today I rise to celebrate the milestone of a long time friend of mine, Mr. Gerald Borders. On January 20, 2009 Gerald Borders of Dallas, Texas retired, completing a 44 year career with Texas Instruments. Mr. Borders' career spanned a remarkable amount of change. In 1963, when he began his career as a contractor, Dallas suffered from segregated schools, public accommodations and facilities—including within Texas Instrument plant sites. He chose to coincide his retirement on the day of the Inauguration of Barak Obama, our Nation's first African-American President.

I know that Mr. Borders thoroughly enjoyed his opportunities with Texas Instruments, in particular the time he spent as a full-time loaned executive to Paul Quinn College, a historically black college in the southern sector of Dallas. His time with Paul Quinn led to a passion that would define the later phase of his career: education and economic development in the within that same southern sector in Dallas. One of Mr. Borders many projects mobilized tens of thousands of volunteer tutoring in Dallas's public schools. Mr. Borders was a tireless advocate of the Dallas Together Forum, which leveraged the purchasing power of major corporations toward economic inclusion for minority and women owned businesses. He conceived of and administered the Texas Instruments Community Involvement Team, which commits philanthropic resources to diversity initiatives for investment in neighborhood non-profits. He is a tireless volunteer for the United Way of Metropolitan Dallas and among other roles, serves as chairman of their African American Leaders Society.

Mr. Borders' knowledge, communications skills and leadership ability made him a highly sought after business leader by elected officials. For the past 15 years, I have requested that he host my Brain Trust Summit in Washington DC with the Congressional Black Caucus—an event that highlights the challenges and opportunities of science, engineering and math education within the African American community nationwide.

Madam Speaker, please join me in wishing Mr. Gerald Borders a well deserved retirement and a joyful and fulfilling future.

CONGRATULATIONS MRS. BEATRICE ELLIOTT

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. WESTMORELAND. Madam Speaker, I rise today to congratulate Mrs. Beatrice Elliott from the Third District of Georgia on her 104th birthday, a truly remarkable achievement meriting acknowledgement.

Mrs. Elliott, or ''Mrs. Be'' as she is most commonly known, celebrated this milestone on Jan. 8.

I want to commend Mrs. Be not only on reaching her extraordinary age but also on what she has managed to achieve over the years as an upstanding member of her community. Mrs. Be worked for more than 40 years as a teacher in Carroll and Coweta county school systems. The longevity of her tenure in the school system is a testament to her nurturing and caring attitude toward students and her commitment to the future generations of this country. Mrs. Be has played a significant role in expanding students' horizons and in building the stepping stones to academic and professional success for hundreds if not thousands of students.

Past students, family and friends hold Mrs. Be in high regard and have sincere respect for her character. It is no surprise that, after 104 years, Mrs. Be has amassed a large group of friends and a family that extends across four generations.

Mrs. Be's parents, the late Rev. and Mrs. William Parks, introduced her to the church at a young age. Her religious faith has played a central role throughout her long life. Mrs. Be now worships at Resurrection Baptist Church after spending many years as a member of Mt. Vernon Baptist.

Madam Speaker, I call on the U.S. House of Representatives to join me, Mrs. Be's family and the people of Georgia's Third Congressional District in celebrating Mrs. Be's significant milestone and wishing her a happy birthday. She is an inspiration to those who know her.

FEDERAL RESERVE BOARD ABOLITION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. PAUL. Madam Speaker, I rise to introduce legislation to restore financial stability to America's economy by abolishing the Federal Reserve. Since the creation of the Federal Reserve, middle and working-class Americans have been victimized by a boom-and-bust monetary policy. In addition, most Americans have suffered a steadily eroding purchasing power because of the Federal Reserve's inflationary policies. This represents a real, if hidden, tax imposed on the American people.

From the Great Depression, to the stagflation of the seventies, to the current economic crisis caused by the housing bubble, every economic downturn suffered by this country over the past century can be traced to Federal Reserve policy. The Fed has followed a consistent policy of flooding the economy with easy money, leading to a misallocation of resources and an artificial ''boom'' followed by a recession or depression when the Fed-created bubble bursts.

With a stable currency, American exporters will no longer be held hostage to an erratic monetary policy. Stabilizing the currency will also give Americans new incentives to save as they will no longer have to fear inflation eroding their savings. Those members concerned about increasing America's exports or the low rate of savings should be enthusiastic supporters of this legislation.

Though the Federal Reserve policy harms the average American, it benefits those in a position to take advantage of the cycles in monetary policy. The main beneficiaries are those who receive access to artificially inflated money and/or credit before the inflationary effects of the policy impact the entire economy. Federal Reserve policies also benefit big spending politicians who use the inflated currency created by the Fed to hide the true costs of the welfare-warfare state. It is time for Congress to put the interests of the American people ahead of special interests and their own appetite for big government.

Abolishing the Federal Reserve will allow Congress to reassert its constitutional authority over monetary policy. The United States

Constitution grants to Congress the authority to coin money and regulate the value of the currency. The Constitution does not give Congress the authority to delegate control over monetary policy to a central bank. Furthermore, the Constitution certainly does not empower the federal government to erode the American standard of living via an inflationary monetary policy.

In fact, Congress' constitutional mandate regarding monetary policy should only permit currency backed by stable commodities such as silver and gold to be used as legal tender. Therefore, abolishing the Federal Reserve and returning to a constitutional system will enable America to return to the type of monetary system envisioned by our nation's founders: one where the value of money is consistent because it is tied to a commodity such as gold. Such a monetary system is the basis of a true free-market economy.

In conclusion, Madam Speaker, I urge my colleagues to stand up for working Americans by putting an end to the manipulation of the money supply which erodes Americans' standard of living, enlarges big government, and enriches well-connected elites, by cosponsoring my legislation to abolish the Federal Reserve.

INTRODUCTION OF THE DISTRICT OF COLUMBIA BUDGET AUTONOMY ACT OF 2009

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Ms. NORTON. Madam Speaker, As we approach a vote on the D.C. House Voting Rights Act of 2009, it is not too early in the session to begin the next steps necessary to make the residents of the District of Columbia genuinely free and equal citizens. Other than to voting rights, the highest priority for District of Columbia residents in the 111th Congress is their right to control the funds they themselves raise to support their city. Budget control is essential to the right to self-government. Therefore, today, I am introducing the District of Columbia Budget Autonomy Act of 2009 to give the District the right to enact its local budget without annual congressional oversight.

As a practical matter, permitting the city's budget to become law without coming to Congress would have multiple and immediate benefits for both the city and Congress. For the city, a timely budget means: eliminating the uncertainty of the congressional process that has a negative effect of the city's bond rating, which adds unnecessary interest costs for local taxpayers to pick up; significantly increasing the District's ability to make accurate revenue forecasts; and reducing the countless operational problems, large and small, that result because the city's budget cannot be implemented when enacted by the city. Of the many problems that would be eliminated, none is more important than aligning the school year with the typical state government July 1st fiscal year, instead of the congressional fiscal year, which starts in October, after the school year has begun.

Leaving the local enactment to the District would bring benefits to Congress as well. The D.C. budget often has had to come to the floor repeatedly before it passes because of controversial attachments, often of interest only to a few members who sue the D.C. appropriations to promote their pet ideological issues. Members then complain about the time and effort spent on the smallest appropriations that affect no other members. No budget autonomy bill can eliminate the possibility of riders because there are countless ways to attach riders, but our bill reduces the likelihood that unrelated riders will hold the city's local budget hostage and sometimes the appropriations process itself.

I am gratified that Congress itself has moved toward the position embodied in this bill. Congressional experience with the District's budget has matured, and neither party has made changes in recent years. At the same time, increasing recognition of the hardship and delays that the annual appropriations process causes has led Congress to begin freeing the city from the congressional appropriations network. In 2006, Congress approved the Mid-year Budget Autonomy bill, offering the first freedom from the federal appropriations process, the most important structural change for the city since passage of the Home Rule Act 36 years ago. As a result, the District can now spend its local funds all year without congressional approval instead of having to return mid-year to become a part of the federal supplemental appropriation in order to spend funds collected since the annual appropriations bill. Moreover, during the past few years, appropriators have responded to our concern about the hardships resulting from delays in enacting the D.C. appropriation. I appreciate our agreement that has allowed the local D.C. budget to be in the first continuing resolution, permitting the city, uniquely, to spend its local funds at the next year's level, even though the budgets for federal agencies are often delayed for months. This approach has ended the lengthy delay of the budget of a big city until an omnibus appropriations bill is filed, often months after October 1st.

There is no risk to the Congress passing the District of Columbia Budget Autonomy Act. By definition, Congress will retain jurisdiction over the District of Columbia under Article I, Section 8 of the Constitution because the District is not a state. Since, therefore, Congress could in any case make changes in the District's budget and laws at will, it is unnecessary to require a lengthy repetition of the District's budget process here. The redundancy of the congressional appropriations process is its most striking feature, considering that few if any changes in the budget itself are made.

The original Senate version of the Home Rule Act provided for budget autonomy, and 210 years of redundant processing of a local budget and delays occasioned by the extra layer of oversight offer conclusive evidence that the time is overdue to permit the city to enact its local budget, the single most important step the Congress could take to help the District improve managing the city.

Members of Congress were sent here to do the business of the nation. They have no reason to be interested in or to become knowledgeable about the many complicated provisions of the local budget of a single city. In good times and in bad, the House and Senate pass the District's budget as is. Our bill takes the Congress in the direction it is moving already based on its own experience. Congressional interference into one of the vital rights to self-government should end this year with enactment of the District of Columbia Budget Autonomy Act.

BETTY SEMBLER OF TREASURE ISLAND, FLORIDA SELECTED FOR FLORIDA WOMEN'S HALL OF FAME

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. YOUNG of Florida. Madam Speaker, Mrs. Betty Sembler, who I have the privilege to represent, has been named to the Florida Women's Hall of Fame for her lifetime of work to protect our nation's youth and adults from the scourge of drug abuse.

Florida Governor Charlie Crist selected her to be enshrined in the Hall of Fame in recognition of her three decade war on drugs. This is an effort she has taken on with great passion at the local, state and federal level. Betty has been a delegate to the White House Conference for a Drug-Free America and a member of the Governor's Drug Policy Task Force in Florida. She has served on the board of DARE Florida and DARE America, a national organization that provides anti-drug education to elementary and middle school students.

Betty also took her battle worldwide as she served as Vice Chairwoman of DARE International and fought against international drug legalization efforts around the globe while traveling with her husband Mel, who served as U.S. Ambassador to Australia and Italy.

Back home in Pinellas County, Betty was the Founder and President of Save Our Society from Drugs and the Drug Free America Foundation, Inc., nationally and internationally recognized non-profit organizations that promote sound drug policies, drug free workplaces, high school and college drug awareness and education programs, maintain one of the nation's largest libraries of anti-drug literature and reports, disseminate reliable scientific information, and help with the development of international drug free standards through The International Taskforce on Strategic Drug Policy and The Drug Prevention Network of the Americas.

In addition to her tireless work against drug abuse, Betty has also found time to serve on the Board of the Florida Holocaust Museum; the Florida Governor's Mansion Foundation; the Florida House in Washington, DC; and the University of Florida Brain Addiction Research Advisory Council.

Betty's non-stop work against drug abuse and in so many other philanthropic efforts have been honored nationally. In May 2005, she was named as an honorary Special Agent of the Drug Enforcement Agency and in March 2008, the Drug Enforcement Agency Museum Foundation presented her with a Lifetime Achievement Award. She has also been recognized by the Houston Drug Free Business

Initiative and in 2000 the Girl Scouts of the Suncoast Council named her a "Woman of Distinction."

Madam Speaker, I have known Betty Sembler for many years not only as a constituent but as a dear friend and I can tell you that no one works harder for our community, our state and our nation. She has fought the war against drugs block by block, state by state and nation by nation. She is called upon by medical, government and law enforcement leaders for her advice on combating illegal drugs and on drug education campaigns.

And she has represented the United States with great distinction as the First Lady to Ambassador Mel Sembler. She has been most gracious in forging special relationships with the leaders of some of our nation's greatest and most critical allies.

In all of these endeavors, Betty Sembler has served with a special spirit and energy that has amazed all who have come to know her. Her greatest passion though, is for her family. Mel, her husband of 56 years, and Betty are the proud parents of three children and 11 grandchildren. They are special Americans who have always kept their priorities in order—faith, family and country.

Madam Speaker, I ask my colleagues to join me today in thanking Betty Sembler for her lifelong service to our nation and in congratulating her on being inducted into the Florida Women's Hall of Fame.

TRIBUTE TO RAYMOND L. HARGROVE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. SESSIONS. Madam Speaker, I rise today in memory of my dear friend, Raymond L. Hargrove. He was a great American, a believer in the free enterprise system, and a kind and generous man.

Born and raised in Texas, Mr. Hargrove was a proud graduate of the University of Texas at Austin and the Schreiner Institute. In 1964, he founded Hargrove Electric Company, which quickly became one of most successful businesses in Dallas. He founded the Greater Dallas Electric League and served as its first president.

He was always active in our community and leaves a legacy of public service and philanthropy. He deeply believed in serving this great Nation and giving selflessly for the greater good. As a member of the United States Navy, he proudly served in World War II. His generosity extended to numerous causes such as the Salvation Army, United Way, Children's Medical Center of Dallas, and Texas Scottish Rite Hospital. Mr. Hargrove recognized the courage of our law enforcement men and women and did as much as possible to support them. He was also a passionate advocate of the Texas Rangers, serving as a Director Emeritus for the Texas Rangers Association Foundation.

He cared deeply for his family, friends, and community, and it was evident to all who knew him. I am honored to have known him and called him my friend. He will be greatly missed. May the peace of God be with those he loved and sustain them through this hour of sorrow.

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. ETHERIDGE. Madam Speaker, my dear friend and former colleague Roger Bone passed away recently, and I needed to travel to North Carolina to pay my respects. Unfortunately, due to these travel arrangements, I was unable to vote on one measure on the House floor.

Had I been present, I would have voted "yea" on Senate Bill 181, The Lilly Ledbetter Fair Pay Act of 2009. Further, I would have voted "no" on the motion to recommit the bill.

Had I been present, I would also have voted "yea" on the motion to move to consideration of House Bill 1, the American Recovery and Reinvestment Act.

HONORING THREE DEPARTING MEMBERS OF THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 2009

Mr. LARSON of Connecticut. Madam Speaker, on behalf of the National Historical Publications and Records Commission, I would like to commemorate the departure of three notable members from Commission, with which I have had the honor of serving. These three individuals have helped promote the preservation and use of America's documentary heritage, helping those in our country and from abroad understand American democracy, history, and culture.

Margaret Grafeld of the Department of State of the United States joined the National Historical Publications and Records Commission in June 1998 and has served with distinction for the past decade. Currently Director of the Office of Information Programs and Services, Ms. Grafeld has been with the Department since 1974, shortly after her graduation from George Washington University, and is a graduate of the Advanced Management Program, Information Resources Management College, National Defense University.

In previous assignments, Ms. Grafeld served as acting director of the Office of Freedom of Information, Privacy, and Classification Review, and in other positions relating to information management and policy, privacy, access, litigation, appeals, and special projects. She was also involved with the State Department's Advisory Committee on Historical Diplomatic Documentation.

Her role on the Commission has been distinguished by her careful reading and consideration of the applicants, her sense of public duty, and her expertise on records management, particularly in the area of electronic records and public access. She has been the consummate public servant, always prepared to scrutinize and adjudicate applications, and render forthright and honest advice on public policy.

The Commission thanks Peggy Grafeld for her dedicated service and contributions to its programs with our sincere respect and affection.

Barbara Fields of Columbia University joined the National Historical Publications and Records Commission in 2001 and has served as representative of the Organization of American Historians with distinction. During her tenure on the Commission, Dr. Fields has cast a keen eye on the historical importance of the documents and records of our applicants.

A graduate of Harvard University and Yale University, Dr. Fields has brought a remarkable breadth of knowledge to the Commission. A MacArthur Fellow from 1992 to 1997, she is one of the leading scholars on the history of slavery in the United States. She made a notable appearance on Ken Burn's documentary series, "The Civil War," and her publications include Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century, which won the John H. Dunning Prize of the American Historical Association; and she co-authored with members of the Freedmen and Southern Society Project, The Destruction of Slavery, which won the Thomas Jefferson Prize of the Society for the History of the Federal Government; Slaves No More: Three Essays on the Emancipation and the Civil War, and Free At Last: A Documentary History of Slavery, Emancipation, and the Civil War.

Her role on the Commission has been distinguished by her discerning intellectual curiosity. The Commission thanks Barbara Fields for her dedicated service and contributions to its programs with our sincere respect and affection.

Charles T. Cullen joined the National Historical Publications and Records Commission in 1990 and has served with distinction as representative of the Association for Documentary Editing.

Dr. Cullen is a tireless advocate for the vital importance of documentary editing, always adhering to the highest standards, and in service to the public good. President and librarian emeritus of the Newberry Library, Dr. Cullen has been associated with that highly respected center for research and public access since 1986. Previously, he taught at Averett College, the College of William and Mary, and Princeton University, and worked as the editor on the Papers of John Marshall and the Papers of Thomas Jefferson. He has written or contributed to more than thirty books and articles, and has lectured widely on subjects relating to the age of Jefferson, the scholarly use of computers, and the role of humanities research libraries. An early advocate for the use of computers in scholarly editing, he received the Association for Documentary Editing's Distinguished Service Award in 1987.

His role on the Commission has been distinguished by a relentless insistence on quality and by his leadership on many issues, not solely scholarly editing, and he will be sorely missed. The Commission thanks Charles Cullen for his dedicated service and contributions to its programs with our sincere respect and affection.

HOUSE OF REPRESENTATIVES—*Wednesday, February 4, 2009*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. TAUSCHER).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 4, 2009.

I hereby appoint the Honorable ELLEN O. TAUSCHER to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

Chaplain Major Jim Higgins, Reserve Officer Association Chaplain of the Year, Powder Springs, Georgia, offered the following prayer:

Loving Lord, we give You thanks that You are ever present with us, guiding our thoughts and our deliberations. In these difficult times we acknowledge before You that we are unable, in the strength of our own power, to guide this Nation that You have entrusted to us. So we pray for a sense of Your will and of Your presence. Along with the vision of what is right, give us the courage to act accordingly.

As we gather today, Everlasting God, we pray for those whom we have sent into harm's way. Give to them Your divine protection. As the Great Physician, be with those who have been wounded and lay in beds of pain. We give You thanks for the valor of those who have paid the ultimate cost for freedom, and ask that You accept them into Your home, not made with hands, but eternal in the heavens, surrounding their loved ones with Your peace, which passes all understanding. All of this we ask in Your most holy and precious name.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Kansas (Ms. JENKINS) come forward and lead the House in the Pledge of Allegiance.

Ms. JENKINS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING CHAPLAIN MAJOR JIM HIGGINS

The SPEAKER pro tempore. Without objection, the gentleman from Georgia (Mr. SCOTT) is recognized for 1 minute.

There was no objection.

Mr. SCOTT of Georgia. We have had the pleasure of having the distinguished guest chaplain for today from my district in Georgia. Each year, the Reserve Officers Association presents a Chaplain of the Year Award, which is selected by the Chief of Chaplains of each military service.

And the award goes to a chaplain—a special chaplain—with special qualities. He is selected for extraordinary contributions to the welfare, the morale, and effectiveness of the Military Reserve Services. This year, the award went to Military Chaplain Major James Boren Higgins, who delivered our wonderful prayer this morning.

Dr. Higgins graduated from Illinois Wesleyan University in 1983. He earned his master of divinity degree in 1986 from Candler School of Theology at Emory University in Atlanta, Georgia. He received his doctor of ministry degree from Columbia Theological Seminary in Decatur, Georgia. And he has received the following outstanding awards. And, America, listen to these rewards.

He is a recipient of the Bronze Star Medal. He is a recipient of the Meritorious Service Medal. Dr. Higgins is a recipient of the Army Commendation Medal. He is also the recipient of the Army Achievement Medal. And he is the recipient of the Global War on Terrorism Service Medal. And for his distinguished duty in Iraq, he received the Iraq Campaign Medal.

What an extraordinary minister. Not just a minister of God, but a minister of the world. A minister to bring peace and comfort to his fellow soldiers at a time of great stress on the battlefields, as well as here at home.

Reverend Higgins currently lives in my district in Powder Springs, Georgia, with his lovely wife Pam and their three children. Reverend Higgins is the senior pastor and chief executive of the 3,200 member McEachern Memorial United States Methodist Church in Powder Springs, Georgia.

We are so proud to have Pastor Major James Boren Higgins as our guest chaplain of the day for the United States Congress. What an extraordinary individual at an extraordinary time, who has given an extraordinary service. We are so proud to have him serve as our guest chaplain of the day.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia (Mr. GINGREY) is recognized for 1 minute.

There was no objection.

Mr. GINGREY of Georgia. I want to thank my colleague, Representative DAVID SCOTT, for allowing me to say a few words also about Reverend Jim Higgins, as we have the privilege of really sharing him in our two adjoining districts. And, as DAVID SCOTT has said, Madam Speaker, Dr. Reverend Major Jim Higgins, as we know, has brought us a very inspiring message as we open business today in the United States House of Representatives as our guest chaplain of the day.

But, as Representative SCOTT said, his service to us and to his constituents in Powder Springs and to our country goes much beyond just the spiritual. When you think about his service as a chaplain in the United States Army and, as DAVID SCOTT was just saying, his service in Vietnam, and his tour of duties, Madam Speaker, of 18 months.

Now, today, the Marines limit rotation to 7 months and the Army to 12 months. But Jim Higgins' rotation in Vietnam—a pretty tough place—was 18 months. Of course, he has this week, as has been said, been recognized as the United States Military Reserve Chaplain of the Year.

So we really are indebted to this great man, not only for his spiritual leadership, Jim, but great service to your country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 further requests for 1-minute speeches on each side of the aisle.

STIMULATE THE ECONOMY

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. We need to pass a stimulus conference report that stimulates the economy. We need to

combine the best of public oversight and private spending in public-private partnerships to build and, in some cases, rebuild public infrastructure. This stimulative spending should be encouraged by Federal and State stimulus programs and bills.

But here's what we have to look out for. Public-private partnerships are different than private-public partnerships where the private sector tells the public what is in their best interest. Do not confuse the two. It doesn't work.

Do not confuse public-private partnerships with quasi-public-private partnerships. They are not the answer. They lack public accountability and can be rife with corruption. Only by achieving the best in publicly accountable oversight in public works projects, with private capital, can the balance be struck and we create jobs.

Today, the President will limit executive compensation for executives of companies that take advantage of taxpayer bailout funds. This is the right thing to do. However, the relationship between the public sector and the private sector should not be an afterthought, and the private sector cannot demand its own rules while using taxpayer funds.

We are slowly getting to the idea, Madam Speaker, of public-private partnerships as a way of bringing government, business, and labor together. It's time to establish a new American paradigm.

STIMULUS AND THE NATIONAL DEBT

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. The national debt will jump by more than $1 trillion in the 6 months ending in March. $1 trillion dollars in 6 months. Think about that. The previous record increase in the national debt was less than half this amount, and that was over the course of an entire year, which means we are currently racking up debt at four times the rate of the previous record. And all of this debt doesn't include the so-called stimulus package that the Senate has already porked up to $900 billion. It's so full of spending unrelated to job creation that we can't even begin to tally the waste.

We must stop and take stock. With hardly a second thought, the Federal Government is careening towards a record $2 trillion deficit—payable by our children, grandchildren, and great grandchildren. My friends, we cannot borrow and spend our way to prosperity.

IMMIGRATION

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Our country is in desperate need of comprehensive immigration reform to ensure the security and the future of America. Our broken immigration policies have failed to secure our borders and have taken on racial profiling tactics.

Our families are being separated and terrorized with unjust border raids, such as the one that was held in my district a couple of weeks ago at a Home Depot parking lot. In the greatest Nation of the world, no one should ever live in fear of being torn apart from their families.

We shall not be a Nation of discrimination when our faces promote diversity. We need a cohesive program such as comprehensive immigration. We cannot stand complacent with our broken immigration policies. We need to take action.

Mr. President, you called for change. You and Madam Speaker need to deliver on that promise. I urge my colleagues to join me in passing comprehensive immigration.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair.

UNIVERSAL HEALTH COVERAGE

(Mr. COURTNEY asked and was given permission to address the House for 1 minute.)

Mr. COURTNEY. Today, February 4, 2009, will go down as a historic milestone in America's long journey towards universal health coverage. In a few hours, with a bipartisan vote, the House will pass an expansion of the Children's Health Insurance Program, extending health insurance to 4 million more American youngsters, keeping a promise that President Obama made to the American people to get this much-needed change accomplished. He did it in 2 weeks' time. I would just say, contrast that with the 2-year rancorous partisan debate that divided this country over the issue.

The new Congress and the new President are delivering on this incredibly important step towards extending health coverage to children—strengthening their dental coverage; strengthening their mental health coverage; locking in for States like Connecticut eligibility so that working families' children will be insured and will be covered.

Building on that success, extending health IT technology to our health care system, which is included in the stimulus package, extending people with unemployment Medicaid coverage, we are going to move forward as a country towards universal health coverage. Today will go down in history as an important step forward to accomplish that much-needed goal.

□ 1015

HONORING MARLIN BRISCOE

(Mr. TERRY asked and was given permission to address the House for 1 minute.)

Mr. TERRY. Madam Speaker, I rise today in order to honor a great Nebraskan, Marlin Briscoe.

Marlin was a standout basketball and football player at Omaha South High School. He attended the University of Nebraska at Omaha where he played quarterback, something unique for an African American in the 1960s. He was drafted by the Denver Broncos. He played for them and the Miami Dolphins, and he went on to play several years in the NFL. But he really made his mark when he fell from grace because of his addiction to drugs, and he even spent time in jail.

But Marlin eventually recovered and has since turned his life around and has been a strong advocate for at-risk youth. He is a mentor, a teacher, a role model. He once said that working for the Boys and Girls Club was the most important thing he had ever done in his life.

Marlin, our country, and especially the people of Omaha, Nebraska, are very proud of your contributions and accomplishments.

PREVENTING FUTURE DISASTERS

(Mr. BARROW asked and was given permission to address the House for 1 minute.)

Mr. BARROW. Madam Speaker, this weekend marks the first anniversary of the combustible dust explosion at the Imperial Sugar Refinery in Savannah, Georgia.

What we learned in my community since this disaster hit is that the experts have known about this problem for decades. The private sector has developed standards that effectively deal with this problem, but the public sector hasn't responded. The trouble is not enough people know about the problem, much less the solutions, and those who do know about the solutions aren't required to adopt them.

The only standards that are mandatory really are not designed with this problem in the first place, and so they aren't working. The result is we have good standards that are not mandatory and inadequate standards that are mandatory. It ought to be the other way around.

Today I am reintroducing legislation we passed in the last Congress, legislation that will take such upside-down policy and flip it right side up.

On the anniversary of this latest disaster, our thoughts and prayers go out to the folks who are still suffering from their losses and injuries. But our work to fix what is broken with our regulatory system should continue until we have done everything that we reasonably can to prevent any such disasters from ever happening again.

GIVING VOICE TO THE UNBORN

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Madam Speaker, ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.''

We all know this quote, Madam Speaker, and it is no accident that life is mentioned first. It is our most basic right given to us only by our Creator.

Every life is a gift given to us by the grace of God, and there can be no doubt that life begins at the moment of conception. But as I stand before you today, my heart breaks for the faces that are missing because they were never born.

Madam Speaker, I pray for the men and women throughout this country and the world who are expecting a child and they believe they are in an impossible situation. I hope they would understand that with God, all things are possible.

We recently saw thousands descend upon the Supreme Court to stand up for the rights of the unborn. To them, and all those who work every day to give a voice to the unborn, I say thank you and God bless.

ECONOMIC RECOVERY PACKAGE

(Mr. SIRES asked and was given permission to address the House for 1 minute.)

Mr. SIRES. Madam Speaker, last week American companies announced that they will be laying off more than 102,000 employees in the coming weeks.

The economic situation is clearly getting worse, and Congressional Democrats are taking steps to get people back to work and to save jobs that without action will be lost in the next few months.

Last week, the House passed legislation that will save and create 3 to 4 million jobs. We will create nearly half a million jobs by investing in clean energy. Our economic package also puts nearly 400,000 people to work repairing crumbling roads, bridges and schools.

In another effort to jump start our economy, it also gives 95 percent of Americans an immediate tax cut.

Madam Speaker, economists told us that we needed to act boldly and swiftly to address our Nation's troubled economy. This week, the Senate must pass the economic recovery package so that we can begin the long process of turning this economy around. Failure to act, as some on the other side of the aisle seem to be more happy to do, is simply not an option.

STIMULUS MUST STIMULATE ECONOMY

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Madam Speaker, I believe that there is broad bipartisan consensus in this House that we must act to stimulate our economy. And actually, the vote last week indicated that there is a bipartisan belief that we can do better.

I have talked to my constituents, to local school districts, and local government and business leaders, and the consensus is that we must do better.

Too many programs were included in that bill that will not stimulate our economy. When we are borrowing money from our children and grandchildren, we have a responsibility to make certain that the plan will work, that it will create jobs, and that it will help get our economy moving.

President Obama has reached out his hand asking for bipartisan cooperation, and many of us are ready to answer his call. I believe that we can create a bill along the broad outlines put forward by the President and pass such a bill with strong bipartisan support. All it will take is the majority including good ideas and putting aside other non-stimulative policy goals for another day. We can get this done, and for the sake of our economy and the American people, I hope that we will get it done.

CHIP PASSAGE DEMONSTRATES CHANGE

(Mrs. HALVORSON asked and was given permission to address the House for 1 minute.)

Mrs. HALVORSON. Madam Speaker, the American people have heard a lot about change these days, but exactly what will that change be and what will it mean to them?

Well, today, real change will come to Washington when this House passes an expansion of the Children's Health Insurance Program. This is legislation that will have a direct impact on children in our country.

When we pass this bill today, an additional 4 million children living without health insurance will soon be able to afford seeing a doctor. Congress has worked hard to pass this legislation twice, sending it to President Bush, and both times he vetoed this bill. But now, change has come to Washington.

Today, the House will pass legislation very similar to what President Bush vetoed twice; only this time, we will reach a total of 11 million children. And President Obama is expected to sign this bill later today.

This is change we can believe in, and that's going to mean a lot to the 4 million children who will now be able to see a doctor when they are sick.

STIMULATE PRODUCTIVE SECTOR

(Mr. McCLINTOCK asked and was given permission to address the House for 1 minute.)

Mr. McCLINTOCK. Madam Speaker, the mantra that we keep hearing from the left, that we just heard from the gentleman from New Jersey, that government rather than the productive sector needs to create more jobs.

Well, according to our new President and Members of this House, the $825 billion spending bill is going to create 3 million new jobs. I thought that sounded pretty good in an economy that is hurting like ours until I pulled out a pocket calculator and did the math: 3 million new jobs for $825 billion, that comes to $275,000 per job. That's by the President's own numbers, $275,000 that will have to be paid back, with interest, by average Americans for every job that he himself says will be created.

Madam Speaker, we do not need to stimulate government. Government continues to grow just fine. We need to stimulate the productive sector, and the best way to do that is to get off its back.

SAVING CHILDREN'S LIVES

(Mr. GRAYSON asked and was given permission to address the House for 1 minute.)

Mr. GRAYSON. Madam Speaker, I have five children, two of them are 3-year-olds who were born prematurely. They were in the hospital for a long time. They were on respirators for a long time. They were on 24-hour monitoring for a very, very long time.

If a doctor had come to me and said to me, Mr. GRAYSON, we can save your children but it will cost a million dollars, I would have said okay.

If a doctor had said, Mr. GRAYSON, we can save your children, but it is going to cost your right arm, I would have said okay because the life of a child is more important than money. And yet in America we have 25,000 children who die every year without reaching their first birthday.

This bill will cover 4 million children with health care who otherwise won't have it. I turn to the other side of the aisle and I say: Let's save those lives, let's choose life.

STOP BAILOUT BONUSES

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Mr. SAM JOHNSON of Texas. Madam Speaker, last week Americans learned of 50,000 new layoffs in just one day. We also heard another startling fact: that the financial industry bailed out by Uncle Sam paid $18 billion in bonuses. That's just appalling.

The $18 billion payout in 2008 ranks as the sixth highest in bonus history and compares with 2004, a banner year, on Wall Street.

As a supporter of free enterprise, I back performance-based bonuses for a job well done.

Banks just barely getting by, thanks to taxpayer bailout money, have no business paying bonuses. With our economy sliding deeper into recession, this reckless decision to pay bonuses showcases the disgraceful behavior of greed and arrogance of Wall Street that Americans detest. It is flat irresponsible.

Let's stop the bailout bonus bonanza now.

RECKLESS SPENDING

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, the American people understand the need for a stimulus. They understand the need for job creation. What they don't understand is why we are pursuing this reckless path of aimless spending.

Now we have heard it over and over again. Elections have consequences, they won, and we understand that. We also hear the need for bipartisan bills. But I have to ask you, Madam Speaker, doesn't legislation also have consequences?

We often ask ourselves what makes a bill bipartisan? Is it just because we all have a chance to vote one way or the other and for that reason it is a bipartisan effort even if you vote against it or for it.

In reality, a bipartisan bill begins at its inception where the ideas are talked about among Members and typically amongst their staff. Certainly it involves hearings and markups at the subcommittee level, and certainly it involves hearings and markups at the full committee level. But many of the bills we have before us fail to achieve that lofty goal.

We are about to pass a stimulus bill that will vastly increase Medicaid spending, but at the same time in this great wash of cash, we can do nothing to provide adequate payments to providers. That would have been a bipartisan effort.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

Mr. POLIS of Colorado. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 107 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 107

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided among and controlled by the chair and ranking minority member of the Committee on Energy and Commerce and the chair and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the motion to adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS of Colorado. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas and my colleague on the Rules Committee, Mr. SESSIONS. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS of Colorado. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS of Colorado. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 107 provides for consideration of the Senate amendment to H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

I rise in support of House Resolution 107, the Children's Health Insurance Program Reauthorization Act. I again wish to thank Speaker PELOSI who has been an unrelenting champion on this important issue. I also want to thank Chairman RANGEL and Chairman DINGELL for sponsoring bills that were vetoed in the 110th Congress, and Chairman WAXMAN and all of my colleagues for their leadership on this issue in this Congress, and I want to recognize everyone's efforts to bring this bill to where it is today.

Although I began my House service only a few weeks ago, I have received hundreds of letters from constituents who have serious concerns about health care cost and coverage. Too common is the story of hardworking, low-income moms and dads forced to choose between buying groceries and visiting their family doctor. I have heard from those who have either lost their health care coverage or feared that they will lose it because they simply can't afford it.

□ 1030

I have heard from parents who are denied necessary health care by their insurers, and as a result, their children are suffering too. I have heard from caregivers who have been laid off losing not only their health coverage, but that of their children's as well. This is a serious problem that we can no longer afford to ignore.

No longer can we lay the blame at the front door of the White House. With the change in administration, we can ensure that this legislation passes the House today and reaches the President's desk as soon as possible. With our approval, President Obama has indicated he will sign this bill into law today and change the lives of millions of children and families. Delay is simply not an option.

A large majority of Americans of all political persuasions support this important bill. It's a fiscally responsible way to not only extend the number of children in our Nation who will receive health care, but to improve the quality of that care. This bill relieves the burden of taxpayers who currently subsidize millions of costly and inefficient uninsured emergency room visits. By encouraging preventative care for children who lack insurance today, we can actually reduce costs from the system and provide healthier outcomes for young people.

This bill is just common sense, given the Nation's skyrocketing health care costs, coupled with our current economic challenges. It is an investment where the return is a generation of healthy, happy and productive Americans. This legislation will provide health care coverage for more than 11 million children nationally.

Tomorrow morning, 170,000 children in my home State of Colorado wake up without health insurance. That is 170,000 too many. This bill will change that terrible statistic for the better by giving States the vital tools needed to reach out to uninsured children who are eligible for SCHIP and Medicaid, but not yet enrolled. This is not only critical to Colorado, but to all our States and territories.

Madam Speaker, the epidemic of the uninsured is not just a consequence of our struggling economy, it is a component of it. Under a new administration, with the political will of this new Congress, we have the power to set this particular wrong right. A healthy economy is supported by healthy people. Providing health care insurance for millions of uninsured Americans is an important beginning to keeping our people and our economy healthy. But it is just a beginning.

Protecting the health of our Nation's young children is of paramount importance to society and the security of our Nation. A recent military study reveals that one-third of American teenagers are incapable of passing a basic physical test. This legislation will help give every child a chance at a healthy start.

With rising unemployment, a battered economy and more layoffs coming every day, the plight of the uninsured is likely to only get worse. Next month, Madam Speaker, SCHIP will expire. Our failure today would add millions of children to the rolls of the uninsured. To me, my constituents, and hopefully to my colleagues, as well, this is unacceptable. Today we have an opportunity to protect millions of children across the Nation who don't have a voice and to safeguard their future.

I urge you to vote for this legislation.

I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I rise today in strong opposition to this completely closed rule and to the ill-conceived underlying legislation.

Madam Speaker, the gentleman from Colorado, who has extended me the time, well understands, as a freshman, that we have a good number of new Members to this body and who will be making a decision and voting for very important public policy decisions. It's my hope today that I will be able to gather together an argument, not to rebut the gentleman, but to show him and many of his other new colleagues, my new colleagues, why the statement ''cost effective and common sense'' does not apply to the SCHIP bill that the gentleman brings forth today.

Madam Speaker, 2 weeks ago I questioned my Democrat colleagues about their claim to be the most honest, open and transparent House in history when they tout that that is what the leadership of this body is attempting to accomplish. Once again, I will question that claim, because we're provided with a product and a process that is none of the above.

I know that the gentleman on the Rules Committee had a chance, just last night, to hear a debate in the Rules Committee about this SCHIP bill. And I believe that that hearing would produce enough evidence to suggest that this bill is neither cost effective nor common sense. Since the beginning of the 111th Congress, my colleagues on the other side of the aisle have had no regard—no regard—for regular order and continue to cram legislation through this body without Republican input.

When I came to the floor last month to oppose the previous version of this legislation, I explained my opposition on the way that it had been brought to the floor without a single legislative markup. So unfortunately, the new Members of this body, unless they serve on the Rules Committee, have not heard the real facts of the case.

The real facts of the case, unfortunately, have not changed. In fact, neither Republican leadership nor Republican members on the Energy and Commerce Committee have had any opportunity to participate in crafting this 280-plus pages piece of legislation. I will repeat that. Republican members or Republican leadership have had no chance to craft any part of this 280-page legislative bill.

On January 12 of this year, my Republican colleagues and myself sent to President Obama and Speaker PELOSI, which I would like included in the RECORD, a letter outlining what Republicans would like to see the majority party, the Democrats, consider before expanding the current SCHIP program. We still, as of this morning, have received no answer, no answer, to a forthright and open letter. In responding to this, we are simply asking today on the floor of the House of Representatives for the opportunity not only to be heard but also to make sure that the newest Members of this body have a chance to know the facts of the case. And in reauthorizing this program, the first priority should be, should be, to make sure that our Nation's poorest uninsured children are covered. The intent of the program is that. And we must first fulfill that goal.

Currently, at least two-thirds of the children who do not have health insurance are already eligible for Federal help through either SCHIP or Medicaid. The second priority is to ensure that SCHIP does not replace or significantly impact those who already have private health insurance and replace it with a government-run program. Speaking of common sense, why would you take someone who has private health insurance and move them to a government-run program?

Madam Speaker, if this legislation passes, we know that there are 2.4 million children who will be moved from private insurance to SCHIP, a program that reimburses physicians 30 to 50 percent less than private health insurance. As a matter of fact, last night in the Rules Committee, there was in the debate that took place an acknowledgment from the Democrat side lead who said, yes, he did understand. They're even having problems getting physicians who will accept the patients because of the reduction in the reimbursement. Common sense would tell you that alone is not cost effective nor common sense.

More to my point about the newest Members of this body understanding the facts of the case because regular order did not take place, how would we expect them to know what they were going to vote on? Congress should be encouraging superior health care for our Nation's children, not undermining it. That is common sense.

Furthermore, a citizenship verification standard is critical to ensuring that only U.S. citizens and certain legal immigrants are allowed to access taxpayer-funded benefits, not illegal immigrants. The underlying legislation takes out from the law and offers no safeguards to ensure a check that it will be for American children before illegal immigrants. Once again, cost effective, and once again, common sense for the new Members of this body.

The Democrats' proposed $32.8 billion expansion of a program that has yet to accomplish its original intent is typical of my friends on the other side. My friends, the Democrats, continue to push their government-run health care agenda, ''universal coverage'' as they call it, even though this legislation moves 2.4 million children currently on private health coverage to an inferior public program with less access. Common sense says you should not be doing that.

So, then, with physicians scaling back on Medicaid and SCHIP due to the extremely low government reimbursement rate, why would we want to subject 4 million more children to this type of care? Once again, the standard of common sense. I don't know that this bill passes that hurdle. Madam Speaker, it seems likely that my Democratic colleagues are putting their agenda first, not our children's health care.

In the days where Congress is faced with a second $350 billion financial services bailout and a proposed $1.2 trillion stimulus package, is the Federal Government in any financial shape to be financing health care costs for children who are already receiving priority health insurance? Once again, the test of common sense and cost effectiveness would fail this legislation.

The current legislation before us recklessly increases entitlement spending by at least $73.3 billion over the next 10 years. That is increasing it due to the new entitlements. That is neither cost effective nor common sense. This expansion will allow SCHIP to grow at an annual rate of 23.7 percent over the next 5 years. Once again, not cost effective and not common sense. Based on the Treasury Department's financial report, the government has $56 trillion in unfunded liabilities, the majority of which are in the Federal Government's health care program. Why not do something that would be for the Nation's poorest children rather than trying to push 2.4 million more children, unless you have a political agenda rather than a public policy agenda?

Each year that Congress fails to act on a solution, the long-term problem grows by $2 to $3 trillion. Do my friends on the other side of the aisle not see the writing on the wall? Where is common sense?

Madam Speaker, last week, a bipartisan group of Members voted against the Democratic Party's $1.2 trillion stimulus package. Not only was the Democrat plan full of wasteful government spending that would not stimulate the economy, but my friends on the other side of the aisle shut out Republicans from the process much as they are doing today.

The American people are hurting. And the economy is struggling. Americans know that we cannot borrow and spend our way back to a growing economy. Republicans have a plan for fast-acting tax relief that will release the resources and creativity of the American people to create 6.2 million new jobs. Madam Speaker, I ask my Democrat colleagues, if the American people had the choice between fast-acting tax relief and slow, wasteful government spending, which would they choose? Trust me. A number of Democrats and every single Republican knew the answer on this floor. It is common sense to vote ''no.''

This so-called ''stimulus bill'' includes $524 billion in spending provisions, $3 billion in prevention and wellness, including $400 million for STD prevention, sexually transmitted disease prevention, and $600 million to buy new cars for government workers. That will make sure we don't have to ask for reform out of the Big Three auto makers. We will just buy them at the current rate. The bill includes $150 million for building repairs for the Smithsonian, $1 billion for follow-up on the 2010 Census that does not even begin until April 1, 2010, $1 billion for Amtrak which has not turned a profit in 40 years, $400 million for global-warming research, and another $2.2 billion for carbon-capture demonstration projects. The list goes on and on and on.

The American people deserve to know how their hard-earned tax dollars will stimulate the economy, not government spending where Washington gets fatter, but those with good explanations so that the American people have confidence, not only in Congress, but in their own individual Member of Congress who casts that vote.

If expanding SCHIP to families making $80,000 a year isn't enough, as this bill does, last week my Democrat colleagues voted in favor of making Wall Street millionaires and billionaires, like the former Lehman Brothers CEO, who was reported to have earned nearly half a billion dollars in compensation, eligible for public health subsidies. Approximately $100 billion of our friends', the Democrats', $1.2 trillion stimulus is the bailout for the failing Medicaid program. One such bailout provision is section 3003, which expands Medicaid eligibility to all individuals currently receiving unemployment benefits, regardless of their personal income or financial assets.

□ 1045

Boy, once again that standard of common sense and cost effectiveness that my good friend from Colorado talked about is simply not there.

Madam Speaker, why are our friends, the Democrats, trying to force American taxpayers to pay for free health coverage for the very same executives who helped create the financial crisis in the stimulus package able to get this help?

Adding another trillion dollars to the Federal deficit and swelling the number of persons dependent on subsidized, government-run health care is hazardous to the health of the American economy and an unfair burden to place on our grandchildren.

The American people want more than just welfare. They want freedom. They want jobs. They want a real stimulus package and a real SCHIP bill. That's what this Congress is failing to provide. The American people want more innovation, more efficiency, more accountability, and they want cost effectiveness and common sense. Evidently, this body is in short supply of each of those items under this leadership.

The American people hate waste in government, but our friends, the Democrats, who are the majority party, are spending like never before, delaying even the thought of addressing the underlying programs of the already burdensome Medicaid and SCHIP programs. My friends on the other side of the aisle seem to be playing with money that does not even exist. We are printing it at this time. The printing presses are alive and working 24 hours a day, just simply first to meet the $700 billion bailout, and then to prepare for the $1.3 trillion stimulus package that is prepared for the President's signature soon.

So what's next? A $32.8 billion expansion of SCHIP, and finally, the massive omnibus which is expected this week or next.

We should be demanding more accountability. We should be demanding cost effectiveness, and we should be demanding common sense. That's what the American people want, Madam Speaker.

Madam Speaker, we need a fast-acting tax relief bill that will stimulate the economy and create jobs. We cannot borrow and spend our way out of this crisis. We need to secure the original intent of the current government programs before expanding additional programs.

I came to Congress to protect the American taxpayer, which is why I encourage my colleagues to oppose this rule and the underlying legislation.

WASHINGTON, DC,
January 12, 2009.

President-elect BARACK OBAMA,
Presidential Transition Office,
Washington, DC.
Hon. NANCY PELOSI,
Speaker, Capitol,
Washington, DC.

DEAR PRESIDENT-ELECT OBAMA AND SPEAKER PELOSI: Thank you for expressing your desire to work with us to address the needs of the American people. We recognize that reauthorizing the State Children's Health Insurance Program (SCHIP) is an early legislative priority, and we hope that you will consider this legislation to be one of the first opportunities for bipartisan cooperation.

During the last Congress, significant efforts were made in an attempt to address concerns raised by House Republicans about how the underlying bills would impact uninsured children. Despite the progress that was made, there are still a few outstanding issues that we hope you agree should be addressed when we work to reauthorize the program this year:

SERVING ELIGIBLE LOW-INCOME CHILDREN FIRST

SCHIP is intended to serve those that are neediest first. As low-income families continue to face more economic insecurity, providing access to affordable health care coverage, regardless of any job change or displacement, should be our first priority. The legislation should demand success from the states in enrolling poor and low-income children below 200 percent of the federal poverty level, especially those who are currently eligible for Medicaid and/or SCHIP, but are not yet enrolled. Demanding success from the states could be as simple as requiring that states meet a threshold of enrollment before further expansions. Nearly all the states have demonstrated over the past year to the Centers for Medicare and Medicaid Services that meeting this standard is indeed possible.

Furthermore, in the current economic environment, several states have indicated that they will be experiencing shortfalls that could impact their ability to provide Medicaid benefits and services. Asking states to expand their SCHIP program before they are able to finance their existing Medicaid program would be a mistake. Expanding SCHIP to higher income families will only exacerbate the real access to care problem in the Medicaid program.

CITIZENSHIP STATUS

We believe that only U.S. citizens and certain legal residents should be permitted to benefit from a program like SCHIP. We also think it is fair to say that both parties believe that our immigration system is broken. That is why it is so important that the legislation include stronger provisions to prevent fraud by including citizenship verification standards to ensure that only eligible U.S. citizens and certain legal residents are enrolled in the program.

PROTECTING PRIVATE INSURANCE OPTIONS

We agree that those with private coverage should not be forced into a government-run plan. SCHIP legislation should focus expansion efforts on children who are currently uninsured instead of moving children who have private health insurance options into government-run health insurance. Moving a child from private health insurance to government-run health insurance should not be part of your stated goal of providing SCHIP for 10 million children, a number we assume to be targeted towards low-income uninsured children.

STABLE FUNDING SOURCE

In order to guarantee access to the program and long term stability, SCHIP should be funded through a stable funding source, not budget gimmicks. Further, the legislation should not include extraneous provisions unrelated to SCHIP that limit patient choice or prohibit access to quality medical care. Our nation's Governors need a stable SCHIP program so they may properly budget. Every American faces the crushing burden of a declining economy. This should not be a time Congress raises taxes, especially on the poorest Americans, to finance program expansions as part of the SCHIP reauthorization bill.

We believe these to be critical elements to improve this vital program that if fully incorporated would dramatically increase bipartisan support for the legislation. Thank you for the consideration of this request. We look forward hearing from you and working with you towards a bipartisan agreement.

Sincerely,

Robert B. Aderholt, Steve Austria, Michele Bachmann, Spencer Bachus, J. Gresham Barrett, Roscoe G. Bartlett, Joe Barton, Judy Biggert, Gus M. Bilirakis, Rob Bishop, Marsha Blackburn, Roy Blunt, John A. Boehner, Mary Bono Mack, John Boozman, Charles W. Boustany, Jr., Kevin Brady, Paul C. Broun, Henry E. Brown, Jr., Ginny Brown-Waite, Michael C. Burgess, Dan Burton, Steve Buyer, Ken Calvert, Dave Camp, Eric Cantor, John R. Carter, Bill Cassidy, Jason Chaffetz, Howard Coble,

Mike Coffman, Tom Cole, K. Michael Conaway, Ander Crenshaw, John Abney Culberson, Geoff Davis, Nathan Deal, David Dreier, Mary Fallin, Jeff Flake, John Fleming, J. Randy Forbes, Jeff Fortenberry, Virginia Foxx, Trent Franks, Rodney P. Frelinghuysen, Phil Gingrey, Louie Gohmert, Bob Goodlatte, Kay Granger, Sam Graves, Ralph M. Hall, Doc Hastings, Dean Heller, Jeb Hensarling, Wally Herger, Peter Hoekstra, Duncan Hunter, Bob Inglis, Darrell E. Issa,

Lynn Jenkins, Sam Johnson, Walter B. Jones, Jim Jordan, Steve King, Jack Kingston, Mark Steven Kirk, John Kline, Doug Lamborn, Christopher John Lee, Jerry Lewis, Blaine Luetkemeyer, Cynthia M. Lummis, Daniel E. Lungren, Donald A. Manzullo, Kevin McCarthy, Thaddeus G. McCotter, Patrick T. McHenry, John M. McHugh, Cathy McMorris Rodgers, Jeff Miller, Sue Wilkins Myrick, Devin Nunes, Pete Olson, Erik Paulsen, Mike Pence, Joseph R. Pitts, Todd Russell Platts, Ted Poe, Bill Posey.

Tom Price, Adam H. Putnam, George Radanovich, Harold Rogers, Mike Rogers (MI), Thomas J. Rooney, Peter J. Roskam, Paul Ryan, Steve Scalise, Jean Schmidt, Aaron Schock, F. James Sensenbrenner, Jr., Pete Sessions, John B. Shadegg, John Shimkus, Bill Shuster, Michael K. Simpson, Adrian Smith, Lamar Smith, Cliff Stearns, John Sullivan, Lee Terry, Glenn Thompson, Patrick J. Tiberi, Fred Upton, Greg Walden, Zach Wamp, Lynn A. Westmoreland, Ed Whitfield, Joe Wilson, Robert J. Wittman.

Madam Speaker, I reserve the balance of my time.

Mr. POLIS of Colorado. Madam Speaker, as you know, children do not control what family they are born into. And an important part of the meritocracy that makes our country great is that every child should have the opportunity to succeed. Establishing healthy habits and a healthy life early in life, regardless of the parent's station, is an important part of making sure that a child has the opportunity to climb to whatever station they are capable of.

Madam Speaker, I would like to yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Speaker, at a time when more and more mothers and fathers are huddled around their kitchen table worried about how to cope with a job loss or pay their most basic expenses, we have an opportunity today, an opportunity to ensure that 11 million children can get affordable health care coverage through the Children's Health Insurance Program.

In my home State of Connecticut, unemployment keeps rising, and people are going from worried to scared. At such a time, it is our most basic economic and moral responsibility to provide health care to the most vulnerable among us. In this country, where 9 million children are uninsured, we cannot let another day go by without passing this legislation.

This is a smart investment in children, in their health and in their success at school and in life. It provides critical dental and mental health care for children, prenatal care to make sure every child has the best chance at a healthy start. It will help to discourage millions of children from smoking, a smart step towards a healthier Nation. We must shore up this vital safety net. We can afford it. It is a simple choice about fulfilling America's promise for our Nation's children and giving a small measure of peace of mind for their families.

I might say to my colleague on the other side of the aisle that, on a bipartisan basis, overwhelmingly, this House voted to pass the children's health insurance bill. The United States Senate overwhelmingly on a bipartisan basis voted to pass the children's health insurance bill. It was the former President of the United States who decided to veto that legislation when a majority of the American public supports health insurance for our children. Today we have an opportunity to right a wrong. Let's pass the children's health insurance bill. Let's get it to the President's desk. Let's get it signed, and let's give relief to the millions of families out there who are struggling.

Members of this body have health insurance, and their children have it. Why shouldn't the children of working and middle class Americans?

Mr. SESSIONS. Madam Speaker, I would like to yield 1½ minutes to the gentleman from Lewisville, Texas, Dr. BURGESS.

Mr. BURGESS. I do urge my colleagues to look long and hard before voting on this rule today, and I urge a "no" vote on the rule.

The fact is, Madam Speaker, that over half of the country has not had an opportunity to participate in this debate. 40 percent of this country is represented by Republican Members. We have not had input into this bill.

12 percent of this Congress is new. They have had no input into this bill. That leaves over half the country who haven't been part of this debate.

And what does it say about a bipartisan bill when the two principal Republican sponsors in the other body withdrew their support for this bill as it came through the Senate?

Last night in the Rules Committee in one last attempt, I tried to modify the bill to perhaps make it a better product before it came before us on the floor of the House today. I brought amendments that would have required identity, a person to provide proper identification before they signed up for SCHIP; not another step, but just simply another line that needed to be filled out on the form, and that was rejected.

You have to show your ID before you cash a check at the grocery store. Why should we not require someone to show identification before they sign up for this benefit?

I also introduced an amendment, after all, we are, as the Member from Texas said, the gentleman from Texas said we are taking 2½ million children off of private health insurance and putting them on public health insurance. Why should we not at least ensure that we will pay the providers a sufficient amount so that they will participate in the system?

Currently, it is difficult to find providers who will accept Medicaid and SCHIP. I introduced an amendment that would have required 90 percent of the reimbursement from the Federal Blue Cross/Blue Shield program or the States' largest——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SESSIONS. I give the gentleman 30 additional seconds.

Mr. BURGESS. Last night in the Rules Committee I introduced an amendment that would have required States to reimburse physicians at 90 percent of the Blue Cross/Blue Shield rate or the largest State HMO rate in that State or the insurance that the State provides for their own employees. That amendment was not even allowed a vote on the floor. This is the type of exclusionary politics that is being practiced in the House of Representatives, and the sooner we get past this point, the President asked for a more open and bipartisan government, the sooner we get past that point, the better for the American people.

Mr. POLIS of Colorado. Madam Speaker, a brief history on the SCHIP legislation and why this is so critical for us to pass here today. This rule before the House would permit the House to concur in the Senate amendment because this legislation has been considered repeatedly and thoroughly in the House in this Congress and the last.

In July of 2007 the House considered H.R. 3162 to reauthorize and amend SCHIP and the bill passed. In September 2007 the House considered H.R. 976 to reauthorize and amend SCHIP.

The bill passed. The Senate also passed the bill and it was presented to President Bush and received a veto. In October of 2007 the House again tried to reauthorize SCHIP. 3963 was the House bill. Passed the House, passed the Senate. The President again vetoed the bill and the House was unable to override the veto.

Ultimately, legislation to merely extend SCHIP as it was enacted into law will expire next month. Children's lives are at stake. That's what's so critical about passing this bill today.

When people lack health care insurance they often don't seek preventative care and are forced to use emergency rooms as their primary care provider. Not only does this cost more, this also provides for worse health outcomes, and conditions that could have been dealt with less expensively and more successfully in the onset are instead deferred, and incur more expense and worse health outcomes.

By passing this bill today, we can ensure that hundreds of thousands of poor children across our country receive adequate health care and are able to succeed and grow in school and be able to succeed in their lives.

Madam Speaker, I would like to reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, at this time I would like to yield 1½ minutes to the gentleman from Marietta, Georgia, Dr. GINGREY.

Mr. GINGREY of Georgia. Madam Speaker, I do rise in strong opposition to this closed rule, as well as the underlying legislation, the Children's Health Insurance Program Reauthorization Act of 2009.

The Democratic majority has once again brought forward a closed rule that only tramples on the rights of the minority. And at no point in the development of this legislation has the majority even entertained the idea of allowing Republicans to work with them in a bipartisan manner to improve the bill.

As a physician Member, I keenly know how important it is that the Federal Government plays a role in providing health care to low-income children. At the same time, we must pass legislation that first reaches those who are most in need of this assistance.

During the initial consideration of H.R. 2 by the House, I offered an amendment that would have addressed a very important problem within current law that H.R. 2 overlooks, the practice of some States using loopholes to allow people to disregard significant portions of their income to make them eligible for CHIP and Medicaid. At the same time, some of these same States, these loophole States, have not provided for the children who demonstrate the most need for these programs.

Madam Speaker, my commonsense amendment would have simply instituted a gross income cap of 250 percent of the Federal poverty level for both CHIP and Medicaid eligibility, and it would limit any income disregards to a maximum of $250 a month or $3,000 per year. This amendment would grandfather in those individuals who are already receiving Medicaid and CHIP so that we do not deprive current beneficiaries.

Therefore, Madam Speaker, I urge all my colleagues oppose the closed rule.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SESSIONS. I yield the gentleman 15 additional seconds.

Mr. GINGREY of Georgia. I want to just in closing, Madam Speaker, urge all my colleagues, oppose the closed rule and this underlying legislation. Give us a chance, in a bipartisan spirit, to make this good law even better.

Mr. POLIS of Colorado. Madam Speaker, I am proud to back a plan to help improve the health and chance for success of 11 million children. It also reduces the more costly nature of emergency room use, and moves us closer to providing every child in our Nation with affordable, high quality health care.

This bill also extends health care coverage to 4.1 million additional low-income children who are currently uninsured.

A healthy child is better prepared for learning and success. Studies show that early childhood health is indicative and can, in fact, impact the learning processes, the special education needs of the child and indeed, even the IQ of the child as the child matriculates through education. By making sure that children have health care coverage, we can, in fact, prevent a lot of gaps within our education system from arising before they arise, and ensure that children, regardless of their background, have the opportunity to succeed in our country. This is the change that America needs.

Providing health care coverage for children and indeed, all Americans, is one of the reasons that I ran for Congress. Providing health care to 4 million more children will be a clear demonstration that change has come to Washington.

This is legislation that President Bush vetoed twice in the 110th Congress. Today we have the opportunity to send this bill to a new President who has committed to sign it this very afternoon and begin implementing it immediately to help cover 4.1 million additional children in our Nation.

Madam Speaker, I reserve the balance of my time.

□ 1100

Mr. SESSIONS. Madam Speaker, at this time, I would like to yield 2½ minutes to the gentleman from San Dimas, California, the ranking member of the committee, Mr. DREIER.

Mr. DREIER. Madam Speaker, in the spirit of comity in debate, I would like to yield to my good friend from Lafayette, Louisiana (Mr. BOUSTANY). I am always happy to yield to people to engage in debate on the floor.

Mr. BOUSTANY. Madam Speaker, I just want to make a correction here to the gentleman's comments. While providing coverage is one thing, providing real access to care, to a primary care physician, is another, and far too many of these children are receiving care in the emergency room, which is the most expensive and least effective way to provide care.

Mr. DREIER. Let me say, Madam Speaker, that getting the American economy back on track is priority number one for all of us, and ensuring that children who are truly in need have access to the best quality health care is right there as a very high priority. It is obvious that this measure that is before us does not accomplish that.

In his testimony last night before the Rules Committee, Dr. BURGESS was very clear in addressing a number of the concerns that we have been raising consistently on this. Unfortunately, they undermine the opportunity for us to ensure that the dollars get to those who are truly in need.

I find it very, very troubling that we are continuing down a path where potentially people who are in this country illegally will have access to the State Children's Health Insurance Program. We are with the crowd-out actually incentivizing people to move off of private insurance onto government insurance, and we are still creating an opportunity for those who are wealthy and adults to be beneficiaries of this program. No matter what it says in the bill, as Dr. BURGESS has pointed out, those four concerns are very justified.

So, as we seek to get the American economy back on track with an economic stimulus package that will, in fact, grow our economy—not a massive spending program—and as we address this issue of children's health, which is a very, very, very high priority, we need to do it in the most cost-effective way possible.

Unfortunately, this rule is completely shutting out Members, like Dr. BURGESS and others, from having the opportunity to participate, so I urge my colleagues to vote ''no'' on the rule and, if the rule passes, to defeat the underlying legislation. We can do better for our Nation's children.

Mr. POLIS of Colorado. Madam Speaker, with regard to the delivery of the services, most SCHIP and Medicaid beneficiaries receive service delivery through private doctors and through private management care plans, not through government doctors. So, when we are talking about how the service is delivered, we are talking about an important aspect of what insurance and what coverage allows. Yes, separately, we certainly hope that we will be able

to address universal coverage, in rural areas in particular, as an important component of health care in this country.

With regard to income limits, this bill does provide that if a State covers children in families of three with income over $52,800, which is 300 percent of the poverty rate, then the States get the regular Medicaid match rate. There are, in fact, income provisions in here as well. There is also section 605 of the bill, which prevents payments to individuals not lawfully residing in the United States. So I believe that the issues that have been raised by my colleagues are addressed in the bill.

It does, of course, matter what the bill says. The bill says very clearly that individuals not lawfully residing in the United States will not receive payments, and it also is very clear with regard to the income level. So I think that this bill has been clear.

As I have mentioned, this bill has been voted on a number of times in Congress. The main difference now is we are sending it to a President who has indicated that he is, in fact, willing to sign it and, indeed, is willing to do so on this very afternoon.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, at this time, I would like to yield 2 minutes to the gentleman from Lafayette, Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Madam Speaker, I rise in opposition to the rule and to the underlying bill.

Last week, the Democratic majority rushed a massive bill through the process, laden with wasteful spending of borrowed money that has not been shown or demonstrated to create jobs.

The American people are hurting. They are clearly hurting. We have tough economic times, and we have a responsibility to legislate and to legislate in a responsible way. Too often, children on Medicaid or on SCHIP receive fewer visits with primary care providers than those with private coverage. According to the Center on Budget and Policy Priorities, children on these programs were 2 times more likely to visit hospital emergency rooms multiple times in a given year.

As a physician, I know that government-run programs must achieve better results. My State has the eighth highest ER visit rate. This is unacceptable and we can do better. Now, the GAO has criticized government-run programs, like SCHIP, for disregarding patients' access problems. It warned: "Coverage alone does not guarantee services will be available or that children will receive needed care."

It is disappointing to me that the majority rushed this flawed bill to the floor without permitting any opportunity for improvements. In fact, as proposed, this bill would exacerbate enrolled children's access problems. The CBO warned that a similar bill would force more than 2.4 million children out of private health care plans and onto government rolls.

Working together, I know we can do better. I know we can make SCHIP help children who really need it—those who really already qualify for it but who are not enrolled. There are far too many of these children out there. This massive expansion fails to help those children most of all. States should measure also and report provider access problems in SCHIP programs to measure their progress. We asked for this, and it was not even entertained in the Rules Committee. I do not understand the closed debate here, the closed opportunity.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SESSIONS. I yield the gentleman an additional 15 seconds.

Mr. BOUSTANY. We also need to limit the crowd-out of private coverage and target the neediest children for enrollment first. We need to help poor children first. I know we can do better.

Oppose this rule. Oppose this bill.

Mr. POLIS of Colorado. Madam Speaker, I would also like to discuss that SCHIP provides quality dental care, alleviating the most common childhood disease—tooth decay.

I cannot help but remember a story that was told to me when I was visiting a free dental clinic in Boulder, Colorado that provides services to those who are uninsured. This story is about a young girl who was in the third grade. Due to the lack of dental care and poor dental hygiene practices at home, her teeth had actually rotted out. This is when she was a young girl. She had received no care for that as well. As a result, she was very, very shy, and was constantly in pain. Her diet suffered. She suffered malnutrition because of the condition of her teeth. Fortunately, the community there was able to help her, but there are hundreds of thousands of young people across the country who suffer from no or from poor quality dental care, which has vast ramifications as well.

In addition, this bill gives the option of providing pregnant women critical prenatal care. When we talk about the impact on reducing the need for special education and for increasing one's IQ, these things start in the prenatal stage, and they continue through early childhood. I think that that is a very important aspect in terms of giving States that option as well as covering 4.1 million additional low-income children who currently lack insurance.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, because there were no hearings held on this subject, many, many Republicans are coming down to the floor today to give their feedback and thoughts on this issue. Our next speaker is one of the most thoughtful and caring Members of Congress.

I would like to yield 1½ minutes to the gentlewoman from Fort Worth, Texas (Ms. GRANGER).

Ms. GRANGER. Madam Speaker, I rise in opposition to the rule for the consideration of the SCHIP bill we will be considering later today.

The rule does not allow for the consideration of any amendments, and it bars the Republican motion to recommit. That is not a good way to reauthorize what has been a bipartisan program.

In its original form, the SCHIP program is an excellent program that ensures medical care is available to uninsured children. During my first time in Congress, I voted to help create the SCHIP program, and I believe we need to responsibly reauthorize it. That is why I have introduced a bill to expand the SCHIP program to cover millions of uninsured kids. It is a bill that is paid for without budget gimmicks and without raising taxes.

My bill, the Kids First Act, expands SCHIP by $19.3 billion over the same 4½-year period as the Democrat bill. According to the Congressional Budget Office, the Kids First Act will cover 3.6 million previously uninsured children. Without raising taxes and without budget gimmicks, the Kids First Act truly puts kids first, eliminating nearly all adults from this program designed for children so that more children can be covered.

I urge my colleagues to oppose this rule as well as the majority's SCHIP bill and, instead, to support the Kids First Act.

Mr. POLIS of Colorado. Madam Speaker, another story from Colorado is about someone who I know firsthand, a student at one of the schools that I was involved in running.

Like many of the students I worked with, this student lacked health care insurance. She was diagnosed with diabetes, and she was not diagnosed early. She had severe symptoms, weakness, et cetera, but because of economic barriers to seeking health care and because of her lack of insurance, she did not seek any form of preventative treatment. When she then went in, she went into the emergency room, and she needed emergency dialysis immediately. So a condition that could have been dealt with through a combination of diet and insulin instead became an acute condition which had to be dealt with at a much greater cost and with a much worse health outcome for the individual.

These are the stories that are taking place across our great Nation. By passing this bill today, we can make a dent in making sure that people have access to preventative care and to health care throughout their childhoods.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, if I could please inquire as to the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Texas has 5 minutes remaining. The gentleman from Colorado has 16½ minutes remaining.

Mr. SESSIONS. Madam Speaker, due to the time inequity at this point, I would like to reserve my time.

Mr. POLIS of Colorado. Madam Speaker, I am the last speaker for this side. I would like to reserve my time until the gentleman has closed for his side and has yielded back his time.

Mr. SESSIONS. Madam Speaker, we have had a series of Members who have come to the floor—Republican Members—who have talked, I believe, very adequately about the frailties of this bill. The frailties of this bill are obvious. The gentleman representing the Democratic majority has indicated that there were two tests laid forth—cost-effectiveness and common sense. I believe that the feedback from the Members of Congress on the Republican side have enunciated and have talked about several things that are important.

First of all, no hearings were held. Second of all, no Republican or bipartisan feedback was allowed in this bill. Thirdly, it is a huge expansion that will place this great Nation in terrible financial circumstances for the future. It expands a program that was working well for poor children. Lastly, it will move 2.4 million children from a private-run insurance program to a government-run insurance program. We think that is a failure. We believe the two tests have not passed.

In closing, I want to say that I oppose this closed rule. With the current program not expiring until March 31 of this year, we have seen enough Members question the underlying legislation, and it deserves to be debated, I believe, openly and, I believe, in the committees of jurisdiction before we take a vote to pass on such a large expansion of a government program.

This legislation spends billions of dollars to substitute superior, private health care coverage with an inferior government-run program. It enables illegal aliens to fraudulently enroll in Medicaid and SCHIP. The majority party knows that, and so does every Member of this body. The legislation increases the number of adults on SCHIP, allowing even more resources to be taken away from low-income, uninsured children who need it the most and what this legislation should be about.

Madam Speaker, this legislation moves us closer and closer and closer to not only financial insanity but also to a government-run health care program and further away from access to quality health care, which is what this should be about. It should be about quality health care for poor children. That is not what we are doing here today.

I encourage all of my colleagues to vote ''no'' on the rule and ''no'' on the underlying piece of legislation because, today, unlike before today, each of my colleagues has had a chance to hear the facts of the case. The facts of the case are compelling. The test that was established by our Democrat majority colleagues about cost-effectiveness and commonsense simply does not hold water. For these reasons on these issues, I believe that the Republicans have stated the case of why we should not only vote ''no'' but why this is a bad deal not just for the taxpayers but for the children it was intended to help.

I yield back the balance of my time.

□ 1115

Mr. POLIS of Colorado. Madam Speaker, SCHIP currently provides for coverage of 7 million children. This bill before us today would also allow for extending the coverage to 4.1 million uninsured children, every single one of them who is currently eligible for but not enrolled in SCHIP and Medicaid.

Polls have shown that more than 8 percent of the American people support this bipartisan legislation, including large majorities of both major political parties. This is not only popular, Madam Speaker; this is the right thing to do for American families.

I urge a ''yes'' vote on the previous question and on the rule.

Ms. CASTOR of Florida. Madam Speaker, I rise in support of H.R. 2 as amended and this rule. We will finally pass the children's health care bill today, send it to President Obama for his signature, and provide affordable medical care to millions of children across America.

I was in the pediatrician's office last Friday with my daughters. There is nothing like the feeling of knowing that your children are healthy after a checkup or that they are on the road to recovery. I speak for millions of parents who can share that sense of relief because they can take their kids to the doctor's office and do so without breaking the family bank.

What good news for all Americans that one of the first bills President Obama will sign today will be one that improves access to quality affordable health care and reduces the cost of health care for families.

More affordable health care is central to our economic recovery and it is fundamental for families.

I am proud to say that the precursor to SCHIP originated in the 1990s as a novel health care initiative in my home State of Florida where the innovators enrolled kids in a health care plan at the start of the school year. They understood that healthy kids succeed in school at higher rates.

President Clinton and the Congress were so impressed by what Florida was doing in Florida Kidcare, they took the blueprint and fashioned the national SCHIP partnership.

Access to health care for working families in my community and all over America through this innovative partnership between Federal, State and local communities is a winning proposition.

The new law will make it easier for parents and kids to afford the doctor's office visits, and encourage States to cut costly bureaucratic red tape.

Our children's health care initiative ensures that newborn babies receive the medical checkups and immunizations they need, ensures that toddlers and children are taken care of as they grow, and ensures that we all save money through preventative care.

Suffering through President Bush's opposition over the past years has been very costly, and we have lost ground. In Florida alone, over 800,000 children lack health insurance and that's the third highest rate in the U.S. It's more than the population of some States and it is growing. The lack of affordable health care for these working families is making it more expensive for everyone.

We are on a different path now.

I thank the many members who championed SCHIP as an initiative that works within a broader health care system that leaves many unable to afford health care in America, especially Speaker PELOSI, who never gave up and kept the promise that in the first days of a new Congress with a new President, the health of America's kids and the pocketbooks of hardworking families would be paramount.

Mr. POLIS of Colorado. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Madam Speaker, pursuant to House Resolution 107, I call up from the Speaker's table the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the title of the bill, designate the Senate amendment, and designate the motion.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2009''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSE.

It is the purpose of this Act to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE LEGISLATION; CONTINGENT EFFECTIVE DATE; RELIANCE ON LAW.

(a) GENERAL EFFECTIVE DATE.—Unless otherwise provided in this Act, subject to subsections (b) through (d), this Act (and the amendments made by this Act) shall take effect on April 1, 2009, and shall apply to child health assistance and medical assistance provided on or after that date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet one or more additional requirements imposed by amendments made by this Act, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

(c) COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11), 2104(k), or 2104(l) of the Social Security Act, as amended by section 201 of Public Law 110–173, to provide allotments to States under CHIP for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before April 1, 2009 are rescinded; and

(2) any amount provided for CHIP allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

(d) RELIANCE ON LAW.—With respect to amendments made by this Act (other than title VII) that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

TITLE I—FINANCING

Subtitle A—Funding

SEC. 101. EXTENSION OF CHIP.

Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by amending paragraph (11), by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

(3) by adding at the end the following new paragraphs:

''(12) for fiscal year 2009, $10,562,000,000;

''(13) for fiscal year 2010, $12,520,000,000;

''(14) for fiscal year 2011, $13,459,000,000;

''(15) for fiscal year 2012, $14,982,000,000; and

''(16) for fiscal year 2013, for purposes of making 2 semi-annual allotments—

''(A) $2,850,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

''(B) $2,850,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.''.

SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES FOR FISCAL YEARS 2009 THROUGH 2013.

Section 2104 (42 U.S.C. 1397dd) is amended—

(1) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)'';

(2) in subsection (c)(1), by striking ''subsection (d)'' and inserting ''subsections (d) and (m)(4)''; and

(3) by adding at the end the following new subsection:

''(m) ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) FOR FISCAL YEAR 2009.—

''(A) FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

''(i) The total Federal payments to the State under this title for fiscal year 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(ii) The amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

''(iii) The projected total Federal payments to the State under this title for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

''(B) FOR THE COMMONWEALTHS AND TERRITORIES.—Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting 'the United States' for 'the State'.

''(C) ADJUSTMENT FOR QUALIFYING STATES.—In the case of a qualifying State described in paragraph (2) of section 2105(g), the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

''(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) IN GENERAL.—Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

''(i) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2010.—For fiscal year 2010, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

''(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

''(ii) REBASING IN FISCAL YEAR 2011.—For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

''(iii) GROWTH FACTOR UPDATE FOR FISCAL YEAR 2012.—For fiscal year 2012, the allotment of the State is equal to the sum of—

''(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

''(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

''(3) FOR FISCAL YEAR 2013.—

''(A) FIRST HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

''(B) SECOND HALF.—Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (16) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

''(i) the amount of the allotment to such State under subparagraph (A); to

''(ii) the total of the amount of all of the allotments made available under such subparagraph.

''(C) FULL YEAR AMOUNT BASED ON REBASED AMOUNT.—The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

''(D) FIRST HALF RATIO.—The first half ratio described in this subparagraph is the ratio of—

''(i) the sum of—

''(I) the amount made available under subsection (a)(16)(A); and

''(II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to

''(ii) the sum of the—

''(I) amount described in clause (i); and

''(II) the amount made available under subsection (a)(16)(B).

''(4) PRORATION RULE.—If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2013, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

''(5) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

''(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

''(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

''(6) INCREASE IN ALLOTMENT TO ACCOUNT FOR APPROVED PROGRAM EXPANSIONS.—In the case of one of the 50 States or the District of Columbia that—

''(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this title that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2013); and

''(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

''(i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year; and

''(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year,

subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010 or fiscal year 2012.

''(7) AVAILABILITY OF AMOUNTS FOR SEMI-ANNUAL PERIODS IN FISCAL YEAR 2013.—Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2013 shall remain available for expenditure under this title for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.''.

SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.

Section 2104 (42 U.S.C. 1397dd), as amended by section 102, is amended by adding at the end the following new subsection:

''(n) CHILD ENROLLMENT CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Child Enrollment Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United

States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

''(B) AGGREGATE CAP.—The total amount available for payment from the Fund for each of fiscal years 2010 through 2012 (and for each of the semi-annual allotment periods for fiscal year 2013), taking into account deposits made under subparagraph (C), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) AVAILABILITY OF EXCESS FUNDS FOR PERFORMANCE BONUSES.—Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 2105(a)(3) for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

''(3) CHILD ENROLLMENT CONTINGENCY FUND PAYMENTS.—

''(A) IN GENERAL.—If a State's expenditures under this title in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, or a semi-annual allotment period for fiscal year 2013, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

''(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

''(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved (or in which the period occurs).

''(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this paragraph, the target average number of child enrollees for a State—

''(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

''(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

''(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

''(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

''(D) PRORATION RULE.—If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

''(E) TIMELY PAYMENT; RECONCILIATION.—Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 2105 shall apply to payments under this subsection in the same manner as they apply to payments under such section.

''(F) CONTINUED REPORTING.—For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.''.

SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

Section 2105(a) (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

''(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

''(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

''(B) AMOUNT FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under title XIX.

''(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under the State plan under title XIX, respectively; exceeds

''(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under title XIX, respectively;

but not to exceed 10 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (F)) enrolled during the fiscal year under title XIX as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) BASELINE NUMBER OF CHILD ENROLLEES.—Subject to subparagraph (H), the baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points;

''(II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year

begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points;

''(III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and

''(IV) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under title XIX, increased by the population growth for children in that State from the calendar year in which the fiscal year involved begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 2 percentage points.

''(D) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(E) AMOUNTS AVAILABLE FOR PAYMENTS.—

''(i) INITIAL APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there are appropriated $3,225,000,000 for fiscal year 2009 for making payments under this paragraph, to be available until expended.

''(ii) TRANSFERS.—Notwithstanding any other provision of this title, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

''(I) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2009 THROUGH 2012.—As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2013.—As of December 31 of fiscal year 2013, the portion, if any, of the sum of the amounts appropriated under subsection (a)(16)(A) and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2013.—As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B) for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(II) UNEXPENDED ALLOTMENTS NOT USED FOR REDISTRIBUTION.—As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 2104 for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 2104(f) during the period in which such allotments are available for obligation.

''(III) EXCESS CHILD ENROLLMENT CONTINGENCY FUNDS.—As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 2104(n).

''(IV) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—As of October 1, 2011, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2011.

''(iii) PROPORTIONAL REDUCTION.—If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

''(F) QUALIFYING CHILDREN DEFINED.—

''(i) IN GENERAL.—For purposes of this subsection, subject to clauses (ii) and (iii), the term 'qualifying children' means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.

''(ii) LIMITATION.—A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a 'qualifying child' only if the child is determined to be eligible for medical assistance under title XIX.

''(iii) EXCLUSION.—Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v).

''(G) APPLICATION TO COMMONWEALTHS AND TERRITORIES.—The provisions of subparagraph (G) of section 2104(n)(3) shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

''(H) APPLICATION TO STATES THAT IMPLEMENT A MEDICAID EXPANSION FOR CHILDREN AFTER FISCAL YEAR 2008.—In the case of a State that provides coverage under section 115 of the Children's Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

''(i) any child enrolled in the State plan under title XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and

''(ii) in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under title XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX for such third fiscal year.

''(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

''(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

''(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

''(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

''(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

''(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

''(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

''(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

''(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

''(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

''(i) IN GENERAL.—The State provides, in the case of renewal of a child's eligibility for medical assistance under title XIX or child health assistance under this title, a pre-printed form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

''(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State's possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant's parent or caretaker relative.

''(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.

''(H) PREMIUM ASSISTANCE SUBSIDIES.—The State is implementing the option of providing premium assistance subsidies under section 2105(c)(10) or section 1906A.''.

SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

''(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.''.

SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.

(a) BEGINNING WITH FISCAL YEAR 2007.—

(1) IN GENERAL.—Section 2104(f) (42 U.S.C. 1397dd(f)) is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''States that have fully expended the amount of their allotments under this section.'' and inserting ''States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).''; and

(C) by adding at the end the following new paragraph:

''(2) SHORTFALL STATES DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

''(i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

''(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

''(iii) the amount of the State's allotment for the fiscal year.

''(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

''(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.

(b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C. 1397dd(k)) is amended—

(1) in the subsection heading, by striking ''THE FIRST 2 QUARTERS OF'';

(2) in paragraph (1), by striking ''the first 2 quarters of''; and

(3) in paragraph (6)—

(A) by striking ''the first 2 quarters of''; and

(B) by striking ''March 31'' and inserting ''September 30''.

SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN.

(a) IN GENERAL.—Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

(1) in paragraph (1)(A), as amended by section 201(b)(1) of Public Law 110–173—

(A) by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

(B) by striking ''2008, or 2009'' and inserting ''or 2008''; and

(2) by adding at the end the following new paragraph:

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2013.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2009 through 2013 (insofar as the allotment is available to the State under subsections (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is repealed.

SEC. 108. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $11,706,000,000 to accompany the allotment made for the period beginning on October 1, 2012, and ending on March 31, 2013, under section 2104(a)(16)(A) of the Social Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under paragraph (3) of section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(i)), as added by section 102, for the first 6 months of fiscal year 2013 in the same manner as allotments are provided under subsection (a)(16)(A) of such section 2104 and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(16)(A).

SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID.

Section 1108(g) (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2009, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

Subtitle B—Focus on Low-Income Children and Pregnant Women

SEC. 111. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 112(a), is amended by adding at the end the following new section:

''SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

''(1) MINIMUM INCOME ELIGIBILITY LEVELS FOR PREGNANT WOMEN AND CHILDREN.—The State has established an income eligibility level—

''(A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and

''(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

''(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under

section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(7) NO WAITING LIST FOR CHILDREN.—The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

''(d) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) with respect to an individual during the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means an individual—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

''(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

''(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting ''**OR PREGNANCY-RELATED ASSISTANCE**'' after ''**PREVENTIVE SERVICES**''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

(1) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH 2009.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF 2009.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2010, notwithstanding the requirements of subsections (e) and (f) of section 1115, a State may submit, not later than September 30, 2009, a request to the Secretary for an extension of the waiver. The Secretary shall approve a request for an extension of an applicable existing waiver submitted pursuant to this subparagraph, but only through December 31, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on the date of the enactment of this subsection and ending on December 31, 2009.

''(3) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for 2010 over 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the year involved over the preceding calendar year, as most recently published by the Secretary.

''(b) RULES AND CONDITIONS FOR COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN.—

''(1) TWO-YEAR PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2011.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds

made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during the third and fourth quarters of fiscal year 2009 and during fiscal years 2010 and 2011.

''(2) RULES FOR FISCAL YEARS 2012 THROUGH 2013.—

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 2104(a)(16) and any reduction in the allotment for either such period under section 2104(m)(4) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2012 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraph (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2013.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply.

For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

''(v) NO FEDERAL PAYMENTS OTHER THAN FROM BLOCK GRANT SET ASIDE.—No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2011;

''(ii) implemented 1 or more of the enrollment and retention provisions described in section 2105(a)(4) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest 1/3 of States in terms of the State's percentage of low-income children without health insurance.

''(C) STATE INCREASING ENROLLMENT OF LOW-INCOME CHILDREN.—The State qualified for a performance bonus payment under section 2105(a)(3)(B) for the most recent fiscal year applicable under such section.

''(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect during fiscal year 2009.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(i) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

(ii) in the first sentence, by inserting ''or a parent (as defined in section 2111(c)(2)(A)), who is not pregnant, of a targeted low-income child'' before the period;

(iii) by striking the second sentence; and

(iv) by adding at the end the following new paragraph:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009 that would waive or modify the requirements of section 2111.''.

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 112 of the Children's Health Insurance Program Reauthorization Act of 2009, nothing''.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of whether—

(A) the coverage of a parent, a caretaker relative (as such term is used in carrying out section 1931), or a legal guardian of a targeted low-income child under a State health plan under title XXI of the Social Security Act increases the enrollment of, or the quality of care for, children, and

(B) such parents, relatives, and legal guardians who enroll in such a plan are more likely to enroll their children in such a plan or in a State plan under title XIX of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall report the results of the study to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations (if any) for changes in legislation.

SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

(a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) [reserved]''.

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking ''so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance''.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

UNDER MEDICAID.—Section 1920(b) (42 U.S.C. 1396r–1(b)) is amended by adding after paragraph (2) the following flush sentence:

''The term 'qualified provider' also includes a qualified entity, as defined in section 1920A(b)(3).''.

SEC. 114. LIMITATION ON MATCHING RATE FOR STATES THAT PROPOSE TO COVER CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) FMAP APPLIED TO EXPENDITURES.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON MATCHING RATE FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE PROVIDED TO CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) FMAP APPLIED TO EXPENDITURES.—Except as provided in subparagraph (B), for fiscal years beginning with fiscal year 2009, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as—

(1) changing any income eligibility level for children under title XXI of the Social Security Act; or

(2) changing the flexibility provided States under such title to establish the income eligibility level for targeted low-income children under a State child health plan and the methodologies used by the State to determine income or assets under such plan.

SEC. 115. STATE AUTHORITY UNDER MEDICAID.

Notwithstanding any other provision of law, including the fourth sentence of subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) or subsection (u) of such section, at State option, the Secretary shall provide the State with the Federal medical assistance percentage determined for the State for Medicaid with respect to expenditures described in section 1905(u)(2)(A) of such Act or otherwise made to provide medical assistance under Medicaid to a child who could be covered by the State under CHIP.

TITLE II—OUTREACH AND ENROLLMENT

Subtitle A—Outreach and Enrollment Activities

SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUNDING FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 111, is amended by adding at the end the following:

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2013 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

''(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO MATCH REQUIRED FOR ANY ELIGIBLE ENTITY AWARDED A GRANT.—

''(1) STATE MAINTENANCE OF EFFORT.—In the case of a State that is awarded a grant under this section, the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded.

''(2) NO MATCHING REQUIREMENT.—No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to nongovernmental entities.

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise

appropriated, $100,000,000 for the period of fiscal years 2009 through 2013, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR INTERPRETATION SERVICES UNDER CHIP AND MEDICAID.—

(1) CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as amended by section 113, is amended—

(A) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(B) in subparagraph (D)—

(i) in clause (iii), by striking ''and'' at the end;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(2) MEDICAID.—

(A) USE OF MEDICAID FUNDS.—Section 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment of, retention of, and use of services under this title by, children of families for whom English is not the primary language; plus''.

(B) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(i) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397bb(c)(1)) is amended by inserting ''(through community health workers and others)'' after ''Outreach''.

(ii) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting ''(such as through community health workers and others)'' after ''including practices''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended to read as follows:

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE xix.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.

(a) APPLICATION UNDER MEDICAID AND CHIP PROGRAMS.—

(1) MEDICAID.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

''(13) EXPRESS LANE OPTION.—

''(A) IN GENERAL.—

''(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (G)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (F)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B) and 1137(d) or any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

''(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

''(II) NOTICE REQUIREMENT.—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency's finding of such child's income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its regular policies and of the procedures for requesting such an evaluation.

''(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

''(IV) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9), as applicable for verifications of citizenship or nationality status.

''(V) CODING.—The State meets the requirements of subparagraph (E).

''(ii) OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

''(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

''(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

''(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

''(i) IN GENERAL.—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under

title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

''(ii) ESTABLISHING A SCREENING THRESHOLD.—

''(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

''(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

''(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

''(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State's regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for medical assistance under this title using such regular procedures.

''(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

''(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

''(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

''(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child's eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

''(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

''(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child's parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

''(V) AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

''(D) OPTION FOR AUTOMATIC ENROLLMENT.—

''(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation in writing, by telephone, orally, through electronic signature, or through any other means specified by the Secretary or by signature on an Express Lane agency application, if the requirement of clause (ii) is met.

''(ii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

''(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

''(i) IN GENERAL.—For purposes of subparagraph (A)(iv), the requirement of this subparagraph for a State is that the State agrees to—

''(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's election under this paragraph;

''(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate (as described in clause (iv)) with respect to the enrollment of such children (and shall not include such children in any data or samples used for purposes of complying with a Medicaid Eligibility Quality Control (MEQC) review or a payment error rate measurement (PERM) requirement);

''(III) submit the error rate determined under subclause (II) to the Secretary;

''(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State elects to apply this paragraph, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

''(V) if such error rate exceeds 3 percent for any fiscal year in which the State elects to apply this paragraph, a reduction in the amount otherwise payable to the State under section 1903(a) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year that are in excess of a 3 percent error rate with respect to such children.

''(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

''(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as relieving a State that elects to apply this paragraph from being subject to a penalty under section 1903(u), for payments made under the State Medicaid plan with respect to ineligible individuals and families that are determined to exceed the error rate permitted under that section (as determined without regard to the error rate determined under clause (i)(II)).

''(iv) ERROR RATE DEFINED.—In this subparagraph, the term 'error rate' means the rate of erroneous excess payments for medical assistance (as defined in section 1903(u)(1)(D)) for the period involved, except that such payments shall be limited to individuals for which eligibility determinations are made under this paragraph and except that in applying this paragraph under title XXI, there shall be substituted for references to provisions of this title corresponding provisions within title XXI.

''(F) EXPRESS LANE AGENCY.—

''(i) IN GENERAL.—In this paragraph, the term 'Express Lane agency' means a public agency that—

''(I) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of one or more eligibility requirements described in subparagraph (A)(i);

''(II) is identified in the State Medicaid plan or the State CHIP plan; and

''(III) notifies the child's family—

''(aa) of the information which shall be disclosed in accordance with this paragraph;

''(bb) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

''(cc) that the family may elect to not have the information disclosed for such purposes; and

''(IV) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

''(ii) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such term includes the following:

''(I) A public agency that determines eligibility for assistance under any of the following:

''(aa) The temporary assistance for needy families program funded under part A of title IV.

''(bb) A State program funded under part D of title IV.

''(cc) The State Medicaid plan.

''(dd) The State CHIP plan.

''(ee) The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

''(ff) The Head Start Act (42 U.S.C. 9801 et seq.).

''(gg) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(hh) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(ii) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(jj) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

''(kk) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

''(ll) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(II) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

''(III) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

''(iii) EXCLUSIONS.—Such term does not include an agency that determines eligibility for a program established under the Social Services Block Grant established under title XX or a private, for-profit organization.

''(iv) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(I) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

''(II) authorizing a State Medicaid agency that elects to use Express Lane agencies under this subparagraph to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

''(v) ADDITIONAL DEFINITIONS.—In this paragraph:

''(I) STATE.—The term 'State' means 1 of the 50 States or the District of Columbia.

''(II) STATE CHIP AGENCY.—The term 'State CHIP agency' means the State agency responsible for administering the State CHIP plan.

''(III) STATE CHIP PLAN.—The term 'State CHIP plan' means the State child health plan established under title XXI and includes any waiver of such plan.

''(IV) STATE MEDICAID AGENCY.—The term 'State Medicaid agency' means the State agency responsible for administering the State Medicaid plan.

''(V) STATE MEDICAID PLAN.—The term 'State Medicaid plan' means the State plan established under title XIX and includes any waiver of such plan.

''(G) CHILD DEFINED.—For purposes of this paragraph, the term 'child' means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.

''(H) STATE OPTION TO RELY ON STATE INCOME TAX DATA OR RETURN.—At the option of the State, a finding from an Express Lane agency may include gross income or adjusted gross income shown by State income tax records or returns.

''(I) APPLICATION.—This paragraph shall not apply with respect to eligibility determinations made after September 30, 2013.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the option provided under the amendments made by subsection (a). Such evaluation shall include an analysis of the effectiveness of the option, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such plans through reliance on a finding made by an Express Lane agency improves the ability of a State to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans;

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

(D) any recommendations for legislative or administrative changes that would improve the effectiveness of enrolling children in such plans through reliance on such findings.

(2) REPORT TO CONGRESS.—Not later than September 30, 2012, the Secretary shall submit a report to Congress on the results of the evaluation under paragraph (1).

(3) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out the evaluation under this subsection $5,000,000 for the period of fiscal years 2009 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment of such amount to conduct the evaluation under this subsection.

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant's signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.''.

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX is amended by adding at the end the following new section:

''SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT INFORMATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in section 1902(e)(13)(F), information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

''(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

''(1) The individual whose circumstances are described in the data or information (or such individual's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

''(B) verifying the eligibility of individuals for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

''(c) PENALTIES FOR IMPROPER DISCLOSURE.—

''(1) CIVIL MONEY PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to $10,000 for each such unauthorized publication or disclosure. The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(2) CRIMINAL PENALTY.—A private entity described in the subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than $10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

''(F) Section 1942 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting ''(and, at State option, individuals who apply or whose eligibility for medical assistance is being evaluated in accordance with section 1902(e)(13)(D))'' after ''with respect to individuals who are eligible''; and

(B) by inserting ''under this title (and, at State option, child health assistance under title XXI)'' after ''the State plan''.

(e) AUTHORIZATION FOR STATES ELECTING EXPRESS LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall enter into such agreements as are necessary to permit a State that elects the Express Lane option under section 1902(e)(13) of the Social Security Act to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under a State child health plan under CHIP or a State plan under Medicaid from the following:

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.

(f) EFFECTIVE DATE.—The amendments made by this section are effective on the date of the enactment of this Act.

Subtitle B—Reducing Barriers to Enrollment

SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

(a) ALTERNATIVE STATE PROCESS FOR VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID.—

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a), as amended by section 203(c), is amended—

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

(III) by adding at the end the following new subparagraph:

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (ee);''; and

(ii) by adding at the end the following new subsection:

''(ee)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the Commissioner of Social Security as part of the program established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number, or the declaration of citizenship or nationality, of the individual is inconsistent with information in the records maintained by the Commissioner—

''(i) the State makes a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality and by taking such additional actions as the Secretary, through regulation or other guidance, or the State may identify, and continues to provide the individual with medical assistance while making such effort; and

''(ii) in the case such inconsistency is not resolved under clause (i), the State—

''(I) notifies the individual of such fact;

''(II) provides the individual with a period of 90 days from the date on which the notice required under subclause (I) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or resolve the inconsistency with the Commissioner of Social Security (and continues to provide the individual with medical assistance during such 90-day period); and

''(III) disenrolls the individual from the State plan under this title within 30 days after the end of such 90-day period if no such documentary evidence is presented or if such inconsistency is not resolved.

''(2)(A) Each State electing to satisfy the requirements of this subsection for purposes of section 1902(a)(46)(B) shall establish a program under which the State submits at least monthly to the Commissioner of Social Security for comparison of the name and social security number, of each individual newly enrolled in the State plan under this title that month who is not described in section 1903(x)(2) and who declares to be a United States citizen or national, with information in records maintained by the Commissioner.

''(B) In establishing the State program under this paragraph, the State may enter into an agreement with the Commissioner of Social Security—

''(i) to provide, through an on-line system or otherwise, for the electronic submission of, and response to, the information submitted under subparagraph (A) for an individual enrolled in the State plan under this title who declares to be citizen or national on at least a monthly basis; or

''(ii) to provide for a determination of the consistency of the information submitted with the information maintained in the records of the Commissioner through such other method as agreed to by the State and the Commissioner and approved by the Secretary, provided that such method is no more burdensome for individuals to comply with than any burdens that may apply under a method described in clause (i).

''(C) The program established under this paragraph shall provide that, in the case of any individual who is required to submit a social security number to the State under subparagraph (A) and who is unable to provide the State with such number, shall be provided with at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the inconsistent submissions bears to the total submissions made for comparison for such month. For purposes of this subparagraph, a name, social security number, or declaration of citizenship or nationality of an individual shall be treated as inconsistent and included in the determination of such percentage only if—

''(i) the information submitted by the individual is not consistent with information in records maintained by the Commissioner of Social Security;

''(ii) the inconsistency is not resolved by the State;

''(iii) the individual was provided with a reasonable period of time to resolve the inconsistency with the Commissioner of Social Security or provide satisfactory documentation of citizenship status and did not successfully resolve such inconsistency; and

''(iv) payment has been made for an item or service furnished to the individual under this title.

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 3 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided inconsistent information as the number of individuals with inconsistent information in excess of 3 percent of such total submitted bears to the total number of individuals with inconsistent information.

''(C) The Secretary may waive, in certain limited cases, all or part of the payment under subparagraph (B)(ii) if the State is unable to reach the allowable error rate despite a good faith effort by such State.

''(D) Subparagraphs (A) and (B) shall not apply to a State for a fiscal year if there is an agreement described in paragraph (2)(B) in effect as of the close of the fiscal year that provides for the submission on a real-time basis of the information described in such paragraph.

''(4) Nothing in this subsection shall affect the rights of any individual under this title to appeal any disenrollment from a State plan.''.

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

(ii) by adding at the end the following new subparagraph:

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(ee) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

(3) CONFORMING AMENDMENTS.—Section 1903 (42 U.S.C. 1396b) is amended—

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(4) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Commissioner of Social Security $5,000,000 to remain available until expended to carry out the Commissioner's responsibilities under section 1902(ee) of the Social Security Act, as added by subsection (a).

(b) CLARIFICATION OF REQUIREMENTS RELATING TO PRESENTATION OF SATISFACTORY DOCUMENTARY EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

(1) ACCEPTANCE OF DOCUMENTARY EVIDENCE ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.—Section 1903(x)(3)(B) (42 U.S.C. 1396b(x)(3)(B)) is amended—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of

documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

(3) CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—

(A) CLARIFICATION OF RULES.—Section 1903(x) (42 U.S.C. 1396b(x)), as amended by paragraph (2), is amended—

(i) in paragraph (2)—

(I) in subparagraph (C), by striking ''or'' at the end;

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

(ii) by adding at the end the following new paragraph:

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

(4) TECHNICAL AMENDMENTS.—Section 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

(A) in subparagraph (B)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left; and

(B) in subparagraph (C)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left.

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 114(a), is amended by adding at the end the following new paragraph:

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(ii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect on January 1, 2010.

(B) TECHNICAL AMENDMENTS.—The amendments made by—

(i) paragraphs (1), (2), and (3) of subsection (b) shall take effect as if included in the enactment of section 6036 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 80); and

(ii) paragraph (4) of subsection (b) shall take effect as if included in the enactment of section 405 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 2996).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2009, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

(3) SPECIAL TRANSITION RULE FOR INDIANS.—During the period that begins on July 1, 2006, and ends on the effective date of final regulations issued under subclause (II) of section 1903(x)(3)(B)(v) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by subsection (b)(1)(B)), an individual who is a member of a federally-recognized Indian tribe described in subclause (II) of that section who presents a document described in subclause (I) of such section that is issued by such Indian tribe, shall be deemed to have presented satisfactory evidence of citizenship or nationality for purposes of satisfying the requirement of subsection (x) of section 1903 of such Act.

SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, natural or other disasters, public health emergencies, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Secretary of Health and Human Services shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

SEC. 214. PERMITTING STATES TO ENSURE COVERAGE WITHOUT A 5-YEAR DELAY OF CERTAIN CHILDREN AND PREGNANT WOMEN UNDER THE MEDICAID PROGRAM AND CHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to children and pregnant women who are lawfully residing in the United States (including battered individuals described in section 431(c) of such Act) and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

''(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

''(ii) CHILDREN.—Individuals under 21 years of age, including optional targeted low-income children described in section 1905(u)(2)(B).

''(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

''(C) As part of the State's ongoing eligibility redetermination requirements and procedures for an individual provided medical assistance as a result of an election by the State under subparagraph (A), a State shall verify that the individual continues to lawfully reside in the United States using the documentation presented to the State by the individual on initial enrollment. If the State cannot successfully verify that the individual is lawfully residing in the United States in this manner, it shall require that the individual provide the State with further documentation or other evidence to verify that the individual is lawfully residing in the United States.''.

(b) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by sections 203(a)(2) and 203(d)(2), is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively and by inserting after subparagraph (D) the following new subparagraph:

''(E) Paragraph (4) of section 1903(v) (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under title XIX.''.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.

(a) CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by sections 114(a) and 211(c), is amended by adding at the end the following:

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph. No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clause (ii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

''(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(D) APPLICATION OF SECONDARY PAYOR RULES.—The State shall be a secondary payor for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

''(G) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

''(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(iii) CLARIFICATION OF PAYMENT FOR ADMINISTRATIVE EXPENDITURES.—Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this title.

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906 or 1906A, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

''(M) SATISFACTION OF COST-EFFECTIVENESS TEST.—Premium assistance subsidies for qualified employer-sponsored coverage offered under this paragraph shall be deemed to meet the requirement of subparagraph (A) of paragraph (3).

''(N) COORDINATION WITH MEDICAID.—In the case of a targeted low-income child who receives child health assistance through a State plan under title XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1906A shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.''.

(2) DETERMINATION OF COST-EFFECTIVENESS FOR PREMIUM ASSISTANCE OR PURCHASE OF FAMILY COVERAGE.—

(A) IN GENERAL.—Section 2105(c)(3)(A) (42 U.S.C. 1397ee(c)(3)(A)) is amended by striking ''relative to'' and all that follows through the comma and inserting ''relative to

''(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

''(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families.''.

(B) NONAPPLICATION TO PREVIOUSLY APPROVED COVERAGE.—The amendment made by subparagraph (A) shall not apply to coverage the purchase of which has been approved by the Secretary under section 2105(c)(3) of the Social Security Act prior to the date of enactment of this Act.

(b) MEDICAID.—Title XIX is amended by inserting after section 1906 the following new section:

''PREMIUM ASSISTANCE OPTION FOR CHILDREN

''SEC. 1906A. (a) IN GENERAL.—A State may elect to offer a premium assistance subsidy (as defined in subsection (c)) for qualified employer-sponsored coverage (as defined in subsection (b)) to all individuals under age 19 who are entitled to medical assistance under this title (and to the parent of such an individual) who have access to such coverage if the State meets the requirements of this section.

''(b) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(1) IN GENERAL.—Subject to paragraph (2)), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(A) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(B) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(C) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(2) EXCEPTION.—Such term does not include coverage consisting of—

''(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(3) TREATMENT AS THIRD PARTY LIABILITY.—The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1902(a)(25).

''(c) PREMIUM ASSISTANCE SUBSIDY.—In this section, the term 'premium assistance subsidy' means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual under age 19 or by the individual's family. Premium assistance subsidies under this section shall be considered, for purposes of section 1903(a), to be a payment for medical assistance.

''(d) VOLUNTARY PARTICIPATION.—

''(1) EMPLOYERS.—Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

''(2) BENEFICIARIES.—No subsidy shall be provided to an individual under age 19 under this section unless the individual (or the individual's parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. State may not require, as a condition of an individual under age 19 (or the individual's parent) being or remaining eligible for medical assistance under this title, apply for enrollment in qualified employer-sponsored coverage under this section.

''(3) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of an individual under age 19 receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

''(e) REQUIREMENT TO PAY PREMIUMS AND COST-SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In the case of the participation of an individual under age 19 (or the individual's parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916 or, if applicable, section 1916A). The fact that an individual under age 19 (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual's (or parent's) eligibility for medical assistance under the State plan, except insofar as section 1902(a)(25) provides that payments for such assistance shall first be made under such coverage.''.

(c) GAO STUDY AND REPORT.—Not later than January 1, 2010, the Comptroller General of the United States shall study cost and coverage issues relating to any State premium assistance programs for which Federal matching payments are made under title XIX or XXI of the Social Security Act, including under waiver authority, and shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the results of such study.

SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

(a) REQUIREMENT TO INCLUDE DESCRIPTION OF OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following new paragraph:

''(3) PREMIUM ASSISTANCE SUBSIDIES.—In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 211(c)(2), is amended by adding at the end the following new clause:

''(iii) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE xix THROUGH PREMIUM ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).''.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE; COORDINATION OF COVERAGE.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered

under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

(ii) by inserting before the period the following: '', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside''.

(C) WORKING GROUP TO DEVELOP MODEL COVERAGE COORDINATION DISCLOSURE FORM.—

(i) MEDICAID, CHIP, AND EMPLOYER-SPONSORED COVERAGE COORDINATION WORKING GROUP.—

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

(aa) A determination of whether the employee is eligible for coverage under the group health plan.

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

(dd) The premiums and cost-sharing required under the plan.

(ee) Any other information relevant to coverage under the plan.

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(iii) COMPENSATION.—The members of the Working Group shall serve without compensation.

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

(E) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking "or (8)" and inserting "(8), or (9)"; and

(ii) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following:

"(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

"(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.".

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

"(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

"(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

"(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

"(B) COORDINATION WITH MEDICAID AND CHIP.—

"(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

"(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

"(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF PLAN MATERIALS TO EMPLOYEE.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with an open season or election process conducted under the plan, or concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

"(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 311(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2009, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.".

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

"SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

"(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

"(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

"(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

"(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

"(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability and effectiveness of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth, prevent and treat premature birth, and detect the presence or risk of physical or mental conditions that could adversely affect growth and development; and

''(ii) treatments to correct or ameliorate the effects of physical and mental conditions, including chronic conditions, in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children, including children with special needs, and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2011, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2011, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing children, including children with disabilities and children with chronic conditions;

''(F) national organizations representing consumers and purchasers of children's health care;

''(G) national organizations and individuals with expertise in pediatric health quality measurement; and

''(H) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2013, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(7) CONSTRUCTION.—Nothing in this section shall be construed as supporting the restriction of coverage, under title XIX or XXI or otherwise, to only those services that are evidence-based.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2010, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2009 through 2013, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

''(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A Federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problemsolving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2009 through 2013.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2010, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI.

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2009 through 2013, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

(2) by adding at the end the following new clause:

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMATION REGARDING ENROLLMENT OF CHILDREN IN CHIP AND MEDICAID.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

(2) by adding at the end the following new subsection:

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) STANDARDIZED REPORTING FORMAT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act, as added by subsection (a)(2).

(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act that includes the information required under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).

(c) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary for fiscal year 2009 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of providing more timely data on enrollment and eligibility of children under Medicaid and CHIP and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be

designed and implemented (including with respect to any necessary guidance for States to report such information in a complete and expeditious manner) so that, beginning no later than October 1, 2009, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

(d) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 403. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

(a) IN GENERAL.—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

''(3) COMPLIANCE WITH MANAGED CARE REQUIREMENTS.—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2009.

TITLE V—IMPROVING ACCESS TO BENEFITS

SEC. 501. DENTAL BENEFITS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(ii) in paragraph (1), by inserting ''at least'' after ''that is''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) DENTAL BENEFITS.—

''(A) IN GENERAL.—The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

''(B) PERMITTING USE OF DENTAL BENCHMARK PLANS BY CERTAIN STATES.—A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

''(C) BENCHMARK DENTAL BENEFIT PACKAGES.—The benchmark dental benefit packages are as follows:

''(i) FEHBP CHILDREN'S DENTAL COVERAGE.—A dental benefits plan under chapter 89A of title 5, United States Code, that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(ii) STATE EMPLOYEE DEPENDENT DENTAL COVERAGE.—A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

''(iii) COVERAGE OFFERED THROUGH COMMERCIAL DENTAL PLAN.—A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.''.

(2) ASSURING ACCESS TO CARE.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to coverage of items and services furnished on or after October 1, 2009.

(b) STATE OPTION TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

(1) IN GENERAL.—Section 2110(b) (42 U.S.C. 1397jj(b)) is amended—

(A) in paragraph (1)(C), by inserting '', subject to paragraph (5),'' after ''under title XIX or''; and

(B) by adding at the end the following new paragraph:

''(5) OPTION FOR STATES WITH A SEPARATE CHIP PROGRAM TO PROVIDE DENTAL-ONLY SUPPLEMENTAL COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this title, a State may waive the application of such paragraph to the child in order to provide—

''(i) dental coverage consistent with the requirements of subsection (c)(5) of section 2103; or

''(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

''(B) LIMITATION.—A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONDITIONS.—A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

''(i) INCOME ELIGIBILITY.—The State child health plan under this title—

''(I) has the highest income eligibility standard permitted under this title (or a waiver) as of January 1, 2009;

''(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and

''(III) provides benefits to all children in the State who apply for and meet eligibility standards.

''(ii) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.''.

(2) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 111(b)(2), is amended—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 2110(b)(5).''.

(c) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(d) PROVISION OF DENTAL SERVICES THROUGH FQHCS.—

(1) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking ''and'' at the end of paragraph (70);

(B) by striking the period at the end of paragraph (71) and inserting ''; and''; and

(C) by inserting after paragraph (71) the following new paragraph:

''(72) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.''.

(2) CHIP.—Section 2107(e)(1) (42 U.S.C. 1397g(e)(1)), as amended by subsections (a)(2) and (d)(2) of section 203, is amended by inserting after subparagraph (B) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(C) Section 1902(a)(72) (relating to limiting FQHC contracting for provision of dental services).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2009.

(e) REPORTING INFORMATION ON DENTAL HEALTH.—

(1) MEDICAID.—Section 1902(a)(43)(D)(iii) (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting ''and other information relating to the provision of dental services to such children described in section 2108(e)'' after ''receiving dental services,''.

(2) CHIP.—Section 2108 (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

''(e) INFORMATION ON DENTAL CARE FOR CHILDREN.—

''(1) IN GENERAL.—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted

low-income children enrolled in the State child health plan under this title at any time during the year involved:

''(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

''(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

''(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

''(2) INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(f) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers (including providers that are, or are affiliated with, a school of dentistry) to include, not later than 6 months after the date of the enactment of this Act, on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) (or on any successor websites or hotlines) a current and accurate list of all such dentists and providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include, not later than 6 months after the date of the enactment of this Act, a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website, and shall ensure that such list is updated at least annually.

(g) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a), as added by section 401(a), is amended—

(1) in paragraph (3)(B)(ii), by inserting ''and, with respect to dental care, conditions requiring the restoration of teeth, relief of pain and infection, and maintenance of dental health'' after ''chronic conditions''; and

(2) in paragraph (6)(A)(ii), by inserting ''dental care,'' after ''preventive health services,''.

(h) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas;

(B) children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(i) the extent to which dental providers are willing to treat children eligible for such programs;

(ii) information on such children's access to networks of care, including such networks that serve special needs children; and

(iii) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(C) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) REPORT.—Not later than 18 months year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by inserting after paragraph (5), the following:

''(6) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance use disorder benefits comply with the requirements of section 2705(a) of the Public Health Service Act in the same manner as such requirements apply to a group health plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), as amended by section 501(a)(1)(A)(i), in the matter preceding paragraph (1), by inserting '', (6),'' after ''(5)''; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 501(c)(2) is amended by inserting after subparagraph (C) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2009.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2009, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(D) of the Social Security Act (as added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2011, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 504. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) PREMIUM GRACE PERIOD.—The State child health plan—

''(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

''(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

''(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

''(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term 'new coverage period' means the month immediately following the last month for which the premium has been paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after the date of the enactment of this Act.

SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES PROVIDED THROUGH SCHOOL-BASED HEALTH CENTERS.

(a) IN GENERAL.—Section 2103(c) (42 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B), is amended by adding at the end the following new paragraph:

''(8) AVAILABILITY OF COVERAGE FOR ITEMS AND SERVICES FURNISHED THROUGH SCHOOL-BASED HEALTH CENTERS.—Nothing in this title shall be construed as limiting a State's ability to provide child health assistance for covered items and services that are furnished through school-based health centers (as defined in section 2110(c)(9)).''.

(b) DEFINITION.—Section 2110(c) (42 U.S.C. 1397jj) is amended by adding at the end the following:

''(9) SCHOOL-BASED HEALTH CENTER.—

''(A) IN GENERAL.—The term 'school-based health center' means a health clinic that—

''(i) is located in or near a school facility of a school district or board or of an Indian tribe or tribal organization;

''(ii) is organized through school, community, and health provider relationships;

''(iii) is administered by a sponsoring facility;

''(iv) provides through health professionals primary health services to children in accordance with State and local law, including laws relating to licensure and certification; and

''(v) satisfies such other requirements as a State may establish for the operation of such a clinic.

''(B) SPONSORING FACILITY.—For purposes of subparagraph (A)(iii), the term 'sponsoring facility' includes any of the following:

''(i) A hospital.

''(ii) A public health department.

''(iii) A community health center.

''(iv) A nonprofit health care agency.

''(v) A school or school system.

''(vi) A program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization.''.

SEC. 506. MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by inserting before section 1901 the following new section:

''MEDICAID AND CHIP PAYMENT AND ACCESS COMMISSION

''SEC. 1900. (a) ESTABLISHMENT.—There is hereby established the Medicaid and CHIP Payment and Access Commission (in this section referred to as 'MACPAC').

''(b) DUTIES.—

''(1) REVIEW OF ACCESS POLICIES AND ANNUAL REPORTS.—MACPAC shall—

''(A) review policies of the Medicaid program established under this title (in this section referred to as 'Medicaid') and the State Children's Health Insurance Program established under title XXI (in this section referred to as 'CHIP') affecting children's access to covered items and services, including topics described in paragraph (2);

''(B) make recommendations to Congress concerning such access policies;

''(C) by not later than March 1 of each year (beginning with 2010), submit a report to Congress containing the results of such reviews and MACPAC's recommendations concerning such policies; and

''(D) by not later than June 1 of each year (beginning with 2010), submit a report to Congress containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

''(2) SPECIFIC TOPICS TO BE REVIEWED.—Specifically, MACPAC shall review and assess the following:

''(A) MEDICAID AND CHIP PAYMENT POLICIES.—Payment policies under Medicaid and CHIP, including—

''(i) the factors affecting expenditures for items and services in different sectors, including the process for updating hospital, skilled nursing facility, physician, Federally-qualified health center, rural health center, and other fees;

''(ii) payment methodologies; and

''(iii) the relationship of such factors and methodologies to access and quality of care for Medicaid and CHIP beneficiaries.

''(B) INTERACTION OF MEDICAID AND CHIP PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—The effect of Medicaid and CHIP payment policies on access to items and services for children and other Medicaid and CHIP populations other than under this title or title XXI and the implications of changes in health care delivery in the United States and in the general market for health care items and services on Medicaid and CHIP.

''(C) OTHER ACCESS POLICIES.—The effect of other Medicaid and CHIP policies on access to covered items and services, including policies relating to transportation and language barriers.

''(3) CREATION OF EARLY-WARNING SYSTEM.—MACPAC shall create an early-warning system to identify provider shortage areas or any other problems that threaten access to care or the health care status of Medicaid and CHIP beneficiaries.

''(4) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to access policies, including with respect to payment policies, under Medicaid or CHIP, the Secretary shall transmit a copy of the report to MACPAC. MACPAC shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as MACPAC deems appropriate.

''(5) AGENDA AND ADDITIONAL REVIEWS.—MACPAC shall consult periodically with the chairmen and ranking minority members of the appropriate committees of Congress regarding MACPAC's agenda and progress towards achieving the agenda. MACPAC may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title or title XXI as may be requested by such chairmen and members and as MACPAC deems appropriate.

''(6) AVAILABILITY OF REPORTS.—MACPAC shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

''(7) APPROPRIATE COMMITTEE OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

''(8) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of MACPAC shall vote on the recommendation, and MACPAC shall include, by member, the results of that vote in the report containing the recommendation.

''(9) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, MACPAC shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

''(c) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—MACPAC shall be composed of 17 members appointed by the Comptroller General of the United States.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—The membership of MACPAC shall include individuals who have had direct experience as enrollees or parents of enrollees in Medicaid or CHIP and individuals with national recognition for their expertise in Federal safety net health programs, health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, health information technology, pediatric physicians, dentists, and other providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(B) INCLUSION.—The membership of MACPAC shall include (but not be limited to) physicians and other health professionals, employers, third-party payers, and individuals with expertise in the delivery of health services. Such membership shall also include consumers representing children, pregnant women, the elderly, and individuals with disabilities, current or former representatives of State agencies responsible for administering Medicaid, and current or former representatives of State agencies responsible for administering CHIP.

''(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under Medicaid or CHIP shall not constitute a majority of the membership of MACPAC.

''(D) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of MACPAC of financial and other potential conflicts of interest relating to such members. Members of MACPAC shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(3) TERMS.—

''(A) IN GENERAL.—The terms of members of MACPAC shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in MACPAC shall be filled in the manner in which the original appointment was made.

''(4) COMPENSATION.—While serving on the business of MACPAC (including travel time), a member of MACPAC shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of MACPAC. Physicians serving as personnel of MACPAC may be provided a physician comparability allowance by MACPAC in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to MACPAC in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of MACPAC) and employment benefits, rights, and privileges, all personnel of MACPAC shall be treated as if they were employees of the United States Senate.

''(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate a member of MACPAC, at the time of appointment of the member as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General of the United States may designate another member for the remainder of that member's term.

''(6) MEETINGS.—MACPAC shall meet at the call of the Chairman.

''(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of MACPAC, MACPAC may—

''(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General of the United States) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of MACPAC (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(4) make advance, progress, and other payments which relate to the work of MACPAC;

''(5) provide transportation and subsistence for persons serving without compensation; and

''(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of MACPAC.

''(e) POWERS.—

''(1) OBTAINING OFFICIAL DATA.—MACPAC may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to MACPAC on an agreed upon schedule.

''(2) DATA COLLECTION.—In order to carry out its functions, MACPAC shall—

''(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

''(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

''(C) adopt procedures allowing any interested party to submit information for MACPAC's use in making reports and recommendations.

''(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of MACPAC, immediately upon request.

''(4) PERIODIC AUDIT.—MACPAC shall be subject to periodic audit by the Comptroller General of the United States.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) REQUEST FOR APPROPRIATIONS.—MACPAC shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for MACPAC shall be separate from amounts appropriated for the Comptroller General of the United States.

''(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.''.

(b) DEADLINE FOR INITIAL APPOINTMENTS.—Not later than January 1, 2010, the Comptroller General of the United States shall appoint the initial members of the Medicaid and CHIP Payment and Access Commission established under section 1900 of the Social Security Act (as added by subsection (a)).

(c) ANNUAL REPORT ON MEDICAID.—Not later than January 1, 2010, and annually thereafter, the Secretary, in consultation with the Secretary of the Treasury, the Secretary of Labor, and the States (as defined for purposes of Medicaid), shall submit an annual report to Congress on the financial status of, enrollment in, and spending trends for, Medicaid for the fiscal year ending on September 30 of the preceding year.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

SEC. 601. PAYMENT ERROR RATE MEASUREMENT ("PERM").

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(a), is amended by adding at the end the following new paragraph:

''(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.''.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)C)), as amended by section 302(b)), is amended by adding at the end the following:

''(iv) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).''.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ''PERM'') requirements to CHIP until after the date that is 6 months after the date on which a new final rule (in this section referred to as the ''new final rule'') promulgated after the date of the enactment of this Act and implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such new final rule in effect for all States may only be inclusive of errors, as defined in such new final rule or in guidance issued within a reasonable time frame after the effective date for such new final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR NEW FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the new final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State's verification of an applicant's self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant's self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(d) OPTION FOR APPLICATION OF DATA FOR STATES IN FIRST APPLICATION CYCLE UNDER THE INTERIM FINAL RULE.—After the new final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 or under a final rule for fiscal year 2008 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 or fiscal year 2011 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ''MEQC'') requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the new final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) STATE OPTION TO APPLY MEQC DATA.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with the first fiscal year that begins on or after the date on which the new final rule is in effect for all States, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act.

SEC. 602. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2009''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine the child population growth factor under section 2104(m)(5)(B) and any other data necessary for carrying out this title.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.

Section 2108(c) (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

''(5) SUBSEQUENT EVALUATION USING UPDATED INFORMATION.—

''(A) IN GENERAL.—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

''(B) SELECTION OF STATES AND MATTERS INCLUDED.—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

''(C) SUBMISSION TO CONGRESS.—Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

''(D) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.''.

SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.

Section 2108(d) (42 U.S.C. 1397hh(d)) is amended to read as follows:

''(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.—For the purpose of evaluating and auditing the program established under this title, or title XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.''.

SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS; DISALLOWANCE FOR UNAUTHORIZED EXPENDITURES.

Nothing in this Act allows Federal payment for individuals who are not legal residents. Titles XI, XIX, and XXI of the Social Security Act provide for the disallowance of Federal financial participation for erroneous expenditures under Medicaid and under CHIP, respectively.

Subtitle B—Miscellaneous Health Provisions

SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i)—

(i) by striking ''Notwithstanding any other provision of this title'' and inserting ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability) and any other provision of this title which would be directly contrary to the authority under this section and subject to subsection (E)''; and

(ii) by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(B) in clause (i), by inserting ''provides'' after ''(i)''; and

(C) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(2) in subparagraph (C)—

(A) in the heading, by striking ''**WRAP-AROUND**'' and inserting ''**ADDITIONAL**''; and

(B) by striking ''wrap-around or''; and

(3) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2);

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(iii) affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise.''.

(b) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are made available under part B of title IV on the basis of being a child in foster care or''.

(c) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—With respect to a State plan amendment to provide benchmark benefits in accordance with subsections (a) and (b) that is approved by the Secretary, the Secretary shall publish on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out the plan amendment and the reason for each such determination on the date such approval is made, and shall publish such list in the Federal Register and not later than 30 days after such date of approval.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) of this section shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 612. REFERENCES TO TITLE XXI.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the FMAP (as defined in subsection (e)) for a State for a fiscal year (beginning with fiscal year 2006) and applying the FMAP under title XIX of the Social Security Act, any significantly disproportionate employer pension or insurance fund contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION AND INSURANCE FUND CONTRIBUTION.—

(1) IN GENERAL.—For purposes of this section, a significantly disproportionate employer pension and insurance fund contribution described in this subsection with respect to a State is any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such State for a calendar year (beginning with calendar year 2003) if the increase in the amount so estimated exceeds 25 percent of the total increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjustment a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than May 15, 2009, the Secretary shall submit to the Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of Economic Affairs calculations for the FMAP and for Medicaid and on possible alternative methodologies to mitigate such problems.

(e) FMAP DEFINED.—For purposes of this section, the term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396(d)).

SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) (42 U.S.C. 1396r–4(f)(6)), as amended by section 202 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended—

(1) in the paragraph heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012'';

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''and 2009'' and inserting '', 2009, 2010, and 2011''; and

(II) by striking ''such portion of''; and

(ii) in the third sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for period in fiscal year 2012''; and

(C) in clause (iv)—

(i) in the clause heading, by striking ''2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'' and inserting ''2011 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2012''; and

(ii) in each of subclauses (I) and (II), by striking '' or for a period in fiscal year 2010'' and inserting ''2010, 2011, or for a period in fiscal year 2012''; and

(3) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence, by striking ''2009'' and inserting ''2011''; and

(ii) in the second sentence, by striking ''2010 for the period ending on December 31, 2009'' and inserting ''2012 for the period ending on December 31, 2011''.

SEC. 617. GAO REPORT ON MEDICAID MANAGED CARE PAYMENT RATES.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives analyzing the extent to which State payment rates for medicaid managed care organizations under Medicaid are actuarially sound.

Subtitle C—Other Provisions

SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''52.75 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''40.26 cents per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.33 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$105.69 per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.15 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.30 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.51'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50.33 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8311 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$24.78''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products (other than cigars described in section 5701(a)(2) of the Internal Revenue Code of 1986) and cigarette papers and tubes manufactured in or imported into the United States which are removed before April 1, 2009, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of such Code on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on April 1, 2009, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on April 1, 2009, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before August 1, 2009.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on April 1, 2009, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, INVENTORIES, REPORTS, AND RECORDS REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMIT.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES, REPORTS, AND PACKAGES.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(C) PACKAGES, MARKS, LABELS, AND NOTICES.—Section 5723 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products'' each place it appears.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENTS.—

(A) Section 5702(h) of such Code is amended by striking ''tobacco products and cigarette papers and tubes'' and inserting ''tobacco products or cigarette papers or tubes or any processed tobacco''.

(B) Sections 5702(j) and 5702(k) of such Code are each amended by inserting '', or any processed tobacco,'' after ''tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 2009.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) IN GENERAL.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code

of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles imported after the date of the enactment of this Act.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after March 31, 2009.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—

(1) IN GENERAL.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes manufactured in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) DISCLOSURE.—

(1) IN GENERAL.—Paragraph (1) of section 6103(o) of such Code is amended by designating the text as subparagraph (A), moving such text 2 ems to the right, striking ''Returns'' and inserting ''(A) IN GENERAL.—Returns'', and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) USE IN CERTAIN PROCEEDINGS.—Returns and return information disclosed to a Federal agency under subparagraph (A) may be used in an action or proceeding (or in preparation for such action or proceeding) brought under section 625 of the American Jobs Creation Act of 2004 for the collection of any unpaid assessment or penalty arising under such Act.''.

(2) CONFORMING AMENDMENT.—Section 6103(p)(4) of such Code is amended by striking ''(o)(1)'' both places it appears and inserting ''(o)(1)(A)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply on or after the date of the enactment of this Act.

(g) TRANSITIONAL RULE.—Any person who—

(1) on April 1, 2009 is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF TOBACCO SMUGGLING IN THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study concerning the magnitude of tobacco smuggling in the United States and submit to Congress recommendations for the most effective steps to reduce tobacco smuggling. Such study shall also include a review of the loss of Federal tax receipts due to illicit tobacco trade in the United States and the role of imported tobacco products in the illicit tobacco trade in the United States.

SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 0.5 percentage point.

MOTION OFFERED BY MR. WAXMAN

The text of the motion is as follows:

Mr. Waxman moves to concur in the Senate amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 107, the motion shall be debatable for 1 hour equally divided and controlled by the Chair and ranking minority member of the Committee on Energy and Commerce and the Chair and ranking minority member of the Committee on Ways and Means.

The gentleman from California (Mr. WAXMAN), the gentleman from Texas (Mr. BARTON), the gentleman from New York (Mr. RANGEL), and the gentleman from Michigan (Mr. CAMP) each will control 15 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Madam Speaker, I yield myself 1½ minutes.

I rise in strong support of H.R. 2, as amended by the Senate. This is the same bill, by and large, that we passed in the House by an overwhelming bipartisan majority a few weeks ago.

The opportunity before us today is to make basic health insurance available to 11 million low-income children who would otherwise have no insurance.

We know that without health insurance many children go without the health care they need to grow, to learn, to compete, and to contribute.

The bill before us will extend the current program for 4½ years, ensuring that States will be able to maintain coverage for the 7 million kids now enrolled and to extend coverage to an additional 4.1 million uninsured low-income children.

The bill is fully paid for. It will cost $33 billion over the next 5 years, fully offset by a 62-cent per pack increase in the cigarette tax.

The Senate made a few minor changes, adding a new option for CHIP to provide dental care for privately insured children and creating a new commission to evaluate provider payments and access in CHIP and Medicaid.

The Senate did not retain the House provision closing a loophole in Medicare that allows physicians to refer patients to hospitals where they have ownership interest. We will continue to work on that matter.

While this bill is short of our ultimate goal of health reform, it is a down payment, and it is an essential start. We need to pass this bill. We need to do so now.

I urge my colleagues to vote for this bill and send it to the President for his signature.

I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I recognize myself for 1 minute.

Madam Speaker, we're here today to have another debate about SCHIP, another incidence of where we have a bill that's come over from the Senate slightly different than came from the House. In the case of this SCHIP bill, I don't recall there being a hearing on it. I don't recall there being a hearing last year before we had the vote.

So, let us simply say from the Republican perspective that we're very supportive of continuing the State Children's Health Insurance Program. We do think that it should be limited to families that are under 200 percent of poverty. We do think this is a children's health program. It ought to be for children. And we do think that there should be a verification to make sure that the program benefits go to citizens of the United States.

None of those things are in this bill. So we would oppose the bill and hope at the appropriate time the House would also oppose it.

With that, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I still continue to reserve our time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the distinguished ranking member of the Subcommittee on Health in the Energy and Commerce Committee, the Honorable NATHAN DEAL from Georgia.

Mr. DEAL of Georgia. Madam Speaker, I thank the gentleman for yielding.

I think it would be appropriate for us to review what the SCHIP program is designed and was originally designed to do and where it is in light of what this bill attempts to do.

First of all, it stands for the State Children's Health Insurance Program. States call it by a variety of different names at the State level. In my State, it is called PeachCare. You would imagine that we would do that in Georgia, but it was originally designed in 1997 as a 10-year program—it was a block grant program—designed to fill in the need of children who live in families that are above the Medicaid poverty level eligibility but are still below 200 percent of poverty, and that in that capacity was a worthwhile and useful program.

During its 10-year initial lifespan as it moved forward, there were times when States had shortfalls. In other words, the allocation under the Federal matching rate formula for the SCHIP program, coupled with the State's contribution, was not sufficient to meet the demand and the cost of eligible children to be enrolled, and Congress stepped up to the plate, appropriated additional funds, and allowed those States to continue with their legitimate enrollment programs.

When it came to the 10-year time frame expiring, we were faced with,

well, what is the future of SCHIP going to be. After much debate, vetoes by the President, about a program that was going to take a huge step in the area of expanding government control of health care, we did an 18-month extension, and that 18 months will expire this next month.

And what it did was it said let's take the legitimate needs of the 200 percent of poverty and below, recognizing that some States had already far exceeded that limit, but nevertheless allowing them to be grandfathered in and provide enough money so that no State runs out of money to cover the eligible children.

Unfortunately, the bill before us today continues to take a step, in my opinion, in the wrong direction.

We talk about the millions of children that are supposedly going to be enrolled as new enrollees in the program, and yet when we look at those figures, we find that about 2.5 million of those so-called new enrollees will be children who are already enrolled in private health insurance plans, but because their family is now eligible for the government to pay for their health care, it is anticipated that their families will simply take them off of the private insurance and put them on the taxpayer-paid program of SCHIP. I don't think that's what most Americans in this country want this program to be.

Couple that with the fact that we have no provision in this bill that requires States—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. I yield the gentleman 1 additional minute.

Mr. DEAL of Georgia. There is no provision in this bill that requires States to go out and make the extra effort to enroll children who are eligible for either Medicaid or the current SCHIP program under its current authorization of up to 200 percent of poverty but are still unenrolled.

In fact, it is estimated that about a quarter of the children who are eligible are simply not enrolled in the current program. These are the children that are at the lowest levels of poverty but are not covered. They should be the part that are our first incentive. The Republican version of this incentivizes States to take that extra effort to enroll those children first before they started going up the poverty level and enrolling children in higher income families, many of whom already have private insurance.

I thank the gentleman for yielding to me.

Mr. WAXMAN. Madam Speaker, I'm pleased at this time to yield 3 minutes to the gentleman from Washington State (Mr. MCDERMOTT).

Mr. MCDERMOTT. Madam Speaker, I rise in strong support of the SCHIP reauthorization legislation and want to thank the Speaker, Ms. PELOSI, for her leadership in bringing this bill to the floor. H.R. 2 clearly says that change has arrived for our country and our children.

Instead of the veto pen that was used last year by the outgoing President to deny health care to children, our new President will sign this legislation and, in so doing, will write a new chapter in America's commitment to our children and our future.

H.R. 2 is a real down payment on our efforts to ensure universal access to affordable health care for all Americans. It builds on successful models that have expanded access to millions of children nationwide.

Health care should be a right, not a privilege for the rich in America. This legislation affirms the commitment of a new Congress to serve all the people, not merely those who have the means to pay any price for health care while the Nation pays a steep price by not covering its children.

H.R. 2 represents an additional 4 million children that will have access to health care, and it will provide access to preventive health care, and this alone means America will raise healthier children who grow to become healthier and more productive adults.

The American people have spoken. They want a more compassionate response to our Nation's problems. Today, we are voting with our heads and our hearts to do just that. This is not about ideology or party. It is about providing health care to children. H.R. 2 represents real change.

I am proud of my own State that took the lead before SCHIP was put in place in 1994. Three years before the enactment of SCHIP, Washington State expanded coverage to children up to 200 percent of the Federal poverty line. That was a huge commitment, and clearly, my State took the lead. As a result, we have fewer children uninsured, we have a healthier population, and more integrated primary care. It's a commitment that worked for us in our State, and it recognizes that what worked for Washington State will work across the country.

Thirty million dollars was the commitment we made. H.R. 2 rewards States like Washington who knew early on that providing quality affordable health care to children was a sound, humane investment, but also, it expands a successful program to cover more uninsured children and working families.

The present economic difficulties in this country are going to make this program even more important than they've ever been in the past. This bill provides greater flexibility and will allow States to meet the needs of low-income working families.

I'm grateful also that this legislation includes important access for legal immigrant children who are currently denied coverage, children who are born in the United States and are U.S. legal citizens. In Washington State, we have provided coverage for these children, but the State is doing this alone without the full partnership of the Federal Government. H.R. 2 corrects this error and will allow Washington State to maintain coverage for more than 3,000 children.

Madam Speaker, we need to do the right thing. Providing universal coverage for children is an objective that we should all support. This legislation takes us one step closer to meeting this goal. I urge my colleagues to support this bill.

□ 1130

Mr. BARTON of Texas. Madam Speaker, I yield 2 minutes to a distinguished member of the committee, Dr. GINGREY of Georgia.

Mr. GINGREY of Georgia. Madam Speaker, I appreciate the gentleman yielding, and I regretfully rise to oppose H.R. 2, not because I oppose the original legislation—which I think the bill was a very good bill and as a physician Member and a compassion for wanting to extend health care to our children—my concern with the bill with the reauthorization is that it doesn't really limit it to those children that need it the most, those, say, under 200 percent or between 100 and 200 percent of the Federal poverty level. This new bill actually allows that to go up to 300 percent.

But, Madam Speaker, there is an even bigger problem. This is a situation that some States use called—well, they're loopholes, really, and they call them income disregards. I think there are about 13 States, Madam Speaker, who utilize that loophole that just simply says to couples or families, If you're not eligible, that is, you make more than 300 percent of the Federal poverty level—well, what is that, about $65,000 a year for a family of 4—then we will just simply disregard the income that you make between 300 and 400 percent of the Federal poverty level and say, We're not going to count that. Let's count—a wink, wink, wink, nod, smoke and mirrors, shell game—not count a certain block of income.

And I had an amendment—which I thought was a very good amendment; unfortunately it's a closed rule—but this amendment would simply say that there will be income disregards only in the amount of a maximum of $3,000 a year or $250 a month. Only income disregards may be something like childcare or something of that sort.

But to completely disregard, that's where we get into this crowd-out situation, Madam Speaker, where people whose children are already covered in the private market, they're going to drop that, clearly they're going to drop it even though they can afford it so they can get on the government dole.

And as was pointed out earlier, a lot of physicians are not going to take the SCHIP patient because of the reimbursement.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. Madam Speaker, I am going to be magnanimous and give the gentleman 1 additional minute.

Mr. GINGREY of Georgia. I thank my ranking member of the Energy and Commerce Committee for his generosity. He knows that this Georgia brogue is a little bit slow.

But clearly it makes no sense, it makes no sense to crowd them out and put them into this program and then physicians are going to be less inclined to provide the service because their reimbursement under SCHIP or Medicaid is probably 30 percent less than it is in the private market.

So while in trying to enroll more children and help more children, I think, unfortunately, you're going to get less coverage and less service for those children.

So again, that was a good amendment. I'm sorry I didn't have a chance, Madam Speaker, to offer it. I think we could have made a good bill a whole lot better.

And for that reason, I'm going to oppose this bill.

Mr. WAXMAN. Madam Speaker, I am pleased at this time to yield 1 minute to the distinguished majority leader of the House of Representatives, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman for yielding.

Madam Speaker, I thank the chairman for bringing this bill to the floor in a timely fashion. I'm pleased that we're going to pass this bill, we're going to send it to the President, and he's going to sign it.

Atul Gawande, a surgeon and writer on health care policy, recently described our medical system like this: ''American health care is an appallingly patched-together ship, with . . . fifteen percent of the passengers thrown over the rails just to keep it afloat.''

If you can afford health care in America, there is no better place in the world to get sick. You will be treated to the best hospitals by the most skilled doctors with the latest technology. However, if you're one of the Americans thrown overboard, if you're one of the 45 million uninsured Americans for whom even a checkup is a luxury, you might be better off in some other places in the world. Every other developed nation has figured out how to cover all of its citizens. Every one but ours.

We're here today to start fixing that. Actually, we've been fixing that in a number of ways—Medicaid, Medicare, other programs that we've adopted—to patch the holes, however, that still exist in the leaking ship to make it into a vessel capable of carrying every passenger, every American.

We can't patch every hole today, but if I could pick just one leak to stop, it would be the hold where we keep our sick children. If you asked me for the most efficient use of a single health care dollar, I would put it towards covering more children.

I don't say that out of a misplaced sentimentality; I say it because it's well-established that childhood is the most medically pivotal time of life. A child who lives through the first years without a doctor's care, without regular checkups, without immunizations, and without booster shots is in for a lifetime of health danger. That child will live sicker and die sooner. In adulthood, he or she will be a less productive worker. And in old age, he or she will help swell the costs of our entitlement programs.

That is the logic behind the final passage of this bill, which brings into the State Children's Health Insurance Program, as has been said already, four million children who are eligible but not yet enrolled.

Very frankly, as a result of the veto of the legislation we passed in the last Congress, four million children went to bed last night with their parents worried if they got sick, what were they going to do, with the alternative being the emergency room: the most expensive, and in some cases least efficient, intervention in the health care system in our country.

It does what President Bush promised to do when he ran for re-election in 2004 accepting the Republican nomination. As I've said before, President Bush said this, ''In a new term''—that meant the 2005 to the 2009 term that just expired—''In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for government health insurance programs.''

Those millions of children of which President Bush spoke will be added by this bill. President Bush failed to deliver on his promise, but today, we will redeem that commitment. Today, the objective of years of work will be substantially advanced.

With this vote, and with President Obama's immediate signature, this bill will at long last be law.

Backed by overwhelming majorities of Americans, we can pass this bill and help raise a healthier generation of Americans. That's good for our country, it's good for our economy, and it's good for the international community.

And in this recession, we can lend some vital assistance to the millions of family budgets that are stretched, literally stretched, to the breaking point and the point of letting the health care of our children be further at risk.

Madam Speaker, renewing American health care, bringing the best care in the world, which we have right here—as Dr. GINGREY knows, we have right here—bringing it to all of our people is a hugely complex job. That work, of course, does not end today, as Chairman WAXMAN would emphasize. But this important inclusion of more than four million of our children and the guarantee of access to health care is a victory for America's values and its health care future.

I urge my colleagues, each and every one of us, to vote for this legislation, vote for our children, vote for our families, vote for a healthier America.

Mr. BARTON of Texas. Madam Speaker, can I inquire of the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Texas has 7 minutes remaining and the gentleman from California has 9½ minutes remaining.

Mr. BARTON of Texas. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, my admiration for the majority leader knows no bounds. Mr. HOYER is a great man, and he is an institutionalist, and he was personally involved in the negotiations of the last Congress who tried to get a compromise. But sometimes he doesn't tell the entire facts of the matter. So I want to just point out a few things that our distinguished majority leader failed to mention.

Right now in America, the SCHIP law that we're operating under is a Barton-Deal bill—Mr. DEAL and myself, two Republicans—that extends the existing program. And to Mr. HOYER's credit and Ms. PELOSI's credit, they passed that extension in the last Congress when we couldn't get a political compromise.

Under current law, if you're low income, below 200 percent of poverty, your children are covered under Medicaid 100 percent, 100 percent. If you're a working family that's under 200 percent of the Federal poverty limit, you're automatically covered. In some States, they go up to 250 percent of poverty, and in some States they have asked for waivers to go even higher than that. I think Mr. PALLONE's State of New Jersey may be at 300 percent. I think the State of New York may be at 300 percent.

So it is a misnomer to say that there are all of these children out there that don't have health insurance. There are some.

Now, the bill before us today really doesn't have an income test. It officially takes it to 300 percent of poverty but allows the States to ask for waivers and do what are called income disregards, which basically means you could have families at 400 or 500 percent of poverty and if that State disregards their income, they can be covered. That was admitted on the House floor in last year's debate, and that provision is unchanged in the bill before us.

Now, President Obama has already scheduled a signing ceremony so there is no real suspense about whether this bill is going to pass with a Democrat majority of 258 votes and a Republican minority of 178 votes, we're pretty sure that this bill is going to prevail.

But the record should show that low-income children are covered, that children up to 200 percent of poverty are covered, and in some states it goes to 250 percent. This debate is about raising the level.

This debate is about do we want a children's health insurance program that covers every child in America with State and Federal dollars regardless of their ability to pay; do we want to freeze out the private sector for health insurance. That's what this debate is about.

Republicans are for children's health insurance. Republicans do believe, though, that we should target the help to those families that have less ability to help themselves.

And on the question of citizen verification, since we didn't have a legislative hearing, I'm not sure what the verification measurement is, but I think it's personal affirmation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. Madam Speaker, I yield myself 15 seconds.

If it is personal affirmation, when you sign up for SCHIP they say, ''Are you U.S. citizen?'' And if your parent says you are, you are. That's what personal affirmation is.

So I hope we could somehow pull out a miracle and defeat this bill and then do the bipartisan compromise that we almost pulled off in the last Congress.

With that, I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I yield to the chairman of the Health Subcommittee and the author of the SCHIP bill in the House, Mr. PALLONE from the State of New Jersey, 1 minute with an option for more.

Mr. PALLONE. I thank the gentleman from California.

Madam Speaker, on this historic day I'm reminded of a quote from the Pulitzer Prize winning American author, Pearl Buck, who said, ''If our American way of life fails the child, it fails us all.''

Well, this is a day worthy of celebration. It comes nearly 2 years after Deamonte Driver, a young boy from suburban Maryland, lost his life because his family lost its health insurance. And this simply should not happen in America. And if Congress does not act today, I can't help but think of the millions of other children whose lives will be put at risk simply because they do not have access to health coverage.

There can be no greater cause or worthier goal than protecting the wellbeing of our Nation's children. I emphasize this point now because in a recession parents are forced to make tough financial decisions: do they keep their families' health insurance, or do they put food on the table at night?

And today we have an extraordinary opportunity to ensure that these children don't fall through the cracks. This is a very good bill. With its passage, 11 million children will have access to the health care coverage they need to lead healthy and strong lives. And these children are our Nation's future.

Let's support them today by voting ''yes.''

Mr. BARTON of Texas. Madam Speaker, I yield 1 minute to the gentleman from California, Congressman MCCLINTOCK.

□ 1145

Mr. MCCLINTOCK. I thank the gentleman for yielding, and I think it's a prime example of unintended consequences. Since its inception, we've watched as SCHIP has been slowly replacing employer health plans with government-paid plans—with spiraling costs to taxpayers. Employers discovered that they could avoid their own plans, knowing that their employees would be covered by SCHIP.

This was supposed to provide health insurance for poor and working-class families but, like all things bureaucratic, it's now morphed into one in which families earning as much as six-figure incomes and who would have good employer-paid health insurance are being pushed into the government program. And that is the fine point of it.

This is no longer a program for the children of poor people. It's being used to insinuate government into the medical care of every American. Frankly, we don't need the same people who run the TSA to run our health insurance.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to a member of the Energy and Commerce Committee and a member as well of the Health Subcommittee, the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I am delighted to rise today in support of the Children's Health Insurance Program Reauthorization Act. I thank Chairman WAXMAN and Chairman PALLONE for their hard work on bringing it to us today.

As a mother and proud grandmother of four, I can think of no higher priority than ensuring that our children get the health care they need. Unfortunately, 7 million children nationally and 350,000 children in Illinois are at risk of losing their coverage if we don't reauthorize this program.

But this bill will not only prevent SCHIP from expiring on March 31, it will also expand coverage to 4 million uninsured children nationally and 300,000 children in Illinois. It makes many needed improvements, including dental coverage and providing mental health parity. I am particularly pleased that it gives States the discretion to cover more women and children by lifting the 5-year ban for legal immigrants.

I am also pleased that after many thwarted efforts, we finally have a President that will sign this bill into law. It represents a renewed commitment to health care. This is the first step in making sure that every child, woman, and man in the United States has health care that is affordable, accessible, and high quality.

Mr. BARTON of Texas. I yield 2 minutes to the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. I thank the gentleman for yielding.

Let me clear up a couple of things. First of all, the majority leader has said that this is an effort to provide universal coverage for citizens of this country to health care. It obviously is a major step in that direction of government control of health care.

The problem though is it may also include expanding and extending health care to citizens of other countries. In 2005, the Inspector General of HHS told us that some 46 States and the District of Columbia were using self-attestation of citizenship to enroll people in their Medicaid programs. Part of the reason was when they had asked for identification, they were accused of profiling or threatened with civil rights lawsuits. So most States backed off and said, Well, if you tell us you're a citizen, we'll take your word for it.

In the Deficit Reduction Act, we changed that. And we require that you now prove you're a citizen and prove who you are. This bill changes that. And we go back.

For those of us who think, Well, just tell us a name and a Social Security number—that means that if you believe that there are not people who are out there with fraudulent Social Security numbers, then I have some stories back home I'd like to tell you.

We take a huge step backwards—and it's not just in the SCHIP program. It applies to the Medicaid program as well. Now, that means then at a time when we are hearing people saying that we want you to secure our borders, we want you to protect us, we are saying we are going to open it up to anybody who just wants to tell you they are a citizen and, by the way, even if they tell you wrong, this bill has no sanctions for them telling you they are a citizen, when they are not, and this bill requires you to provide them with medical care during the time period when they have defrauded.

At a time when citizens are concerned about the economy of this country, we should not be taking a step in the direction of loosening up and encouraging fraud and abuse of this program.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the gentlelady from California (Ms. ESHOO).

Ms. ESHOO. Madam Speaker, I think today is really a great day in America because the legislation that is before us is one of the most important bills that we will pass in the 111th Congress, the Children's Health Insurance Program Reauthorization Act, or SCHIP.

As we know, the same legislation was vetoed not once, but twice by President Bush, forcing the Congress to pass short-term extensions and no improvements to the program. But, today, a promise is being kept to America's children. They will be insured with health insurance. And the total will be 11 million. We are adding 4 million children to be covered. I think that that is a victory.

The legislation invests more than $32 billion over 5 years, and it is fully paid for. So it is good fiscal policy, it is good health policy, and is good social policy.

Forty years ago today, I gave birth to my daughter, Karen. Today, more children are being born, and the little ones can look forward to what the Congress is providing. Bravo, bravo, bravo.

Mr. BARTON of Texas. May I inquire on the time remaining?

The SPEAKER pro tempore. The gentleman has 45 seconds remaining.

Mr. BARTON of Texas. How about my friends on the majority?

The SPEAKER pro tempore. There are 6½ minutes remaining for the gentleman from California.

Mr. BARTON of Texas. I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the Speaker of the House, without whom we would not have this legislation before us today, who has been tireless in pushing forward the agenda to make sure that no child in this country goes without health insurance, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. This is a very happy day for me, for the Congress, and for the country, for all of America's children. I thank my colleagues for their extraordinary leadership in working on this very, very important legislation, which is strongly bipartisan, very carefully crafted, and again, a giant step forward for our children.

Almost 2 years ago, when we first talked about this legislation—we have been talking about it for years. Of course, it has been the law, and now we are expanding it. But when we first brought it into the previous Congress, on that day, it was late in the afternoon when I came to the floor, and while the sun was setting in the sky—coincidentally, I came at a time when it was, in poetry, described as the ''children's hour.''

I quoted then Henry Wadsworth Longfellow's poem: Between the dark and the daylight, when the night is beginning to lower, comes a pause in the day's occupation that is known as the Children's Hour.

Today, the children's hour has come to pass. With the bipartisan vote of this House, and the signature of the new President of the United States, we will provide health care to 11 million children in America.

We owe a great deal of thanks to our chairman, Mr. WAXMAN, to the chairman emeritus, Mr. DINGELL, and Chairman FRANK PALLONE, of the Energy and Commerce Committee; Chairman RANGEL and PETE STARK of the Ways and Means Committee. So many women on the committees have worked for this. Congresswomen SCHAKOWSKY, BALDWIN, DEGETTE, ESHOO, and many others. This has been a product of many women focusing on this important issue that involves our children.

But our success really springs also from the outside mobilization that went with this. A compilation of more than 300 organizations—everyone from AARP to YMCA, March of Dimes, Easter Seals, and every organization in between—supported providing quality, affordable health care to America's children.

More than 80 percent of Americans support our bipartisan children's health insurance bill because they understand that with 2.6 million jobs lost last year, now even more children do not have health insurance. For every 1 percent increase in unemployment—for every 1 percent increase in unemployment—it is estimated as many as 1.5 million Americans will lose their health care coverage.

The American people know that preventive care is more cost effective than relying on our Nation's emergency rooms. That phrase was used in the debate over the past 2 years. Everyone in America has access to health care. All they have to do is go to the emergency room. What a ridiculous statement. What a disservice to the debate.

They know also that reducing smoking, which the Campaign for Tobacco-Free Kids says this legislation will do, means healthier children leading longer lives.

The bipartisan, fully paid for children's health insurance bill represents the new direction that Democrats have fought for that now, today, we join with our Republican colleagues to bring to the floor. This is the beginning of the change that the American people voted for in the last election and that we will achieve with President Barack Obama. We look forward to this afternoon when the President of the United States will sign this legislation.

I see some of our new Members of Congress on the floor. I see Congresswoman BETSY MARKEY and Congresswoman DAHLKEMPER on the floor. I don't know if others are here. But they have taken a major interest. TOM PERRIELLO of Virginia has taken a major interest in this legislation too. I commend them because their coming to Congress has already, only a few short weeks in the Congress, has already made a difference in the lives of the American people.

It's a very happy day for me because, as you know, each time I have been sworn in as Speaker, I have gaveled this House to order in honor and on behalf of all of America's children. Right now, we are observing a children's hour that signifies that we are a Congress for those children.

I urge all of my colleagues to support our effort to pass this with a tremendous, tremendous margin, and then also to celebrate the signing of the legislation this afternoon.

Mr. BARTON of Texas. I continue to reserve the balance of my time until they are ready to close. We have one speaker remaining.

Mr. WAXMAN. I yield 1 minute to a member of the Health Subcommittee and the full Energy and Commerce Committee who played a role in this legislation, the gentlelady from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Thank you, Mr. Chairman.

I rise in strong support today of the Senate amendment to H.R. 2, the Children's Health Insurance Program Reauthorization Act. Achieving health care for all in this country is the reason why I got into politics. It is my goal, it is my passion, it is my motivation. And, for the first time during my tenure in Congress, I see real promise that the Obama administration and this Congress will work together to achieve that goal.

SCHIP takes an important first step in moving towards achieving this goal. I am proud to support this particular bill because it contains some key provisions. It provides increased Federal funding for States like my own State of Wisconsin that have proven successful in reducing the number of uninsured children. It also provides funding for outreach activities to find the children that are hardest to reach—the most in need of health care.

Madam Speaker, this legislation will give 4.1 million uninsured children meaningful access to health care. And now we must move forward to cover the millions more who suffer every day due to lack of health insurance. Today, we must enact SCHIP legislation. Tomorrow, we must move forward to bring health care coverage to every American.

Mr. WAXMAN. Madam Speaker, I yield 1 minute to the vice chairman of the Energy and Commerce Committee and a longtime member of the Health Subcommittee, the gentlelady from Colorado (Ms. DEGETTE).

Ms. DEGETTE. We will pass this bill today. And we will pass this bill for millions of women, like Susan Molina, who are trying to work and support

their children and do the right thing for them. Susan is a single mother in my district. Her abusive husband left her, and she has struggled to work and pay for health insurance for her two children as she worked tirelessly to move from a janitor to an apartment manager position.

In 2006, Susan's two children lost their health insurance under SCHIP because her new job paid just slightly more than 200 percent of poverty level. Susan has tried to work her way up to be a responsible member of society. Eventually, she got her children in SCHIP, and they have health care, and she could work. But then after she lost her SCHIP coverage, as she testified to Congress, to our committee, she felt like a failure as a mom.

□ 1200

She was working, she was in school trying to get her GED, but she still had to take her kids to the emergency room when they got an ear infection. Frankly, Madam Speaker, it is about time that the most civilized country in the world give health care coverage to all of its children.

Mr. WAXMAN. Madam Speaker, I am pleased to yield to the gentleman from Washington State, a member of the Energy and Commerce Committee, Mr. INSLEE, for 1 minute.

Mr. INSLEE. Madam Speaker, I want to particularly commend this bill, because it honors the States that have been visionary and proactive in trying to get health insurance for their kids.

Eleven States have moved forward ahead of the country in providing health insurance for their kids up to 300 percent of poverty, and this bill finally, due to the great efforts of Mr. WAXMAN, Mr. DINGELL, and many others who have been working for years, Mr. PALLONE, to fashion a provision that will allow the children in those States to in fact enjoy health insurance. In my State of Washington, over 5,000 kids are going to have health insurance as a result of this; the State will have $94 million to help those families. This is long overdue.

And to my friends across the aisle who somehow do not understand that parents who become unemployed in the downturn we are now experiencing, whether they are at 100 percent of poverty or 200 percent or 300 percent, I don't know why they don't understand the pain of parents who can't provide health insurance for their kids. This does it today. Let's pass this bill.

Mr. WAXMAN. Madam Speaker, I am pleased to yield to the gentleman from North Carolina (Mr. BUTTERFIELD), a very important and distinguished member of the Energy and Commerce Committee, 1 minute.

Mr. BUTTERFIELD. Madam Speaker, I want to thank the chairman of the Ways and Means Committee for yielding this time. This is a very important subject in all of our States.

Madam Speaker, without question, the people of my State in North Carolina are hurting very badly. Unemployment figures show that the number of counties with double digit unemployment actually doubled to 34 during the month of December. That is more than one-third of the counties in my State now suffering from double digit unemployment.

When people lose their jobs, they lose access to affordable health care, and it is the children, just as the gentleman from Washington just said, it is the children who suffer most in these circumstances. Today, we have an opportunity to take another step toward ensuring that every American child has access to affordable health care regardless of family circumstances.

With the passage of this bill, my State of North Carolina will reduce the number of children who lack health insurance by 46 percent. That is 136,000 children. There will be similar impacts across the country. I urge my colleagues to join me in approving this important bill.

The SPEAKER pro tempore. The gentleman from Texas has 45 seconds remaining; the gentleman from California has 1½ minutes remaining.

Mr. WAXMAN. Madam Speaker, at this time it is my great honor to yield to speak on this legislation to the gentleman from Michigan (Mr. DINGELL), who has been the author of this bill for child health insurance in the last Congress. Unfortunately, the bill was vetoed by President Bush. But we all have to recognize his strong commitment and leadership on this issue, and so I want to yield to him 1 minute to be able to speak in favor of the legislation.

Mr. DINGELL. I thank my friend, the chairman of the committee. I rise to voice my support for the extension of the Children's Health Insurance Program. As a long-time supporter of the program, I am delighted that we are sending a bill to the President that will be signed into law. This time there will be no veto pen to stand in the way of providing health coverage for 11 million of our kids.

High health care costs are straining already strapped families nationwide. Nowhere is this truer than in my home State of Michigan, where unemployment now tops 10 percent. With families struggling to save for retirement, to save for college, to pay mortgages and bills, this legislation will help State governments provide health care to children who otherwise would be left out.

Recently, there has been much talk about investments, good and bad. The bad kind has pushed our financial system into the brink of insolvency and has caused economic crisis on a scale unseen since the depression. But good investments, such as SCHIP, invest in our children and our future.

This expansion is a bipartisan effort, a collaboration of my colleagues on both sides of the aisle. Of this, I am properly grateful, and I urge my colleagues to vote for this legislation. It will be signed into law, and I look forward to working with the administration on a program of national health reform.

As someone who has spent 50 years on this effort, I know that this is just the beginning of what needs to be done.

The SPEAKER pro tempore. The gentleman from Texas has 45 seconds remaining.

Mr. BARTON of Texas. I am going to yield my last potent 45 seconds to a distinguished member of the committee, MARSHA BLACKBURN of Tennessee, to close.

Mrs. BLACKBURN. Madam Speaker, I think that, I would hope, that not only my colleagues but the American people realize that this bill today contains a $72 billion tax increase on the American people, what Congressional Research Service calls the most regressive of taxes, because it is tobacco taxes. But this is a tax increase that is coming full steam ahead at us. And, Madam Speaker, it is not there to go into a program that we all originally supported the way SCHIP was originally set up. This expanded SCHIP goes to middle-income children; it does not focus on low income and uninsured children. That is a sad day for us. Indeed, part of the 900,000 children that are expected to be added already have access to health insurance.

I would encourage all of my colleagues to vote against the tax increase and vote ''no.''

Mr. WAXMAN. Madam Speaker, I wish to yield the balance of our time to the gentlelady from Colorado (Ms. MARKEY).

Ms. MARKEY of Colorado. As working class families struggle to make ends meet in these tough economic times, we have the opportunity to ease their burden by providing health care for 11 million children. Currently, more than 1 out of 8 children in Colorado lacks health insurance because they can't afford it. As the mother of three, I understand the burden of caring for sick children and the relief of being able to take my children to the doctor without worrying about costs.

We need to expand access to children's health care, and make sure that every child has the ability to go to the doctor and receive treatment. This is not just the right thing to do; it makes fiscal sense to give children preventive health care.

As working class families struggle to make ends meet in these tough economic times, we have the opportunity to ease their burden by providing health care for 11 million children. In my state of Colorado, we had 84,649 children enrolled in SCHIP in 2007. This legislation would preserve coverage for them, and extend it to thousands more children in the state.

(Currently, more than one out of every eight children in Colorado lacks health insurance.)

As a mother of three, I understand the burden of caring for sick children and the relief of being able to take my children to the doctor without worrying about costs.

We need to expand access to children's health care and make sure that every child has the ability to go to the doctor and receive treatment. Today's children are the next generation of leaders, and we need to insure our future. This is not only the right thing to do, it makes fiscal sense to give children preventive healthcare. I ask all of my colleagues on both sides of the aisle to pledge their support for our children and vote for this bill.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) is recognized.

Mr. RANGEL. Madam Speaker, what a great opportunity for us in this august body, whether we are Republican or Democrat, to think in terms of the comfort that we are giving parents and grandparents by having assurances that, if anything happened to these very special people, that they would have health insurance.

There is hardly a weekend that goes by that I don't thank God for my three grandchildren, and not have to worry that if anything, God forbid, should happen to them, that at least we would know they have access to health care. It reminded me when I was a young father and how precious my son and daughter would be. And then you think, of course, of the so many millions of people that go to work every day not being able to concentrate on their jobs and being productive and competitive, but thinking what would happen if their child became ill.

And it is not just the compassionate and right thing to do, to know that all of us would be able to go to sleep at night and to know that we made our contribution to provide health care to 11 million kids, but even from a national security or fiscal point of view, as doctors and researchers indicate, the great burden of fiscal costs for diseases and ailments that could have been detected if the children had access to health care. So many kids drop out of school with people not even knowing that they couldn't hear, that they couldn't understand properly, that they couldn't see minor things that could have been detected if the child had the availability of health care. And, of course, in the long run I don't think any on the other side and certainly none of ours can challenge the fact that it is in the later years of life things that could have been prevented that increase the need for health care and of course increase the costs for health care. In other words, we can dramatically improve the quality of care and cut down the ever increasing costs of care by preventing these things from happening.

I sat here trying to listen to some argument about why anyone would be against this bill. Sure, no one likes taxes. I am opposed to excise taxes. But, my God, cigarettes? You almost feel like you are doing the right thing by making it difficult for kids and others to smoke cigarettes. Indeed, from a Ways and Means point of view, it is a question of whether or not the bill could be adequately funded because last year we collected more taxes because there was more consumption. So something is really working in terms of curtailing of people from destroying the quality of their own lives.

And so I do hope that we continue to have this as a bipartisan bill, that we can walk out at least and go home and say that we worked together on one initiative that was good for our children, good for our community, and good for our country.

I now ask unanimous consent to yield the balance of my time to the chairman of our Health Subcommittee, and to have Dr. MCDERMOTT determine which Members he would like to yield to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MCDERMOTT. I reserve the balance of my time.

Mr. LINDER. Madam Speaker, I yield myself such time as I may consume.

The State Children's Health Insurance Program, which started in 1997, was for children, for children who lived in families who did not qualify for Medicaid but still needed health insurance programs. Today, four States have more adults in the program than children. It is being abused.

The health insurance program for children also required, originally, those in this country to show that they lived in this country legally, to have documentation. This program removes that proof. You now need only to say, ''Yes, I am here legally.'' It also removes the 5-year requirement. When you are here legally and you are sponsored by someone, they have to be responsible for taking care of your needs for 5 years. This is removed. What will happen if we follow on with an amnesty bill for the 20 million illegals who would be immediately eligible for the SCHIP program? Would it then be fully funded?

The funding, by the way, mostly by tobacco, falls on low-income people. The burden on the lowest 20 percent with the tobacco program is 37 times more burdensome than were it funded by an income tax. It also requires 22 million new smokers just to pay the bill. I want to see the majority go recruit them.

It is estimated that 2.4 million people will drop private insurance; families will drop because they qualify. Employers paying employees less than $80,000 a year will drop it. This isn't mean-spirited; it is in their interest. We saw this happen before.

In 1965, every physician and dentist in America had a file drawer full of patients that they treated for free. It was their community responsibility. When Medicare and Medicaid came along, they said, ''Well, my taxes are going up to pay for that. The government will now do it.'' And they dropped that responsibility, and the burden fell on the taxpayer.

With the upper limit disregards in this program on income ceilings, we essentially make 75 percent of all Americans eligible for the program. Again, I repeat. I have heard it said many times it is fully funded. And Lyndon Johnson said that about Medicare and Medicaid. I was in dental school and watched his great society speech. He said, ''We know, using easily quantifiable user statistics that, by 1990, Medicare will only cost $9 billion and Medicaid will only cost $1 billion.'' He was wrong. Medicare costs over $100 billion; Medicaid costs over $75 billion, and those entitlements are breaking this country.

□ 1215

The same is going to happen when the ceilings are taken off incomes and other people are put into this program. It will not be fully funded by tobacco.

This program will pay less than one-half the reimbursement to providers through Medicare or SCHIP that currently Blue Cross pays. And those providers are going to disappear from the program. We are already seeing it in Medicare and Medicaid. Who is going to be left to treat these people?

There was a real bipartisan effort to reauthorize this program last year, to expand its income protections and to increase the money to pay for it. It wasn't enough for the majority. They wanted to make it for everybody all of the time. This will not work.

I will vote against it.

I reserve the balance of my time.

Mr. MCDERMOTT. Madam Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding.

A great country holds the interests of its children first and foremost. A great country responds to tough times and steep challenges by placing the interests of its children at the head of the line when it comes to advancing measures to help. Today we have a chance to reflect this dimension of America's greatness by passing this bill to extend vital health insurance to 11 million of our kids. We must take this action.

Like last year, we will have bipartisan support when it comes to moving this bill forward. But unlike last year, this time our efforts will receive a different reception at the White House. Our prior President vetoed this bill. But we now have a new President. And this bill will be received with a resounding ''yes.'' And the effort to get

coverage to our children will at last succeed.

Mr. LINDER. Madam Speaker, at this time I yield 3 minutes to my friend from Texas (Mr. CULBERSON).

Mr. CULBERSON. I thank the gentleman from Georgia.

Each one of us as representatives of our districts have a fiduciary duty, the highest obligation of the law, to protect the Treasury of the United States to ensure that our children and grandchildren are not inheriting an unaffordable debt burden. Today the national debt exceeds $10 trillion. Today the national deficit, for the first time in history, exceeds $1 trillion. It is approaching $1.5 trillion. Today the unfunded liabilities of the United States exceed $60 trillion.

And in that set of circumstances, it is essential that this Congress, on every bill, on every issue, on every vote and in every debate think first and foremost about that debt burden that we are passing on to our children and analyze every bill before us from that perspective. Is it physically responsible? Is it financially prudent to pass the legislation before us?

Obviously the Federal Government has a longstanding existing obligation to provide health insurance for the very poorest of our citizens. But the key is, we fiscal conservatives want to see poor American children provided health insurance first and foremost. We fiscal conservatives want to limit the provision of health insurance coverage to those poor American children in circumstances where they can show that they are truly citizens, they are here legally—in our current law, they have to wait 5 years—and that they are truly poor.

Yet with the legislation this unleashed liberal leadership of the new Congress has put before us, you are hiding behind campaign slogans. Step back and let's forget the next election. Think about the next generation. Let's legislate for the next generation, not the next election. And when you look at the next generation, the legislation that this unleashed liberal leadership of Congress asked us to support would allow Arnold Schwarzenegger in California to implement his plan of providing health insurance, quoting from the Washington Post, Schwarzenegger's health insurance plan would require everyone living in California, even illegal immigrants, to have health insurance at an estimated cost of $12 billion. You're changing existing law which requires the applicant to confirm, to verify and to prove that I am a citizen of the United States, you're repealing the requirement that if you are here legally you wait 5 years to apply for public assistance. You're repealing the requirement that if you come here legally that you're not going to become a burden on American taxpayers. Today it is required that you have a sponsor. If you come into the United States legally, I have got to have a sponsor who will sign an oath confirming that I as the sponsor will make sure this person I am sponsoring does not become a burden on American taxpayers.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. LINDER. I yield the gentleman 1 additional minute.

Mr. CULBERSON. Under current law, if I enter the United States legally, I must have a sponsor who signs an oath ''I confirm and I will pay for this new, this person entering the United States legally. I will make sure they don't become a burden on taxpayers.'' That requirement is repealed. When you look at the cost of this legislation to future generations, it's a staggering bill to pass on to our kids. It's an unaffordable burden to add to our children, grandchildren and great-grandchildren's obligation. For the sake of a sound-bite, for the sake of a cheap election slogan, you're passing on an unaffordable burden to our kids when we as fiduciaries, as trustees of the public Treasury, of the public dollar at a time of all these bailouts, the repeated bailouts of Wall Street, of rewarding bad behavior, something that the fiscal conservatives in the Congress have fought, you're now adding to the problem by repealing the citizenship verification requirement. You're repealing the 5-year waiting period. You're allowing States to provide health care coverage to people up to 400 percent of poverty. It's unaffordable. It's unacceptable. It's a dangerous trend. And I hope all of us vote against it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. MCDERMOTT. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Madam Speaker, investing in children's health care is one of the best investments our country can make. When kids see the doctor more regularly, they receive the preventive services that keep them healthier for longer. And they're less likely to end up in the emergency room, which saves everyone money.

The State Children's Health Insurance Program has been an extraordinary success. Over 1.5 million children in my home State of California get their health care through this program. However, today, we still have 1.25 million uninsured kids in California. That is unacceptable in the United States of America.

This bill will begin to address that tragedy by providing health care for almost 700,000 additional children in California alone. As a down payment toward health care reform, this legislation will reduce the percentage of uninsured children, just in California, by 55 percent. Our children deserve a healthy start. And this legislation ensures that 4 million more children across the country will get just that.

I ask for your ''aye'' vote.

Mr. LINDER. Madam Speaker, I yield 4 minutes to my friend from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from Georgia for yielding time, and I appreciate the privilege to address this issue of SCHIP. This has been a significant frustration to me to grow up in a society where we have respect for the rule of law and fiscal responsibility, or we identify the pillars of American exceptionalism and our charter is to go out and refurbish them. And what we have instead is a bill before us that apparently is a bill that is endorsed by the White House, Madam Speaker, that doesn't reflect these values at all.

And I start down through the issue that is my charge here more than any other in this Congress, and that is what this SCHIP does to undermine the integrity of the restraint that is shutting off, keeping the magnet shut off that attracts illegals into the United States. And it's clear. It's not a number that comes from my side. And it's not a number that comes from an activist group. These are numbers that come from the Congressional Budget Office. The requirement to verify the citizenship of Medicaid applicants by using a verified Social Security number has been taken out of this bill. And that amounts to a cost, according to the CBO, of $5.1 billion federally. It will bring an extra cost on to the States, according to CBO, of $3.85 billion. So just that component, lowering the standard to open the door for anybody that wants to walk in the door and say, well, here is a Social Security number for you, and they will sit there and say, well, we have a government program for you, even though your residence might well be in another state and you may have come across the border illegally, that number of illegals applying for and qualifying under this open rule comes to $8.95 billion between the State and the Federal portion of this.

And then another egregious affront to the standards that we have had since the beginning of immigration law in America was, when you come here, you're to be self-sustained. And Ellis Island, where they processed my grandmother, they sent about 2 percent back because either they weren't physically able to sustain themselves or they didn't have a sponsor. And we had passed a law back in several previous Congresses that sets the 5-year bar where you will have a sponsor and they will be accountable that you will not go on the government dole for 5 years if you are a lawful permanent resident

here in the United States. That is gone. That is gone if this bill passes. That is $6.5 billion, Madam Speaker. So those two pieces of this altogether are $15.45 billion in costs that either increase the magnet for legal immigration to come on welfare, open the door and says on the first day you come here, you will qualify for welfare legally. If you come here illegally, you can do the same thing for Medicaid by simply attesting to a Social Security number. It is no longer required to sign a form even that the information is right. That has been waived as well.

If you add these costs all up, there is another huge cost to this, and that is this tax increase. Now, I remember, and I will go verbatim through the quote that came from then-candidate and now our President ''No matter what John McCain may claim, here are the facts. If you make under $250,000 a year, you will not see your taxes increase by a single dime, not your income taxes, not your payroll taxes, not your capital gains taxes, no taxes, because the last thing we should do in this economy is raise taxes on the middle class. And we have been saying that throughout this campaign.''

Now here is this policy that may well land on the President's desk. That is his quote. This is a tax increase on the middle class. It's a tax increase. Ninety-nine percent of this tax increase of the $72 billion that comes goes on the middle class, those people making, by his definition, under $250,000 a year, Madam Speaker. So this is a huge tax increase on the middle class.

And the final piece of this bill, and I think it is actually the biggest one, is that opening up the door beyond 200 percent of poverty and allowing waivers for States to go beyond 400 percent of poverty, in fact, Medicaid for millionaires, sets the stage. This is a foundation stone for socialized medicine in the United States. And I oppose the bill.

Mr. McDERMOTT. Madam Speaker, I yield 1 minute to the gentlelady from Pennsylvania (Mrs. DAHLKEMPER).

Mrs. DAHLKEMPER. Madam Speaker, I rise in support of SCHIP legislation before us today.

As I have said before, perhaps the most important reason that I ran for Congress was to help ensure that all children in this Nation have access to quality health care. A healthy start in life is something that all children deserve. And I'm particularly pleased that this bill will offer coverage to pregnant women, because I often tell the story of how I could not get coverage during one of the most critical times in my life, the pregnancy of my second child, when it was deemed a preexisting condition by my private insurer.

This legislation, which will be signed by President Obama later today, will expand the SCHIP program to cover an additional 4 million children. This is an accomplishment that our Nation can be proud of.

I urge my colleagues' support of this legislation.

Mr. LINDER. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. I thank the gentleman from Georgia.

To summarize very quickly, 4 minutes goes so quickly, Madam Speaker, I want to make sure that every opportunity I have to speak on this floor and that we as fiscal conservatives remind the American people that this new liberal leadership in Congress has been spending money at the rate of $100 million per minute. Let me let that sink in, $100 million per minute. We've only been here the first 17 days of this Congress, and this new leadership managed to spend about $1.3 trillion more than the entire annual budget of the United States. And our primary concern about this legislation is that we want to see health insurance for poor American kids first. And the bill you have dropped in front of us is going to open the door for fraud, for illegal aliens to apply, and for people who are here legally to walk in and get coverage. The minute they enter the United States, they become a burden on American taxpayers.

□ 1230

This legislation is going to allow people up to age 21 who earn $80,000 a year to apply for health insurance as if they were poor. It's fiscally irresponsible, particularly at a time of record debt and record deficit. Let us remember the next generation. Let's legislate for the next generation and not the next election.

Mr. McDERMOTT. Madam Speaker, I yield to the gentleman from California (Mr. BECERRA) 1½ minutes.

Mr. BECERRA. Madam Speaker, 200 years ago America's children would perish from illnesses that today are easily preventable. We benefit from 21st century medical advances and the best trained doctors and providers in the world. Yet 2 years ago, 2 years ago, a young boy at the age of 12, not far from this Capitol died after an infection in an abscessed tooth, an infection that spread beyond that tooth to his brain. Because his family did not have the money to remain on Medicaid coverage, and that Medicaid coverage had lapsed, he was unable, his family was unable to afford the $80 it would have cost to extract that tooth. And so 2 years ago, a young man by the name of Diamonte Driver died in America.

Today we say this is the 21st century and America understands that no one should die of a preventable disease or illness. We have 11 million children in this country who are still uninsured. Today's legislation will make sure that about half of those kids, about 4 million of those kids will be insured, along with seven other million who today benefit on an ongoing basis from this SCHIP legislation.

We know what it was like 200 years ago in America and we know now what it could be like 2 years ago in America. We know that today we must do better for our kids and that is why we pass this legislation today.

Mr. LINDER. Madam Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Madam Speaker, I yield 1 minute to the gentleman from Virginia (Mr. PERRIELLO).

Mr. PERRIELLO. Madam Speaker, today I rise in support of H.R. 2, the State Children's Health Insurance Program Reauthorization Act of 2009.

At a time of growing unemployment, and when more Americans are losing employer-sponsored health care for their children, this bill is needed urgently for the 150,000 Virginia children currently insured by the program, and the 55,000 more who will be covered.

This approach makes good public health policy. It's morally the right thing to do by our children, and it's good economic policy because it rewards the very families and parents who are working their way out of poverty. At a time when the cost of health care is crushing America's families and America's businesses, this is an important lifeline to extend to children in Virginia and children throughout the country.

While I am in full support of the underlying legislation, I am disappointed to learn that the Senate bill includes a disproportionate increase in the excise tax rate on tobacco products. The proposed tobacco tax could impact jobs and State revenues in already tight times.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McDERMOTT. Madam Speaker, I yield the gentleman an extra 30 seconds.

Mr. PERRIELLO. In these very difficult times, we are in this together as a matter of public health and as a matter of economic growth.

As the son of a pediatrician, I am pleased to have the opportunity to vote in favor of this critical legislation and in favor of children in the Fifth District.

I urge my colleagues on both sides of the aisle to join me in putting America's children first and cast a vote in favor of this important bipartisan legislation.

Mr. LINDER. Madam Speaker, I reserve the balance of the time.

Mr. McDERMOTT. Madam Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Let me thank the chairman of the full Energy and Commerce Committee, Mr. WAXMAN. Let me thank the manager, Dr. McDERMOTT, and the chairman of the Full Committee on Ways and Means.

This is a miraculous accomplishment. The children of America are shouting today. It's important to know that there are 8.9 million uninsured children in America. Overall, 11.3 percent of children in the United States are uninsured. That is unacceptable, and it is not befitting of this great Nation.

In Texas we have close to 1.5 million children that are uninsured. Today we say to them that they are a priority, and that their health care and their preventative health care is crucial; that it is not a waste of money. When 74 percent of uninsured children eligible for CHIP, for Medicaid are not enrolled, this is not a waste of money.

I am gratified that pregnant women will have access. I am gratified that they will also have access for certain adults that meet certain criteria; and I am delighted that we still have an opportunity to protect certain hospitals owned by physicians that will continue to serve children that are uninsured as well.

This is a great bill. We should vote on it enthusiastically and continue to work again to enroll more children for this great medical service.

Madam Speaker, I rise today in strong support for the Senate Amendment to H.R. 2—"The Children's Health Insurance Program Reauthorization Act". We stand today, closer to helping 4 million children without health insurance. No longer will these children be forced to live with fear of getting sick. Today is a great day. Today we are able to bring 4 million children in to the fold. Finally, we can tell those 4 million children that are begging for help that Yes We Can!

NATIONALLY AND IN TEXAS

There are an estimated 8.9 million uninsured children in America. Overall, about 11.3 percent of children in the United States are uninsured, but the percentage of uninsured children in each state varies widely. Based on a 3–year average, there were an estimated 20.9% of uninsured children (under 19 years of age) in the State of Texas representing 1,454,000 of the State's children.

According to the Institute of Medicine, uninsured people are less likely to use preventive services and receive regular care. They are also more likely to delay care resulting in poorer health and outcomes. Texas has the highest uninsured rates of all 50 States and the District of Columbia (2005–2007). Almost one-quarter (24.4%) of Texans are uninsured compared to 15.3% of the general U.S. population.

Recent studies estimate that for every 1 percent increase in U.S. unemployment, 1.1 million Americans lose health insurance and more than a million enroll in Medicaid and CHIP. While Texas' 6 percent December unemployment rate remains better than the national average of 7.2 percent, the State rate is up from just 4.2 percent in December 2007. Widespread job losses continue, and leading economists predict that absent dramatic government action, the national unemployment rate could reach 10 percent by 2010. Many states, including Texas, already experience much higher Medicaid enrollment than projected due to job loss and lower incomes, and will be unable to support the higher demand without this relief.

HOW DOES CHIP HELP TEXAS FAMILIES?

According to 2004 U.S. Census data, Texas has the highest rate of uninsured children in the country with 21.6% of children in Texas lacking health insurance coverage.

Nearly 90% of uninsured children in Texas have at least one working parent. The high cost of health insurance means that it is unaffordable for many Texas families. According to the Milliman Medical Index, the annual cost of health insurance for a family of four is $13,382.

Although many Texans have employer sponsored health care insurance, many cannot get affordable coverage for dependents through an employer.

National data shows that virtually all the net reduction in SCHIP enrollment has been among children in families with incomes below 150% FPL. I want to share with you just some of the scary health statistics that are affecting children:

74% of uninsured children eligible for SCHIP or Medicaid but not enrolled.

11% of uninsured children in families not eligible for Medicaid or SCHIP with incomes below.

15% of uninsured children in families with incomes over 300 percent of the federal poverty-level who are ineligible for Medicaid and SCHIP.

90% of uninsured children that come from families where at least one parent works.

50% of two-parent families of uninsured children in which both parents work.

3.4 million uninsured children who are white, non-Hispanic.

1.6 million uninsured children who are African American.

3.3 million uninsured children who are Hispanic.

670,000 uninsured children of other racial and ethnic backgrounds.

PHYSICIAN-OWNED HOSPITALS

I am very pleased to see that this new version does not include the restrictions on physician owned hospitals. Along with many of my colleagues, I have been very concerned that we had with the prohibition on physician-owned hospitals. Which is why I worked with my colleagues to ensure that this language was not included.

In my district of Houston, Texas the population has grown close to 4.5 million people and there are only approximately 16,000 beds available in the city. Physician-owned hospitals like St. Joseph Medical Center in my district provide essential emergency, maternity, and psychiatric care for their patients. They delivered over 6,000 babies in 2008, of which 3,700 were insured by Medicaid. Currently they provide $14M in uninsured care in the Houston Market. A Houston Institution for 120 years, St. Joseph Medical Center is also a major provider of psychiatric beds as it currently operates 102 of the 800 licensed beds in Houston.

In 2006, St. Joseph Medical Center, downtown Houston's first and only teaching hospital was on the verge of closing its doors. When I learned that they were going to shut down this hospital and turn it into high-end condominiums, I personally worked with the hospital board, community leaders, and local government to ensure this did not take place.

Eventually, after I was assured that it would be responsibly managed and it's doors would remain open, I was able to help a hospital corporation, which, in partnership with physicians, purchased the hospital and has made it the premier hospital in the region to keep open St. Joseph's doors including its qualified emergency room responsive to a heavily populated downtown Houston. This formerly troubled medical center is now in the process of re-opening Houston Heights Hospital, the fourth oldest acute care hospital in Houston.

ROBIN FROM TEXAS—HER STORY

Her daughter has a developmental disorder, known as autism. She was not certain of the extent or the prognosis diagnosis of her disorder due to her lack of funds being a single mother, and lack of quality health insurance. She is one of the many uninsured in Texas.

She scraped together money to take her daughter to the doctor when she gets sick and does not pay her electricity bill so she can pay for 30 minutes of private speech therapy a week to complement what the school system provides.

She cannot qualify for SSI or Medicaid, they say she makes just over the maximum allowable income. She had trouble qualifying for CHIP in the past as well. Sadly once this mother has paid for daycare, speech therapy, clothing, car insurance, food, shelter , transportation, the rising cost of gasoline etc., she can barely afford to pay her monthly bills let alone quality insurance on her salary.

Robin wants the American dream for her and her daughter, but she is unable to obtain it. She is stuck in an old apartment building, with an even older car, and inadequate health coverage for her sweet 7 year old daughter. God help us, Robin and the many like her and her daughter deserve better.

THE ECONOMIC AFFECT ON HEALTHCARE

The economy has now lost 1.2 million jobs since the beginning of the year, with nearly half of those losses occurring in the last three months alone, pointing to acceleration in the pace of erosion in labor markets. It is more important than ever in this economy that children's healthcare is not sacrificed.

Madam Speaker, my faith is renewed in the process that is so often maligned in the media. Thoughtful and deliberate negotiations were taken to advance this legislation—and through your leadership we have succeeding in bringing this to the floor for passage.

I look forward to a day when every child is covered and can play on football fields and jungle gyms without their parents fearing a bankrupting injury to their child. This legislation is piece of mind to 4 million families and I will joyfully cast my vote for passage of this important legislation.

Mr. LINDER. Madam Speaker, can I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) has 2 minutes remaining. The gentleman from Washington (Mr. MCDERMOTT) has 4½ minutes remaining.

Mr. LINDER. Madam Speaker, I reserve.

Mr. MCDERMOTT. Madam Speaker, I listened to fiscal conservatives rail against this bill, and I think about an article I read in this morning's Washington Post. Over in Arlington, which is just across the river, they have a clinic where people go who don't have health insurance and hope that their number is drawn from a lottery so that they can get to see a doctor. Our health care system is in serious problems, from the seniors all the way down to the young people in this country.

Now, this bill says to the States, here's some additional money for you to expand coverage to your youngsters. Through no fault of their own, they're born into a home where there is no way to pay for health care. And we are giving the States, in this time of economic collapse brought on by the fiscal conservatives in this body, who said that we could spend and spend and spend, and never have to meet the day of reckoning, the people who are now going to suffer from that will be women and children.

Children have nobody to speak for them but us. And for us to put that money out there and give them the opportunity to have health care is humane in the very strongest sense of that word.

How anybody could vote against this, I have no idea, after you've wasted a trillion dollars on a war in Iraq, and have the real estate industry totally out of control, and then you say to the children, you can't see a doctor. What kind of body is this if we don't take care of children?

I yield the remaining 3 minutes of my time to Mr. WAXMAN.

Mr. WAXMAN. Madam Speaker, we wish to reserve our time to close the debate.

Mr. LINDER. Madam Speaker, I would like to point out that nobody on this side opposes children. The SCHIP program was started under the Republican majority in 1997, principal sponsor being Republican Senator ORRIN HATCH.

We believe the program was a good start in allowing for the health coverage of children whose parents did not qualify for Medicaid. What will destroy this program is a lack of restraint and irresponsible expansion of it.

It is true we are in the midst of a global economic collapse. And what has caused that? Abuse, lack of restraint, corporate leaders spending other people's money, shareholders, ignored limitations, ignored risks, ignored warning signs, and gave us the problem we have in the economy.

What makes us different? We are spending other people's money and we're spending more and more of it. We have a GAO study that says that if we continue to spend in our discretionary spending at the current percentage of the overall economy, and if we continue to tax at 19 percent of GDP, which is about the average since 1945, that in just 31 years from today, the entire Federal revenue stream will be insufficient to pay the interest on the debt because of entitlements, Social Security, Medicare, which is much worse than Social Security, Medicaid.

And to solve those programs in the face of President Obama's desire to get a handle on entitlements, we stand here today proposed to add a new one. It is true that this is designed as a block grant program. But there are no limitations on it. This will go out of control just like all of the other programs have, and our children will pay.

Madam Speaker, I hope we all oppose this.

Mr. WAXMAN. Madam Speaker, Members of the House of Representatives, this bill is going to pass by an overwhelming bipartisan majority, as it passed in the last Congress as well, at least twice. But the difference is, this bill will be signed tonight by the President of the United States.

President Bush vetoed this children's health bill twice. And it is interesting to review the arguments he gave for rejecting the legislation. First of all, he said, there's no problem for children getting health care when they need it. They can always go to an emergency room of a hospital. Of course, the care in an emergency room of a hospital is the most expensive care, and it often means that the child has gotten sicker than otherwise would be the case and is forced to go to that emergency room as the only option.

And the second reason he gave for vetoing the bill is, to me, one of the most astounding. He said, why should taxpayers subsidize parents for their children's health insurance if the parents could afford to buy a private health insurance plan for their own children? Well, many parents just can't afford it or will not have that as an opportunity because of a pre-existing medical condition. But think of that argument.

Suppose the President of the United States said, we ought not to have public schools for children whose parents could afford to send them to private schools. I find that a remarkable argument for him to have made.

We, in this country, should value the opportunity for every child to succeed to the fullest extent of his or her ability, and that means education for all children and health care when those children need it.

We will see the President of the United States sign this bill tonight because election results make a difference. And we will have a President who will sign this bill into law, along with a bipartisan majority in the House and the Senate. And that will be a happy day for America's children.

Mr. ENGEL. Madam Speaker, today is another great day for American families. Later this afternoon, President Obama will sign the State Children's Health Insurance program Reauthorization into law.

Just one week ago, President Obama signed the Lilly Ledbetter Fair Pay Act into law—a bill which restores basic protection against pay discrimination. When women do better, families do better, and the Lilly Ledbetter Act will make it easier for families to pay for day-to-day expenses like groceries, child care and doctor's visits.

We build on the enactment of family security legislation today by providing health care coverage for 11 million children. In this commonsense legislation, we will preserve coverage for the roughly 7 million children currently covered by SCHIP and extend coverage to 4.1 million uninsured children who are currently eligible for, but not enrolled in, SCHIP and Medicaid.

As the third largest S-CHIP program in the nation, New York reduced the number of uninsured children in the State by 40%. We are only one of seven states to achieve a decline of that magnitude and I am so pleased that we will further strengthen children's access to health care today.

During this time of economic distress, we must remember that the S-CHIP program is a critical part of our health care safety net and more broadly our family security safety net. S-CHIP has served New York and our country well, and I commend the Speaker for working so diligently on behalf of our nation's kids.

Mr. TOWNS. Madam Speaker, esteemed colleagues on both sides of the aisle, I stand before you today, one happy man. I am happy that I have the opportunity to vote in favor and hopefully bear witness to the passage of this momentous bill, the State Children's Health Insurance Program Reauthorization Act.

Our great leader, Dr. Martin Luther King Jr., once famously remarked, "Of all the forms of inequality, injustice in health care is the most shocking and inhumane." I wholeheartedly agree with Reverend King's sentiments and I would like to take his statement one step further. I contend neglecting adequate health care for all of our children is perhaps the most disgraceful and appalling atrocity this nation faces.

Today we have an opportunity to take one step towards rectifying the wrongs of our past. Today we have the opportunity to vote in favor of a bipartisan piece of legislation that would expand health care to more than 11 million children nationwide and preserves the coverage of 7.1 million children through 2013.

This fine piece of legislation will reduce the number of uninsured children in my state by 66%; reducing the number from 400,000 to approximately 267,000. I don't know about you, but that's the type of change I can believe in.

The State Children's Health Insurance Program catches the most overlooked segment of our population—those families and children that earn too much to qualify for Medicaid but too little to afford private health insurance. This land-breaking and much needed piece of legislation will provide coverage to those families that are eligible for but not yet enrolled in SCHIP and Medicaid.

The legislation is truly bipartisan in nature, and is supported by numerous organizations

including the American Hospital Association, AARP, and families USA.

My Democratic friends and Republican comrades, I urge you to take a stand against health injustices and take a stand for our children. I urge you to vote in support of the Children's Health Insurance Health Program Reauthorization Act.

Ms. HIRONO. Madam Speaker, I rise today in strong support of H.R. 2, the Children's Health Insurance Program (CHIP) Reauthorization Act. Our nation must show true compassion for the most vulnerable among us, and CHIP helps millions of low-income children receive healthcare.

The last time we had a floor debate on H.R. 2, there were references made by those in opposition to the bill to a program in my state called Keiki Care. It was suggested by those individuals that the Keiki Care program was cancelled due to perceived crowd-out, where parents drop their children's private insurance in order to enroll into a free government program.

That claim was entirely false, and I join Congressman ABERCROMBIE in correcting the misstatements made by the opposition. The Keiki Care program did not have an issue with crowd-out. It was intentionally designed so that those who wish to enroll in the program must be continuously uninsured for six months. There was also no spike in program enrollment that even suggests that parents were indeed dropping their private insurance to join. I would like to insert into the RECORD a fact sheet on Keiki Care published by the group Hawaii Covering Kids.

In Hawaiian, "keiki" means "child" or taken literally "little one." H.R. 2 is a bill that provides for the health and well-being of the keiki most in need of our help. I urge my colleagues to join me in voting in support of H.R. 2 today.

KEIKI CARE

GOAL

All children and youths living in Hawai'i are enrolled in health insurance.

CHILDREN'S HEALTH

Compelling national health care statistics drive Hawai'i Covering Kids' goal:

Children who are uninsured are twice as likely not to receive any medical care;

Only 45% of uninsured children had one or more well-child visits in the past year compared with more than 70% of insured children;

More than one in three uninsured children do not have a personal physician; and

Uninsured children are less likely to receive proper medical care for common childhood illnesses such as sore throats, earaches, and asthma.

BACKGROUND INFORMATION

Approximately five percent of Hawai'i's children and youths are uninsured statewide which means over 16,000 kids do not have health insurance. Hawai'i Covering Kids sponsored meetings in October 2006 and January 2007 to determine the "gap groups" and possible solutions. We concluded these children and youths are most likely uninsured:

Eligible for QUEST or Medicaid Fee-for-Service in households between 251–300% FPL but parents cannot afford monthly premium payments;

In families with incomes above 300% FPL and parents cannot afford private health insurance;

Have temporary visas (V, H, K, etc.);

Undocumented immigrants; and

Student dependents (F2 visa) whose parents cannot afford university health insurance plans.

2007 INITIATIVE

The Hawai'i State Legislature introduced HB1008, now Act 236, to help uninsured children and youths in the gap groups. It included paying QUEST and Medicaid Fee-for-Service monthly premiums for children between 251–300% FPL and establishing a free Keiki Care plan for children ages 31 days to 19 years old who are ineligible for public health insurance. The Keiki Care plan is modeled after the low-cost HMSA Children's Plan with limited benefits and some out-of-pocket expenses. It requires the child live in Hawai'i and be continuously uninsured for six months. Exceptions to the six-month uninsured provision include: (1) children who "income out" of QUEST or Medicaid Fee-for-Service, (2) children enrolled in a managed care children's plan on the effective date (one-time only exemption), (3) newborns uninsured since birth, and (4) children in families affected by Aloha Airline's bankruptcy.

TIMELINE

3 May 2007—HB1008 HD2 SD2 CD1 Passed by the Legislature;

30 June 2007—Signed by the Governor as Act 236;

1 March 2008—Enrollment Commenced;

1 April 2008—Keiki Care Effective Date.

ENROLLMENT

1 April 2008—1,827;

1 November 2008—2,021.

CROWD-OUT

Hawai'i has never experienced problems with parents dropping their children's private health insurance to enroll them in public-financed programs. Keiki Care specifically discourages this tactic (called "crowd-out") through an eligibility requirement that each child must be uninsured continuously for six months, limited benefit package, and some out-of-pocket expenses. The fact enrollment in November 2008 isn't significantly greater than when Keiki Care began illustrates crowd-out prevention is working.

OUTREACH

Hawai'i Covering Kids has conducted intensive outreach through broadcast emails to state and community partners, mailouts to statewide outreach workers, web site information, 211 hotline referrals, and natural points of contact including community health centers, hospitals, public health nurses, Head Start, WIC, and schools.

ECONOMIC IMPACT

The modest investment in Keiki Care pays off in several significant ways. It supports healthier children, confident parents, and reliable payments to health care providers while preserving precious charity care and limited uninsured funds for those who are uninsurable. Keiki Care empowers parents by connecting their children to a pediatrician and regular preventive health care. Should a sudden illness or injury occur, the children are also insured for emergency care which averts personal and institutional financial crises. In fact, as the number of insured kids has increased in Hawai'i, hospital emergency department data for 2000–2006 show that visits by uninsured children and youths have declined from 5.25% to 3.79%.

KEIKI CARE HELPS HAWAI'I'S ECONOMY

(By Barbara Luksch)

Imagine your child awakens in the night with an asthma attack and needs health care. The coughing and breathing worsen, however your child has no health insurance. You struggle to pay for food, rent, and other basic living expenses and are fearful of the hospital emergency room because of potentially ruinous medical bills. What do you do?

This dilemma is familiar for thousands of parents and guardians of uninsured children and youths throughout Hawai'i. As state budgets face monetary shortfalls, taxpayers should know it is cheaper to cover kids with health insurance than cover expensive hospital costs for uninsured kids. That is why federal, state, and community organizations collaborated to create Keiki Care for uninsured children and youths in "gap groups"—those who do not qualify for public health insurance and their parents cannot provide private health insurance. It should be clarified that specific provisions discourage parents from dropping their children's private health insurance to enroll in Keiki Care: (1) child must be continuously uninsured for six months, (2) limited health care benefits, and (3) out-of-pocket expenses.

A modest investment in Keiki Care helps Hawai'i's economy because should a sudden illness or injury occur, children are insured for emergency care which averts personal and institutional financial crises. In fact, as the number of insured kids has increased in Hawai'i, hospital emergency department data for 2000–2006 show that visits by uninsured children and youths have declined from 5.25% to 3.79%.

Keiki Care also empowers parents by connecting their children to a pediatrician and regular preventive health care. Compelling national health care statistics published in a recent Covering Kids & Families "State of Coverage" report support this: (1) children who are uninsured are twice as likely not to receive any medical care, (2) only 45% of uninsured children had one or more well-child visits in the past year compared with more than 70% of insured children, (3) more than one in three uninsured children do not have a personal physician, and (4) uninsured children are less likely to receive proper medical care for childhood illnesses such as sore throats, earaches, and asthma.

Parents with uninsured children often face hard choices . . . pay the electric bill or pay the doctor; fill the refrigerator or fill a prescription. That is why uninsured children often go to school without annual checkups and may not participate in co-curricular activities—not only because their parents fear an injury, but also because they fear the impact medical bills could have on their family budget.

Overall, Keiki Care supports healthier children, confident parents, and reliable payments to health care providers while allocating precious charity care and limited uninsured funds for others who are uninsurable.

Mr. HARE. Madam Speaker, I rise once again in strong support of the State Children's Health Insurance Program Reauthorization Act (also known as SCHIP). I commend the Senate for acting so promptly on the measure and the leadership of this House for bringing it to the floor for its final vote.

One of the biggest moral failures of our nation is the fact that we allow nine million children to go without health insurance every day in the United States. This is unacceptable. Our children are the future of this great nation—a future that is compromised every day we let a single child go without health care.

Since its inception, SCHIP has successfully filled the gap between those families qualifying

for Medicaid and those who can afford private health insurance. In these times of economic hardship, SCHIP creates a fundamentally important safety net, providing health coverage for seven million low-income children; 345,000 children in Illinois.

The legislation before us today reauthorizes the SCHIP program through Fiscal Year 2013, enabling states to maintain their current programs and extend them to an additional 4 million children.

SCHIP is the first critical step to improving health coverage across the nation. I urge my colleagues to vote yes on H.R. 2 and finally send it to the President's desk.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support for the Children's Health Insurance Program Reauthorization Act of 2009.

This bipartisan legislation will improve the very successful State Children's Health Insurance Program (CHIP). The message and the substance of this bill is clear—we are going to preserve coverage for the 7 million children currently enrolled who otherwise have no access to health insurance while extending coverage to 4 million children who are from working families who earn too much to qualify for Medicaid, but do not earn enough to afford the very high costs of private health insurance.

By reauthorizing this important program through 2013, we will strengthen CHIP's financing, improve the quality of health care children receive, and increase health insurance coverage for low-income children. The Congressional Research Service projects that under this legislation, Maryland's CHIP allotment will increase by 162 percent. The bill is fully paid for by a 62 cent increase in federal excise taxes on cigarettes. Increasing the tobacco tax will save millions of children from tobacco addiction and save billions in health care costs. The 2000 U.S. Surgeon General's report found that increasing the price of tobacco products will decrease the prevalence of tobacco use, particularly among kids and young adults.

Just two weeks ago, a new President was sworn into office—President Obama. Passing this bill and sending it to his desk now sends a very important signal that change has come as a result of the last election. President Obama's predecessor twice vetoed this legislation. The new President will sign this legislation into law because he understands the hardships that American families are struggling under at a time when millions of Americans have lost their jobs and lost health coverage for their children.

Madam Speaker, let's look out for America's children by providing them the health insurance coverage they deserve. I urge my colleagues to vote for this much-needed legislation.

Mr. HASTINGS of Florida. Madam Speaker, for over a decade the State Children's Health Insurance Program (SCHIP) saved millions of America's low-income families from suffering the consequences of living without healthcare insurance, and exemplified our nation's commitment to equal opportunity.

Former President Bush twice prevented this critically important program from benefiting people who fell through the cracks of America's flawed healthcare system.

Thankfully, the new Congress and Administration exercised the power and political will to make a different choice. Finally, the American people can rest assured that Congress' vote to provide healthcare coverage to 11 million low-income children will not be in vain.

The Senate-amended SCHIP bill authorizes 32.8 billion dollars over 4½ years to cover the 7 million children who currently rely on SCHIP, and extends coverage to more than 4 million low-income children who are currently living without healthcare.

The bill also offers comprehensive and wide ranging care that includes mental, dental, prenatal and maternal health services, increases health insurance enrollment, and fights geographical health disparities by offering additional support to under-funded states.

Madam Speaker, the SCHIP program is known by different names around the country. But whether it's called Healthy Families, Health Wave, Healthy Steps, or Kid Care, SCHIP's mission remains the same—providing children from hard working low-income families with the care that they need and deserve.

Thirteen years of SCHIP has shown that this program helps to decrease costly emergency room visits and invasive medical procedures. We know that extending healthcare insurance helps to combat the social, economic, and health disparities that continue to divide our nation and hinder our progress. And, we know that healthy children are better equipped to compete in school and help America compete in the global market. The facts are clear. Missed school days from untreated asthma, tooth decay and mental health disorders and other illnesses are also missed opportunities for our children to reach their full potential and successfully compete.

However, some House and Senate Republicans were driven by ideological affiliation instead of economic prudence and moral obligation and attempted to halt the passage of this bill despite the fact that 19 states enacted budget cuts to SCHIP and Medicaid for 2009.

The 2008 financial crisis clearly exacerbated our long standing healthcare crisis and therefore failing to pass SCHIP would be disastrous in these hard economic times.

Last year, skyrocketing gas and food prices, and the plummeting job market made it difficult for low- and middle-income Americans to finance their everyday needs—including healthcare. In 2008, one million additional children enrolled in Medicaid or SCHIP as a result of lost employment issued insurance.

In a country where a large portion of people receive healthcare insurance through their employer, it comes as no surprise that when the economy and job market plunge, the number of uninsured Americans soars. And children frequently pay the highest price.

This issue hits close to home. My state of Florida was recently ranked 45th in the nation in terms of overall health. Like other low ranking states, Florida has a large uninsured population and a high rate of child poverty. In fact, Florida has the second largest number of uninsured children in the country. What's more, a disproportionate number of Florida's uninsured and low-income children are black, Hispanic and reside in rural areas.

However, the targeted provisions in the 2009 SCHIP Reauthorization bill give us reason to be hopeful. Make no mistake. SCHIP and other emergency and supplemental programs cannot repair the problems that are intrinsic in America's healthcare system. State, local and federal entities must execute a coordinated effort to lessen the burden of uninsured people in this country as we embark on the road to long-term economic and healthcare development.

President Obama signing the 2009 SCHIP bill into law is a noble beginning to achieving healthcare reform, and sends a strong message to our nation's children.

In 1981, the member of the Select Panel for the Promotion of Child Health said, "Children are one third of our population and all of our future".

SCHIP is as much of an investment in addressing the issues of today as it is to ensure the welfare of our nation's economy and competitiveness tomorrow. I am pleased to see that we are giving millions of children the basic health benefits they rightly deserve.

Mr. BACA. Madam Speaker, I rise today in strong support concurring to the Senate Amendment to H.R. 2—The Children's Health Insurance Program Reauthorization Act.

In my District, home foreclosures and unemployment are devastating many families with no end in sight. A facility in my district, the Community Hospital of San Bernardino is being forced to eat the costs or turn children away.

This bill will provide needed health care to our most vulnerable, our most in need, America's children. With this bill, the state of California alone will be able to cover an additional 694,000 children who are currently uninsured.

SCHIP benefits will be further improved, providing for all children enrolled in SCHIP to receive dental coverage. Parents should not have to choose between putting food on the table or paying for health insurance.

For too long we've faced partisan debates that only hinder our efforts. We now have the "change" voters want.

I urge my colleagues to help these families, do the responsible thing and vote for S–CHIP.

Mr. MEEK of Florida. Madam Speaker, I rise in full support of H.R. 2 and am proud to cast this vote in favor of it.

Providing health care coverage for 11 million children has been a top priority of mine and the vast majority of both the 110th and 111th Congresses.

And, after several attempts, we are now only minutes away from sending this important legislation to a President that we know will sign it the moment it lands on his desk.

This is a great piece of the change promised in November and a win for the families of 4.1 million currently uninsured children. In my home state of Florida, passage into law of this bill will mean that 290,000 children will have affordable access to healthcare that they do not have right now. That will lessen the number of uninsured children in Florida by 36%.

This bipartisan legislation renews and improves SCHIP, providing health care coverage for 11 million children—preserving coverage for the roughly 7 million children currently covered by SCHIP and extending coverage to 4.1 million uninsured children who are currently eligible for, but not enrolled in, SCHIP and Medicaid.

Covering more eligible children is not only the right thing to do—it's also much more

cost-effective for taxpayers than using the emergency room as a primary care provider. In addition, a healthy child is better prepared for learning and success.

I commend the willingness of those who are paying for this legislation, particularly the small businesses, local cigar importers, who showed a great willingness to do their part to see the SCHIP legislation passed despite the sacrifices they will have to make.

This is a proud day in the House of Representatives. I ask all of my colleagues to join me in voting for this important legislation.

Mr. GENE GREEN of Texas. Madam Speaker, I rise today in support of final passage of H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

This bill should have been passed last year, but after working on this bill for an entire Congress, I am pleased with the final version before us today.

This bill will extend the SCHIP program for four and a half years and provide SCHIP coverage for the 7 million children already enrolled in the SCHIP and will insure nearly 4 million additional children.

The bill also includes a provision that will give 400,000 to 600,000 legal immigrant children access to health care. These children are currently barred from SCHIP coverage because of a five year waiting period for Medicaid for legal immigrants.

This provision, which was originally in H.R. 465, the Immigrant Children's Health Improvement Act, will give states the option to cover children and pregnant women lawfully residing in the United States.

Current law requires these legal immigrants to endure a five year waiting period before they have access to Medicaid coverage when they would otherwise be eligible.

The waiting period actually costs more than covering these children because they often have no health insurance and end up in emergency rooms for primary care treatment.

The SCHIP reauthorization bill also includes language from a bill I originally introduced and will give one year of emergency Medicaid coverage for children born in the U.S. and their mothers, which is crucial in protecting the health and wellness of newborns born in this country.

I hope my colleagues will join me in supporting this legislation and reauthorize the SCHIP program to extend coverage to nearly 11 million low-income children.

Mr. SMITH of Texas. Madam Speaker, I oppose this bill for many reasons. In my role as the Ranking Member of the Judiciary Committee, though, I want to point out a few immigration provisions that undermine personal responsibility and burden American taxpayers.

In 1996, Congress required that legal immigrants wait five years after coming to the United States before receiving welfare benefits.

It's only fair that American taxpayers not foot the medical bills of foreign nationals who arrive with a sponsor's pledge not to let them become a "public charge."

This bill, H.R. 2, changes current law and allows immigrants to get medical benefits at the expense of U.S. taxpayers.

The five-year waiting period for immigrants to receive government benefits is the last line of defense for the U.S. taxpayer. It should not be repealed or altered.

Prior to 1996, the cost of welfare for immigrants had jumped to $8 billion a year. The number of noncitizens on Supplemental Security Income increased more than 600 percent between 1982 and 1995. Both of those numbers will be much higher if H.R. 2 is enacted.

At a time when government spending is out of control, and when states, cities and American citizens are struggling to make ends meet, the last thing we need is to change good policy and further burden U.S. taxpayers.

This legislation should be opposed.

Mrs. CAPPS. Madam Speaker, I rise today in support of this bill and in support of America's children.

As someone who spent over 20 years of my life as a school nurse dedicated to the betterment of children's healthcare, I can think of nothing greater than fulfilling the promise of quality healthcare for all deserving children.

It was with great frustration I watched as President Bush repeatedly vetoed our proposals to improve the Children's Health Insurance Program.

And I could not be prouder to know that the bill we pass today will be signed into law thanks to the commitment of President Obama to our nation's children.

Signing this bill into law will mean 4 million more children get the care they need.

Four million more children won't have to unnecessarily miss days of school because of preventable illness.

Four million more children's parents won't have to wait in the emergency room for their daughters and sons to receive routine care.

Earlier today I met with a school nurse who relayed to me that a child in her school district was injured on the playground and they can't find a doctor to perform a necessary MRI because the child is uninsured.

I wish this was an isolated incident and that no other parent had to take their son from doctor to doctor and pray that someone will perform the procedure for free.

But it is all too common.

Passage of this legislation today may not help this one child's family in time, but we can be sure that four million more children's parents can take comfort that they will not ever face this situation in the future.

I urge my colleagues to vote for this legislation and in favor of our children's future.

Mr. MARKEY. Madam Speaker, I rise today in strong support of the Senate-amended version of the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009.

I am proud to be an original cosponsor of this important legislation to expand the highly successful State Children's Health Insurance Program (SCHIP). This bill will provide health insurance to an additional 4 million low-income children on top of the nearly 7 million who already benefit from the program. CHIPRA also improves access to dental care and mental health services and includes provisions to improve quality of care and utilize health information technology for children.

In my home state, SCHIP enrollment is part of the reason why Massachusetts has the lowest rate of uninsured children in the country. More than 180,000 Massachusetts children receive health coverage through SCHIP, and this reauthorization will allow the state to cover about 56,000 more Massachusetts children who currently do not have health insurance.

It is unfortunate that the previous two attempts to reauthorize SCHIP were vetoed by President Bush, who chose to side with big corporations over children. With the current economic crisis causing significant job losses, millions of Americans also are losing their health coverage, making today's vote even more urgent.

While President Bush twice dashed the hopes of millions of low-income families in need of health care for their children, the Obama administration recognizes the value of ensuring that all low-income children get the health care they need.

Three weeks ago this chamber approved CHIPRA by a larger margin than the two votes on SCRIP bills in the 110th Congress. I urge my colleagues to once again stand with the hard working families who want to provide their children with the health care they need. Vote yes on this critical legislation.

Mr. ETHERIDGE. Madam Speaker, I am a strong supporter of the Children's Health Insurance Program, and I rise in support of this legislation. With one out of eight children in North Carolina lacking health insurance, and with the economic downturn making it even more difficult for families to afford health care, this legislation is more important than ever.

At the same time, I feel it is important to say a few words about fairness. Time and time again, Congress has singled out tobacco to pay for benefits that are spread across this country's economy. North Carolina's tobacco farmers grow a legal crop. These hard working farm families who work hard to be able to pay their bills and provide a better life for their children have suffered greatly from transformations in the global economy. Because my district is the second largest tobacco producing district in the country, H.R. 2 disproportionately affects my constituents. It is unfair for North Carolina's farm families to pay the entire cost of this bill, which has benefits that accrue to the entire country. We must find more equitable ways to pay for worthy initiatives like the Children's Health Insurance Program, and I urge my colleagues to work together to be fiscally responsible without placing the burden on one region of the country or one segment of the economy.

In these difficult economic times, North Carolina will need additional help to bear the economic effects of reduced farming and manufacturing. According to researchers at North Carolina State University, increased taxes and decreased revenues due to the provisions in this bill may be more than $1 billion. Other analysis shows that North Carolina's citizens pay over four percent of the costs of this legislation while receiving only two percent of the benefit. This will mean lost jobs in a region that is already one of the top ten in the nation in unemployment, and is one of the top five fastest areas in unemployment growth. I am hopeful that we can work together to get my home State the economic support it needs to weather both the national economic downturn and the effects of this bill.

At the same, it is vital that we expand and extend CHIP to provide much-needed health

care to our most vulnerable citizens. North Carolina has 296,000 uninsured children, the sixth-largest number in the country, and nearly half of these children would be able to get insurance under the provisions of this bill. Together with the 240,000 children currently served by NC Health Choice for Children, the new enrollees would be able to get the health care they need. Preventative care and timely treatment of disease ensures that children are healthy and productive, able to fulfill their potential. Access to health care also saves money for our health system in the long term, because it is more cost-effective to get primary care at a doctor's office than to go to the emergency room.

The bill improves the benefits available under CHIP, including by ensuring dental coverage and mental health parity. It improves the quality of care, and prioritizes coverage for the lowest-income children. Together these provisions will enhance children's lives and keep children from suffering from preventable disease.

As North Carolina's former Superintendent of Public Instruction, I have seen first hand that healthy children are better prepared for learning and success. My life's work has been to help children make the most of their God-given abilities, and CHIP plays a key role in giving children the environment they need to grow. Therefore, despite my misgivings about the funding mechanism, I will cast my vote in favor of H.R. 2.

Madam Speaker, as we work together to provide health care to America's children, we should all remember the family farmers who grow tobacco. I ask that we take steps in future legislation to help all of those who are negatively impacted by provisions of this bill, especially including families in the Second District of North Carolina. However, today, for our children's health, I urge my colleagues to join me in supporting this bill.

Mr. REYES. Madam Speaker, I rise in strong support of H.R. 2, the State Children's Health Insurance Program (SCHIP) Reauthorization Act of 2009, as amended by the Senate.

At this time, the reauthorization of SCHIP is critically important for the nation and particularly my district of El Paso, Texas, where over 20,000 children in El Paso County are enrolled in the program. My district has one of the highest rates of uninsured children in the country, and the current economic recession is making it even harder for many more families to afford health insurance.

I am deeply troubled that Texas has the highest number of uninsured children in the United States. It is simply unacceptable to have one in five children in my state without health insurance, and this legislation will expand coverage for millions who are uninsured.

The current economic recession is affecting many families across our nation. Recent studies estimate that for every one percent increase in our national unemployment rate, 1.1 million Americans lose health insurance and more than a million enroll in Medicaid and SCHIP.

Having a large number of uninsured children in our communities places a tremendous financial burden on parents and local hospitals, as families are forced to send their children to the emergency room because they cannot afford a regular doctor's visit. For the families of the children in El Paso and throughout our country who rely on SCHIP for scheduled checkups, prescriptions, eyeglasses, this program is vitally important. The cost of health care is ever-rising, and reauthorizing SCHIP for the next four and a half years is an important first step in stemming the rising tide of the uninsured.

Today's bill provides sufficient federal funds to help states maintain their current programs and extend coverage to four million additional uninsured low-income children. Many states may experience much higher enrollment in SCHIP than projected due to job loss and lower incomes, and many would be unable to support the higher demand without this relief. By reauthorizing this program, we help states meet increased demand for SCHIP-enrollment and prevent them from cutting back on the program just when families need it the most.

The health and quality of life of our children must be a priority, and I firmly believe that this bill addresses the need to provide quality health care to our Nation's uninsured children especially in a time of economic recession. For this reason, I am proud to support this legislation, and I applaud President Obama and my colleagues in Congress for this a top priority.

Mr. ABERCROMBIE. Madam Speaker, it is my understanding that Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009, H.R. 2, would apply to the citizens of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

According to the Compact of Free Association negotiated and agreed to by the United States, the citizens of these countries are here legally. However, the federal government currently does not provide any financial assistance to states to pay for the care of these individuals through such programs as Medicaid or SCHIP. Since Section 214 of this bill applies to those legally residing in the United States, I believe this clearly includes the citizens of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. Therefore, Madam Speaker, as this bill moves forward, it is my hope that compact migrants will be treated fairly under this new law.

Mr. KANJORSKI. Madam Speaker, I rise today to raise my concerns about H.R. 2, the Children's Health Insurance Program Reauthorization Act.

I voted in favor of H.R. 2, with some reservations. I fully support providing health coverage to children and support this legislation as it continues funding for 7 million children currently enrolled in SCHIP and will allow an additional 4 million children to be covered. Moreover, I support the efforts of this legislation to reach families that are eligible for this program but are not currently enrolled.

At the same time, however, I am concerned about the increases in tobacco taxes that will be used to pay for the extension and expansion of this worthwhile program. In particular, I am concerned about these taxes for small manufacturers.

For example, in my congressional district, there is a small manufacturer, Avanti Cigar Company, that produces large cigars. The company currently employs 43 people and is concerned that the increased taxes as a result of this legislation will force the company out of business. In 2008, the company generated $6 million in revenues and paid $1 million Federal excise taxes. With the increase in taxes included in H.R. 2, the company is facing a 40 percent increase and expects to pay $3.1 million annually in excise taxes. These increases may very well cause Avanti Cigar Company to close.

From my perspective, at a time when our economy is in trouble and our small businesses are hurting, now is not the time to pass tax increases that may put some of these businesses out of business. In the coming months, it is my hope that we can revisit this issue and look for other ways to pay for providing health care to children that will not cause parents to lose their jobs.

In closing, I appreciate the opportunity to voice my concerns about this legislations.

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I strongly support H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009. I want to thank Representative PALLONE for introducing the bill, and Chairmen RANGEL, MILLER, and WAXMAN for moving it quickly to the floor.

Investing in children's health care is an investment in our future, which will help strengthen our next generation and save health care costs in the long run. With this legislation, we are saying that the phrase "children are our most precious resource," is no longer just a cliche. We are putting our money where our mouths are. And we are doing it in a fiscally responsible way.

While we all want to balance budgets and control spending, skimping on children's health care simply makes no sense. That's why this small increase in the tobacco tax, about 62 cents a pack, is a smart thing to do. It will deter non-smokers from trying smoking, and it will ensure that we are not adding to our budget deficit.

The CHIP Reauthorization Act preserves the coverage for all 7.1 million children currently covered by CHIP and provides coverage for an additional 4.1 million uninsured children who are currently eligible for, but not enrolled in, CHIP and Medicaid.

Far too often, constituents contact me seeking help with their medical expenses because they have no health insurance. And the lack of health insurance is not for lack of trying. Sadly, even millions who have jobs in this troubled economy lack health insurance. This bill will help those families who should never have had to decide between putting food on the table and taking a sick child to the doctor.

While this bill will not ensure coverage for every single child in the Nation, it is a great first start. This bill gives states the option of covering legal immigrant children during their first five years in the United States. Without this provision, parents of children with conditions from diabetes to scleroderma to scoliosis would have to continue to wait up to five years from the time they discovered the condition until they can afford treatment for their child.

Now, states like California can choose to prevent such heartbreaking situations. And I hope they do.

I am committed to working toward quality, affordable, and universal coverage for all in America. While that might seem an unattainable goal to some, the CHIP Reauthorization Act gives me hope that we are on our way.

As an expectant mother who is fortunate enough to have good healthcare coverage, I owe it to my constituents and to all in America to provide them with the same ability to care for themselves and their families. I urge my colleagues on both sides of the aisle to support this important bill.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 107, the previous question is ordered.

The question is on the motion by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINDER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 135, not voting 8, as follows:

[Roll No. 50]

YEAS—290

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Austria
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Bono Mack
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Buchanan
Butterfield
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Frelinghuysen
Fudge
Gerlach
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee (CA)
Lee (NY)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Platts
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Rogers (AL)
Ros-Lehtinen
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stupak
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—135

Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Boozman
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Carter
Cassidy
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dreier
Duncan
Fallin
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Latham
Latta
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Myrick
Neugebauer
Nunes
Olson
Paul
Pence
Pitts
Posey
Price (GA)
Putnam
Radanovich
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman

NOT VOTING—8

Aderholt
Bean
Campbell
Flake
Kissell
Poe (TX)
Stark
Wamp

□ 1310

Mr. HUNTER, Mrs. LUMMIS and Mr. BACHUS changed their vote from ''yea'' to ''nay.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. BEAN. Madam Speaker, on rollcall No. 50, had I been present, I would have voted "yea."

Stated against:

Mr. WAMP. Mr. Speaker, on rollcall No. 50, I was unavoidably detained and missed the rollcall vote. However, had I been present, I would have voted "nay."

ELECTING CERTAIN MINORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. PENCE. Madam Speaker, by direction of the Republican Conference, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 118

Resolved, That the following members are, and are hereby, elected to the following standing committees:

COMMITTEE ON AGRICULTURE— Ms. Lummis.

COMMITTEE ON EDUCATION AND LABOR— Mr. Thompson of Pennsylvania.

COMMITTEE ON SMALL BUSINESS— Mr. Coffman of Colorado.

Mr. PENCE (during the reading). Madam Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 135

Mrs. NAPOLITANO. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 135.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON WAYS AND MEANS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Ways and Means:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 12, 2009.

Hon. NANCY PELOSI,
Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MADAM SPEAKER, I am forwarding to you the Committee's recommendations for certain positions for the 111th Congress.

First, pursuant to Section 8002 of the Internal Revenue Code of 1986, the Committee designated the following Members to serve on the Joint Committee on Taxation: Charles Rangel, Pete Stark, Sander Levin, Dave Camp and Wally Herger.

Second, pursuant to Section 161 of the Trade Act of 1974, the Committee recommended the following Members to serve as official advisors for international conference meetings and negotiating sessions on trade agreements: Charles Rangel, Sander Levin, John Tanner, Dave Camp and Kevin Brady.

Third, pursuant to House Rule X, Clause 5 (2)(A)(i), the Committee designated the following Members to serve on the Committee on the Budget: Lloyd Doggett, Earl Blumenauer, John Yarmuth, Paul Ryan and Devin Nunes.

Sincerely,

CHARLES B. RANGEL,
Chairman.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 27. Concurrent resolution authorizing the use of the rotunda of the Capitol for a ceremony in honor of the bicentennial of the birth of President Abraham Lincoln.

The message also announced that pursuant to Public Law 105–83, the Chair, on behalf of the Republican Leader, announces the appointment of the following individual to serve as a member of the National Council of the Arts:

The Senator from Utah (Mr. BENNETT).

The message also announced that pursuant to Public Law 96–388, as amended by Public Law 97–84, the Chair, on behalf of the President pro tempore, appoints the following Senator to the United States Holocaust Memorial Council for the One Hundred Eleventh Congress:

The Senator from Utah (Mr. HATCH).

The message also announced that pursuant to section 4(a)(3) of Public Law 94–118, the Chair, on behalf of the President pro tempore, appoints the following Senator to the Japan-United States Friendship Commission:

The Senator from Alaska (Ms. MURKOWSKI).

The message also announced that pursuant to sections 42 and 43 of title 20, United States Code, the Chair, on behalf of the Vice President, appoints the following Senator as a member of the Board of Regents of the Smithsonian Institution:

The Senator from Mississippi (Mr. COCHRAN).

The message also announced that pursuant to Public Law 94–304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the One hundred Eleventh Congress:

The Senator from Connecticut (Mr. DODD).

The Senator from Rhode Island (Mr. WHITEHOUSE).

The Senator from New Mexico (Mr. UDALL).

The Senator from New Hampshire (Mrs. SHAHEEN).

The message also announced that pursuant to section 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senator as Chairman of the Senate Delegation to the Canada-United States Interparliamentary Group conference during the One Hundred Eleventh Congress:

The Senator from Minnesota (Ms. KLOBUCHAR).

The message also announced that pursuant to Public Law 94–304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the One Hundred Eleventh Congress:

The Senator from Georgia (Mr. CHAMBLISS).

The Senator from Kansas (Mr. BROWNBACK).

PROVIDING FOR CONSIDERATION OF S. 352, DTV DELAY ACT

Mr. CARDOZA. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 108 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 108

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 352) to postpone the DTV transition date. All points of order against consideration of the bill are waived except those arising under clause 10 of rule XXI. The bill shall be considered as read. All points of order against the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to commit.

SEC. 2. Section 2 of House Resolution 92 is amended by striking ''February 4'' and inserting ''February 26''.

□ 1315

The SPEAKER pro tempore. The gentleman from California is recognized for 1 hour.

Mr. CARDOZA. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from North Carolina (Ms. FOXX). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. CARDOZA. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on House Resolution 108.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CARDOZA. I yield myself such time as I may consume.

Madam Speaker, House Resolution 108 provides for the consideration of Senate bill S. 352, the DTV Delay Act. The rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Energy and Commerce Committee. The rule waives all points of order against consideration of the bill except for clause 10 of rule XXI. Finally, the rule provides for one motion to commit with or without instructions.

Madam Speaker, under current law, all full-power TV stations will stop their analog broadcasts on February 17, 2009, and broadcast only digital signals. That means on February 18, millions of American households that have an older television and have not obtained an analog-to-digital TV converter box will suddenly have a blank TV.

Survey data released by the Nielsen Company reveals that as of January 2009, 6.5 million American households were completely unprepared for transition to digital TV, meaning every TV in their home will be blank on February 18.

And for a host of reasons, the Federal Government's efforts to help people buy the necessary converters—a disproportionate number of whom who are seniors, low-income households, and those in rural areas—have been insufficient.

Madam Speaker, too many Americans are at risk for losing their television service, and we need a one-time delay to get ready for the digital TV transition. The bill before us today, S. 352, the DTV Delay Act, is very simple. It postpones the date of analog-to-digital television transition for 115 days from February 17, 2009, to June 12, 2009. This will provide additional time to get coupons for the digital TV converter boxes to millions of American households that are at risk of being without television service.

This bill unanimously passed the Senate despite being unfortunately blocked by the House Republicans last week. It was supported by the Obama administration, the FCC commissioners and has been endorsed by numerous groups, including the AARP, Consumers Union, the Leadership Conference on Civil Rights, the Coalition of Organizations for Accessible Technology, the National Hispanic Media

Coalition, the National Emergency Number Association, the Association of Public-Safety Communications Officials-International, the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Association of Broadcasters, AT&T Wireless, Verizon Wireless, Univision, ABC, CBS, FOX and NBC.

Madam Speaker, I would close by adding that this has not been an ideal transition to digital television, and this is hardly a perfect solution to the problem. But make no mistake, without this critical delay, millions of Americans may no longer be able to watch their television on February 18; and punishing consumers is surely not the way we fix this problem.

I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I want to thank the gentleman from California for yielding time, and I yield myself such time as I may consume.

We have some very eloquent speakers lined up on our side to talk about this bill, so I'm going to speak just a short time so I can leave plenty of time for my colleagues who have very eloquent statements to make on this issue, but I do want to point out that this process began a very long time ago.

It is a rather complicated issue, but even by Federal Government standards, this is a long time to accomplish a task. It's also, I think, an indication of the change that has come to Congress in the past 2 years.

We want change. President Obama has said he wants change, but he wants change that makes government work. This is going in the wrong direction, in my opinion. And my colleagues are going to talk, again, about why this is going in the wrong direction.

But I want to point out that in the so-called stimulus bill, the majority party has put another $650 million to deal with this issue. According to our calculation, a small percentage, less than 1 percent of the people who need this assistance, have not requested the coupons. That equates, we believe, to spending over $3,000 per household for the holdouts who have not gotten their converter box. That is a lot of money to be spending.

I, frankly, think this is an excuse to put three times the amount of money that we think needs to be spent on the remainder of this program, and it's just another example of overreaching on the part of the majority.

Madam Speaker, I reserve the balance of my time.

Mr. CARDOZA. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding and commend him for his leadership on the Rules Committee and also on the important issue of keeping people in their homes. Home foreclosures are mounting. They're an epidemic in his district, and I want our colleagues to know that another Member from California is noticing the leadership that he provides on that issue.

Madam Speaker, I rise in support of this rule and the underlying bill to provide a one-time—let me stress—one-time delay in the DTV transition. I sympathize with Americans who are unprepared for this transition, many of whom are elderly, minorities, or residents of rural areas. Television is important to our lives and can serve as a vital resource in times of emergency. So for those reasons, I support the legislation.

At the same time, we must not forget that the DTV transition's real purpose is to improve emergency communications capabilities for first responders. The lessons of 9/11 are sadly fading. Hundreds of police and firefighters died at the World Trade Center in part because they could not talk to each other on their radios.

The key to preventing this kind of tragic communication failure is to build a nationwide interoperable broadband network that will allow rescue workers from different units to talk to each other even though they operate on separate radio frequencies. The foundation for this nationwide public safety network is the spectrum that is currently used for analog television broadcasting, and only after analog operations are cleared can that spectrum be put to its best and most important use.

Madam Speaker, in a perfect world this delay would not be necessary. And I want to make clear, again, that further delay should not, must not be necessary once this period ends. But this one-time delay will help protect our most vulnerable citizens while we get on with designing the build-out of the public safety network that is our ultimate goal.

It has been almost 8 years since the 9/11 attacks. Police, firefighters, and EMTs all over the country—and the families they protect—are counting on us to finally get this right.

Ms. FOXX. Madam Speaker, I now yield 5 minutes to the gentleman from Texas, the ranking member of Energy and Commerce, Mr. BARTON.

Mr. BARTON of Texas. I thank the gentlelady from North Carolina.

Madam Speaker, we are here on the same issue that we were here on last week when, under the suspension of the rules, the House tried to pass a bill to delay the digital television transition period from February 17 to June 12. Wisely, the House rejected that on a bipartisan vote.

Our friends in the other body slightly changed the bill and did a procedure called hotlining it, which brought a basically identical bill back to the House.

The new chairman of the Energy and Commerce Committee, Mr. WAXMAN, has gone to the Rules Committee and asked that the bill be reported to the floor under a rule, which is not a bad idea. The problem is, this is a closed rule.

Now, I want to point out to the newer Members of this body what a closed rule is. It means there can be no amendments. Now, there may be occasions when that's in order, but this is not one of those occasions.

There's been no legislative hearing in the committee. There's been no markup in the committee. In fact, two markups have been scheduled and canceled in committee.

So we have a piece of legislation. There's been no debate on it in the Senate, it's been hotlined, we had a suspension vote on it last week—which I think we had 20 minutes on each side before we had to vote. And so now we're under a closed rule. So no Republican amendments or Democrat amendments were made in order.

I don't know if Democrats offered amendments, but there were six Republican amendments made in order, one of which was by myself and Mr. STEARNS who said quite simply, ''You don't need to delay it. Just authorize an additional sum of money.''

One of the things that the proponents of the delay are saying is we need to delay this because there is not enough money. Well, actually, there is enough money. But under an accounting rule by the Office of Management and Budget, when you send a coupon, you have to assume that that coupon is going to be redeemed 100 percent of the time. So of the $1.3 billion that has been appropriated and is in an account, about half that money is still in the account, but because there are coupons that are outstanding, they can't issue new coupons.

The amendment that was not made in order simply said authorize another $250 million of coupons to be sent out because that money is already there and only about 52 percent of the coupons are being redeemed. So at the end of the game, you're going to have plenty of money.

Interestingly enough, this bill doesn't approve any money. The money for this bill is in the stimulus package—which probably won't clear the Senate for another couple of weeks, probably will be a conference committee or maybe another closed system where there is not a real conference—but in any event, I doubt that stimulus package is going to be on the President's desk within the next month.

So we're delaying a hard day transition today with no additional money nor any way to send out any additional coupons. How silly is that? And no amendments made in order to correct the bill.

We had other amendments that would have exempted broadcasters from the delay if the cost caused by the delay was more than $100,000. That one

was not ruled in order. We had an amendment that said the broadcasters in rural areas would have to go ahead with the hard day if they were sitting on spectrums that were allocated to provide broadband to rural areas. That wasn't made in order. Not one amendment was made in order.

And to top it off, myself and Mr. STEARNS sent a letter to the new or the acting chairman of the Federal Communications Committee saying, ''How many TV stations do you think are going to go ahead and go forward even though it's not mandated?'' You know what the answer is? Sixty-one percent of the 1,000 television stations in America are probably going to go forward. And believe it or not, 143 already have. They've already gone digital.

So, Madam Speaker, with all due respect, when you have a closed rule, no amendments made in order, no legislative hearing, no markup, no debate in the other body, I think we could defeat this rule; I think we could bring an open rule to the floor, let some amendments be made in order, let the body work its will; and if that passes, send that to the other body and try to work it out.

We on the Republican side want digital television transmission to go forward. We want the spectrum to be released for the first responders. We want the television stations to see the benefit of savings, but we do not need this delay, and we do not need a closed rule.

Please vote ''no'' on the closed rule.

The SPEAKER pro tempore. Without objection, the gentleman from Colorado will manage the time of the gentleman from California.

There was no objection.

Mr. POLIS of Colorado. Madam Speaker, I would like to yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. I thank the gentleman for yielding me the time.

Madam Speaker, I served on the Energy and Commerce Committee for 14 years, and much of that time in the Telecommunications Subcommittee was spent dedicated to digital transition. So I have been around this issue for a while.

After all of the oversight, after all of the work, after all of the hearings, it's become unfortunately clear that we're unprepared to transition on February 17. Many consumers never received their coupons because the coupons were lost in the mail and they were prevented from reapplying.

Other consumers' coupons expired because they could not find converter boxes before they expired, and we know that problems in the education program for the DTV transition probably left many families uncertain about what to do with their coupons.

And coupons were mailed third class. Now, I don't know what genius came up with that in the department, but it was really, totally mishandled and bungled.

Seven and a half million households are prepared for the transition, and there are over 2.7 million coupons representing more than 1.5 million households on a waiting list right now today.

□ 1330

Every Member should have received a letter detailing how many of their constituents are on the list. I have 2,346 of them without coverage. The Department of Commerce now estimates that the demand for converter boxes may exceed the supply of boxes by over 2 million units. And it's estimated that it will take 6 to 8 weeks after new boxes are ordered before they will appear on store shelves.

So we are not ready for this transition. We can fix these problems. We can minimize the catastrophe if we pass today's legislation. There are dollars in the recovery legislation that will cover what needs to be done, and pay for that. So the resources are there. They will not only do better consumer education, including call centers, and fix many of the problems.

If you vote for this, it's a vote not to go dark for your constituents. Thank you.

Ms. FOXX. I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. I rise in opposition to this rule. I'm trying to figure out what it is the majority fears about open debate, either in committee or on the floor.

I would be happy to yield to the gentleman from Colorado, who's managing the rule, if you would like to tell me why no amendments were allowed.

Mr. POLIS of Colorado. Thank you, sir.

This was discussed in the Rules Committee the other day. And there is a need for expediency here. We are talking about televisions that are going out and people losing the ability to view it.

Mr. WALDEN. Reclaiming my time; we are only talking maybe 5 minutes on an amendment. This bill has had no hearings in any committee in the House, correct?

Mr. POLIS of Colorado. In the Rules Committee yesterday we had several amendments.

Mr. WALDEN. Reclaiming my time; but you're not the substantive committee. Energy and Commerce is the substantive committee. Our committee was not allowed to have a hearing on this issue, including the ramifications of it, on this bill.

We had no opportunity to offer an amendment. You heard our ranking member, Mr. BARTON, suggest there are alternatives that wouldn't cost the taxpayers enormous amounts of money.

Mr. POLIS of Colorado. If I may address that. The Energy and Commerce Committee actually had nine hearings on this very matter.

Mr. WALDEN. Reclaiming my time; not on this bill. There was no hearing on this bill. We've had hearings along the way about this issue, but not on this bill before us today—at least no markup on this bill. So our only alternative to help the taxpayers prevent—who's going to loan us this money, by the way? $650 million more we're going to ask to borrow to pay for converter boxes. And yet, only half the money has been spent.

There's an affordable, efficient alternative we could have at least allowed the Members here to vote on that said, Change the accounting a bit, allow them to go ahead and move forward and issue the coupons as those expired, that aren't used, because not every coupon is being used. There's only a 52.5 redemption rate. Then that money will flow back in at the end.

Putting money in the stimulus means it's not available until April or May. Now you have got a June deadline. So even that money is not going to flow out there. I urge defeat of the rule. We can legislate in a much better way than this.

Mr. POLIS of Colorado. Madam Speaker, I yield myself such time as I may consume.

A brief discussion of some of the many hearings and discussions that occurred on this matter. March 28, 2007, the subcommittee held its first hearings on the status of the DTV transition; October 17, 2007, second hearing on the status of DTV transition, at which the NTIA Assistant Secretary Kneuer testified.

Mr. WALDEN. Will the gentleman yield?

Mr. POLIS of Colorado. No, I have to complete this. October 31, 2007, subcommittee holds a third hearing on status of the DTV transition; February 13, 2008, a fourth hearing. It continues. There were a total of nine hearings at which this matter was discussed extensively. Those who wanted to be heard were able to be heard at that point.

Mr. WALDEN. Will the gentleman yield?

Mr. POLIS of Colorado. I yield to the gentleman from Oregon.

Mr. WALDEN. I don't believe the gentleman was a Member of the Congress when most of those hearings were held. So you wouldn't have had benefit of those hearings. But my question is: If they did all those hearings, why didn't they have a markup to fix it then, if this was such a problem? Was there a single markup on this bill in a substantive committee?

Mr. POLIS of Colorado. This bill had extensive discussion. In the absence of acting soon, there will be millions of people who will not have TV, and they won't be very happy.

Mr. WALDEN. But the question here is, was there a single hearing or markup on this bill?

Mr. POLIS of Colorado. You can read the transcript.

The SPEAKER pro tempore. The gentleman from Colorado controls the time.

Mr. POLIS of Colorado. Madam Speaker, I would like to yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Speaker and Members, can you imagine February 18, when millions of households will have their TVs go dark, and not understand why? Yes, it would be great if everyone had received their coupons, if everybody understood the transition to digital. But they don't.

I cannot understand why the Members of Congress would not be generous enough to have an appreciation for the fact that people are going to be terribly inconvenienced. Seniors who depend on their friend, the TV, let alone all of those televisions that will go dark without people understanding why. We could have a national emergency and our first responders would not have the opportunity to have an interoperative system where they could talk to each other.

I don't care about whether or not amendments have not been heard by either side. This bill has been debated ad nauseam in committee over a long period of time. And so, Members of Congress, if you want your telephones ringing off the hook, if you want 911 tied up, if you want people knocking on the door of their neighbors and others, trying to find out what is wrong, you act irresponsibly and not support this legislation, and let all hell break loose, because we will have a crisis on our hands.

I would ask the Members: be responsible. Don't nickel and dime this legislation. Don't create an unnecessary bureaucracy. Just vote the bill out so that we can support the average American in having their television not go on dark on February 18.

Ms. FOXX. Madam Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. I thank my colleague from North Carolina.

To just set the record straight, to my colleague who just spoke, there was no hearing on this bill in committee. There was no markup on this bill in committee. There has never been an opportunity to amend this bill on this floor or in committee. I serve on the committee, I serve on the subcommittee.

Further, if she's concerned about interoperability, then you free up the spectrum. Delay of transition to DTV means the analog transmitters here and the digital transmitters here—and they are both going. Until the analog is gone, the spectrum is not freed up for that interoperability she pleads for. Maybe if there was a hearing, she would better understand the bill.

Ms. FOXX. Madam Speaker, I yield 3 minutes to my esteemed colleague from California (Mr. ISSA).

Mr. ISSA. Madam Speaker, I have been in the House for 8 years, and I have been a member of the Energy and Commerce Committee, although on leave of absence, for 6. But before I came here, for two decades I was in the electronics industry, was part of the annual consideration of over a million dollars of private funding to help move digital television. We did so not just to sell televisions or to improve people's pictures, but in fact because of the efficiency of spectrum and what it would do. I have been a supporter of digital transition.

Today, I am here as the ranking member of Government Reform, sounding an alarm that I hope will be heard by my colleagues. President Obama did only one thing before he became President. Only once did he violate his ''one President at a time'' statement, and that was in fact on asking for a delay in the digital transition. I believe he did so because in fact he was misled.

It is clear that there is doubt as to whether a gentleman named Gerard Salemme, who is in fact a highly compensated $300,000-plus a year individual with a company which is behind today—behind in their technology rollout for using this new spectrum—was on his transition team, although he is still the executive vice president of a company called Clearwire.

To me, it appears as though the process behind closed doors in the transition team that led to the decision to delay digital television was clearly tainted by someone who, as an opportunist, may have been trying to gain those extra 4 months to make their technology competitive with those that are already rolled out. That, to me, is the first of many tragedies. You have heard many others.

Additionally, having been in the consumer electronics industry for over 20 years, I'm well aware that the cost of these digital boxes are about $40. So even if you claim that you have 6 million people who haven't received them, you do $40 times 6 million and pretty soon you figure out that it's $200 million-some that we would have to authorize with this delay in order to fully fund getting people their boxes.

No money is attached to this bill. As a result, this will simply cause a delay, giving certain companies an opportunity perhaps to catch up in technology, advancing one company over another, something we said we wouldn't do when we set a hard deadline. More importantly, we are not solving the basic problem here. It only takes $240 million or less dollars to fix this problem where $18 billion worth of spectrum is being held ransom.

This is bad business. It's bad for American technologies that are emerging, it's bad for all the services that will be granted. I came from high tech. I know what we are doing is forcing us to stay in horse and buggy for months longer.

R. GERARD SALEMME'S INTERESTS IN CLEARWIRE AND ICO

CLEARWIRE

(Data current through most recent Definitive Proxy, Oct. 9, 2008)

Executive Vice President of Strategy, Policy and External Affairs

Annual Compensation: $336,812

Stock Options: 1.15 million

Total Value of Options: $6.468 million

ICO

Consultant, ICO Global Communications (Holdings) Ltd.

Director, ICO North America, Inc.

Owns: As of Apr. 25, 2008, owned 699,474 shares of Class A Common Stock of ICO Global.

Acquired: Received 110,619 shares of ICO Global Communications on Dec. 1, 2008, worth $125K.

BIOGRAPHY OF R. GERARD SALEMME

EXECUTIVE VICE PRESIDENT—STRATEGY, POLICY AND EXTERNAL AFFAIRS

As executive vice president—strategy, policy and external affairs, Gerard Salemme oversees Clearwire's spectrum strategy, acquisition and development, public policy agenda and local, state, federal, and international regulatory affairs and advocacy. Prior to assuming his current role at Clearwire, Salemme served as vice president and corporate secretary from November 2003 to April 2004. As the company's senior policy executive, Salemme brings more than 30 years of telecommunications, government affairs, federal regulatory and public policy expertise to Clearwire. Salemme has held key executive positions at XO Communications, AT&T Corp., McCaw Cellular, and GTE Corporation/Sprint Corporation. At AT&T, Salemme directed the company's federal regulatory public policy organization, including participation in the FCC's narrowband and broadband PCS auctions. In addition, Salemme has served as the senior telecommunications policy analyst for the U.S. House of Representatives Subcommittee on Telecommunications and Finance, as chief of staff to Congressman Ed Markey of Massachusetts, and as a lecturer of economics at the University of Massachusetts at Salem. He is currently a principal of ERH, a vice president of ERI, and a director of and consultant to ICO and ICO North America.

Mr. POLIS of Colorado. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank the gentleman for yielding to me, and I rise in support of this bill. I am just amazed at what I am hearing from my friends on the other side of the aisle. I have been on the Energy and Commerce Committee for the past 13 years, and I have been on the Telecommunications Subcommittee for most of that time. We have had hearing after hearing after hearing involving the DTV transition. It may be technically true that we haven't had a specific hearing on this bill, but we have had hearings ad nauseam on the whole issue.

And what are we talking about? We are talking about a 115-day delay. We are not talking about a 10-year delay. We are saying 115 days—3 months, 4 months—to give us time to put our house in order so that people's televisions don't go blank. I don't think

that is so unreasonable. I am amazed at the opposition to 115 days.

Now, I support this bill. I do it reluctantly because the transition to DTV will offer great benefits to our Nation. In recent weeks, it has become crystal clear that what I have been saying for years on the Energy and Commerce Committee is true—that we have not provided nearly enough resources or education for this transition to be successful. So, if we wait 115 days so it will be more successful, what is the problem?

For the past two Congresses I have introduced the Digital Television Consumer Education Act. The legislation would have avoided the problems we are seeing right now. It would have educated the public about the transition, and it would provide additional funding for the converter box coupon program which, as we all know, is out of money.

Currently, there are almost 2 million people on a waiting list for converter box coupons. This means 4,000 people in my district are waiting for coupons. It would be unacceptable for us to force the transition upon so many of my constituents and your constituents and those of everybody else in this Chamber, when it's clear they are not ready.

If we continue with the transition, millions upon millions of television screens in this country will simply go dark.

Again, I don't support an indefinite delay. This is a finite delay. This is a one-time delay. I won't support a further delay. But 115 days is not so terrible. When the transition occurs, which we know it needs to occur, TV pictures nationwide will become crystal clear; technology companies will be able to roll out new-generation wireless services that far outpace what we have today and, most importantly, as was mentioned, first responders will be able to carry interoperable communication devices that they badly need right now.

So, the benefits to the transition to digital are clear. The harm, however, that we would cause by forcing the transition on an unprepared Nation is equally clear. So let's wait the 115 days, let's do it right, and let's support S. 352.

Ms. FOXX. I yield 3 minutes to my colleague from Florida (Mr. STEARNS).

Mr. STEARNS. I thank the gentlelady for yielding.

First, I rise in opposition to this rule and in strong opposition to the underlying bill. Let me say to my colleague from New York, we have spent over 2 years planning for this date of February 17, 2009. All the broadcasters, all the engineers, all the people that put up the towers, they are all ready to go. In fact, PBS pointed out that if they delay, it's going to cost them $22 million. That's just the tip of the iceberg.

The hearings we've had were to determine how to run the program and give the Department of Commerce the money they need to implement the coupon program. But we never had a hearing on this bill. That's why I submitted six amendments to the Rules Committee yesterday. It would vastly improve the final product. In fact, as Mr. ISSA pointed out, with the people that supposedly need the coupons, the $250 million allotment back in January, back in December, would have taken care of this problem. But, for some reason, it was not taken care of.

□ 1345

But we have never had a hearing, not one, on delaying the digital TV transition. We have had hearings, I agree, on how to implement the program, but not delaying and what the implications are. And, incredibly enough, this bill has never gone through any kind of markup where we could air out some of the contentious issues: What is it going to cost the broadcasters, the people implementing the towers, and so forth?

Now, a Member on that side talked about national security and about delaying in reference to 9/11. Madam Speaker, I submit for the RECORD a letter from the National Fraternal Order of Police. The National Fraternal Order of Police has come out strongly against this delay. And why would they come out against this delay? That is because this delay could mean that national security, the first responders, would be affected, would not have the information they need, and could not notify citizens in the case of an emergency.

But none of the six amendments I offered on behalf of my colleagues, Mr. BLUNT, Mr. WALDEN, and Mr. BARTON, were accepted. And so, really, we had no opportunity to make this bill better.

So when we transitioned on February 17, June 12, or whatever it is going to be, and you have no guarantee that this will be the last delay, we have to realize that, to put into perspective, it is going to cost money, it is going to increase our risk for first responders. And, when you think about it, no matter what date you establish, there is always going to be somebody who doesn't get the message. In fact, the demonstration project in Wilmington, North Carolina in September to see if it would work was 99 percent effective.

So the question I would have for you: If the demonstration project was so effective in September, 5 months later surely it is going to be effective on February 17, 2009. Tens of thousands of people will not lose their television because the coupons would be available. I urge defeat of the rule.

NATIONAL FRATERNAL ORDER OF POLICE®,
Washington, DC, January 23, 2009.

Hon. NANCY P. PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

Hon. JOHN A. BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND REPRESENTATIVE BOEHNER, I am writing on behalf of the members of the Fraternal Order of Police to express our concerns regarding S. 328, the ''DTV Delay Act,'' as it relates to public safety access to spectrum.

Many of the arguments being made in favor of delaying this transition were made during the consideration of the Digital Transition and Public Safety Act in 2005. This is not a new issue, and was first recognized in a public safety report issued in September 1996. In 1997, Congress granted public safety access to this portion of spectrum under Title III, Section 3004 of the Balanced Budget Act of 1997, which directed the Federal Communications Commission (FCC) to authorize broadcasters currently occupying the spectrum to remain there until 2006. Public safety access to this area of spectrum was repeatedly pushed back until the enactment of the Digital Transition and Public Safety Act in 2005, which set a hard deadline of 17 February for analog broadcasters to allow public safety access to 24 MHZ of spectrum on the 700MHz band. We are concerned that the staggered transition which would result if S. 328 is signed into law may jeopardize the channels that Congress promised to law enforcement and other public safety officers more than a decade ago.

For public safety to use the spectrum they have been promised, broadcast stations must stop analog broadcasts on those channels. Broadcast stations on the adjacent channels must also stop analog broadcasts to avoid interfering with the public safety communications we are trying to enable. For all those broadcast stations to have somewhere to go, additional broadcast stations must stop their analog transmission. It is this chain of events that makes the hard deadline of 17 February 2009 the most realistic and responsible option for clearing the spectrum for public safety's use.

While S. 328 would still allow broadcasters to voluntarily transition by 17 February, subject to current FCC regulations, and allow public safety to occupy this vacated spectrum, unless all the surrounding broadcast stations also voluntarily transition, it is unlikely anyone can move. Moreover, under current FCC regulations, broadcasters generally would not be permitted to transition even voluntarily until three months before the delayed transition date, and even then the FCC has the discretion to refuse them authorization.

The American public has asked broadcasters to take difficult, time consuming, and costly steps to enable better public safety communications. These broadcasters have admirably risen to the call and say they are ready for 17 February. If this delay goes into effect, it opens the door for future delays. More than a decade of work has gone by since Congress authorized public safety communications to expand on the spectrum, and we are very close to achieving our goal. I urge you not to bring all of this progress to a halt less than thirty days from the finish line.

Thank you in advance for your consideration of the views of the more than 327,000 members of the Fraternal Order of Police.

Our communications are our lifeline and we need to know that they will function properly at all times. If I can provide any additional information on this matter, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

Mr. POLIS of Colorado. Madam Speaker, this delay is a one-time delay only. And given the national security issues and increasing number of natural disasters we face, I can think of no time in our history when having access to television is more critical than it is now. Absent this extension, millions of television sets will go dark in 13 days.

This legislation contains specific language recommended by public safety organizations. It explicitly preserves the ability of public safety entities to use the DTV spectrum before the new transition date subject to existing FCC rules, and under no circumstances will there be any disruption of spectrum currently used for public safety communications.

As I said before, this bill has the support of leading public safety organizations, including the Association of Public Safety Communications Officials International, the International Associations of Chiefs of Police, the International Association of Fire Chiefs, and the National Emergency Number Association.

I would add that allowing the 6.5 million households estimated by Nielsen that are completely unprepared for the DTV transition to go dark is in and of itself a legitimate public safety issue. Those homes will not be able to continue to rely on local broadcast stations for news about natural disasters, evacuations, terrorist attacks, or other public safety announcements. A one-time delay of 115 days is a reasonable response to a very difficult problem that millions of Americans would face in 2 weeks absent this legislation.

I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I yield 3 minutes to my colleague from Nebraska (Mr. TERRY).

Mr. TERRY. Madam Speaker, I rise today in opposition of this rule for a variety of different reasons. But let me engage in one of the first reasons, is I am not sure that a delay is necessary. Are there some hiccups or concerns? I am not going to agree with a couple of my colleagues and friends from the other side that talked about catastrophes. September 11th is a catastrophe. Delaying this is not, or February 17th is not. But let me run through what some of the concerns are.

Some of the concerns is that we are not 100 percent ready. Some of the concerns is there is a waiting list; although, there are 10 million coupons issued today that are valid, representing 5 million homes, so those are people that were going to probably go in the next 13 days and buy one of the set-top boxes. I have gone into my electronics stores over the last week, and there are mountains. And I am not exaggerating, there were piles almost up to my neck in every one of the electronics stores that I went into.

So what are the appropriate responses here? Is a delay necessary? We have had hearings, granted, on the merits of DTV hard date. We have not been able to have a discussion in this Congress whether, A, it is necessary to delay this for 4 months; or, whether there are appropriate responses that don't require a delay, like, for example, if we would have put up a suspension last week that said that the expiration dates aren't in existence anymore. So if you had one that expired, you could go out and use it. We could have changed an accounting rule that would have fixed the so-called money problem, although as the past chairman of this committee pointed out there really isn't a money problem.

The amazing part about this to me is that with these simple solutions that both sides could have agreed upon, we could have had this done a couple weeks ago. But for some reason, 3 weeks ago just completely out of the blue our new President said we need to delay this. No discussion. When President Obama came to our conference a week or so ago, he was asked about why. And the response was, simply, because the past administration messed up. And he said, quote, ''Our people are telling me that we need 4 months.'' Then we find out that one of the people supposedly maybe that the President was referring to, a member of the transition team that was discussing with the transition team technology issues that owns a company called Clear Channel.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. FOXX. I yield the gentleman an additional 30 seconds.

Mr. TERRY. Mr. Salemme owns a business called Clearwire that actually will benefit from a delay because it puts his company into an advantageous position. Maybe that is why we are now talking about a delay of 4 months without any hearing. I would respectfully request that our committee oversight look into it. The ranking member of the oversight committee of Congress has asked for it, and I think it is a good idea to do.

Mr. POLIS of Colorado. Madam Speaker, there are many Americans that don't realize that they have not made the transition to digital TV, absent this bill, in 13 days; with this bill, of a 115-day extension.

Mr. TERRY. Would the gentleman yield for one question?

Mr. POLIS of Colorado. I yield to the gentleman from Nebraska.

Mr. TERRY. There was a poll that was brought out last week that said that 95 percent of the homes are ready. So if 95 percent are ready today, what is the number then that we have to be at to implement the hard date? Would it be 100 percent, 99.5 percent?

Mr. POLIS of Colorado. Reclaiming my time, the gentleman from Nebraska has in his very own district 3,401 people who have not made the transition; I have in my district 3,671. There are a number of people across the country, particularly elderly people and people who aren't as aware of the technology. Now, Nielsen has estimated that 6.5 million remain. And it is critical that, again, this is something that a lot of people don't realize as they go about their everyday lives. We realize this in this body. We talk about it, those involved with technology do.

Another issue is, for instance, many of the coupons were sent out via third-class mail, taking 4 to 8 weeks to deliver. Some of those, as is inevitable when things get mailed, actually get lost in the mail; when they arrive, some of them arrived after their expiration date, which was only a 90-day expiration date. One of the provisions in the bill would actually allow consumers to reapply for coupons when their coupons expired.

So, again, for these reasons there would be a lot of difficulty in explaining to any of our constituents whose televisions will go off in 13 days why we didn't act to be able to allow them to continue to watch their television and give them time to see this transition through with this one-time delay.

I reserve the balance of my time.

Ms. FOXX. Madam Speaker, I now yield 2 minutes to the gentleman from Minnesota (Mr. PAULSEN).

Mr. PAULSEN. Madam Speaker, I am trying to figure out, why are we spending another $650 million on television coupons when Americans need jobs? Why is Congress continuing on this path of wasteful Washington spending when we can do much, much better?

The current economic mess that we are in right now was created by spending and borrowing money that doesn't exist. So why are we doing more of the same? People are hurting. Many people have lost their jobs, and Americans are genuinely worried about the future. Last week, we considered a stimulus bill of $819 billion in a so-called stimulus; actually, it is over $1 trillion when you think of the debt payments that are included. This is enough to give every family in the country close to $11,000. And what is this money for? $600 million to buy new cars for government workers; $150 million for honey bee insurance. And, of course, $650 million for television coupons. And the list goes on and on.

I am asking my constituents, is this how you would spend your hard-earned taxpayer money? I don't think so. It is no wonder that the American public is growing weary of this economic plan, and polls show a declining support. And

do you know why? Because the American public is smart.

But why does a broken Congress continue to move on the same path, to spend hard-earned taxpayer money on the same old deficit plans that do little to create jobs and get our economy going?

Madam Speaker, I think we can do better. I think we must do better. Let's heed the President's call for swift bipartisan action, a plan that would provide immediate real stimulus to create jobs in this economy, not one that explodes the budget deficit on wasteful programs. Let's help families and small businesses with tax relief. Congress is focused on the wrong priorities with this bill. Spending $650 million, deficit spending $650 million, is the wrong priority. We should focus on job creation.

□ 1400

Mr. POLIS of Colorado. Madam Speaker, may I inquire as to how much time remains on both sides, please?

The SPEAKER pro tempore. The gentleman from Colorado has 13½ minutes remaining. The gentlewoman from North Carolina has 9 minutes remaining.

Mr. POLIS of Colorado. As testimony to the demand for the need to change, there are currently pending about 2 million requests for coupons. This bill, as passed, would finally allow for some of those coupons to be reissued by allowing consumers to reapply for those coupons and help ensure that those who need coupons can still get them and their televisions do not go dark.

Madam Speaker, I would like to reserve the remainder of my time.

Ms. FOXX. Madam Speaker, I now yield 3 minutes to our distinguished colleague from Missouri (Mr. BLUNT).

Mr. BLUNT. Madam Speaker, I thank the gentlelady for yielding.

On the debate before us today, this has been a discussion that has been going on in the country for 3 years now. It was mentioned earlier that there were people who didn't know that this date was pending. I don't know how you could possibly be watching television and not know that this date was coming up. This has been the most broadcast, the most communicated date in the history of broadcasting. And if you don't know that this date is coming up, you're probably not watching television. And if you're not watching television, you probably won't know on February 18 whether it occurred or not.

There are really three important reasons not to pass this rule and not to pass this bill. One is first responders. The 9/11 Commission, in discussion after discussion since then and before then, has talked about getting all of our first responders on one level where they could communicate. All you have to do is have a flood, a tornado or an ice storm in your area to know that when the first responders come in to help, no matter how well your own first responders are communicating, when the first responders come in to help, they could be much more helpful if they could all communicate together immediately. And they cannot do that until the last person gets off the spectrum that is allocated to them. Many of them are ready to do it on February 18. Others might be on March 1. But it doesn't matter. We're saying they can't communicate because we're not going to take people off the spectrum.

Also, is a 3-year plan better than a 115-day plan? The truth is, my friends, the people who win today, and I assume the majority will win since they had a majority of votes on suspension, the people who win will lose this argument in mid-June. In mid-June, there will be problems, just like there will be a few problems on February 18. In my district, the speculation is 99 percent of the people are ready for this transition. The original bill said that we would automatically make the transition when 85 percent were ready. The number was used a minute ago that 95 percent are ready in the whole country now. There are going to be problems in mid-June. And some of these problems are going to be because of what we do here today. There have been people contracted for 2 years, in some cases almost 3 years, to come in on February 17, to be there until a time certain on February 18, to make this transition happen. Those same people aren't going to be available to be contracted for whatever this day is in June.

And of course the third reason is we sold the spectrum. I was originally skeptical. I thought, well, maybe we should keep the spectrum longer so it gets worth more. One thing, it actually brought more in the auction than had been anticipated, two things, in the time since we made this decision and today, we went from number 2 in broadband communication in the world to number 16 or number 19.

We need to move on with this. We sold the spectrum. We cashed the $20 billion in checks, and now we say we're not going to deliver what we agreed to deliver. The government needs to keep its word on this and every other item.

Mr. POLIS of Colorado. Madam Speaker, I would like to yield 2 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. In case we haven't noticed and the American people haven't noticed, what we're going to be spending the next year or so doing is digging out of the mess created by our Republican friends. We're trying to deal with the economy. We're trying to deal with digital TV. The fact remains, and it's obvious based on any matrix you can imagine, that this program is horribly administered and poorly thought through. Don't ask me that. Ask the 2 million people that are on a waiting list waiting for a coupon. Ask the 7 million people that Nielsen estimates are still unwired for digital TV.

The fact remains that we on this side didn't write this bill. In fact, if you look at people like Congressman MARKEY who have been saying for months that the way this program is being administered was poorly conceived. Let me give you an example. Right now, you sign up for a coupon and they send it to you third-class mail. And then if you don't redeem it within a certain amount of time, then they have to wait for several months before they can reissue it. This program was destined to be a failure because that's the way you wrote it.

Now you may think, what difference does it make that there are 2 million people waiting or 7 million people waiting? Let me ask you something. To the hundreds of thousands of people that are in your State that are not wired, what if there was an emergency tomorrow? What if there was a tornado? What if there was, God forbid, some kind of a fire and they needed to notify people quickly? People rely upon their television sets. Whom do you think you're punishing by standing in the way of this extension? You're punishing—let me just pose a couple more, and then you can answer them all at once on your own time. You're punishing senior citizens who, by and large, have those rabbit ears, who despite the previous speakers, might not be reading about digital TV or reading ''Digital TV Today'' or reading the sets. They think their television is fine because the outreach that was necessary for this program was never done.

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The time of the gentleman has expired.

Mr. POLIS of Colorado. I yield the gentleman 1 additional minute.

Mr. WEINER. What difference does it make if 2 million people are now on a waiting list to get the voucher? What difference does it make to those citizens? What difference does it make when you hear the Nielsen Survey, not Democrat, not Republican, say that there are 7 million Americans not hooked up. You are going to say, ''oh, it serves them right. We're going to stick to the guidelines. It serves them right.'' Well, the fact of the matter is we're trying to do good policy.

Let me make one final point because the distinguished gentleman from Missouri alluded to this. It is interesting that nobody except people speaking on your side today seem to be opposed to this. The people that bought the spectrum say that they're fine and that they're in no urgent hurry to get it. The people that are in the business of emergency response say, ''we need people wired for television. That is even more important than getting access to spectrum.'' So all you're doing is what

you did last week, saying, ''no, no, no,'' as we try to fix your mess.

Ms. FOXX. Mr. Speaker, I yield now 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, it's always fun to hear my friend from New York come down on the floor. And I enjoy his passion.

A couple of points. This movement of the spectrum was directed and suggested by the 9/11 Commission years ago. Those of us on the subcommittee worked diligently to comply with the movement of the spectrum because we had 9/11, which was very serious. We had—and ANTHONY, you know this, we had firefighters that didn't know that the buildings were falling. We couldn't talk to them. Well then came along Katrina. And Katrina rolls in. And we've got National Guardsmen on one side of the flood who can't talk to the police officer or the disaster team going into New Orleans. So that is where a lot of us come from on this.

Now we know the Fraternal Order of Police are not supportive of this movement. We know that the Sheriffs' Association is not. We do know that other public service agencies have, at the cajoling and the encouragement of the majority, said, ''we don't need this.'' But I will tell you one thing for sure is that I do not want to be the Member of Congress who delays the ability of the spectrum for first-line responders.

Now when we had this debate last week, my good friend and colleague, RICK BOUCHER, was quoted and said, and I'm going to paraphrase, it will not be extended again. And we will hold the majority to that. Because not only is it a life-and-death issue on our first-line responders to get them to communicate, but it's also as important to make sure that we move to this new era.

Now many of my colleagues have done what I have done. I spent 8 months in my district going to senior centers promoting this movement on February 17. I pray that we don't move it past June 12.

Mr. POLIS of Colorado. Mr. Speaker, I would like to yield 1 minute to the gentleman from New York (Mr. WEINER).

Mr. WEINER. I thank the gentleman.

I think that, in fact, it is very important that we do make this transition. But do have two competing safety imperatives. One is the imperative of when this bandwidth is then used for emergency responders, which is not going to happen immediately. It's going to take a little time. The other is our obligation to the citizens of Illinois and New York immediately. They are going to lose the most important connection to the outside world and to emergency response, the television. And unlike when your channel, your knob is a little crooked, when we go to digital television, it's going to go completely black. And a lot of people rely on the television to get that kind of information.

Mr. SHIMKUS. Will the gentleman yield briefly?

Mr. WEINER. Certainly.

Mr. SHIMKUS. The other caveat I have is that we are already sending money to first-line responders based upon the promise of selling the spectrum. So we are already trying to move to help the first-line responders. But if we delay, the cost-benefit analysis of the spectrum is in question.

Mr. WEINER. There is no doubt that the premise of your remarks and mine is the same. The past administration screwed up the administration of this program. There is no doubt about it. We should not be where we are today. That is why we need to pass this bill.

Ms. FOXX. Mr. Speaker, I now yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I thank the gentlelady from North Carolina for yielding.

And indeed we are having a robust debate on this issue today. And I rise in opposition to the bill that is before us. I support moving forward for this transition. Just to correct the record a little bit, Mr. Speaker, on some of the things that have been said. We hear all of this, well, 95 percent of America is ready for this transition to take place. On January 22, 95 percent of this country was ready. That is the day that that number was released, January 22. Now we are coming up on the February 17 date. We know that over 300,000 people per week are coming off the list waiting for that coupon. And they are moving forward with readiness. Their expectation is that the Federal Government is going to make good on their promise. And they are going to move forward with this on February 17. Now it is important to our broadcasters. Talk to any of our broadcasters out there. They will tell you that they are running two systems. They are running their digital, and they are running their analog. And they are ready to move that spectrum out. My goodness, you all are so concerned about climate change, they are using all this electricity to run these two systems paying extra bills. They are telling us, ''We need this to take place.'' We are hearing from first responders. And the gentleman from New York said that those that have acquired the spectrum at auction are not upset about the delay, that they're fine with the delay. Indeed, Mr. Speaker, that is not what we hear. They are very concerned that in good faith they moved forward through the auction process, in good faith they have acquired this spectrum, in good faith they are preparing for jobs, and we're all concerned about jobs growth, jobs that will be going into place as we move to digital and analog moves into a new area for abuse. It is time for us to move forward on this and keep our word to the American people.

Mr. POLIS of Colorado. Mr. Speaker, I yield myself such time as I may consume.

The Chair of the appropriate subcommittee, the gentleman from Virginia (Mr. BOUCHER), has indicated that he will not support an additional delay in the implementation of the change as have several of the other speakers who have advocated on this side of the issue as well. Again, the urgent need for a one-time delay is simply in the fact that 6.5 million people's televisions will go black in 13 days absent this very simple change that gives them more time.

To show the ongoing urgent need for this, just yesterday 135,464 coupons were added to the waiting list. Two point one million households are now on the waiting list for coupons. These are people who did everything right, and they are on the waiting list. And if we pass this bill many of them will, in fact, be eligible for coupons as well.

Again, this is a one-time delay only. Given the critical nature of television in today's society, that is why this has been supported by a number of national public safety organizations including the Association of Public-Safety Communications Officials, the Association of Chiefs of Police, the Association of Fire Chiefs and the National Emergency Managers Association.

Television is an important way to communicate with people. We all have constituents that this affects. And that is why it's important to pass this bill today.

I would like to yield 1 minute to Mr. WEINER from New York.

Mr. WEINER. I just think this debate has been instructive. I would say that on one side you have people who are advocating for the 2 million people who are waiting without coupons and for the 7 million or so people that Nielsen says is in this universe of people who don't have coverage. On the other side it is people that are advocating for who bought the spectrum at literally billions of dollars and for the TV broadcasters because they have to run to their transponders. No doubt about it. There are equities on both sides. But I think someone should stand for the 2 million people that are waiting for coupons. That is us. Someone should stand for the 7 million Americans who don't have the service. That is us. Who are you standing for?

Ms. FOXX. Mr. Speaker, I now yield 1 minute to the gentleman from Georgia (Mr. BROUN).

Mr. BROUN of Georgia. I thank the gentlelady.

If I may inquire of the majority manager, I have a question regarding section 2 of the rule. This provision changes the date by which the Chairman of the Committee on Appropriations must file explanatory materials

related to the omnibus appropriations bill. It is my understanding that the date change in section 2 of the rule is necessary because the text of the omnibus is not available at this time.

May I confirm for the record that it is still the majority's intent to make this material available at the same time the omnibus bill is introduced?

I will yield to the gentleman for an answer.

Mr. POLIS of Colorado. I would like to thank the gentleman from Georgia.

We originally thought that the omnibus would be ready today, so we required a previous rule that Chairman OBEY file a statement by today explaining the bill. The bill is delayed potentially until after the recess so the rule changes the statement deadline to February 26. It is our intention to file the statement when the bill is introduced.

□ 1415

Mr. BROUN of Georgia. So I want to confirm this. You will file it today.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. FOXX. I give the gentleman 10 seconds.

Mr. BROUN of Georgia. I think it's a crying shame that the majority's not using regular order. We wouldn't have this if we were using regular order on this bill and many others. And I suggest that the majority start using regular order for all these bills.

Mr. POLIS of Colorado. I don't have any further speakers at this point, Mr. Speaker, and I would like to reserve the right to close until the gentlewoman has closed for her side and has yielded back her time.

Ms. FOXX. May I inquire exactly how much time we have left, Mr. Speaker?

The SPEAKER pro tempore. The gentlewoman has 50 seconds remaining on her side. The gentleman from Colorado has 7 minutes remaining on his side.

Ms. FOXX. Mr. Speaker, there has been a lot of talk about the need for debate on this bill, and I want to say that Mr. HOYER has said himself, our committees and Members are served on both sides of the aisle by pursuing regular order. Regular order gives to everybody the opportunity to participate in the process in a fashion which will affect, in my opinion, the most consensus and best product.

I agree with my colleagues that this has been a terrible process. We have not debated the extension of this deadline.

I also want to say that June 17 is a Friday. We're going into tornado season March 1st, hurricane season June 1st. We have the potential for harming the very people the majority says that it wants to help because they will not be able to get the help they need.

The numbers they have been throwing around are exaggerated and, in some cases, absolutely wrong. There are 10 million coupons out there, and the numbers were January 22 numbers. I want to urge defeat of the rule and say, again, we should be doing this under regular order.

I yield back.

Mr. POLIS of Colorado. Mr. Speaker, on September 7, 1927, Philo Farnsworth flipped a switch and brought television into the world. Nothing has been the same since.

We can all remember our childhood, our growing up experiences with television, those of the next generation. It's had an impact culturally, both positive and negative. It's brought us closer together and yet further apart. And yet we have grown to rely on television for so much of our news and so much of our communication as well.

Mr. Speaker, without this bill, in just 13 days, television will no longer work for millions of Americans. This will not only come as quite a surprise to them, but will also create even further gaps within our society.

This is a one-time delay only. I can think of no time in our history when having access to television is more critical than now with the global emergency and the threat of terrorism. We can't stand by and allow millions of televisions across America to go dark.

Yes, this delay was necessary because of the bungled implementation of this project, and no, it is not expected that there will need to be additional delays, and many people have spoken to the fact that they will not support additional delays in the conversion.

I encourage all Members of this body to follow the Senate's lead and support this bill on the floor today. I urge a ''yes'' vote on the rule and the previous question.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. TERRY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. TERRY. Are non-Members of Congress allowed to vocalize a vote?

The SPEAKER pro tempore. Only Members of the House are allowed to vote in the House.

Mr. TERRY. There were more than two ''ayes'' and there are only two Members on the House floor.

DTV DELAY ACT

Mr. BOUCHER. Mr. Speaker, pursuant to House Resolution 108, I call up the Senate bill (S. 352) to postpone the DTV transition date, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(c) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(b) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(c) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

(d) CONDITION OF MODIFICATIONS.—The amendments made by this section shall not take effect until the enactment of additional budget authority after the date of enactment of this Act to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this

Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act, including section 90.545 of the Commission's rules (47 C.F.R. § 90.545).

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

The SPEAKER pro tempore. Pursuant to House Resolution 108, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. BOUCHER. Mr. Speaker, I yield to myself such time as I may consume.

Mr. Speaker, we are now less than 2 weeks from the February 17 digital television transition date, and millions of American households remain totally unprepared. On January 22, the Nielsen Company, which is a widely respected service that reports on television viewing in the United States, reported that fully 6.5 million households are totally unprepared for the transition. These are homes that rely upon antennas or rabbit ears in order to get their television service. They do not have cable or satellite subscriptions. And given the fact that they are totally unprepared today, if the transition goes forward as scheduled on February 17, these 6.5 million households will lose all of their television service, and that number represents about 5.7 percent of the total American television viewing public. If almost 6 percent of the nation's households lose all of their television service, I think that most people would declare that the digital television transition has been a failure.

At the present time, there are 3.7 million requests for converter box coupons pending at the U.S. Department of Commerce, and since early January, the program that funds those coupons has been out of money. Those requests therefore, cannot be honored.

And the waiting line for coupons is growing rapidly. On Friday of last week, the number of requests was 3.3 million, and over the weekend, during the day on Monday, that number climbed to 3.7 million. And I think we can expect a much larger increase in the number of requests that are filed with the Department of Commerce over the coming weeks.

It's clear to me that the only way to avoid a massive disruption affecting 5.7 percent of the entire viewing public is to delay the transition and provide the funding in the meantime to assure that when the transition does occur, it occurs smoothly. In recognition of that reality, the Senate has now, on two occasions, by a unanimous vote both times, passed legislation to delay the transition until June 12. The most recent unanimously passed Senate bill moving the date to June the 12th is now the measure that is before the House.

My friends on the other side of the aisle will argue and have argued that if more money were provided for this program for converter boxes during the coming week, that the problems could be solved, and they have, in fact, put forward a proposal to do so.

But I want to make a very clear point. The provision of more money for this program now, without moving the transition date, could not avoid the disruption. It takes 1 week to process 1.6 million coupon requests at the Department of Commerce. That's what the independent contractor working for the Department of Commerce estimates its approval numbers to be. That company is IBM, and they've been handling this coupon program since the inception. They can process 1.6 million coupon requests every week. And so in the 13 days remaining between now and February 17, that backlog presently pending of 3.7 million requests could not be processed, even if more money were provided for that program today. And then, beyond processing the requests, more time is required for mailing the coupons to those who have requested them, and then more time still required for the television viewer to get the coupon out of the mail and take that coupon to a store and redeem it for a converter box. So even if more money were provided for the program today, the program would still be a failure and we would still have millions of homes dislocated in their television viewing.

Beyond the converter box program, which is at a standstill, more resources are also needed for the Federal Communication Commission's call center program where waiting times are long, where calls are frequently disconnected, and it's very difficult to ever speak to a live technical assistance representative. In fact, Commissioner McDowell at the Federal Communications Commission reported on these facts. He had tried himself to contact the FCC's call centers, and just as a test, determine what the real condition of those call centers happens to be. And he found that calls were disconnected, waiting times were unacceptably long, and it was virtually impossible to get a live technical assistant representative on the line.

Now, as that report reveals, the FCC's call center program is in complete disarray, and that program is vitally important. There is a virtual absence of technical assistance available for people to connect their converter boxes; once they've connected them, if they still can't get a viewable picture, get some expert advice on what further steps they might take, testing their antenna, for example, to determine whether or not the antenna would have to be replaced, adjusting that antenna to determine whether or not a digital signal can, in fact, be received. And the FCC's call centers are the only vital point of contact and point of information that millions of people, primarily those in rural stretches of of our Nation, are going to have available. And that program today is in disarray.

More resources are going to be necessary in order to make that call center program effective. Only by delaying the transition and utilizing the $650 million that the stimulus measure provides for the DTV transition program, can these problems be addressed and can massive viewer disruption be avoided.

The 4-month delay that the bill before the House would accomplish has been endorsed by a broad range of organizations representing the very parties who could potentially be disaffected by the delay. And I'm going to take just a moment to go through an identification of some of these endorsing organizations.

Much has been said during the debate on the rule about public safety, and all of us share a concern about public safety. We want to make sure that spectrum is made available to first responders at the earliest possible time in order to deploy advanced communications equipment so that there will be full interoperability among first responders, police being able to talk to fire agencies, being able to talk to rescue agencies and to do so all across the country. That's the goal. We hope that goal will soon be achieved.

But the organizations that represent these public safety agencies nationwide, the great weight of them, have endorsed this delay. I'm just going to list these. The International Association of Fire Chiefs, the International Association of Police Chiefs, the National Emergency Number Association, that's the voice of 911 across the country, and also the organization that represents the information technology professionals who work in first responder agencies, they have all endorsed this delay.

□ 1430

I would suggest that they recognize that the greater threat to public safety would come in something like 6.5 million households losing all television coverage and, therefore, not being able to get the vital public safety information that local television broadcasters so effectively provide, and that will happen unless the delay and the transition are adopted. Speaking on behalf of local broadcasters, the National Association of Broadcasters and the major networks have all endorsed this delay and have sent letters or have made public statements to that effect.

Speaking for the purchasers of the commercial wireless spectrum, the two major winners in the government-sponsored auction for that spectrum—AT&T and Verizon—have both endorsed this delay.

Now, much was said during the debate on the rule about possible motivations for various parties having recommended the delay, including some comments, perhaps, about the motivation of the President in asking for this delay. It is very clear that the reason that this delay was asked was due to the loss of television viewing that would occur across this Nation if the delay were not accomplished. That is the real reason. If any party is going to be disadvantaged because of this delay on the commercial spectrum side, it would have been the major bidders in this auction—AT&T and Verizon—and both of them have sent letters endorsing this delay. They believe it is necessary to have a smooth transition, and they have endorsed the delay accordingly. The Consumers Union and the acting chairman of the Federal Communications Commission have also endorsed this delay.

Let me offer assurance that it will be a one-time-only delay. Our committee will simply not entertain requests for any delay beyond the 12th of June. Our chairman of the full committee, the gentleman from California (Mr. WAXMAN), has been very clear about that. No requests beyond the 12th of June for a delay will be considered.

Speaking on behalf of the subcommittee, I can say precisely the same thing. We will have time to get this program properly structured. We will have the resources necessary to make sure that the program can be smooth and effective when the transition occurs in June. Under no circumstances will we consider legislation to delay this program again. The delay that this bill will accomplish, teamed with the stimulus appropriation will be sufficient to ensure a smooth digital television transition.

So, Mr. Speaker, I urge approval of the measure pending before the House, and I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, before I speak, I want to ask a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BARTON of Texas. In the previous voice vote, the Speaker said the ''ayes'' have it. From visual inspection, it appeared that there were more ''no'' Congressmen on the floor than ''aye'' Congressmen. My parliamentary inquiry is:

Under the rules of the House, is it possible to ask for a show of hands without violating House rules or without asking for unanimous consent?

The SPEAKER pro tempore. Such a straw vote is not in order. A timely request for a division could have been entered.

Mr. BARTON of Texas. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BARTON of Texas. If a Member on the floor at the time the Chair calls the question feels the Chair called the question erroneously, then that Member would be required to ask for a rollcall vote. Is that your remedy?

The SPEAKER pro tempore. The Chair's call of a voice vote is not subject to challenge. Following the Chair's call a Member could request a record vote or a vote by division.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 5 minutes.

Let me start out by stating that the majority is trying to fix a problem that I do not think really exists. We have sent out 33 million coupons: 22 million of those coupons have been redeemed, and 11 million coupons are outstanding. The outstanding coupons are being redeemed, I think, by about 500,000 a week, something like that. In my opinion, you could keep the hard date and not have a problem, but if you think there is a problem, it is not from lack of money.

We have appropriated $1.3 billion. About half of that is still in the Treasury, but as I pointed out before, it cannot be released for additional coupons because they assume that 100 percent of the coupons are going to be redeemed. So what this means is the redemption rate is only about 52 percent. Once you send out a coupon, you have to wait for 90 days until it is either redeemed or until it expires before you can release an additional coupon.

If we really, really think that we need to do something, the simple thing to do is not appropriate but to authorize $250 million at $40 a coupon box. That is $240 million. You have authorized enough money to send out coupons, however many you can send, to these 6.5 million Nielsen household families that my good friend from Virginia talks about. Yet the majority has chosen not to do that. They have insisted that we have to delay the program.

So point one is: We have 33 million coupons that have been sent out. Twenty-two million have been redeemed. Eleven million are outstanding. If you want to eliminate the line, you authorize another $250 million so you can send out the other coupons. You could also just say you do not need a coupon. As my good friend from Nebraska has pointed out, it is not the lack of converter boxes. You can go to any electronic store in America and find the converter box. We could just say, ''If you have not gotten a converter box, go get one.'' There is no means test. Under the law, every household in America is entitled to two converter boxes. Go get them. Pay for them. Send us the receipt. The Treasury will pay you your money. You could do that.

My good friend talks about the technical problems. Well, I am going to educate the country right now on the technical problems. Here is how to do it: First, get the converter box. Second, take it out of the box. Third, plug it in. Fourth, hook it up by cable to your TV set or to your antenna. Fifth, turn it on. Sixth, if you have a remote control, hit the scan button. Seventh, make sure that you tune your TV to channel 3.

What is technical about that? It works.

Eighth, if you do all of that and it does not work, call whomever you bought the converter box from. They will tell you, and they will walk you through it. If you are a senior citizen, in most States, you can dial 211, and they will even send somebody out to your house to make sure that it is plugged in, that it is hooked up, that it is turned on, that it is on channel 3, and that you hit the scan button. Now, that is not all that high-tech. If a Texas Aggie like me can understand it, I think the country can understand it.

Next, I want to point out, even though we are delaying this until June 12 if this bill becomes law, according to the acting chairman of the Federal Communications Commission, 61 percent of the television stations in America are going to go ahead and convert to digital. One hundred forty-three television stations already have converted, and in those areas where they have converted, I am not aware that there has been a huge problem.

As CLIFF STEARNS pointed out earlier in the rules debate, they did a pilot

program down in North Carolina, and it was 99 percent effective. Regarding the time that they converted over, they had a handful of concerns down there to see if it would work.

So we have a situation here where we have had a hard date on the books since September of 2005. That hard date is February 17. Every broadcaster in America is ready to go; 143 three stations have already converted. Up to 61 percent of the remaining 1,000-some-odd stations say they are probably going to convert. The acting chairman says that, before June 12, probably 90 percent will. Now, to be fair, Acting Chairman Cox does say he supports the legislation that Mr. BOUCHER is bringing to the floor. He does support the delay.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, at this time, I am pleased to yield 3 minutes to the distinguished gentleman from North Carolina (Mr. BUTTERFIELD).

Mr. BUTTERFIELD. I probably will not take the 3 minutes, but I thank him for his leadership on the committee. As well, I thank the chairman of the full committee, Mr. WAXMAN.

Mr. Speaker, this is an important issue. In my district, at least, it is very important. This is not an academic issue. It is very important. I am pleased that we now have another chance to pass this vitally important bill, because it has become increasingly clear that, with the digital transition deadline looming just days away, literally millions of Americans are at risk of being left in the dark.

With an estimated 6.5 million households still unprepared for the digital transition, it is clear that a short delay is necessary. There are 6,000 households on the waiting list for converter box coupons in my district alone, and that number grows daily. So a short implementation delay is necessary, and I do not see the problem in granting this request.

Without a delay, many of these people would be without television service and would be at risk in the event of a disaster or of a national emergency. I represent a rural area where many people rely on over-the-air television broadcasts. So this issue is particularly important for districts like mine. People clearly need more time to learn just what this transition will mean for them.

The distinguished ranking member of the committee says that they have had enough time and that there are procedures in place for making it happen, but people need more time to learn. Even my constituents who manage to buy the box could still be left without a signal. Analog signals travel further than digital signals, and many people may still need a new digital antenna to receive the signal.

So, Mr. Speaker, in closing, I wish the Energy and Commerce Committee had the opportunity to mark up this bill, because I believe there are still some issues that are unresolved in the legislation. However, I strongly support this bill as it is written, and I look forward to its swift passage this afternoon so that consumers can be given more time to prepare for this tremendous change in their lives.

Mr. BARTON of Texas. I would like to yield 3 minutes to the ranking member of the Telecommunications Subcommittee, Mr. STEARNS of Florida.

Mr. STEARNS. I also agree with you. I would like to have had the opportunity to have marked up this bill. Unfortunately, we did not mark up this bill, and I had six amendments—Mr. BARTON and I, Mr. BLUNT and Mr. WALDEN—and they were not accepted. It would have made the bill, I think, improved.

I rise in strong opposition to this bill because, for over 2 years, we have been promoting February 17, 2009 as the date of the DTV transition. Industry and government have prepared and have spent billions of dollars. When you look at some of the statistics from Mr. BOUCHER, he is using the Nielsen rating. Well, that Nielsen rating does show that a large percentage of Americans are ready to go, and most of the statistics he has collected are from a survey that is a month old. So, in this case, it has changed, and another 1 million people have already gotten coupons.

Frankly, a change in the date engenders skepticism among Americans, confusion and a distrust of the government because here they are again delaying something when they said for over 2 years that we are going to have an effective date. So, for that reason, I think we should move ahead with the date and defeat this bill this afternoon.

There are lots of broadcasters who have spent all of this money preparing, and now they have unbudgeted expenditures from the private sector that are going to have to be used. At this particular point in our economy, which is weak, to have to take these unbudgeted amounts of money and find this new money to make this transition is going to be a hardship for these folks. So a delay is not necessary.

All we need to do is to give the manufacturing distribution cycle any short change of notice that they need, give them a little bit more money, and we can continue. The public is not served by delaying this because, in the end, the analog spectrum that is available could be used for first responders. Many, many carriers have already invested nearly $20 billion in spectrum auctions, and they have been promised the deployment of innovative, new, next-generation, wireless, broadband services. Now, these, our Nation's first responders, direly need and they deserve the spectrum. They paid for it. So why can't we give it to them? Why are we delaying this another 3 or 4 months? It is only because there is a perceived problem when there is really no perceived problem.

□ 1445

As Mr. BARTON on the ranking side here has pointed out, there was a demonstration project in Wilmington, North Carolina, in which 99 percent of the people were happy. There's always going to be a segment that are not happy.

And on that note, we all were involved with the inauguration here. We know we thought that it was going to go perfect; yet a lot of our constituents could not get through to their seats because the metal detectors broke down. Now, the question I have for the Democrats, if we had the inauguration in place and it turned out about 3 or 4 percent of the people could not get through because of metal detectors, would you have shut down the swearing in of the President because of it? No, you would not have.

Any great event will continue, and there's always going to be a small percentage, but you can take care of those, just like they took care of it in Wilmington, North Carolina, in the demonstration which was totally successful.

Mr. BOUCHER. Mr. Speaker, at this time I'm pleased to yield 3 minutes to the gentleman from Michigan (Mr. STUPAK), chairman of the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee.

Mr. STUPAK. Mr. Speaker, I thank the chairman for yielding me time on this important issue.

In the last 2 years, we've held over six hearings on this transition to digital television and highlighted the problems that we find across America with this transmission date and the set date of February 17 and the need to extend the time. We need to extend the time because, in all honesty, the Department of Commerce has made many mistakes in this program, and to ensure that all Americans have an opportunity to make the transition and to get their converter boxes, we have to make this delay.

The other side has argued that converter boxes are readily available. Time and time again in my district in rural northern Michigan, we've gone to the stores. There are no converter boxes available. Our coupons are only good for 90 days, and then they expire, and we have got to start the process all over again.

Even though we repeatedly warned the Department of Commerce this would happen, they did nothing until Christmas Eve when they notified us that they've run out of money, there's no more converter boxes, and this is a disaster waiting to happen.

So I'm very pleased that the Obama administration has stepped forward,

and this situation has now required that we delay the transition to allow this new administration the opportunity to properly prepare the Nation for DTV transition.

My colleagues on the other side of the aisle have stated that a delay would jeopardize public safety. This is simply not true.

As a former Michigan State police trooper and as a Member who's focused on strengthening our Nation's public safety and as a founder of the Law Enforcement Caucus way back in 1994, I've got to tell you the rhetoric about jeopardizing public safety is misplaced. And also as a member of the Energy and Commerce Committee, I've worked with my colleagues, public safety, and the FCC to promote the construction of a national, interoperable, wireless broadband network for law enforcement.

Congress must act quickly to modernize our public safety infrastructure, and we can do that. Basics such as access to television, before this transition and after the transition, we need access to the emergency alert system, as well as news information for local communities. This is access that's a critical component of public safety.

As a result of this legislation and our bill here today, a number of public safety groups support the delay of the DTV transition and have repeatedly said it would not jeopardize public safety. This legislation still preserves the right to make the switch, soon as you're ready, to make a switch from analog to the digital spectrum before the new transition date of June 12.

Public safety officials recognize that a one-time delay is necessary, and in a letter to us from public safety officials it says, ''Specifically, the bill makes it clear that a public safety agency can use its existing license in the 700-megahertz band to commence operations after a broadcaster has voluntarily ceased operations on a channel before June 12. All 50 States and some local governments have FCC licenses for the 700-megahertz spectrum.''

It will not delay public safety. It will not jeopardize public safety. Vote ''yes'' on the legislation.

Mr. BARTON of Texas. I'd like to give 3 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I thank Mr. BARTON.

I was one that several years ago helped write this legislation that we're amending today, and the reason that we did it was because we listened to the 9/11 Commission, and their number one recommendation was our first responders need the analog spectrum. They have got to have that so that they can communicate with each other. The fire fighters have got to get the same message that the police folks got on that fateful day back in September.

In Katrina, the Coast Guard folks couldn't talk to the sheriffs as they tried to rescue people off the roofs, and we knew that it was because of the spectrum. They did not have the slice of the analog spectrum necessary so they could communicate.

So the 9/11 Commission made their report, and then they did a follow-up report a couple of years later, and they said Congress still hasn't acted, and they took all of us on. They gave us a flunking grade, E, and we came back and said, well, there was a number of things that had to happen.

We had to convert the television stations from analog to digital. We had to make sure that we stop selling analog TV sets. We had to be able to develop the technology and be able to get it out to these converter boxes, and we actually came up with a way that could help fund the consumer to pay for that box so that they could get the picture over the air.

Our broadcasters have done a marvelous job. They have spent more than $1 billion across the country informing the Nation about the February 17 date, a date that we set, Chairman BARTON and myself, more than 3 years ago.

And our broadcasters, like my Channel 22 in South Bend, Indiana, which broadcasts in Indiana and Michigan wrote me almost a month ago and it says, ''Anticipating the February 17 analog shutoff, WSBT is in the process of converting our backup analog transmitter to digital. This means there is currently no backup for our analog signal in the event of any technical failure to the primary transmitter. We do not stock any backup analog transmitter parts. We have been told that the age of the parts means they are likely to fail soon and replacements are either not in stock or exceptionally difficult and expensive to find.''

The Fraternal Order of Police, understanding probably better than just about anyone else is relating to the need for access to analog spectrum, says this particularly with the arguments that were made by some previous speakers in support of this bill. ''While S. 328 would still allow broadcasters to voluntarily transition by 17 February, subject to current FCC regulations, and allow public safety to occupy this vacated spectrum, unless all the surrounding broadcast stations also voluntarily transition, it is unlikely anyone can move.''

That's the point. They're ready. So are our consumers. The NTIA told this body in November that they were going to have trouble with the coupons, and we should have acted then to do a number of different things in terms of figuring out how to appropriate the money.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. I give the gentleman 1 additional minute.

Mr. UPTON. If we had acted then to figure out how we could send these coupons out, not use third-class mail but first-class mail, we could have easily fixed this without the costs so that our consumers, our broadcasters, and yes, our first responders would be able to have this spectrum available on February 17.

But we didn't do that job. We didn't do it, and here we are today now looking, after spending more than $1 billion to inform the consuming public about February 17, we're just going to move it to June 12. Who knows if it moves again.

Dates have meaning. Americans know about the date called April 15, the date that we pay our taxes; yet there are still a number of folks who don't file on time.

We need to file on time. We need this analog transition date to stick so that if we do have another emergency, particularly in the next couple of months, whether it be our police, our fire fighters, our EMS folks, that they will begin to have that technology so they can communicate to save lives.

That's what this is about. Please vote ''no.''

Mr. BOUCHER. Mr. Speaker, may I inquire as to the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. BOUCHER) has 14 minutes remaining. The gentleman from Texas (Mr. BARTON) has 18 minutes remaining.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker at this time, I ask unanimous consent that all Members shall have 5 legislative days to insert material in the RECORD, including their statements on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Mr. Speaker, at this time, I'm pleased to yield 2 minutes to the distinguished gentleman from Indiana (Mr. CARSON).

Mr. CARSON of Indiana. Mr. Speaker, I rise in strong support of this legislation and extending the DTV deadline.

As a father, I try and limit how much television my daughter watches. However, that does not mean that I want to completely deny her access to this very informative medium, but that's exactly what others would have us here believe. They would have us deny access to millions of Americans, Americans who rely on TV not only for their entertainment but for their safety.

Mr. Speaker, two major winter storms have passed through my district in the past 2 weeks, and thousands of people stayed off the icy roads during these storms because of the winter advisory alerts that went out on our local TV affiliates in Indianapolis. By having access to these alerts, thousands of my constituents were able to remain safe.

So I would implore the minority not to politicize this issue. This is a very serious issue that demands we act swiftly and responsibly. I encourage my colleagues to support this legislation.

Mr. BARTON of Texas. I'd like to yield 3 minutes to a member of the committee, Mr. TERRY of Nebraska.

Mr. TERRY. Mr. Speaker, I rise in opposition of this delay. I want to run through numbers, and I know it's hard to orally talk about numbers and have it sink in, but the Nielsen survey that was done showed there was about 6.5 million folks or households a month ago that weren't hooked up. And Mr. STEARNS from Florida mentioned that was 30 days ago, and many of those have already been hooked up, but let's just assume 30 days ago 6.5 million households.

Right now, out in our communities and households there's 10 million coupons, valid, non-expired coupons. Let's assume, since each household was allowed two, that's 5 million households. So, really, what we're talking about is 1.5 million that would be left without resources, evidently, on February 18.

For that, we're going to delay 4 months and also put up $650 million to somehow say in the last 2-plus years and millions and millions and millions of dollars of advertising, not only nationally but by our local affiliates and broadcasters, and here's what we've been told, it's not within the stimulus bill how that 650 will be spent, but we're told that 90 million of it is going to be spent paying people to go door to door, 40 million for converter boxes ostensibly for the 1.5 million which way exceeds the amount—so we have to ask if it's really going for converter boxes or it will be slid over somewhere else—and 160 million more in consumer education. Again, to find the 1.5 million people on February 18 that would ostensibly be left.

And the other thing that confuses me is none of the public safety organizations of which our friend from Virginia mentioned in his opening remarks were coming to us in Congress, either side of the aisle, and saying, my goodness, you have to delay this.

□ 1500

And then, frankly, nobody was coming to us saying, ''You have to delay this'' until the President, 3 weeks ago, out of the blue, said we should delay this because he was advised by somebody in his transition team that the previous administration had messed it up and it's going to take 4 months to fix. And then we find out that perhaps a person on the transition team actually had maybe a conflict of interest that was not relayed to the President.

But the point that's here is that none of those folks that offered the letter had done so before the President asked for it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTON of Texas. Mr. Speaker, I yield the gentleman an additional 1 minute.

Mr. TERRY. So what we also need to look at here is the $650 million, an appropriate amount for the 1.5 million.

Are we, if we delay this another 4 months, even going to be able to find that 1.5 million? And I told a story the other day when we were discussing this about Tom Osborne, a Nebraskan icon, an idol. When he ran for Congress, a poll was done showing he had 95 percent name ID in the State of Nebraska when he ran for Congress. That means after 30 years of coaching and three national championships in the State of Nebraska, there were still 5 percent that had never heard of him.

So if the new standard is to reach 100 percent, Mr. Speaker, we're not going to get there on February 18 or in June or June of 2010.

So I don't understand why we're delaying this.

Mr. BOUCHER. I yield myself 1 minute.

Mr. Speaker, I do so for the purpose of placing in the RECORD a series of letters that the committee has received endorsing this delay, and among these letters are letters from the Association of Public Safety Communication Officials International, the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Emergency Number Association speaking for 911. And these are all associations that sent letters to the committee representing the public safety community, and they represent the great weight of public safety of first responders in the Nation endorsing this delay.

Also included in this submission will be a letter from the National Association of Broadcasters speaking on behalf of local broadcasters across the Nation. We have also received letters from AT&T and Verizon, the two major winners in the government-sponsored spectrum auction endorsing the delay, from the Consumers Union, the National Hispanic Media Coalition, Univision, and also the acting chairman of the Federal Communications Commission.

JANUARY 30, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN: We understand that the House of Representatives may soon consider S. 352, the DTV transition extension bill that passed in the Senate yesterday.

The bill the Senate passed yesterday included language to address the impact on public safety of a DTV transition delay. We expressed support for this language in a letter we sent on January 27, 2009, to Senate Commerce Committee Chairman Rockefeller and Ranking Member Hutchison.

Specifically, the bill makes it clear that a public safety agency can use its existing license in the 700 MHz band to commence operations after a broadcaster has voluntarily ceased operations on a channel before June 12. All 50 states and some local governments have FCC licenses for 700 MHz spectrum, and are waiting for the DTV transition date to modernize their communications systems and ensure public safety.

Although we have concerns about the impact of delaying the transition date on public safety, since this language is now included in the final version of the bill we support passage of this legislation.

We thank you and your colleagues for taking into account the concerns of public safety while considering this matter.

Respectfully,

CHRIS FISCHER,
President, Association of Public-Safety Communications Officials-International.
RUSSELL B. LAINE,
President, International Association of Chiefs of Police.
LARRY J. GRORUD,
President, International Association of Fire Chiefs.

NATIONAL EMERGENCY NUMBER ASSOCIATION,
Arlington, VA, February 2, 2009.

Re: digital television transition.

Hon. HENRY WAXMAN,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.
Hon. JOE BARTON,
Ranking Member, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN AND RANKING MEMBER BARTON: I am writing on behalf of the National Emergency Number Association (NENA), the leading professional non-profit organization dedicated to the advancement of 9–1–1 emergency communications issues, as a follow up to our earlier letter regarding the digital television (DTV) transition. On behalf of NENA's 7,000 members, we again wish to thank you for your efforts to ensure that a significant element of the debate to extend the DTV transition date addresses the needs of public safety. NENA supports the Senate approach recently adopted in S352 that addresses public safety spectrum needs and we encourage the House to quickly adopt the measure.

While NENA again wishes to underscore the substantial importance of public safety access to this valuable spectrum and your willingness to work with public safety, we also are mindful of the greater societal debate and the impact on millions of consumers if the DTV transition is not properly handled. If there is a delay in the transition, then it is very important that public safety agencies have the option to gain expedited access to channels that have been vacated by broadcasters before the new DTV transition deadline, an important aspect of the legislation adopted by the Senate that you are now preparing to consider.

Thank you again for your commitment to consider the potential impact on public safety of an extension of the DTV transition

Sincerely,

BRIAN FONTES,
CEO.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, February 2, 2009.

Hon. HENRY WAXMAN,
House of Representatives, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

Hon. RICK BOUCHER,
House of Representatives, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN and CHAIRMAN BOUCHER: On behalf of America's broadcasters and the National Association of Broadcasters (NAB) Television Board of Directors, thank you for working to ensure that millions of Americans are able to successfully switch to digital television (DTV) and for your efforts to help consumers receive converter box coupons prior to the transition date.

As you know, America's full-power television stations have been working for the last two years to educate Americans about the switch to all-digital broadcasting. The DTV transition is the highest television priority of NAB, as broadcast networks and television stations across the country have contributed more than $1 billion to educate Americans on the impending switch.

Free over-the-air broadcasting is important part of American life. Broadcasters understand this as well as the need to ensure that Americans are both prepared and equipped to make the switch to digital. To this end, we support your efforts to give viewers and the federal government more time to get ready for all-digital broadcasting. As you know, many Americans are already enjoying the benefits of digital television. Indeed, some markets have already commenced digital-only operations, some stations are already digital-only and other stations will need to cease analog operations on February 17 or sometime before June 12.

It is important that stations have the flexibility to go all digital before the new cutoff date. We understand that Congress does not intend to require stations to continue analog broadcasting just because the date is changing. Nor does it intend to have the Federal Communications Commission impose additional requirements on stations by either changing the current streamlined procedures for notifying the agency that the station is terminating analog service or insisting on 30 day notification for stations that would not have been required to provide notice if the date had not changed.

We appreciate your focus on flexibility for stations so that they can determine how best to provide the vital news, weather alerts and emergency information that free, local television provides to its viewers.

We hope the House will pass the legislation that was unanimously approved by the Senate. Thank you for your continued attention to this important matter.

Best wishes.

Sincerely,

DAVID K. REHR,
President and CEO.

At this time, I am pleased to yield 2 minutes to the gentlelady from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Thank you, Chairman BOUCHER, and thank you for the leadership that has been given by a number of our committees in Energy and Commerce, and thank you very much, President Obama, for listening to the real reason for having this legislation, and that is that actually we had run out of money for these vouchers that are needed for many of the individuals who are economically in need. In actuality, there is a waiting list.

In my own community, there are 7,298 in the 18th Congressional District in Houston, Texas, and an increase of over 600 since we've indicated the possibility of being able to get these additional vouchers or to get in line.

My mother is 83 years old and has a television that needs this adaptation. And I can tell you the difficulty for seniors. That is why AARP is supporting this extension, this configuration. When you're ready, get on line. But if you're not ready, then you will not be in the dark until, of course, this extension. It makes sense.

Many times a television is a lifeline of a person living alone, a disabled person, a senior person, and frankly, I want to work with the FOP. We all have good relations with them, and I believe down the road we can work that out.

But the International Fire Chiefs are for this, the public safety officers are for this. We want to have interoperability. We want to be able to communicate, unlike the tragedy that occurred in 9/11. But at the same time, we can be multitasked. We can, in essence, do two things at once to ensure that we have a process that doesn't turn the lights out on a predominant number of Americans who cannot help being on a list with a coupon system that does not work. They were not able to get the coupons. If we don't do this bill, February 9 is D-day. It is a D-day in terms of what happens to many Americans.

I think this is a positive approach. It is an effective approach, and it will help us move the process forward. And let me thank the network stations for working as hard as they could locally, but they need help. This bill will help.

I ask my colleagues to support it.

Mr. Speaker, today I speak in strong support of S. 352, and I also want to thank my colleague Senator JAY ROCKEFELLER for authoring this insightful resolution.

The digital television transition is an unnecessary burden to be passed onto the American people at a time when the pressures of day to day life are heavy and growing.

To assist consumers through the conversion, the Department of Commerce through its National Telecommunications and Information Administration (NTIA) division handled requests from households for up to two $40 coupons for digital-to-analog converter boxes beginning January 1, 2008 via a toll free number or a website.

However, the Commerce Department has run out of funds to cover the cost of coupons and there are millions of Americans who have yet to receive the boxes. These Americans should not be expected to purchase the converter box without the aid of the government, seeing as the entire nation is under extraordinary economic pressure caused by the recession.

Last week, President Obama's team joined a chorus of concerned voices requesting a delay because the National Telecommunications and Information Administration (NTIA), which is to provide education and $40 vouchers for people to buy digital TV converter boxes, ran out of money on January 4. There is also concern that many people, especially poorer and more rural areas, have not yet heard that they will need a converter and a larger antenna.

Older homes can not be easily wired for cable. The house walls might be made of concrete, brick, or stone that is difficult to wire through. This has caused some local residents to opt for analog over-the-air TV instead of cable or FIOS. Other people have decided to only wire their living room, and still use analog over-the-air in other rooms. The old construction can also cause problems running an antenna to a window, roof, or attic. These older homes are generally owned by lower income families that are being hit particularly hard by the current economic recession.

On January 22, The Nielsen Company said 6.5 million Americans had not prepared for the switch, a startling number considering the Commerce Departments inability to assist these Americans in the purchase of the converter boxes. TV stations would face extra expenses, which is burden that they also cannot be expected to take on in times like these.

Mr. Speaker, I understand that the long-term effects of this transition will benefit the American people and support the eventual transition. Madam Speaker we are in a recession at best. Our seniors can barely afford their prescriptions and we are asking them to pay another 40–50 dollars for a convertor box. To some of us that may not seem like much but for many it is a small fortune. Especially for our senior population who may have only the television as company.

I ask that my colleagues support this legislation and give Americans more time to properly prepare for the conversion.

Mr. BARTON of Texas. Can I inquire as to the time remaining on each side, please, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Texas has 14 minutes remaining. The gentleman from Virginia has 10 minutes remaining.

Mr. BARTON of Texas. I would like to yield 3 minutes to the distinguished former ranking member of the Ag Committee and the former chairman of that committee, Mr. GOODLATTE of Virginia.

Mr. GOODLATTE. Mr. Speaker, I thank the ranking member for yielding me this time and for his leadership on this very important issue. And I rise in strong opposition to this legislation.

Mr. Speaker, February 17, 2009, I bet if we took a poll we would find that 90 percent of the American people know the date that's been set for the digital transition. February 17, as has already been noted, the television stations of the country have spent $1 billion in advertising, the government has spent huge sums of money promoting transfer, and 98 or 99 percent—depending on who you talk to—the American people are ready.

If you're connected to a cable system, you're ready. If you're connected to satellite, you're ready. If you have a digital-ready television set, you're ready. Or if you're like a million of the people who listened to this message, went out and got the converter box, you're ready to make the transition now.

There is a much simpler solution to the problem of those who do not have the coupons today. We could fix it today. We could fix it right in this room today by simply saying, ''Go buy the converter box. Save your receipt. When you get the coupon, return it with the receipt and you will get your $40 back.''

There are plenty of ways of solving this problem without a 4-month delay, and look at the consequences of that delay.

First of all, we have television stations today that are having to maintain two systems that are having to pay for the electricity of two systems. It's estimated that the 1,758 U.S. TV stations may face up to $141 million in additional electric bills because of the delay.

Imagine the amount of CO_2 gas emissions that are occurring because we're going to extend this for 4 months and require most of those stations to continue to broadcast in both of these services.

Secondly, we have to reeducate the voters. Who knows what date it is in June that this is being extended until? The people don't know the answer to that question. And we shouldn't have to reeducate them and expend any more dollars reminding them that that deadline is coming up.

We have a problem with the fact that billions of dollars have been invested in this country in new equipment to take advantage of this spectrum by emergency responders—police, fire, emergency rescue organizations—all of which will have to delay the use of that equipment by 4 months because they don't have the ability to use this spectrum.

And then we have the companies that have bid billions of dollars to buy other portions of the spectrum to bring generation 3 and generation 4 wireless technology.

We're talking about a stimulus package. We're trying to stimulate the economy and create jobs. This is an anti-stimulus bill that would delay the efficiency and growth in our economy that comes about when you go ahead and stick to the date that this Congress voted for a long time ago.

It is time to move ahead, and I hope that my colleagues will join me in opposing this bad idea.

Mr. BOUCHER. Mr. Speaker, at this time I am pleased to yield 1 minute to the distinguished gentleman from Illinois (Mr. HARE).

Mr. HARE. Thank you.

Mr. Speaker, I rise today in strong support of S. 352, the DTV Delay Act. The deadline for the transition from analog to digital television is just weeks away and yet millions of Americans are still on a waiting list with the National Telecommunications and Information Administration to receive coupons for converter boxes.

It's highly unlikely that 3,000 of my constituents will receive their coupons before the February 17 deadline. Both the coupon program and other consumer education programs implemented by the former administration have clearly fallen short leaving many vulnerable populations—especially the elderly, low-income, and those living in the rural communities—at risk of seeing their TV screens go blank.

In an effort to protect American consumers and allow the time for more Americans to receive coupons and prepare for this important transition, it is essential to push back the date to June 12.

I urge all of my colleagues to support the legislation.

PARLIAMENTARY INQUIRIES

Mr. BARTON of Texas. Mr. Speaker, I would like to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BARTON of Texas. I have just been informed that my friends on the majority side want to go to the White House for the SCHIP signing ceremony and we have to finish the debate in the next 10 minutes. What does ''finish the debate'' mean? Actually call for a rollcall vote in the next 10 minutes, or actually have the vote finished in the next 10 minutes?

Mr. BOUCHER. Will the gentleman yield?

Mr. BARTON of Texas. I've got a parliamentary inquiry. I don't know how to address this.

If the Chair would advise, then I will address it in the appropriate way.

The SPEAKER pro tempore. The Chair does not control the program or the time that is remaining in the pending debate.

Mr. BARTON of Texas. That's your answer?

The SPEAKER pro tempore. It is.

Mr. BARTON of Texas. Then I would ask unanimous consent for an additional 3 minutes, equally divided, to engage in a dialogue with the distinguished Member from Virginia who's controlling the time on the majority side.

Mr. BOUCHER. Will the gentleman from Texas yield to me?

Mr. BARTON of Texas. If we accept unanimous consent that we have 3 minutes equally divided.

The SPEAKER pro tempore. The Chair will entertain that request only from the majority manager.

Does the gentleman from Virginia wish to propound that request?

Mr. BARTON of Texas. Further parliamentary inquiry.

Since when has it been the rules of the House that the minority cannot ask a unanimous consent request? When did that rule get changed? We're fixing to have a real problem here.

Now the majority can object to unanimous consent, but I at least have the right to offer a unanimous consent request.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair would look to the majority manager for any request regarding the extension of time in debate.

The Chair recognized the gentleman from Texas for a parliamentary inquiry, but a unanimous consent request to extend the time of debate should be offered by the majority manager.

Mr. BARTON of Texas. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BARTON of Texas. What are the limits of a unanimous consent request? Unanimous consent means it requires unanimous consent of the House.

I asked for a unanimous consent request for 3 additional minutes. What rule did I violate of the House in asking for a unanimous consent request as a member of the minority?

The SPEAKER pro tempore. The gentleman did not violate a rule. The gentleman was not recognized for a unanimous consent request to extend time in debate. Only the majority manager will be recognized for extensions of time in debate.

Mr. BARTON of Texas. So the minority has to be recognized to make the unanimous consent request?

The SPEAKER pro tempore. To extend debate, the majority manager must offer the unanimous consent request.

The gentleman from Texas controls the time.

Mr. BARTON of Texas. I reserve my time.

Mr. BOUCHER. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Virginia has 9 minutes. The gentleman from Texas has 11 minutes remaining.

Mr. BOUCHER. In view of the fact that we have no further requests for time on this side and I do intend to close debate, at this time I would ask the gentleman from Texas if he has other speakers that he would like to recognize, or if he is prepared to close on his side.

Mr. BARTON of Texas. If the gentleman will yield.

Mr. BOUCHER. I would be pleased to yield.

Mr. BARTON of Texas. I have two additional speakers plus myself to close, and that would probably take 8 minutes, but I could do it in less.

□ 1515

Mr. BOUCHER. The gentleman has under the rule as much time as is allotted to him—and still remains—for his time allotted.

Mr. BARTON of Texas. I am just trying to facilitate the majority's request to go to the White House. Trying to be a good guy. I have now been muzzled on the House floor. We may decide to stay here all night.

Mr. BOUCHER. Well, reclaiming my time, I probably have about a 4-minute closing statement, and that is all the time we intend to consume on this side. If the gentleman would be amenable to a unanimous consent request that would limit his time to that same amount, I'm sure we would find that to be acceptable.

Mr. BARTON of Texas. We will expedite things on this side. We won't use all of our time.

Mr. BOUCHER. Let me ask the gentleman if he would like to recognize his speakers at this time.

Mr. BARTON of Texas. I yield 3 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. I thank the gentleman from Texas.

I want to talk to this measure. I think part of the frustration those of us on the Republican side of the aisle feel is this: We are being asked to truncate the time to debate this bill, which was already limited to no amendments under a closed rule, a bill that has never had a hearing in this House or before the Energy and Commerce Committee or the subcommittee.

The Republicans were completely denied the opportunity to offer any amendment at any time. Now I am trying to figure out how that's democracy in action and how that is change for a better day. And now we are being asked to basically cut it quick, be quiet, go back to our offices so they can go to the White House for a media show.

Let me talk to this bill. Delaying the DTV date from February 17 to June puts it right in the middle of hurricane season, tornado season, and all that. It doesn't open up the spectrum any sooner for law enforcement to deal with the issues that the public safety community identified 5 years to the day of 9/11. Five years before, they said, You have got to give us some more spectrum so we can have interoperability. That is back in 2001. We are that to here. Now we are going to delay it some more.

For broadcasters in my State of Oregon, they are going to get to pay $500,000 to $1 million more in energy costs to run two transmitters, when they should only, and had counted on, only running one. So to keep their analog—most likely, a tube-driven transmitter fired up—that will add 4 million tons of carbon into the atmosphere at a time when I thought the majority and others in this Congress wanted to do something about carbon emissions.

So, it will cost $1 million, it will cost jobs. You will burn more energy. They will have to have engineers keep old transmitters hobbled together. We had a transmitter across the river in Washington State, an analog transmitter, burn up 2 weeks ago. Their analog transmitter. It's off the air. They switched. And they haven't had any real pushback from the community.

''The provisions in this new bill, according to Communications Daily,'' that purport to provide a safety valve for public safety agencies that want to make use of the 700 megahertz spectrum before the revised deadline are worse than provisions that raised public safety objections,'' industry officials said Friday. ''This bill is totally of no value to public safety,'' said an industry official.

Mr. Speaker, I would like to put this report from Communications Daily into the RECORD so that Americans and our colleagues can see this.

Under the bill, a public safety agency can go on the air if a TV station vacates its channel in compliance with the various rules. And yet, it's so complicated in here, that isn't going to happen. We had Members say, Gee, we have got to do something to help public safety. This just delays that.

So you're going to burn more power, you're going to cost jobs. Then, most Americans, 93, 94, probably pushing up higher than that, have already made the conversion, that we know of. A million people have come off the waiting list for the coupons in the last 4 weeks.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mrs. BLACKBURN. I yield the gentleman 30 additional seconds.

Mr. WALDEN. A simple change in the law to allow budget authority of $250 million to NTIA would allow them to flow these coupons out. The stimulus bill spends $600 million more on the coupon conversion program, and yet that money isn't going to be out the door until April at the soonest.

So I am trying to figure out how if you move this to the middle of June, and you don't get the money out the door until April or May. I am not sure you have solved the coupon problem.

In closing, the Fraternal Order of Police, who represent a couple hundred thousand law enforcement officers, are opposed to moving this date. And so am I, Mr. Chairman. I think it's unnecessary and it's expensive.

[From Communications Daily, Feb. 2, 2009]

HOUSE TO VOTE ON DTV DELAY BILL, BUT OPPOSITION REMAINS

(By Anne Veigle and Howard Buskirk)

The House is set to vote on a revised DTV transition delay bill this week, following unanimous Senate passage Thursday night. The bill would set a new analog cutoff date of June 12 instead of Feb. 17. The House is expected to take the bill up under different rules than last week, when an earlier version failed to secure a two-thirds majority needed to suspend the normal rules. Opposition remains among Republican leaders, who could still try to block the bill, but Democrats believe they have enough votes for passage.

''I am hopeful they will pass this bill so we can send it to President Obama,'' said Senate Commerce Committee Chairman Jay Rockefeller, D–W.Va., in a statement after the Senate passed an amended version (S–352) of its previous bill (S–328). ''I have no doubt this is going to go through,'' Sen. Amy Klobuchar, D–Minn., said on C–SPAN's The Communicators, which airs Saturday on C–SPAN and Monday on C–SPAN 2. Klobuchar, who cosponsored the Rockefeller bill, said the converter box coupon program's ballooning wait list ignited political momentum to delay the transition. ''We thought let's give this new administration some time to fix the problems'' with the coupons, she said.

The technical changes in S–352 clarify that households can get replacement coupons for those that expired without being redeemed once budget authority approval of new money for the converter box program is granted. House and Senate economic stimulus bills each propose $650 million for the converter box program, and there has been no challenge to that proposal so far.

Until the money is appropriated, the converter box program will continue to grapple with a backlog of coupon requests. S–328 would have allowed emergency funds to kick in immediately. S–352 also makes clear that broadcasters wishing to shut down analog operations before June 12 can do so, and in cases where stations have made the switch, public safety can begin using the vacated spectrum.

PUBLIC SAFETY CONCERNS

The provisions in the new bill that purport to provide a safety valve for public safety agencies that want to make use of the 700 MHz spectrum before the revised deadline are worse than provisions that raised public safety objections, industry officials said Friday. Public safety officials declined comment.

''The bill is totally of no value to public safety,'' said an industry official: ''Some of these things could be fixed, but they would just require the House to vote again and the Senate to vote again.'' Public safety concerns have figured prominently in Hill debate. Sen. John McCain, R–Ariz., in particular had said he couldn't support the legislation unless sponsors addressed public safety concerns.

Public safety officials had objected to a requirement in the original version of the bill which passed the Senate which required them to file an application to make use of the 700 MHz spectrum they'll get anyway after the transition. Rep. Henry Waxman, D–Calif., proposed an alternative that doesn't require public safety agencies to file an application. But it does require agencies to work within a relatively arcane and little utilized section of the FCC's rules—section 90.545—before they can use the airwaves.

Under the bill, a public safety agency can go on the air if a TV station vacates its channel in compliance with both a Dec. 31, 2007, FCC order and section 90.545 of the FCC's rules. But the TV station must air notices for at least 30 days prior to its shut down. Over the past week, numerous TV stations have filed requests to shut down by airing notices for fewer than 30 days. Under the legislation, the FCC would have no discretion to grant the requests.

In addition, under section 90.545 a public safety agency could go on the air only if its transmitters are sufficiently far away from those TV stations still on the adjacent channels—public safety agencies can't use the

spectrum just because one station shuts down. But the separation requirement would be difficult to meet. As an alternative, the public safety agencies could negotiate agreements with TV stations, but they would have to submit the applications for FCC approval. A prior version of the legislation required the FCC to rule within 14 days. The Senate-passed version has no such requirement, and there's no requirement in the FCC rule. In addition, public safety agencies can submit engineering studies, but again, the FCC would have to approve the studies, and there's no timetable for a FCC ruling. ''They tried to fix something, but the fix actually made it worse,'' an industry official said.

Meanwhile, House Republicans continue to oppose the delay. ''Moving back the date would put a financial burden on industry that will be hard for it to swallow in this difficult economic climate,'' Rep. Cliff Stearns, R–Fla., ranking member of the House Telecom Subcommittee, wrote in a Friday Washington Times Op-Ed. Stearns has co-sponsored a bill with Commerce ranking member Joe Barton, R–Texas, that would keep the February cutoff date while providing $250 million for the converter box coupon program.

But Democratic leadership hasn't responded to Barton's plan, believing it can pass the extension bill despite Republicans' surprise blockage last week (CD Jan 29 p1). Thirteen Democrats voted with Republicans in Wednesday's 258–168 vote. Bypassing the rules requires a super-majority vote. But 22 Republicans joined with Democrats in favor of moving the DTV delay bill. Republicans may try to kill the bill by making a ''motion to recommit,'' which, if approved, would send the bill back to committee. But a straight majority vote is required to do that, and most observers believe Democrats have a sufficient margin to defeat that procedure. The bill will go before the Rules Committee Tuesday to determine time limits and rules for amending the bill on the floor, Hill and industry officials said.

NATIONAL FRATERNAL ORDER OF POLICE,
Washington, DC, 23 January 2009.

Hon. NANCY P. PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

Hon. JOHN A. BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND REPRESENTATIVE BOEHNER, I am writing on behalf of the members of the Fraternal Order of Police to express our concerns regarding S. 328, the ''DTV Delay Act,'' as it relates to public safety access to spectrum.

Many of the arguments being made in favor of delaying this transition were made during the consideration of the Digital Transition and Public Safety Act in 2005. This is not a new issue, and was first recognized in a public safety report issued in September 1996. In 1997, Congress granted public safety access to this portion of spectrum under Title III, Section 3004 of the Balanced Budget Act of 1997, which directed the Federal Communications Commission (FCC) to authorize broadcasters currently occupying the spectrum to remain there until 2006. Public safety access to this area of spectrum was repeatedly pushed back until the enactment of the Digital Transition and Public Safety Act in 2005, which set a hard deadline of 17 February for analog broadcasters to allow public safety access to 24 MHZ of spectrum on the 700MHz band. We are concerned that the staggered transition which would result if S. 328 is signed into law may jeopardize the channels that Congress promised to law enforcement and other public safety officers more than a decade ago.

For public safety to use the spectrum they have been promised, broadcast stations must stop analog broadcasts on those channels. Broadcast stations on the adjacent channels must also stop analog broadcasts to avoid interfering with the public safety communications we are trying to enable. For all those broadcast stations to have somewhere to go, additional broadcast stations must stop their analog transmission. It is this chain of events that makes the hard deadline of 17 February 2009 the most realistic and responsible option for clearing the spectrum for public safety's use.

While S. 328 would still allow broadcasters to voluntarily transition by 17 February, subject to current FCC regulations, and allow public safety to occupy this vacated spectrum, unless all the surrounding broadcast stations also voluntarily transition, it is unlikely anyone can move. Moreover, under current FCC regulations, broadcasters generally would not be permitted to transition even voluntarily until three months before the delayed transition date, and even then the FCC has the discretion to refuse them authorization.

The American public has asked broadcasters to take difficult, time consuming, and costly steps to enable better public safety communications. These broadcasters have admirably risen to the call and say they are ready for 17 February. If this delay goes into effect, it opens the door for future delays. More than a decade of work has gone by since Congress authorized public safety communications to expand on the spectrum, and we are very close to achieving our goal. I urge you not to bring all of this progress to a halt less than thirty days from the finish line.

Thank you in advance for your consideration of the views of the more than 327,000 members of the Fraternal Order of Police. Our communications are our lifeline and we need to know that they will function properly at all times. If I can provide any additional information on this matter, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

Mr. BOUCHER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BARTON of Texas. I yield 2 minutes to the gentlelady from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. I thank the gentleman from Texas.

This is, again, as we are standing here today, just quite an amazing debate that we are having. How interesting it is that we get down to the finish line of something that has been in the works for years and the Federal Government wants to call a time out and say, Let's push it off for another 4 months.

Of course, we all know that one of the reasons appears to be giving one company a competitive advantage. We find that very unfortunate that you have someone who is reported as a lobbyist for a company, and they have been an advisor for the administration on this situation, and it is about a competitive advantage.

One of the things that I do want to mention is so much has been said about the national organizations that are supporting this. I find it very interesting, Mr. Speaker. When I am talking to my local law enforcement community, when I am talking to my local broadcasters, they are much in opposition to what we hear being expressed as the opinion of the national organizations.

But isn't that the way it goes on issue after issue? You have got the D.C. way and then you have got, as we say, the Tennessee way. The local way. And your local broadcasters have committed incredible resources to this. They have worked with their communities.

Seniors are prepared. We know that according to Nielsen. Seniors are more prepared than just about anybody for this. We know that the American public is ready for this to take place and we know that our first responders are saying let's get this done so that we have that interoperability that was missing on 9/11, we have interoperability that was missing at Katrina. We have a readiness and a timetable for solving a problem that the American people have said we want to see some action on this.

Mr. Speaker, it is wrong to delay this. Let's show the American people that the Federal Government can keep their word on something, and it is making this transition.

Mr. BARTON of Texas. I yield back the balance of my time, Mr. Speaker.

Mr. BOUCHER. Mr. Speaker, I yield myself the balance of my time.

I want to say just a few words in response to a couple of the arguments that were raised by my friends on the other side of the aisle. First, there was an effort to suggest that the Nielsen survey, which reports that 6.5 million homes are totally unprepared for the digital television transition, was an old survey. That it was a month old. In fact, that survey was taken the week of January 18. So it's only a bit more than 2 weeks old at this point. And, for practical purposes, those are very current numbers.

The argument also was made that more money could perhaps be provided for the converter box program during the coming week, and that that would solve the problem. That does not solve the problem for two very important reasons. Given the processing time for the request for coupons at the Department of Commerce, there literally is not enough time in the 13 days remaining between now and transition date to clear the backlog of 3.7 million coupon requests that are currently pending, much less the time it would take to mail the coupons to the TV viewers and the time it would then take for the TV viewers to take the coupons to a

store and redeem them for converter boxes. So even if money were provided today for the converter box program, there would still be massive dislocation on February 17.

Beyond the converter box program, the call centers operated by the FCC are also in disarray. Long waiting times, busy signals, calls frequently disconnected. Virtually impossible to get a live technical assistance representative on the phone. These were facts reported on by one of the FCC commissioners, Commissioner McDowell, who called the call centers and found that that is the state of affairs.

More resources will be needed in order to appropriately staff the call centers and make sure that that vital point of information is available for the millions of Americans who are going to need that assistance when the conversion occurs.

Wilmington, North Carolina, where a test was conducted of an early shutoff of the analog signal did produce a good result, but there were very important circumstances at play in Wilmington that are simply not at play across the rest of the country.

First of all, a massive amount of advertising money was expended in advising people that the cutoff was coming, and telling them exactly what they had to do to prepare. The Federal Communications System set up a special field office in Wilmington. The FCC paid firefighters in that city to provide in-home technical assistance to people who were having problems. Most importantly of all, Wilmington is flat terrain—very different from the mountainous rural areas of America, where the primary problems with the transition are going to occur. So, yes, a good result did obtain in Wilmington, but Wilmington is very different from the rest of the country where the major problems are going to arise.

It was also mentioned by some in argument that the Department of Commerce has been saying for some time that it was running out of money for its converter box program. In fact, not until Christmas Eve—December 24—did the Department of Commerce send notice that the coupon program was out of money. Of course, Congress was in recess. And we have acted as expeditiously as we could since reconvening in order to correct the problem. And we are doing that now by proposing a delay.

This delay is absolutely necessary. It will be for one time only. It will ensure, in conjunction with the $650 million to be provided in the stimulus legislation, that the problems that confront this program can successfully be addressed. Converter boxes can be supplied. The call centers can be staffed.

We can assure that when the transition occurs on June 12, that it does so smoothly, and for the benefit of the American public.

Mr. Speaker, I urge passage of this measure.

Mr. VAN HOLLEN. Mr. Speaker, I rise in support of The DTV Delay Act.

Two weeks from today, all full-power television broadcast stations are required to terminate analog signals and transmit only in digital. Congress mandated the transition to digital in response to requests by police, firefighters, and emergency personnel for the increased radio spectrum necessary for reliable, interoperable communications.

To help Americans prepare for the transition and to offset the associated cost for consumers, Congress established the TV Converter Box Coupon Program. But the program underestimated the number of requests for coupons and ran out of money. As a result, many Americans have not received coupons and are unprepared for transition.

Today 1.8 million households are on a waiting list to receive more than 3.3 million converter box coupons. Though funding was inserted in the Stimulus Package to pay for more coupons, unless the February 17th conversion date is delayed, few of these Americans will be able to receive their coupons and purchase their converter boxes in time.

The DTV Delay Act will help the Coupon Program to honor requests for coupons and enable those whose coupons may have expired, to receive new ones.

The bill does this by delaying the transition date to June 13th, 2009 and extending the period that the Coupon Program may operate until July 31st 2009.

According to the Nielsen Company, 6.5 million households will lose all TV reception on February 17, 2009. Television is the leading source Americans use to receive critical public safety information, news and entertainment. Yet millions of Americans, including many of the country's most vulnerable groups like seniors, the poor and minorities, still need to take steps to prepare for transition.

I encourage my colleagues to join me in support of The DTV Delay Act. The country is not yet prepared for digital transition. This bill will provide the time we need to ensure that all Americans are able to enjoy the full benefits that transition to digital can provide.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of S. 352, the DTV Delay Act, which postpones the date of the analog-to-digital television transition from February 17, 2009, to June 12, 2009.

Over the last several months I have received call after call and letter after letter from my constituents who rely on their analog televisions for news, emergency information and entertainment. They are very concerned that they have been unable to obtain the converter box they need for the upcoming digital transition.

My constituents tell me that they applied for coupons well in advance of the deadline, only to be told that coupons were no longer available or that the coupons they received had already expired. My constituents who live in group homes and single room occupancy buildings have also voiced concern that they have been denied coupons because they live in housing that does not fit the program's narrow definition of a "household."

My constituents are not the only ones affected by arbitrary expiration dates, coupon shortages or ineligibility. According to the National Telecommunications and Information Administration, NTIA, as of January 28, 2009, more than 14 million coupons have expired. The result is that millions of Americans will lose their television signal because they will be unable to purchase the equipment necessary for the transition. The NTIA also reported in early January that the $1.34 billion that Congress appropriated for the coupons had run out. To date more than 3 million people are on the waiting list. This number includes nearly 7,000 of my constituents, who need these coupons before the transition takes effect and they lose their main source of communication.

It is clear that this country is not prepared for the February 17 transition. I am pleased that the DTV Delay Act postpones the digital transition for 115 days and will permit consumers holding expired coupons to reapply for replacement coupons. This bill is badly needed to help ensure that millions of Americans do not lose a critical communications safety net when our country transitions from analog to digital television.

I urge the Energy and Commerce Committee and the NTIA to use this additional time to address the needs of Americans who are currently considered ineligible for the converter box program, such as those that live in single room occupancy buildings and other group homes across the nation. These are people who need the coupons most because they will not be able to afford converters without the help of this program. They are entitled to the same access to the digital converter program as all other Americans. Let's ensure that no Americans find themselves in the dark when the transition occurs.

Mr. REYES. Mr. Speaker, I rise in support of S. 352, the DTV Delay Act.

I am a strong supporter for a delay in the Digital Television, DTV, transition set to occur on February 17, 2009, because I believe that without a postponement many families and individuals will be left behind. Without this delay, millions of Americans may see their televisions "go dark" on February 18th, with a disproportionate impact on low-income, rural, and elderly Americans.

I am particularly concerned with this issue given the unique DTV transition challenges that exists in my congressional district and along the U.S.-Mexico border. Households on the U.S.-Mexico border already have low rates of cable or satellite television subscription. However, unlike other parts of the country, televisions in the border region will continue to work after the February transition, as viewers in the U.S.-Mexico border will maintain analog transmissions from Mexico. This presents a major obstacle for those trying to prepare analog-only viewers for this transition because many of these Spanish-speaking viewers will have little incentive to purchase the required digital converter box once they discover their television still works.

In addition, I am very concerned about the circumstances surrounding the National Telecommunications and Information Administration's, NTIA, implementation of the TV Converter Box Coupon Program. Specifically, I am troubled by the NTIA's creation of a wait list after issuing the maximum amount of coupons allowed under its budget.

According to Commerce Department data, in just the last two business days, the size of this waiting list has grown by 200,000 households. There are now more than two million households on the waiting list for coupons. In my congressional district alone, the waiting list numbers have grown from 5,605 on January 30th to 6,013 on February 2nd.

These developments raise serious questions as to the actual ability of many households to comply with the February deadline. As the transition date has drawn near, it has become increasingly apparent to me that the government programs to support the transition are insufficient and that the transition should be delayed.

Mr. MARKEY of Massachusetts. Mr. Speaker, I want to commend you for quickly putting this Senate legislation, once again, before the House for immediate consideration.

In several weeks, without immediate action, millions of Americans may remain unprepared for the digital television transition. Mr. Speaker, as you know, I have had a long interest in the digital television transition. I held the very first hearing on ‘‘High Definition TV’’ in October of 1987—more than 20 years ago. In 1990, I battled hard and successfully as then-Chairman of the House Telecommunications and Finance Subcommittee to get the Federal Communications Commission to switch from pursuing an ‘‘analog’’ HDTV standard to a ‘‘digital’’ standard.

Moreover, I fought to build into the Telecomm Act in 1996 the appropriate way in which broadcasters could utilize ‘‘spectrum flexibility’’ to multiplex the digital signal into several video programming channels or offer wireless interactive television or information services. And I pushed unsuccessfully in the context of the 1997 budget battles to prohibit the sale of ‘‘analog-only’’ televisions by the year 2000—an amendment that was opposed by every Republican in our Committee markup in 1997. The result was over a hundred million analog-only sets were sold into the marketplace even as the government was stipulating it intended to turn off the analog TV signal. The failure to mandate ‘‘dual tuner’’ TVs sooner has compounded the difficulty of this transition immeasurably by increasing the base of TV receivers that need converter boxes to receive digital TV signals.

Most recently, for the last two years as the Telecommunications and Internet Subcommittee Chairman, I convened six DTV hearings, requested and received three Government Accountability Office, GAO, reports, and wrote numerous oversight letters to the FCC, to NTIA, and to industry and consumer representatives in headlong pursuit of ensuring a successful digital television transition on February 17th.

At the last DTV hearing that we held the second week of September—just after the Wilmington, North Carolina switch-over test—the GAO testified:

NTIA is effectively implementing the converter box subsidy program, but its plans to address the likely increase in coupon demand as the transition nears remain unclear. . . . With a spike in demand likely as the transition date nears, NTIA has no specific plans to address an increase in demand; therefore, consumers might incur significant wait time before they receive coupons as the transition nears and might lose television service during the time they are waiting for the coupons.

In response, I asked the Acting NTIA Administrator to give the Subcommittee a contingency plan for dealing with the expected surge in coupons within 30 days. Now, that contingency plan did not arrive in 30 days. Instead, it arrived to us on November 6th—just after Election Day. The NTIA’s ‘‘Final Phase’’ plan did not echo the GAO’s alarm bells, but rather stated the following:

This Plan demonstrates that the Coupon Program has both sufficient funds and system processing capabilities to achieve this goal . . . and to do so without the creation a large backlog. Also, NTIA has built flexibility into the Program to respond to various or unexpected events. Moreover, based on actual, cumulative redemption data, NTIA would not exhaust the authorized $1.34 billion in coupon funding despite increased demand leading up to the analog shut-down, on February 17th, and, in fact, may return as much as $340 million to the U.S. Treasury.

That’s from the NTIA just over two months ago. ‘‘No problem,’’ the agency is saying. In essence the agency is telling Congress, ‘‘We have a plan to deal with the surge and we don’t need any more money. No large backlog. And we’ll have hundreds of millions of dollars left over.’’

Now, why is this important? It is important because we were actually in session in November. We could have acted during the ‘‘lame duck’’ session if the Bush Administration had said, ‘‘yes, we will likely have a shortfall’’, or ‘‘please, Congress, let’s err on the side of caution and budget a couple hundred million more just in case . . .’’. Yet NTIA told us all just the opposite. The agency said everything was fine and they didn’t need additional money for coupons.

In late December, I asked for an urgent status update on the program. That’s when NTIA wrote back to me—on December 24th—stating that a waiting list was going to begin in January of this year because the coupon program was hitting its funding ceiling. The agency indicated that to solve this issue and spend up to the $1.34 billion in the underlying statute for coupons that another 250 million dollars at a minimum might be needed. And that amount would not necessarily reflect the actual demand for coupons the agency was newly projecting. The waiting list now represents approximately 3 million coupons.

In an attempt to respond quickly, I reached out the first week we returned here in January to Ranking Member JOE BARTON, R–TX, and said if we work together on an accounting fix we could start to address the waiting list issue and get the coupons flowing to consumers again and buy some time. I want to thank Rep. BARTON for his willingness to proceed on such a bill.

But that effort has simply become overtaken by events. If we passed it and also gave NTIA a couple hundred million dollars for additional coupons in a measure that passed through the House and through the Senate today, and arrived to the President’s desk this evening, we simply wouldn’t be able to address the backlog and get coupons out to people who have requested them by February 17th.

Not every media market will be as unprepared as others on February 17th. I know that in the Boston market, our local commercial and noncommercial broadcasters, as well as our local cable operators, have worked diligently to be ready on February 17th and I commend them for their model efforts. Yet even in Boston, it is important to note that a recent test brought a flood of calls to consumer call centers from citizens confused about or unprepared for the switchover. Many other media markets, in part due to the demographic makeup of such markets, will have an even greater risk of significant dislocation without immediate action. The Bush Administration has simply left us with so little time to make the needed adjustments on a national basis absent a short, one-time delay.

So, although this is the last place we all wanted to be, and in spite of the fact that we toiled mightily to make this effort work, it is my judgment that a short delay is in the public interest in order to protect consumers. I urge passage of this emergency DTV legislation.

Mrs. CAPPS. Mr. Speaker, I rise in strong support of S. 328, the DTV Delay Act.

As a supporter of this bill, I believe we must do everything we can to make sure no one gets left behind during the transition to digital television.

Unfortunately, the Bush Administration grossly mismanaged the digital television transition and put years of meticulous planning for this transition at risk.

The coupon program, which was designed to help households defray the cost of converter boxes, has a waiting list of over two million. This number is expected to increase in the weeks ahead. What’s more, we also face the possibility of converter box shortages.

And that’s why we need to approve this important legislation to extend the cutoff date.

First, the DTV Delay Act extends the DTV transition date to June 12th, 2009. I am confident this one-time extension will give us the time we need to develop an approach that allows us to move the country smoothly to digital television without needing to extend the transition date in the future.

Second, this legislation fixes the converter box coupon program.

The fact that the coupon program has failed comes as no surprise.

As someone that supports the digital transition, I joined many of my colleagues in fighting for additional funding for the coupon program.

Over the last two years we have tried, repeatedly, to prevent this failure. And, I was very disappointed the Bush Administration did not work with us to prevent this situation.

We called on NTIA multiple times to make sure the coupon program had enough funding and people would not be put on a waitlist.

Repeatedly, we were told not to worry. And then, on Christmas Eve, we were informed that there were millions of people on the coupon wait-list and the NTIA would run out of money before the transition date, leaving millions of Americans without access to television.

Without coupons, households will not be prepared.

Unfortunately, in this economy, where every penny counts, the price of a converter box is more than many people can afford. To date, 98% of converter boxes are purchased with the help of a government coupon.

Last week we took a very important first step to fix this program by providing additional funds in the economic stimulus package for coupons.

But now, we must make further improvements to the program to address consumer needs.

For example, this bill permits Americans to receive coupons electronically and to apply for new coupons if their current coupons have expired. Americans should no longer have to wait 4 to 6 weeks to receive their coupons.

Unfortunately, we also know that certain segments of our population will likely be disproportionately impacted by the digital transition: Latinos, African Americans and seniors. As someone who represents a congressional district that is 42 percent Latino and many senior citizens, I find the failure of the coupon program particularly troubling.

Third, this legislation keeps in place the SAFER Act, legislation that I introduced and the Congress passed last year.

The SAFER Act enables the FCC to let a single broadcaster in each market continue broadcasting simple information about the transition to digital broadcasting over the old analog channel for a short period of time.

Households still not prepared for the DTV transition will see, for 30 days after the transition, information that the transition has taken place and information phone numbers. More importantly, households will also receive emergency weather and public safety information that is broadcast over digital airwaves.

We know that regardless of how much work we do, there will always be some households left behind and the SAFER Act is a common sense step to reduce that confusion even further.

Finally, the DTV Delay Act will let first responders use available spectrum before the transition date if the FCC determines there is no harmful interference in the area. It also explicitly authorizes the FCC to use expedited procedures to promote inter-operability amongst public safety radio services.

It is important for us to remember that one of the original purposes of switching to digital television was to free up spectrum so our first responders would have radio inter-operability.

This will make our country safer. But if we transition to digital television with millions of households still unprepared, we risk cutting off millions of Americans from vital emergency information, thus causing confusion and decreasing our safety.

We must act now to extend the cutoff date and fix the converter box coupon program. We cannot afford to wait any longer.

I urge all of my colleagues to support this legislation.

Mr. WAXMAN. Mr. Speaker, I rise in support of S. 352, the DTV Delay Act, which passed the Senate last week by unanimous consent. This legislation extends the digital television transition date and makes improvements to the converter box coupon program.

In 2005, Congress mandated that as of February 17, 2009, all television stations shut off their analog broadcasts and transmit in digital only. The transition from analog to digital will offer better pictures and sound, more programming choices, and interactive capabilities. It will also serve an important public safety purpose by freeing up spectrum for first responders for nationwide interoperable communications. Finally, it will provide consumers with new and innovative commercial wireless services.

Unfortunately, we are not prepared for this transition. The prior administration assured the Committee on Energy and Commerce repeatedly that the transition effort was on track. But on December 24, 2008, the National Telecommunications and Information Administration (NTIA) notified Congress that the converter box coupon program would run out of funding the first week of January and that it would need an additional $250 million to $350 million to meet projected demand.

The DTV converter box coupon program is supposed to ease the financial burden of the transition. But it has ground to a halt. There are currently over 2 million households on the waiting list. In addition, the FCC has not adequately planned for call centers and other assistance for consumers who will face technical problems after the transition has occurred.

The President's transition team asked Congress to extend the deadline for a brief period. This is not a step that anyone wants to take. But we have no good alternative. Without a short, one-time extension, millions of households will lose all television reception.

The measure before us extends the date of the transition to June 12 and extends the coupon program date until July 31, 2009. It will also allow those who hold expired coupons—or never received their coupons because of problems with third-class mail—to reapply.

Moreover, the economic recovery package that the House passed last week includes $650 million to fix the coupon program and intensify consumer education and support.

S. 352 also takes steps to lessen the impact on other affected parties, including public safety, broadcasters, and wireless licensees.

I am pleased that this bill has broad support in the public safety community, including the Association of Public-Safety Communications Officials-International (APCO), the International Association of Chiefs of Police (IACP), the International Association of Fire Chiefs (IAFC), and the National Emergency Number Association (NENA). It has the support of the two biggest winners of spectrum that will be vacated as a result of the DTV transition—AT&T and Verizon. It has the support of the National Association of Broadcasters, the major networks, and Univision. And, it has the support of a number of public interest groups, including AARP, Consumer's Union and the Leadership Conference on Civil Rights to name a few.

S. 352 gives the Obama administration the resources it has told us it needs to fix the coupon program and better prepare consumers for the transition.

Unfortunately, our time to act on the legislation is short. If we do not pass this measure it is likely that there will be no transition extension. We are less than 2 weeks away from the transition date. This bill must reach the President's desk immediately or time will have run out for the administration to implement the changes necessary to fix the problems with the transition.

I urge Members to support this bill.

Mr. RANGEL. Mr. Speaker, I rise today to bring attention to the impending transition our nation will be facing on their television broadcasts from analog to digital. Despite efforts that have been made by the government to advise the public as to what steps would be necessary to prepare for the transition such as continuous advisory commercials and convertor box coupons, there are still those who are not prepared.

Whether it is because of a lack of accessibility to applying for the coupons or a delay in receiving the coupons, no one should be left "in the dark" when the transition occurs. The government to this point has been doing what it can to help those upon whom this transition is being forced by offering coupons to offset the cost of the converter boxes needed to continue receiving television broadcasts. Nonetheless, with the transition date of February 17, 2009, only a few days away, there are still more than 2 million households that are on a government waiting list to receive assistance in purchasing the converter boxes.

It is for this reason that I am urging Members to support the DTV Delay Act, S. 352, sponsored by Senator JOHN D. ROCKEFELLER, which seeks to delay the transition date from February 17, 2009 to June 13, 2009 and it would also extend the deadline of applying for government converter box coupons to July 31, 2009, provided that funding is available. This bill would also provide extra time for those who have not applied or received converter box coupons to still do so. Although this bill would not prevent stations from transitioning from analog to digital and letting others use the recovered air waves, it does allow for these same analog channels to have an extension in their broadcasting license on analog channels thus allowing people to continue viewing television broadcasts with their regular antennas.

Ms. KAPTUR. Mr. Speaker, I rise in support of S. 352, the DTV Delay Act.

America is unready and as always, the poor and elderly are the most at risk. In my district alone, 4,569 people have requested vouchers for their analog televisions and have not yet received the coupons. Unless Congress acts, these televisions will flicker black. These constituents will not be able to hear news alerts, be notified of national emergencies and continue to be connected to the outside world through their televisions because the Government didn't follow through with a promise to provide DTV vouchers.

It is the Federal Government that for years, has been assuring these constituents that their televisions will not turn black as long as they follow through with the instructions and submit requests for digital television vouchers. It is imperative that we delay implementation of the digital transmission and fulfill the commitment we have made to our constituents that have followed the rules.

The legislation being considered today has important provisions which allow the FCC with flexibility in implementing these requirements. The bill permits the FCC to approve full DTV conversion in markets where the consumers are prepared for the transition before the hard date in June. Where the transition does occur before the June 12th date, this legislation allows first responders to take over the airwaves immediately once the analog signal space is open.

While this delay is unfortunate, it is a necessary step to assure that the millions of Americans televisions will not go dark because of a bureaucratic snafu.

In the multiple media markets in Ohio, 6.88 percent of the Dayton market is unready for the digital transition, 5.91 percent of the Cleveland market, 4.4 percent of the Detroit market and 4.29 percent of the Columbus market. I urge a Yes vote on this legislation because I cannot simply turn my back on this many constituents.

Mrs. BLACKBURN. Mr. Speaker, delaying the DTV transition will do nothing more than increase spending and will jeopardize our public safety infrastructure. It will require that we spend another $650 million, and it won't move a single person off the wait list for converter boxes.

In fact, the fund for converter box coupons is not depleted. Only half of the $1.5 billion in the program has been spent. With a simple legislative change, we could immediately resume sending coupons without delaying the transition process.

Worse still, delaying the transition will jeopardize the spectrum needed by public safety officials for interoperable communication systems—the same vital spectrum requested 5 years before 9/11 that has still not been made available 14 years later.

Let's take immediate steps to eliminate the current back-log of digital converter-box requests to ensure a successful DTV transition on February 17th, and finally pave the way for 21st century communications systems public safety professionals desperately need.

Mr. BOUCHER. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 108, the Senate bill is considered read and the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO COMMIT

Mr. BARTON of Texas. Mr. Speaker, I have a motion to commit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BARTON of Texas. I am in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. Barton of Texas moves to commit the bill (S. 352) to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following new section:

SEC. 6. CLEARANCE OF PUBLIC SAFETY SPECTRUM, ADJACENT CHANNELS, AND OTHER CHANNELS CAUSING INTERFERENCE.

Notwithstanding any other provision of this Act, any amendments made by this Act, or any revision to any rule, regulation, or order pursuant to this Act or such amendments, no full-power television broadcast station shall be permitted, after February 17, 2009, to continue broadcasting—

(1) in the television service on channels 63, 64, 68, or 69 (764-806 megahertz, inclusive);

(2) on any channels adjacent to the channels described in paragraph (1), if cessation of broadcasting on such channels is determined by the Federal Communications Commission to be necessary to prevent interference with public safety communications; and

(3) on any other channel, if cessation of broadcasting on such channel is determined by the Federal Communications Commission to be necessary to ensure that—

(A) all public safety radio service licensees can relocate onto and begin operation on their respective licensed spectrum; or

(B) no full-power television broadcast station is subject to unacceptable interference or has its coverage area significantly reduced.

Mr. BARTON of Texas (during the reading). I ask unanimous consent that the motion be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas is recognized for 5 minutes in support of his motion.

Mr. BARTON of Texas. Mr. Speaker, I will try to make this as succinct as possible. The motion to commit before us says that notwithstanding any other provision in the bill that is before us, those stations that have spectrum that is going to be used by public safety officials and first responders have to relinquish that spectrum on February 17. If there's any station whose spectrum is adjacent to the public safety spectrum that would interfere with the public safety spectrum, those stations also have to relinquish their spectrum on February 17.

So what this motion to commit does is simply say that for first responders and public safety officials who have been waiting patiently for almost 7 years, they will get their spectrum on February 18. That is all it does.

I would point out that it's been brought to my attention that the entire State of Hawaii has been digital now for an entire month. They went digital to protect migrating birds who would be interfered with if they waited until February 17 to move one or two particular transmitters.

So, in the State of Hawaii, they have been all digital for a month, and there's been no problem; 143 stations on the mainland have already gone digital. There has been no problem.

The Acting FCC Chairman says that about 60 percent, and maybe as many as 90 percent of the TV stations, are going to go digital between February 17 and June 12. So I don't think there's a reason for the delay. But the motion to commit simply says that if we are going to pass the underlying bill, let's at least put the first responders at the front of the line to go ahead and get their spectrum on February 18.

With that, I would yield to the gentleman from Oregon (Mr. WALDEN) in support of the motion to commit.

□ 1530

Mr. WALDEN. Mr. Speaker, let's get this down.

On November 6, NTIA notified us that they may have a problem with money. At the end of December, they said they have got to start a waiting list. And today is February 4. So you had December, January, and now February, 3 months to work this out, and there was a simple accounting fix that could have been done early on that would have solved this problem. So at a minimum we could have addressed this earlier had the majority wanted to. Right now, our biggest concern, frankly, should be with law enforcement and our emergency services.

Five years to the day before America was attacked on September 11, 2001, the law enforcement community said: We need you to free up this spectrum, make this transition, and get it done; because if we have an attack or a problem in this country, we don't have the interoperable capability to communicate. And, unfortunately, we will learn the sad, tragic, and deadly reality of that failure to communicate as rescue workers tried to do their jobs in New York City.

So all this motion to commit says is that let's have the FCC make sure that we are not going to further hamper our emergency services personnel and their ability to have interoperable communications, so that fire and police can talk to each other when there is an emergency. That is all this says: FCC, make sure this gets done right; and, if there is a problem, move these stations so that we put the safety of our firefighters, the safety of our police first and the safety of our communities. Because, Lord knows, we may be the subject of another attack.

We all hope that does not occur. But if it does, there will be another commission that says: How come you guys waited? Why didn't you do what we told you to do when we had the last commission, the 9/11 Commission? Why didn't you listen to the public service folks 5 years before the attack on 9/11? Why didn't you step up and do your job?

There is a simple accounting fix that initially there was reportedly even bipartisan for, until the transition team said, oh, no, let's just move the date. Then everything crumbled, and that is where we are today.

Last night my wife and I were watching TV, and here comes the ad on Comcast that says that: Congress has passed a law that says February 17, 2009, the analogue signal goes away, and you just subscribe to us or you do this converter box.

We are still having these folks advertise as of last night what the law is

today. People, are confused. You think confusion? They are still being told, here is what you are supposed to do. And this is why people don't trust the government, because you get everybody marching, doing what they are supposed to do, the broadcasters, the industries that supply the boxes, everything else, and then we move the goalposts. And I don't think that makes sense. In this case, it doesn't have to happen. We can work through this process. You could make a simple accounting change; you would be $250 million just authorized and you get the coupons out the door.

Mr. BOUCHER. Mr. Speaker, I rise in opposition to the motion to commit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. BOUCHER. Mr. Speaker, the primary reason that I am opposing this motion to commit is that it simply is unnecessary. And I want to address that in just a moment; but before I do that, I think a factual clarification is necessary. The Department of Commerce did not notify the Congress that the converter box program was out of money until Christmas Eve. Congress was in recess at that time. Ever since we have been back in session, we have been working to address the problem that that program running out of money has caused, and we have done that as expeditiously as the congressional schedule permits.

In November, in the communication to which the gentleman from Oregon referred, the Department of Commerce indicated that it was having to reschedule in a certain way the provision of coupons, but it also said that it had ample money to continue the program to successful conclusion at that time. The Department of Commerce said nothing about the program potentially running out of money. That message did not come until December 24th.

Mr. WALDEN. Mr. Speaker, would the gentleman yield?

Mr. BOUCHER. If I have time remaining after I finish my statement, I will be happy to yield to the gentleman.

The motion to commit would essentially require the broadcasters in the four channels that will be devoted to public safety and in a buffer zone around those four channels to terminate their analogue broadcast. That is the essence of what the motion accomplishes. And it simply is not necessary.

The first point to be made is that there are very few public safety agencies that immediately are even prepared to start using that spectrum for advanced communications. And that fact comes to us from David Furth, who is the official at the FCC, Acting Chief of the Public Safety and Homeland Security Bureau, who has told us that very few public safety agencies could even utilize the spectrum immediately.

We have placed in this legislation a provision that says that if broadcasters elect to turn off their analogue transmitters and vacate the spectrum prior to the transition date of June 12, they may do so; and, if they decide to do so, then public safety agencies that are prepared to begin to utilize the spectrum may have access to it, in accordance with standard Federal Communication Commission procedures. And so many broadcasters probably will take that option. I think numbers were provided on the other side about how many are likely to do that, and in those areas public safety agencies can go forward.

Beyond that, we have a very large list of endorsements for this delay coming from the associations that represent the great bulk of public safety agencies across the United States, and they are saying that there is a greater risk in shutting television off and having people lose vital public safety information that television provides than there is in delaying for a brief period the arrival of the spectrum for the use of public safety agencies. Letters have been received from the Association of Public Safety Communications Officials International, the International Association of Chiefs of Police, the International Association of Fire Chiefs, and the National Emergency Number Association, all speaking for public safety agencies and endorsing this delay.

As I indicated, there is a great public safety concern if people are not able to get the emergency information that is delivered so effectively by local broadcast stations. And kicking those stations out of the four channels in which they are broadcasting today to make room for public safety agencies that themselves are not prepared to utilize that spectrum simply is not a good policy. And so, Mr. Speaker, for all of these reasons I oppose the motion to commit and ask that it be rejected by the House.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALDEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to commit will be followed by 5-minute votes on passage of S. 352, if ordered; and suspending the rules and passing H.R. 738, if ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 242, not voting 10, as follows:

[Roll No. 51]

YEAS—180

Akin
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Dahlkemper
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Himes
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McCotter
McHenry
McHugh
McIntyre
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy (CT)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Perriello
Peters
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Teague
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Walz
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NAYS—242

Abercrombie
Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth

Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kirkpatrick (AZ)
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McClintock
McCollum
McDermott
McGovern
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peterson
Petri
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Roe (TN)
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—10

Aderholt
Alexander
Campbell
Castor (FL)
Flake
Kissell
McKeon
Schock
Simpson
Stark

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1604

Messrs. SCOTT of Georgia, SHERMAN, HONDA, ELLISON, SCHRADER, MELANCON, KUCINICH, MORAN of Virginia, THOMPSON of Mississippi, OBERSTAR, Ms. WASSERMAN SCHULTZ, Ms. EDWARDS of Maryland, Ms. SOLIS of California and Ms. PINGREE of Maine changed their vote from ''yea'' to ''nay.''

Messrs. YOUNG of Alaska, LEWIS of California, PERRIELLO and SAM JOHNSON of Texas changed their vote from ''nay'' to ''yea.''

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. SIMPSON. Mr. Speaker, on rollcall No. 51, had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALDEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 264, nays 158, not voting 10, as follows:

[Roll No. 52]

YEAS—264

Abercrombie
Ackerman
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kirkpatrick (AZ)
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larson (CT)
LaTourette
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McClintock
McCollum
McDermott
McGovern
McHugh
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Posey
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shea-Porter
Sherman
Shuster
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis (CA)
Space
Speier
Spratt
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—158

Adler (NJ)
Akin
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berkley
Biggert
Bilbray
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Dreier
Ehlers
Fallin
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Larsen (WA)
Latham
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McCotter
McHenry
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paulsen
Pence
Perlmutter
Petri
Pitts
Platts
Poe (TX)
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sessions
Shadegg
Shimkus
Shuler
Smith (NE)
Smith (TX)
Souder
Stearns
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Upton
Walden
Walz
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Aderholt
Alexander
Campbell
Castor (FL)
Flake
Kissell
McKeon
Paul
Simpson
Stark

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1612

Ms. FOXX changed her vote from ''yea'' to ''nay.''

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETRI. Mr. Speaker, on rollcall No. 52, I inadvertently voted "nay." I would like the RECORD to show that I meant to vote "yea."

Stated against:

Mr. SIMPSON. Mr. Speaker, on rollcall No. 52, had I been present, I would have voted "nay."

DEATH IN CUSTODY REPORTING ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 738.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 738.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CARTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 1, not voting 24, as follows:

[Roll No. 53]

YEAS—407

Abercrombie
Ackerman
Adler (NJ)
Akin
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Camp
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Chaffetz
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Rahall
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Solis (CA)
Souder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Wexler
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—1

Ellsworth

NOT VOTING—24

Aderholt
Alexander
Broun (GA)
Calvert
Campbell
Castor (FL)
Flake
Gallegly
Kissell
Larson (CT)
McKeon
Miller, Gary
Mollohan
Paul
Peterson
Radanovich
Rangel
Reyes
Schwartz
Simpson
Slaughter
Smith (WA)
Stark
Tiahrt

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1619

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. SIMPSON. Mr. Speaker, on rollcall No. 53, had I been present, I would have voted "yea."

NOTICE OF INTENTION TO OFFER RESOLUTION RAISING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. CARTER. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby notify the House of my intention to offer a resolution as a question of the privileges of the House.

The form of my resolution is as follows:

Whereas, the gentleman from New York, Charles B. Rangel, the fourth most senior Member of the House of Representatives, serves as chairman of the House Ways and Means Committee, a position of considerable power and influence within the House of Representatives; and,

Whereas, clause one of rule 23 of the Rules of the House of Representatives provides, "A Member, Delegate, Resident Commission, officer, or employee of the House shall conduct himself at all times in a manner that shall reflect creditably on the House;"

Whereas, The New York Times reported on September 5, 2008, that, "Representative Charles B. Rangel has earned more than $75,000 in rental income from a villa he has owned in the Dominican Republic since 1988, but never reported it on his federal or state tax returns, according to a lawyer for the congressman and documents from the resort."; and,

Whereas, in an article in the September 5, 2008 edition of The New York Times, his attorney confirmed that Representative Rangel's annual congressional Financial Disclosure statements failed to disclose the rental income from his resort villa; and,

Whereas, The New York Times reported on September 6, 2008 that, "Representative Charles B. Rangel paid no interest for more than a decade on a mortgage extended to him to buy a villa at a beachfront resort in the Dominican Republic, according to Mr. Rangel's lawyer and records from the resort. The loan, which was extended to Mr. Rangel in 1988, was originally to be paid back over seven years at a rate of 10.5 percent. But within two years, interest on the loan was waived for Mr. Rangel."; and,

Whereas, clause 5(a)(2)(A) of House Rule 25 defines a gift as, ". . . a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary

value'' and prohibits the acceptance of such gifts except in limited circumstances; and,

Whereas, Representative Rangel's acceptance of thousands of dollars in interest forgiveness is a violation of the House gift ban; and,

Whereas, Representative Rangel's failure to disclose the aforementioned gifts and income on his Personal Financial Disclosure Statements violates House rules and federal law; and,

Whereas, Representative Rangel's failure to report the aforementioned gifts and income on federal, state and local tax returns is a violation of the tax laws of those jurisdictions; and,

Whereas, the Committee on Ways and Means, which Representative Rangel chairs, has jurisdiction over the United States Tax Code; and,

Whereas, the House Committee on Standards of Official Conduct first announced on July 31, 2008 that it was reviewing allegations of misconduct by Representative Rangel; and,

Whereas, the House Committee on Standards of Official Conduct announced on September 24, 2008 that it had established an investigative subcommittee in the matter of Representative Rangel; and,

Whereas, The New York Times reported on November 24, 2008 that, ''Congressional records and interviews show that Mr. Rangel was instrumental in preserving a lucrative tax loophole that benefited [Nabors Industries] an oil drilling company last year, while at the same time its chief executive was pledging $1 million to the Charles B. Rangel School of Public Service at C.C.N.Y.''; and,

Whereas, the House Committee on Standards of Official Conduct announced on December 9, 2008 that it had expanded the jurisdiction of the aforementioned investigative subcommittee to examine the allegations related to Representative Rangel's involvement with Nabors Industries; and,

Whereas, Roll Call newspaper reported on September 15, 2008 that, ''The inconsistent reports are among myriad errors, discrepancies and unexplained entries on Rangel's personal disclosure forms over the past eight years that make it almost impossible to get a clear picture of the Ways and Means chairman's financial dealings.''; and,

Whereas, Roll Call newspaper reported on September 16, 2008 that, ''Rangel said he would hire a 'forensic accountant' to review all of his disclosure forms going back 20 years, and to provide a report to the House Committee on Standards of Official Conduct, which Rangel said will then make public.''; and,

Whereas, nearly five months after Representative Rangel pledged to provide a public forensic accounting of his tax and federal financial disclosure records, he has failed to do so; and,

Whereas, an editorial in The New York Times on September 15, 2008 stated, ''Mounting embarrassment for taxpayers and Congress makes it imperative that Representative Charles Rangel step aside as chairman of the Ways and Means Committee while his ethical problems are investigated.''; and,

Whereas, on May 24, 2006, then Minority Leader Nancy Pelosi cited ''high ethical standards'' in a letter to Representative William Jefferson asking that he resign his seat on the Committee on Ways and Means in light of ongoing investigations into alleged financial impropriety by Representative Jefferson,

Whereas, by the conduct giving rise to this resolution, Representative Charles B. Rangel has dishonored himself and brought discredit to the House; and,

Therefore, be it *Resolved*, Upon adoption of this resolution and pending completion of the investigation into his affairs by the Committee on Standards of Official Conduct, Representative Rangel is hereby removed as chairman of the Committee on Ways and Means.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Texas will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

LEGISLATIVE PROGRAM

(Mr. WESTMORELAND asked and was given permission to address the House for 1 minute.)

Mr. WESTMORELAND. Mr. Speaker, I yield to the gentleman from Florida for the purpose of announcing next week's schedule.

Mr. HASTINGS of Florida. I thank my good friend from Georgia for yielding.

On Monday, the 9th of February, the House will meet at 2 p.m. for legislative business, with votes postponed until 6:30 p.m. On Tuesday, the 10th, the House will meet at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. On Wednesday, Thursday and Friday, the House will meet at 10 a.m. for legislative business.

We will consider several bills under suspension of the rules. The complete list of suspension bills will be announced by the close of business on Friday.

We also expect to consider S. 22, the Omnibus Public Land Management Act of 2009; and in addition, pending Senate action on H.R. 1, the American Recovery and Reinvestment Act, we anticipate House action on that legislation.

Mr. WESTMORELAND. Mr. Speaker, reclaiming my time, as to the public lands omnibus bill, I want to note for the gentleman: The bill that he has announced for next week, the public lands omnibus bill, is a bill that actually contains 130 separate bills, and it authorizes $10 billion in taxpayer spending. Given our current economy, I would think that Congress should engage in the same belt-tightening that so many Americans, our constituents, are having to do every day.

□ 1630

Next week, we'll consider an almost $1 trillion stimulus and a $10 billion massive lands bill, and at some point in the near future, we're going to have to understand that we are going to have to streamline the amount of spending that we're doing.

I'd like to ask the gentleman, will there be a bill on the floor next week to offset at least some of the massive spending the Congress is considering? And I'd yield to the gentleman for the response.

Mr. HASTINGS of Florida. I thank the gentleman for yielding.

As the gentleman knows, we're very focused on fiscal discipline, and we're very concerned about our ever-increasing deficit. Now, we look forward to working with Chairman SPRATT and our new President on a budget that's going to reduce spending and bring down our deficit, and we look forward to working with the gentleman and his colleagues on fiscal issues in the future.

As you well know, among other things, our goal continues to be to find a balance for the need for action during an economic crisis with our desire to go through the legislative process.

I could go at length with my good friend regarding how we got where we are, but in anticipation of the need to continue the rest of the business of the day, I'll leave it at that.

Mr. WESTMORELAND. Thank you. And reclaiming my time, I'd like to remind the gentleman that is a history lesson, and I think the people of our country and our constituents right now are looking to the future and what we're going to be doing in the future. And in particular, the history that you're talking about about the past administration and the past Congresses, let me just remind my friend that we're spending about $100 million a minute in this Congress, and so I'm glad to hear that the gentleman from Florida, my friend, is aware of the amount of money and the amount of deficit and the amount of debt that we're piling up.

And I'd like to remind the gentleman, also, that just down the road we will be considering a $410 billion omnibus spending bill and likely another supplemental of the amount of work that was not done in the last Congress about coming up with these appropriation bills, and we're having to do it in one bundle, and I think the American people certainly have a concern about that spending.

But let me comment on something that my friend from Florida said, and that was the bipartisanship here. And like our new President, your fellow Democrats in Congress and you have often spoken optimistically about bipartisanship and about including Republican ideas in the stimulus. Well, I'd like to remind my friend that only 4 percent of Republican ideas were even considered on the floor of this House, the people's House, a house for open debate about such issues, especially of

the importance of the type of spending that we've been doing. And of the few Republican amendments adopted in committee, the majority of those were either dropped or altered before the bill ever got to the floor, and to me, that's not acting in a spirit of bipartisanship.

And worse yet, the Speaker is yet to meet with the Republicans to hear our ideas. President Obama has had about three meetings with our leadership and listened to our ideas, but yet, the Speaker of this body, the body we're a part of, has not even met with Republicans yet to get some ideas.

So you've announced that we're moving the convening time next week from Tuesday to Monday and this will ensure that negotiations on a $1 trillion spending bill occurs while most Members are not even going to be in town.

I'd like to ask the gentleman, what opportunities will Republicans be given next week or anytime in the future, but especially next week, to increase tax relief in the bill and cut wasteful spending before the stimulus is voted on again? And I'd yield to my friend from Florida to answer.

Mr. HASTINGS of Florida. I thank the gentleman for yielding. You have raised two issues at least that give me an opportunity to express the views of the leadership.

As I said before, our goals continue to be to find a balance between the need for action while we have this economic crisis and our desire to go through the legislative process. The leadership has urged our colleagues in the other body to complete action on the recovery bill in a timely fashion, even if it means they have to work through the weekend.

In addition, we've scheduled an additional day, as you point to, of legislative business next week so we can begin the process of conferencing with the Senate.

Also, I would remind the gentleman that the Appropriations, Ways and Means, and Energy and Commerce Committees all held full markups.

Per the gentleman's request during our last colloquy, the Rules Committee, as I'm sure the gentleman knows that I'm privileged and honored to serve on, waived PAYGO points of order and made a Republican substitute in order. In addition, Chairwoman SLAUGHTER of the Rules Committee put out a call for amendments.

Speaking of bipartisanship, there was an evenly balanced number, at least 6–5. There were six Democratic amendments made in order, four Republican amendments, and one bipartisan amendment were considered last week on the floor.

Now, we're going to continue to listen to Republican ideas throughout the conference process and look forward to working with the gentleman and his colleagues.

Mr. WESTMORELAND. I reclaim my time, and I'd just like to say to the gentleman, I know that there was over 200 amendments offered.

Mr. HASTINGS of Florida. 206.

Mr. WESTMORELAND. 210 amendments offered, and about 95 of those were Republican, and so if I'm hearing the gentleman correctly—and I will yield for an answer—only four of those were worth having a vote on the floor?

Mr. HASTINGS of Florida. No. Thank you for yielding. As I indicated to you, there were substantial markups. For example, the Appropriations Committee met for over 8 hours, and Republicans as well as Democrats had an opportunity to offer their amendments.

You understand and your colleagues understand the process, and I can make this anecdotal and personal. My amendment was not made in order, and I serve on the Rules Committee. I would hope that the gentleman would understand the dynamics of the process.

Mr. WESTMORELAND. Reclaiming my time, and I certainly do understand that and the rules process that y'all so patiently sit in. But I also understand the committee process and the part of process that the American people expect us to go through, and these bills did go through Ways and Means and I know the Energy and Commerce.

But I do know that in the Energy and Commerce Committee there were several amendments voted on in Energy and Commerce that were Republican amendments that passed and that the amendments were stripped out of the bill before it ever got to the Rules Committee before it ever got to the floor.

And I'd love to yield to the gentleman to see if he has some type of recollection that that did happen and to find out how these things got taken out of a bill that was passed through that committee.

Mr. HASTINGS of Florida. If the gentleman will yield, I am certainly not aware of that, and I speak constantly with the majority leader, and I'm not of the mind that the majority leader is aware either.

Mr. WESTMORELAND. Well, reclaiming my time, I would hope that my friend would check into that for me so if we have this colloquy again we can do that.

And let me say that I'd like to tell the gentleman, that where the President has set an example, the congressional Democrats have not really followed that as far as acting bipartisan.

And one last question that I'd yield to the gentleman for an answer is you mentioned that there would be a conference on H.R. 1 if it comes back from the Senate this weekend perhaps. I don't know if the other body's going to work this weekend or not, but let's say they do and there's a conference that's set up for Monday on H.R. 1. Are there going to be any Republicans included in that conference committee?

Mr. HASTINGS of Florida. As is always the case, first, coming from the other body, as you well know, they're in the process now of dealing with a substantial number of amendments that are being offered by Republicans and Democrats. I can't speak to the conferencing numbers and to its breakdown as it were.

What I do know is that a conference is going to be scheduled, and on yesterday I personally visited Members of the Senate, and I have it on good information that they are going to work through a substantial portion of the weekend, and I suspect that those committees that are the committees of germane jurisdiction will contemplate the ideas of Republicans and Democrats in the conference.

Mr. WESTMORELAND. Well, reclaiming my time, could the gentleman just tell me if there will be one Republican on the conference committee?

Mr. HASTINGS of Florida. I cannot speak for those that are the Chairs and/or the appointment of members of the conference committee.

Mr. WESTMORELAND. Well, reclaiming my time, I hope that our leadership in this House would work in a bipartisan manner, and even though we've been shut out of the process so far, if there is a conference committee, that we would at least be included.

And with that, Mr. Speaker, I want to thank the gentleman from Florida.

HOUR OF MEETING ON TUESDAY, FEBRUARY 10, 2009

Mr. HASTINGS of Florida. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at 12:30 p.m. on Tuesday, February 10, for morning-hour debate.

The SPEAKER pro tempore (Mr. CONNOLLY of Virginia). Is there objection to the request of the gentleman from Florida?

There was no objection.

MOURNING THE LOSS OF RAYMOND M. FITZGERALD

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute.)

Mrs. BIGGERT. Mr. Speaker, it is with great sadness that I rise today to mourn the passing of a dear friend, Raymond M. Fitzgerald.

Although he lived in my congressional district in Naperville, Illinois, I got to know him best during his time here in Washington. He began his career as a legislative aid for our former Governor. He went on to work on the staff of the House Science and Technology Committee and as a legislative director to my good friend from Illinois, JOHN SHIMKUS. I know that today there are many still working here in Congress who knew him well and miss him as I do.

Just a few years ago, Ray moved to Naperville with his wife Kristen to raise their three beautiful daughters, Nora, Maggie, and Lucy. But having taken a job in government relations for a major company in my district, he made regular trips back here to see all his good friends and colleagues.

Mr. Speaker, Ray was a wonderful human being with a positive attitude and great talent for public service and science policy. He was always full of life and cheer.

And in the short 37 years that he was with us before succumbing to cancer, he built a lasting legacy of friends, family, and professional success.

Mr. Speaker, I insert into the RECORD the Chicago Tribune article about Ray's life.

[From the Chicago Tribune, Jan. 26, 2009]

RAYMOND M. FITZGERALD, 1971–2009: NAVISTAR LOBBYIST

(By Joan Giangrasse Kates)

You could take a South Sider and move him to Washington, but in the case of Raymond M. Fitzgerald, you couldn't take the South Side out of the man.

The youngest of six children and only son of a Chicago fireman, Mr. Fitzgerald carried with him the values of faith, family and friends when he moved in 1994 to Capitol Hill to serve as a legislative aide for five years to then-Illinois Gov. Jim Edgar. He later worked for a year as a member of the staff on the House Science and Technology Committee.

From 2000 to 2005, Mr. Fitzgerald served as the legislative director to U.S. Rep. John Shimkus (R–IL), who quickly took note of the quintessential South Sider's authenticity and unflappability.

''From the start, Ray was as honest and straightforward as they come,'' said Shimkus, from Downstate Collinsville. ''He never lost his cool, and in our business, people respect that.''

For four years, Mr. Fitzgerald worked in the Warrenville offices of commercial trucks and engines giant Navistar Inc., using his vast knowledge in the field of energy issues and technologies and making frequent trips to Washington.

Mr. Fitzgerald, 37, of Naperville, a former director of legislative affairs and government relations for Navistar, died Wednesday, Jan. 21, in Northwestern Memorial Hospital in Chicago, after a nine-month battle with stomach cancer.

''He had the respect of so many in Washington,'' said Tim Touhy, Navistar's director of corporate communications. ''He knew a great deal about energy, and he knew his way around policymaking.''

But perhaps Mr. Fitzgerald's biggest coup in Washington wasn't a piece of legislation, but scoring a visit to the White House when his beloved White Sox met President George Bush after winning the 2005 World Series.

''He was all smiles that day standing there next to his team,'' said longtime friend Paul Doucette.

Born in Evergreen Park and raised on the South Side, Mr. Fitzgerald was a graduate of Brother Rice High School in Chicago. He received a bachelor's degree in economics and political science from Northern Illinois University.

In 2001, Mr. Fitzgerald married his wife, Kristin. He moved with his family to Naperville in 2005 after accepting a job with Navistar.

In addition to his wife, other survivors include three daughters, Nora, Maggie and Lucy; his mother, Kaye; and five sisters, Colleen Zientek, Mary O'Donnell, Debbie Noll, Linda Trinley and Maureen Harkala.

Mass will be said at 10 a.m. Monday in St. Thomas More Catholic Church, 2825 W. 81st St., Chicago.

Mr. Speaker, finally I'd like to offer my sincerest sympathies to Ray Fitzgerald's family, especially his wife, Kristen, his daughters, mother, and five loving sisters who grew up with him in Chicago's south side. They will all remain in our thoughts and prayers.

BAILED OUT BANKS HIRE FOREIGN WORKERS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, not only are taxpayers bailing out Wall Street, but the robber barons are repaying the American people by giving away jobs to foreign workers.

That's right. Forget stimulating the economy by offering jobs to the taxpayers. It is reported by the Associated Press that the banks that received the largest amount of bailout money, more than $150 billion, requested over 20,000 visas for foreign workers over the last few years.

As economic times have gotten worse, they requested even more visas. Last year, the same bleak economic period in which the ''Big Banking Boys Gang'' begged for a government handout, their foreign visa requests increased more than a third over the previous year.

And just to be clear, these jobs were not for the so-called jobs Americans won't do. Quite the opposite. They were for corporate lawyers, senior vice presidents, and analysts. The average annual salary for these American jobs given to foreigners was over $90,000.

Mr. Speaker, the American taxpayers are being played as fools. First, The Wall Street fat cats took the people's money, and now they're taking their jobs.

And that's just the way it is.

THE STIMULUS PLAN

(Ms. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JENKINS. Mr. Speaker, the folks in Kansas are struggling right now, and they are hoping Congress can provide some relief. Instead, this body introduced and passed a bill, spending nearly $1 trillion, disguised as a stimulus package, without a single Republican vote in favor of it.

By large majorities, I am hearing from Kansans that while they are eager for action to stimulate the economy, they do not support the bill the House passed last week. They also express continued frustration with the ''partisan rule'' in Washington, as opposed to a balanced bipartisan approach to good government.

When discussion about this package began, it was all about infrastructure investment and job creation. But somewhere along the way, the Speaker and the majority have lost sight of that and instead decided to craft a massive pork-laden bill.

The Speaker's bill spends almost as much as Congress has appropriated for all war-related programs since 2001. And now we hear that the Senate wants to spend even more. This bill will take resources from the private sector, creating more government, not more jobs. In the long-run, this extreme expense of Federal spending will burden our children.

This bill will take resources from the private sector, creating more government not more jobs. In the long run, this extreme level of federal spending will burden our children. That's not an economic stimulus. That's a crime.

What's more, many of the programs funded in this bill may have merit but they will not stimulate our economy. Before any program was included, two questions should have been asked. (1) Will this help the economy? And (2) Will it create jobs? If the answers were NO, then it should have been saved for another day.

The House Republicans had an alternative recovery package that, according to President Obama's economic advisors, cost less and created more jobs. It would have allowed fast-acting tax relief for working families and small businesses.

Immediate tax relief would allow Kansans to keep more of their paychecks to use however they want. My constituents in Kansas know better than Washington politicians and bureaucrats how to use their money to stimulate our economy.

A real stimulus needs to have a balance of tax relief and targeted investment in our crumbling roads and bridges. The majority party forced through a bill full of wasteful and irresponsible government spending, and it needs to be fixed.

□ 1645

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain Special Order speeches without prejudice to the resumption of further legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PUBLICATION OF THE RULES OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. GORDON) is recognized for 5 minutes.

Mr. GORDON of Tennessee. Mr. Speaker, pursuant to House Rule XI(2)(a)(2) I hereby submit to the House the Rules of the Committee on Science and Technology for the 111th Congress as adopted by the Committee on January 28, 2009:

RULES FOR THE COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, 111TH CONGRESS

RULE 1.—GENERAL PROVISIONS

(a) IN GENERAL.—The Rules of the House of Representatives, as applicable, shall govern the Committee and its Subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are privileged motions in the Committee and its Subcommittees and shall be decided without debate. [House Rule XI 1(a)]

(b) SUBCOMMITTEES.—The rules of the Committee, as applicable, shall be the rules of its Subcommittees. [House Rule XI 1(a)]

(c) VICE CHAIR.—A Member of the majority party on the Committee or Subcommittee shall be designated by the Chair of the Committee as the Vice Chair of the Committee or Subcommittee, as the case may be, and shall preside during the absence of the Chair from any meeting. If the Chair and Vice Chair of the Committee or Subcommittee are not present at any meeting of the Committee or Subcommittee, the Ranking Majority Member who is present shall preside at that meeting. [House Rule XI 2(d)]

(d) ORDER OF BUSINESS.—The order of business and procedure of the Committee and the subjects of inquiries or investigations will be decided by the Chair, subject always to an appeal to the Committee.

(e) USE OF HEARING ROOMS.—In consultation with the Ranking Minority Member, the Chair of the Committee shall establish guidelines for the use of Committee hearing rooms.

(f) NATIONAL SECURITY INFORMATION.—All national security information bearing a classification of secret or higher which has been received by the Committee or a Subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chair of the Committee may establish such regulations and procedures as in the Chair's judgment are necessary to safeguard classified information under the control of the Committee. Such procedures shall, however, ensure access to this information by any Member of the Committee or any other Member of the House of Representatives who has requested the opportunity to review such material.

(g) AVAILABILITY OF PUBLICATIONS.—To the maximum extent feasible, the Committee shall make its publications available in electronic form, including on the Committee website. [House Rule XI 2(e)(4)]

(h) COMMITTEE WEBSITE.—The Chair of the Committee shall maintain an official Committee website for the purpose of furthering the Committee's legislative and oversight responsibilities, including communicating information about the Committee's activities to Committee Members and other Members of the House. The Ranking Minority Member of the Committee may maintain a similar website for the same purpose, including communicating information about the activities of the minority to Committee Members and other Members of the House.

(i) MOTION TO GO TO CONFERENCE.—The Chair is directed to offer a motion under clause 1 of Rule XXII of the Rules of the House whenever the Chair considers it appropriate. [House Rule XI 2(a)(3)]

(j) CONFERENCE COMMITTEES.—Recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio of the Committee.

(k) OTHER PROCEDURES.—The Chair of the Committee, after consultation with the Ranking Minority Member of the Committee, may establish such other procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee.

RULE 2.—REGULAR, ADDITIONAL, AND SPECIAL MEETINGS

(a) REGULAR MEETINGS.—Unless dispensed with by the Chair of the Committee, the meetings of the Committee shall be held on the second (2nd) and fourth (4th) Wednesdays of each month the House is in session at 10:00 a.m. [House Rule XI 2(b)]

(b) ADDITIONAL MEETINGS.—The Chair of the Committee may call and convene, as the Chair considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose under that call of the Chair. [House Rule XI 2(c)(1)]

(c) SPECIAL MEETINGS.—Rule XI 2(c) of the Rules of the House of Representatives is hereby incorporated by reference. [House Rule XI 2(c)(2)]

RULE 3.—MEETINGS AND HEARINGS GENERALLY

(a) OPENING STATEMENTS.—Insofar as is practicable, the Chair, after consultation with the Ranking Minority Member, shall limit the total time of opening statements by Members to no more than 10 minutes, the time to be divided equally between the Chair and Ranking Minority Member.

(b) ADDRESSING THE COMMITTEE.—The time any one (1) Member may address the Committee on any bill, motion, or other matter under consideration by the Committee or the time allowed for the questioning of a witness at hearings before the Committee will be limited to five (5) minutes, and then only when the Member has been recognized by the Chair, except that this time limit may be waived by the Chair. [House Rule XI 2(j)(2)]

(c) REQUESTS FOR WRITTEN MOTIONS.—Any motion made at a meeting of the Committee and which is entertained by the Chair of the Committee or the Subcommittee shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

(d) OPEN MEETINGS AND HEARINGS.—Each meeting for the transaction of business, including the markup of legislation, and each hearing of the Committee or a Subcommittee shall be open to the public, including to radio, television, and still photography, unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives. [House Rule XI 2(g)]

(e) AUDIO AND VISUAL COVERAGE.—

(1) Whenever a hearing or meeting conducted by the Committee is open to the public, these proceedings shall be open to coverage by audio and visual means, except as provided in Rule XI 4(f)(2) of the House of Representatives. The Chair of the Committee or Subcommittee may not limit the number of television, or still cameras to fewer than two (2) representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(2) Radio and television tapes, television films, and Internet recordings of any Committee hearings or meetings that are open to the public may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(3) It is, further, the intent of this rule that the general conduct of each meeting or hearing covered under authority of this rule by audio or visual means, and the personal behavior of the Committee Members and staff, other government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the meeting or hearing, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to:

(A) distort the objects and purposes of the meeting or hearing or the activities of Committee Members in connection with that meeting or hearing or in connection with the general work of the Committee or of the House; or

(B) cast discredit or dishonor on the House, the Committee, or a Member, Delegate, or Resident Commissioner or bring the House, the Committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(4) The coverage of Committee meetings and hearings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this rule.

(5) The following shall apply to coverage of Committee meetings or hearings by audio or visual means:

(A) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(B) The allocation among the television media of the positions or the number of television cameras permitted by a Committee or Subcommittee Chair in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(C) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the Committee or the visibility of that witness and that member to each other.

(D) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(E) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the Committee is in session.

(F) (i) Except as provided in subdivision (ii), floodlights, spotlights, strobelights, and flashguns may not be used in providing any

method of coverage of the hearing or meeting.

(ii) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(G) In the allocation of the number of still photographers permitted by a Committee or Subcommittee Chair in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a Committee or Subcommittee Chair for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(H) Photographers may not position themselves between the witness table and the members of the Committee at any time during the course of a hearing or meeting.

(I) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(J) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(K) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(L) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner. [House Rule XI (4)]

RULE 4.—CONSIDERATION OF MEASURE OR MATTER

(a) IN GENERAL.—Bills and other substantive matters may be taken up for consideration only when called by the Chair of the Committee or by a majority vote of a quorum of the Committee, except those matters which are the subject of special call meetings outlined in Rule 2(c).

(b) NOTICE.—

(1) It shall not be in order for the Committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and, to the maximum extent practicable, a written copy of the measure or matter to be considered and, to the maximum extent practicable, the original text of the measure to be considered for purposes of markup have been available to each Member of the Committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays.

(2) Notwithstanding paragraph (1), consideration of any legislative measure or matter by the Committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the Committee is present.

(c) SUBMISSION OF AMENDMENTS.—To the maximum extent practicable, amendments to a measure or matter shall be submitted in writing to the Clerk of the Committee at least 24 hours prior to the consideration of the measure or matter.

(d) SUSPENDED PROCEEDINGS.—During the consideration of any measure or matter, the Chair of the Committee, or of any Subcommittee, may recess the Committee or Subcommittee, as the case may be, at any point. Additionally, during the consideration of any measure or matter, the Chair of the Committee, or of any Subcommittee, shall suspend further proceedings after a question has been put to the Committee or Subcommittee at any time when there is a vote by electronic device occurring in the House of Representatives. Suspension of proceedings after a record vote is ordered on the question of approving a measure or matter or on adopting an amendment shall be conducted in compliance with the provisions of Rule 6(d).

(e) INVESTIGATIVE OR OVERSIGHT REPORTS.—A proposed investigative or oversight report shall be considered as read in Committee if it has been available to the Members for at least 24 hours (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day). [House Rule XI 1(b)(2)]

(f) GERMANENESS.—The rules of germaneness shall be enforced by the Chair of the Committee or Subcommittee, as the case may be.

RULE 5.—POWER TO SIT AND ACT; SUBPOENA POWER

(a) IN GENERAL.—

(1) Nothwithstanding paragraph (2), a subpoena may be authorized and issued in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents as deemed necessary, only when authorized by majority vote of the Committee or Subcommittee (as the case may be), a majority of the Committee or Subcommittee being present. Authorized subpoenas shall be signed only by the Chair of the Committee, or by any Member designated by the Chair. [House Rule XI 2(m)(3)(A)]

(2) The Chair of the Committee, after consultation with the Ranking Minority Member of the Committee, or, if the Ranking Member cannot be reached, the Ranking Minority Member of the relevant Subcommittee, may authorize and issue such subpoenas as described in paragraph (1) during any period in which the House has adjourned for a period longer than seven (7) days. [House Rule XI 2(m)(3)(A)]

(3) A subpoena duces tecum may specify terms of return other than at a meeting or a hearing of the Committee. [House Rule XI 2(m)(3)(B)]

(b) SENSITIVE OR CONFIDENTIAL INFORMATION.—Unless otherwise determined by the Committee or Subcommittee, certain information received by the Committee or Subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in Executive Session when the Chair of the Committee, in the Chair's judgment and after consultation with the Ranking Minority Member of the Committee, deems that in view of all of the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

RULE 6.—QUORUMS AND VOTING

(a) QUORUMS.—

(1) One-third (1/3) of the Members of the Committee shall constitute a quorum for all purposes except as provided in paragraphs (2) and (3) of this Rule. [House Rule XI 2(h)(3)]

(2) A majority of the Members of the Committee shall constitute a quorum in order to: (A) report any legislation, measure, or matter; (B) close Committee meetings or hearings pursuant to Rule 3(d); and (C) authorize the issuance of subpoenas pursuant to Rule 5(a). [House Rule XI 2(h)(1); House Rule XI 2(g); House Rule XI 2(m)(3)(A)]

(3) Two (2) Members of the Committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chair of the Committee after consultation with the Ranking Minority Member of the Committee, shall include at least one (1) Member from each of the majority and minority parties. [House Rule XI 2(h)(2)]

(b) VOTING BY PROXY.—No Member may authorize a vote by proxy with respect to any measure or matter before the Committee. [House Rule XI 2(f)]

(c) REQUESTS FOR RECORD VOTE AT COMMITTEE.—A record vote of the Members may be had at the request of three (3) or more Members or, in the apparent absence of a quorum, by any one (1) Member.

(d) POSTPONEMENT OF PROCEEDINGS.—The Chair of the Committee, or of any Subcommittee, is authorized to postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment, and to resume proceedings on a postponed question at any time after reasonable notice. Upon resuming proceedings on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed. [House Rule XI 2(h)(4)]

RULE 7.—HEARING PROCEDURES

(a) ANNOUNCEMENT OF HEARING.—The Chair shall make a public announcement of the date, time, place, and subject matter of a hearing, and to the extent practicable, a list of witnesses at least one (1) week before the commencement of the hearing. If the Chair, with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the Committee so determines by majority vote, a quorum being present for the transaction of business, the Chair shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly made available in electronic form, including on the Committee website. [House Rule XI 2(g)(3)]

(b) WITNESS STATEMENT; TESTIMONY.—

(1) Insofar as is practicable, no later than 48 hours in advance of his or her appearance, each witness who is to appear before the Committee shall file in printed copy and in electronic form a written statement of his or her proposed testimony and a curriculum vitae. [House Rule XI 2(g)(4)]

(2) To the greatest extent practicable, each witness appearing before the Committee shall include with the written statement of proposed testimony a disclosure of any financial interests which are relevant to the subject of his or her testimony. These include, but are not limited to, public and private research grants, stock or stock options held in publicly traded and privately owned companies, government contracts with the witness or the witness' employer, and any form of payment of compensation from any relevant entity. The source and amount of the financial interest should be included in this disclosure. [House Rule XI 2(g)(4)]

(3) Each witness shall limit his or her presentation to a five (5) minute summary, provided that additional time may be granted by the Chair of the Committee or Subcommittee when appropriate.

(c) MINORITY WITNESSES.—Whenever any hearing is conducted by the Committee

on any measure or matter, the minority Members of the Committee shall be entitled, upon request to the Chair by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one (1) day of hearing thereon. [House Rule XI 2(j)(1)]

(d) EXTENDED QUESTIONING OF WITNESSES BY MEMBERS.—Notwithstanding Rule 3(b), upon a motion, the Chair, in consultation with the Ranking Minority Member, may designate an equal number of Members from each party to question a witness for a period of time equally divided between the majority party and the minority party, not to exceed one (1) hour in the aggregate or, upon a motion, may designate staff from each party to question a witness for equal specific periods that do not exceed one (1) hour in the aggregate. [House Rule X12(j)(2)]

(e) ADDITIONAL QUESTIONS FOR THE RECORD.—Members of the Committee have two (2) weeks from the date of a hearing to submit additional questions for the record to be answered by witnesses who have appeared in person. The letters of transmittal and any responses thereto shall be printed in the hearing record.

(f) ADDITIONAL HEARING PROCEDURES.—Rule XI 2(k) of the Rules of the House of Representatives is hereby incorporated by reference. [House Rule XI 2(k)]

RULE 8.—PROCEDURES FOR REPORTING MEASURES OR MATTERS

(a) FILING OF REPORTS.—

(1) It shall be the duty of the Chair of the Committee to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken the necessary steps to bring the matter to a vote. To the maximum extent practicable, the written report of the Committee on such measures shall be made available to the Committee membership for review at least 24 hours in advance of filing. [House Rule XIII 2(b)(1)]

(2) The report of the Committee on a measure which has been approved by the Committee shall be filed within seven (7) calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the Clerk of the Committee a written request, signed by the majority of the Members of the Committee, for the reporting of that measure. Upon the filing of any such request, the Clerk of the Committee shall transmit immediately to the Chair of the Committee notice of the filing of that request. [House Rule XIII 2(b)(2)]

(b) SUPPLEMENTAL, MINORITY, OR ADDITIONAL VIEWS.—If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall have two (2) subsequent calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the Clerk of the Committee. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after two (2) subsequent calendar days have elapsed unless the Chair of the Committee or Subcommittee, as appropriate, decides to extend the time for submission of views, in which case the Chair shall communicate such fact, including the revised day and hour for submissions to be received, to the Members of the Committee without delay. All such views so filed by one (1) or more Members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. [House Rule XI 2(I)]

(c) CONTENTS OF REPORT.—

(1) The report of the Committee on a measure or matter shall be printed in a single volume that shall—

(A) include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report on that measure or matter; and

(B) bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under rule 8(c)(3)(A)) are included as part of the report.

(2) The report of the Committee on a measure which has been approved by the Committee shall include the following, to be provided by the Committee:

(A) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified; [House Rule XIII 3(c)(1)]

(B) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures as specified in Rule XIII 3(c)(2); [House Rule XIII 3(c)(2)]

(C) with respect to reports on a bill or joint resolution of a public character, a ''Constitutional Authority Statement'' citing the specific powers granted to Congress by the Constitution pursuant to which the bill or joint resolution is proposed to be enacted; [House Rule XIII 3(d)(1)]

(D) with respect to each recorded vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the Committee report on the measure or matter;

(E) the estimate and comparison prepared by the Committee under Rule XIII, clause 3(d)(2) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the Director of the Congressional Budget Office prepared under subparagraph 3 of this Rule has been timely submitted prior to the filing of the report and included in the report; [House Rule XIII 3(d)(2)]

(F) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended; [House Rule XIII 3(e)]

(G) a transcript of the markup of the measure or matter unless waived under Rule 12(a); and

(H) a statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding. [House Rule XIII 3(e)(4)]

(4) The report of the Committee on a measure which has been approved by the Committee shall further include the following, to be provided by sources other than the Committee:

(A) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the Committee; [House Rule XIII 3(c)(3)]

(B) if the Committee has not received prior to the filing of the report the material required under subparagraph (A) of this Rule, then it shall include a statement to that effect in the report on the measure.

(d) IMMEDIATE PRINTING; SUPPLEMENTAL REPORTS.—This Rule does not preclude—

(1) the immediate filing or printing of a Committee report unless a timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule; or

(2) the filing by the Committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that Committee upon that measure or matter.

(e) PRIVATE BILLS.—No private bill will be reported by the Committee if there are two (2) or more dissenting votes. Private bills so rejected by the Committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the Committee.

(f) REPORT LANGUAGE ON USE OF FEDERAL RESOURCES.—No legislative report filed by the Committee on any measure or matter reported by the Committee shall contain language which has the effect of specifying the use of federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the Committee during a meeting or otherwise in writing by a majority of the Members.

RULE 9.—OTHER COMMITTEE PUBLICATIONS

(a) HOUSE REPORTS.—Any document published by the Committee as a House Report, other than a report of the Committee on a measure which has been approved by the Committee, shall be approved by the Committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 8(b).

(b) OTHER DOCUMENTS.—

(1) Subject to paragraph (2) and (3), the Chair of the Committee may approve the publication of any document as a Committee print which in the Chair's discretion the Chair determines to be useful for the information of the Committee.

(2) Any document to be published as a Committee print which purports to express the views, findings, conclusions, or recommendations of the Committee or any of its Subcommittees, other than a report of the Committee on a measure which has been approved by the Committee, must be approved by the Committee or its Subcommittees, as applicable, in a meeting or otherwise in writing by a majority of the Members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(3) Any document to be published as a Committee print, other than a document described in subsection (2) of this Rule, shall—

(A) include on its cover the following statement: ''This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;'' and

(B) not be published following the sine die adjournment of a Congress, unless approved by the Chair of the Committee after consultation with the Ranking Minority Member of the Committee.

(c) JOINT INVESTIGATION OR STUDY.—A report of an investigation or study conducted jointly by the Committee and one (1) or more other Committee(s) may be filed jointly, provided that each of the Committees complies independently with all requirements for approval and filing of the report. [House Rule XI 1(b)(2)]

(d) POST ADJOURNMENT FILING OF COMMITTEE REPORTS.—

(1) After an adjournment of the last regular session of a Congress sine die, an investigative or oversight report approved by the Committee may be filed with the Clerk at any time, provided that if a Member gives notice at the time of approval of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than seven (7) calendar days in which to submit such views for inclusion with the report. [House Rule XI 1(b)(4)]

(2) After an adjournment sine die of the last regular session of a Congress, the Chair of the Committee may file the Committee's Activity Report for that Congress under clause 1(d)(1) of Rule XI of the Rules of the House with the Clerk of the House at anytime and without the approval of the Committee, provided that a copy of the report has been available to each Member of the Committee for at least seven (7) calendar days and that the report includes any supplemental, minority, or additional views submitted by a Member of the Committee. [House Rule XI 1(d)(1)]

RULE 10.—GENERAL OVERSIGHT AND INVESTIGATIVE RESPONSIBILITIES

(a) OVERSIGHT.—

(1) IN GENERAL.—The Committee shall review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development. [House Rule X 3(k)]

(2) OVERSIGHT PLAN.—Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on Oversight and Government Reform and the Committee on House Administration, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives. [House Rule X 2(d)]

(b) INVESTIGATIONS.—

(1) IN GENERAL.—The Chair of the Committee may undertake any formal investigation in the name of the Committee after consultation with the Ranking Minority Member of the Committee.

(2) SUBCOMMITTEE INVESTIGATIONS.—The Chair of any Subcommittee shall not undertake any formal investigation in the name of the Committee or Subcommittee without formal approval by the Chair of the Committee, in consultation with other appropriate Subcommittee Chairs, and after consultation with the Ranking Minority Member of the Committee. The Chair of any Subcommittee shall also consult with the Ranking Minority Member of the Subcommittee before undertaking any investigation in the name of the Committee.

RULE 11.—SUBCOMMITTEES

(a) ESTABLISHMENT AND JURISDICTION OF SUBCOMMITTEES.—The Committee shall have the following standing Subcommittees with the jurisdiction indicated.

(1) SUBCOMMITTEE ON ENERGY AND ENVIRONMENT.—Legislative jurisdiction and general oversight and investigative authority on all matters relating to energy research, development, and demonstration and projects therefor, commercial application of energy technology, and environmental research, including:

(A) Department of Energy research, development, and demonstration programs;

(B) Department of Energy laboratories;

(C) Department of Energy science activities;

(D) energy supply activities;

(E) nuclear, solar and renewable energy, and other advanced energy technologies;

(F) uranium supply and enrichment, and Department of Energy waste management and environment, safety, and health activities, as appropriate;

(G) fossil energy research and development;

(H) clean coal technology;

(I) energy conservation research and development;

(J) energy aspects of climate change;

(K) pipeline research, development, and demonstration projects;

(L) energy and environmental standards;

(M) energy conservation, including building performance, alternate fuels for and improved efficiency of vehicles, distributed power systems, and industrial process improvements;

(N) Environmental Protection Agency research and development programs;

(O) the National Oceanic and Atmospheric Administration, including all activities related to weather, weather services, climate, the atmosphere, marine fisheries, and oceanic research;

(P) risk assessment activities; and

(Q) scientific issues related to environmental policy, including climate change.

(2) SUBCOMMITTEE ON TECHNOLOGY AND INNOVATION.—Legislative jurisdiction and general oversight and investigative authority on all matters relating to competitiveness, technology, standards, and innovation, including:

(A) standardization of weights and measures, including technical standards, standardization, and conformity assessment;

(B) measurement, including the metric system of measurement;

(C) the Technology Administration of the Department of Commerce;

(D) the National Institute of Standards and Technology;

(E) the National Technical Information Service;

(F) competitiveness, including small business competitiveness;

(G) tax, antitrust, regulatory and other legal and governmental policies as they relate to technological development and commercialization;

(H) technology transfer, including civilian use of defense technologies;

(I) patent and intellectual property policy;

(J) international technology trade;

(K) research, development, and demonstration activities of the Department of Transportation;

(L) surface and water transportation research, development, and demonstration programs;

(M) earthquake programs (except for NSF) and fire research programs, including those related to wildfire proliferation research and prevention;

(N) biotechnology policy;

(O) research, development, demonstration, and standards-related activities of the Department of Homeland Security;

(P) Small Business Innovation Research and Technology Transfer; and

(Q) voting technologies and standards.

(3) SUBCOMMITTEE ON RESEARCH AND SCIENCE EDUCATION.—Legislative jurisdiction and general oversight and investigative authority on all matters relating to science policy and science education, including:

(A) the Office of Science and Technology Policy;

(B) all scientific research, and scientific and engineering resources (including human resources), math, science and engineering education;

(C) intergovernmental mechanisms for research, development, and demonstration and cross-cutting programs;

(D) international scientific cooperation;

(E) National Science Foundation, including earthquake programs;

(F) university research policy, including infrastructure and overhead;

(G) university research partnerships, including those with industry;

(H) science scholarships;

(I) computing, communications, and information technology;

(J) research and development relating to health, biomedical, and nutritional programs;

(K) to the extent appropriate, agricultural, geological, biological and life sciences research; and

(L) materials research, development, and demonstration and policy.

(4) SUBCOMMITTEE ON SPACE AND AERONAUTICS.—Legislative jurisdiction and general oversight and investigative authority on all matters relating to astronautical and aeronautical research and development, including:

(A) national space policy, including access to space;

(B) sub-orbital access and applications;

(C) National Aeronautics and Space Administration and its contractor and government-operated labs;

(D) space commercialization, including commercial space activities relating to the Department of Transportation and the Department of Commerce;

(E) exploration and use of outer space;

(F) international space cooperation;

(G) the National Space Council;

(H) space applications, space communications and related matters;

(I) earth remote sensing policy;

(J) civil aviation research, development, and demonstration;

(K) research, development, and demonstration programs of the Federal Aviation Administration; and

(L) space law.

(5) SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT.—General and special investigative authority on all matters within the jurisdiction of the Committee on Science and Technology.

(b) RATIOS.—A majority of the majority Members of the Committee shall determine an appropriate ratio of majority to minority Members of each Subcommittee and shall authorize the Chair of the Committee to negotiate that ratio with the minority party; Provided, however, that the ratio of majority Members to minority Members on each Subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the Committee.

(c) EX-OFFICIO MEMBERS.—The Chair of the Committee and Ranking Minority Member of the Committee shall serve as ex-officio Members of all Subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the Subcommittee.

(d) REFERRAL OF LEGISLATION.—The Chair of the Committee shall refer all legislation and other matters referred to the

Committee to the Subcommittee or Subcommittees of appropriate primary and secondary jurisdiction within two (2) weeks of the matters being referred to the Committee, unless the Chair of the Committee deems consideration is to be by the Committee. Subcommittee Chairs may make requests for referral of specific matters to their Subcommittee within the two (2) week period if they believe Subcommittee jurisdictions so warrant.

(e) PROCEDURES.—

(1) No Subcommittee shall meet to consider for markup or approval any measure or matter when the Committee or any other Subcommittee of the Committee is meeting to consider any measure or matter for markup or approval.

(2) Each Subcommittee is authorized to meet, hold hearings, receive testimony or evidence, mark up legislation, and report to the Committee on all matters referred to it. For matters within its jurisdiction, each Subcommittee is authorized to conduct legislative, investigative, forecasting, and general oversight hearings; to conduct inquiries into the future; and to undertake budget impact studies.

(3) Subcommittee Chairs shall set meeting dates after consultation with the Chair of the Committee and other Subcommittee Chairs with a view toward avoiding simultaneous scheduling of Committee and Subcommittee meetings or hearings wherever possible.

(4) Any Member of the Committee may have the privilege of sitting with any Subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no Member who is not a Member of the Subcommittee shall vote on any matter before such Subcommittee, except as provided in subsection (c) of this Rule.

(5) During consideration of any measure or matter for markup or approval in a Subcommittee proceeding, a record vote may be had at the request of one (1) or more Members of that Subcommittee.

(f) CONSIDERATION OF SUBCOMMITTEE REPORTS.—After ordering a measure or matter reported, a Subcommittee shall issue a Subcommittee report in such form as the Chair of the Committee shall specify. Reports and recommendations of a Subcommittee shall not be considered by the Committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and made available to the Members of the Committee and printed hearings thereon shall be made available, if feasible, to the Members of the Committee, except that this Rule may be waived at the discretion of the Chair of the Committee after consultation with the Ranking Minority Member of the Committee.

RULE 12.—COMMITTEE RECORDS

(a) TRANSCRIPTS.—The transcripts of those hearings conducted by the Committee and Subcommittees shall be published as a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved. Transcripts of markups shall be recorded and published in the same manner as hearings before the Committee and shall be included as part of the legislative report unless waived by the Chair of the Committee. [House Rule XI 2(e)(1)(A)]

(b) KEEPING OF RECORDS.—The Committee shall keep a complete record of all Committee action, which shall include a record of the votes on any question on which a record vote is demanded. The result of each record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting. [House Rule XI 2(e)(1)]

(c) AVAILABILITY OF ARCHIVED RECORDS.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House of Representatives. The Chair of the Committee shall notify the Ranking Minority Member of the Committee of any decision, pursuant to Rule VII 3(b)(3) or clause 4(b) of the Rules of the House of Representatives, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee. [House Rule XI 2(e)(3)]

(d) PROPERTY OF HOUSE.—

(1) Except as provided for in paragraph (2), all Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as its Chair. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner, shall have access thereto.

(2) A Member, Delegate, or Resident Commissioner, other than Members of the Committee on Standards of Official Conduct, may not have access to the records of the Committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of the Committee. [House Rule XI 2(e)(2)]

PUBLICATION OF THE RULES OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR), is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, pursuant to clause 2(a)(2) of rule XI of the Rules of the House of Representatives and clause (b) of Rule I of the Rules of the Committee on Transportation and Infrastructure, I submit the Rules of the Committee on Transportation and Infrastructure for the 111th Congress for publication in the CONGRESSIONAL RECORD. On January 15, 2009, the Committee on Transportation and Infrastructure met in open session and adopted these Committee Rules by voice vote with a quorum present.

Rules of the Committee on Transportation and Infrastructure,

United States House of Representatives,

111th Congress

(Adopted January 15, 2009)

RULE I. GENERAL PROVISIONS.

(a) APPLICABILITY OF HOUSE RULES.—

(1) IN GENERAL.—The Rules of the House are the rules of the Committee and its subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are non-debatable privileged motions in the Committee and its subcommittees.

(2) SUBCOMMITTEES.—Each subcommittee is part of the Committee, and is subject to the authority and direction of the Committee and its rules so far as applicable.

(3) INCORPORATION OF HOUSE RULE ON COMMITTEE PROCEDURE.—Rule XI of the Rules of the House, which pertains entirely to Committee procedure, is incorporated and made a part of the rules of the Committee to the extent applicable. Pursuant to clause 2(a)(3) of Rule XI of the Rules of the House, the Chairman is authorized to offer a motion under clause 1 of Rule XXII of the Rules of the House whenever the Chairman considers it appropriate.

(b) PUBLICATION OF RULES.—The Committee's rules shall be published in the Congressional Record not later than 30 days after the Committee is elected in each odd-numbered year.

(c) VICE CHAIRMAN.—The Chairman shall appoint a vice chairman of the Committee and of each subcommittee. If the Chairman of the Committee or subcommittee is not present at any meeting of the Committee or subcommittee, as the case may be, the vice chairman shall preside. If the vice chairman is not present, the ranking member of the majority party on the Committee or subcommittee who is present shall preside at that meeting.

RULE II. REGULAR, ADDITIONAL, AND SPECIAL MEETINGS.

(a) REGULAR MEETINGS.—

(1) IN GENERAL.—Regular meetings of the Committee shall be held on the first Wednesday of every month to transact its business unless such day is a holiday, or the House is in recess or is adjourned, in which case the Chairman shall determine the regular meeting day of the Committee for that month.

(2) NOTICE.—The Chairman shall give each member of the Committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice of such meeting and the matters to be considered at such meeting. To the maximum extent practicable, the Chairman shall provide such notice at least 3 days prior to such meeting.

(3) CANCELLATION OR DEFERRAL.—If the Chairman believes that the Committee will not be considering any bill or resolution before the full Committee and that there is no other business to be transacted at a regular meeting, the meeting may be canceled or it may be deferred until such time as, in the judgment of the Chairman, there may be matters which require the Committee's consideration.

(4) APPLICABILITY.—This paragraph shall not apply to meetings of any subcommittee.

(b) ADDITIONAL MEETINGS.—The Chairman may call and convene, as he or she considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to the call of the Chairman.

(c) SPECIAL MEETINGS.—If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately

upon the filing of the request, the clerk of the Committee shall notify the Chairman of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within 7 calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the Committee shall notify all members of the Committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

(d) PROHIBITION ON SITTING DURING JOINT SESSION.—The Committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

RULE III. MEETINGS AND HEARINGS GENERALLY.

(a) OPEN MEETINGS.—Each meeting for the transaction of business, including the markup of legislation, and each hearing of the Committee or a subcommittee shall be open to the public, except as provided by clause 2(g) of Rule XI of the Rules of the House.

(b) MEETINGS TO BEGIN PROMPTLY.—Each meeting or hearing of the Committee shall begin promptly at the time so stipulated in the public announcement of the meeting or hearing.

(c) ADDRESSING THE COMMITTEE.—A Committee member may address the Committee or a subcommittee on any bill, motion, or other matter under consideration—

(1) only when recognized by the Chairman for that purpose; and

(2) only for 5 minutes until such time as each member of the Committee or subcommittee who so desires has had an opportunity to address the Committee or subcommittee.

A member shall be limited in his or her remarks to the subject matter under consideration. The Chairman shall enforce this subparagraph.

(d) PARTICIPATION OF MEMBERS IN SUBCOMMITTEE MEETINGS AND HEARINGS.—All members of the Committee who are not members of a particular subcommittee may, by unanimous consent of the members of such subcommittee, participate in any subcommittee meeting or hearing. However, a member who is not a member of the subcommittee may not vote on any matter before the subcommittee, be counted for purposes of establishing a quorum, or raise points of order.

(e) BROADCASTING.—Whenever a meeting for the transaction of business, including the markup of legislation, or a hearing is open to the public, that meeting or hearing shall be open to coverage by television, radio, and still photography in accordance with clause 4 of Rule XI of the Rules of the House. Operation and use of any Committee Internet broadcast system shall be fair and nonpartisan and in accordance with clause 4(b) of Rule XI of the Rules of the House and all other applicable rules of the Committee and the House.

(f) ACCESS TO THE DAIS AND LOUNGES.—Access to the hearing rooms' daises and to the lounges adjacent to the Committee hearing rooms shall be limited to Members of Congress and employees of Congress during a meeting or hearing of the Committee unless specifically permitted by the Chairman or ranking minority member.

(g) USE OF CELLULAR TELEPHONES.—The use of cellular telephones in the Committee hearing room is prohibited during a meeting or hearing of the Committee.

RULE IV. POWER TO SIT AND ACT; POWER TO CONDUCT INVESTIGATIONS; OATHS; SUBPOENA POWER.

(a) AUTHORITY TO SIT AND ACT.—For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House, the Committee and each of its subcommittees, is authorized (subject to paragraph (d)(1))—

(1) to sit and act at such times and places within the United States whether the House is in session, has recessed, or has adjourned and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—

(1) IN GENERAL.—The Committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under Rule X of the Rules of the House and (subject to the adoption of expense resolutions as required by Rule X, clause 6 of the Rules of the House) to incur expenses (including travel expenses) in connection therewith.

(2) MAJOR INVESTIGATIONS BY SUBCOMMITTEES.—A subcommittee may not begin a major investigation without approval of a majority of such subcommittee.

(c) OATHS.—The Chairman of the Committee, or any member designated by the Chairman, may administer oaths to any witness.

(d) ISSUANCE OF SUBPOENAS.—

(1) IN GENERAL.—A subpoena may be issued by the Committee or subcommittee under paragraph (a)(2) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. Such authorized subpoenas shall be signed by the Chairman of the Committee or by any member designated by the Committee. If a specific request for a subpoena has not been previously rejected by either the Committee or subcommittee, the Chairman of the Committee, after consultation with the ranking minority member of the Committee, may authorize and issue a subpoena under paragraph (a)(2) in the conduct of any investigation or activity or series of investigations or activities, and such subpoena shall for all purposes be deemed a subpoena issued by the Committee. As soon as practicable after a subpoena is issued under this rule, the Chairman shall notify all members of the Committee of such action.

(2) ENFORCEMENT.—Compliance with any subpoena issued by the Committee or subcommittee under paragraph (a)(2) may be enforced only as authorized or directed by the House.

(e) EXPENSES OF SUBPOENAED WITNESSES.—Each witness who has been subpoenaed, upon the completion of his or her testimony before the Committee or any subcommittee, may report to the offices of the Committee, and there sign appropriate vouchers for travel allowances and attendance fees. If hearings are held in cities other than Washington, D.C., the witness may contact the counsel of the Committee, or his or her representative, before leaving the hearing room.

RULE V. QUORUMS AND RECORD VOTES; POSTPONEMENT OF VOTES

(a) WORKING QUORUM.—One-third of the members of the Committee or a subcommittee shall constitute a quorum for taking any action other than the closing of a meeting pursuant to clauses 2(g) and 2(k)(5) of Rule XI of the Rules of the House, the authorizing of a subpoena pursuant to paragraph (d) of Committee Rule IV, the reporting of a measure or recommendation pursuant to paragraph (b)(1) of Committee Rule VII, and the actions described in paragraphs (b), (c), and (d) of this rule.

(b) QUORUM FOR REPORTING.—A majority of the members of the Committee or a subcommittee shall constitute a quorum for the reporting of a measure or recommendation.

(c) APPROVAL OF CERTAIN MATTERS.—A majority of the members of the Committee or a subcommittee shall constitute a quorum for approval of a resolution concerning any of the following actions:

(1) A prospectus for construction, alteration, purchase, or acquisition of a public building or the lease of space as required by section 3307 of title 40, United States Code.

(2) Survey investigation of a proposed project for navigation, flood control, and other purposes by the Corps of Engineers (section 4 of the Rivers and Harbors Act of March 4, 1913, 33 U.S.C. 542).

(3) Construction of a water resources development project by the Corps of Engineers with an estimated Federal cost not exceeding $15,000,000 (section 201 of the Flood Control Act of 1965).

(4) Deletion of water quality storage in a Federal reservoir project where the benefits attributable to water quality are 15 percent or more but not greater than 25 percent of the total project benefits (section 65 of the Water Resources Development Act of 1974).

(5) Authorization of a Natural Resources Conservation Service watershed project involving any single structure of more than 4,000 acre feet of total capacity (section 2 of P.L. 566, 83rd Congress).

(d) QUORUM FOR TAKING TESTIMONY.—Two members of the Committee or subcommittee shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(e) RECORD VOTES.—A record vote may be demanded by one-fifth of the members present.

(f) POSTPONEMENT OF VOTES.—

(1) IN GENERAL.—In accordance with clause 2(h)(4) of Rule XI of the Rules of the House, the Chairman of the Committee or a subcommittee, after consultation with the ranking minority member of the Committee or subcommittee, may—

(A) postpone further proceedings when a record vote is ordered on the question of approving a measure or matter or on adopting an amendment; and

(B) resume proceedings on a postponed question at any time after reasonable notice.

(2) RESUMPTION OF PROCEEDINGS.—When proceedings resume on a postponed question, notwithstanding any intervening order for the previous question, an underlying proposition shall remain subject to further debate or amendment to the same extent as when the question was postponed.

RULE VI. HEARING PROCEDURES.

(a) ANNOUNCEMENT OF HEARING.—The Chairman, in the case of a hearing to be conducted by the Committee, and the appropriate subcommittee chairman, in the case of a hearing to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of such hearing at least one week before the hearing.

If the Chairman or the appropriate subcommittee chairman, as the case may be, with the concurrence of the ranking minority member of the Committee or subcommittee as appropriate, determines there is good cause to begin the hearing sooner, or if the Committee or subcommittee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) WRITTEN STATEMENT; ORAL TESTIMONY.—So far as practicable, each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee or subcommittee, at least 2 working days before the day of his or her appearance, a written statement of proposed testimony and shall limit his or her oral presentation to a summary of the written statement.

(c) MINORITY WITNESSES.—When any hearing is conducted by the Committee or any subcommittee upon any measure or matter, the minority party members on the Committee or subcommittee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(d) SUMMARY OF SUBJECT MATTER.—Upon announcement of a hearing, to the extent practicable, the Committee shall make available immediately to all members of the Committee a concise summary of the subject matter (including legislative reports and other material) under consideration. In addition, upon announcement of a hearing and subsequently as they are received, the Chairman shall make available to the members of the Committee any official reports from departments and agencies on such matter.

(e) QUESTIONING OF WITNESSES.—The questioning of witnesses in Committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority member and all other members alternating between the majority and minority parties. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority nor the members of the minority. The Chairman may accomplish this by recognizing two majority members for each minority member recognized.

(f) PROCEDURES FOR QUESTIONS.—

(1) IN GENERAL.—A Committee member may question a witness at a hearing—

(A) only when recognized by the Chairman for that purpose; and

(B) subject to subparagraphs (2) and (3), only for 5 minutes until such time as each member of the Committee or subcommittee who so desires has had an opportunity to question the witness.

A member shall be limited in his or her remarks to the subject matter under consideration. The Chairman shall enforce this paragraph.

(2) EXTENDED QUESTIONING OF WITNESSES BY MEMBERS.—The Chairman of the Committee or a subcommittee, with the concurrence of the ranking minority member, or the Committee or subcommittee by motion, may permit a specified number of its members to question a witness for longer than 5 minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and minority party and may not exceed one hour in the aggregate.

(3) EXTENDED QUESTIONING OF WITNESSES BY STAFF.—The Chairman of the Committee or a subcommittee, with the concurrence of the ranking minority member, or the Committee or subcommittee by motion, may permit Committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and minority party and may not exceed one hour in the aggregate.

(4) RIGHT TO QUESTION WITNESSES FOLLOWING EXTENDED QUESTIONING.—Nothing in subparagraph (2) or (3) affects the right of a member (other than a member designated under subparagraph (2)) to question a witness for 5 minutes in accordance with subparagraph (1)(B) after the questioning permitted under subparagraph (2) or (3).

(g) ADDITIONAL HEARING PROCEDURES.—Clause 2(k) of Rule XI of the Rules of the House (relating to additional rules for hearings) applies to hearings of the Committee and its subcommittees.

RULE VII. PROCEDURES FOR REPORTING BILLS, RESOLUTIONS, AND REPORTS.

(a) FILING OF REPORTS.—

(1) IN GENERAL.—The Chairman of the Committee shall report promptly to the House any measure or matter approved by the Committee and take necessary steps to bring the measure or matter to a vote.

(2) REQUESTS FOR REPORTING.—The report of the Committee on a measure or matter which has been approved by the Committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the members of the Committee, for the reporting of that measure or matter. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairman of the Committee notice of the filing of that request.

(b) QUORUM; RECORD VOTES.—

(1) QUORUM.—No measure, matter, or recommendation shall be reported from the Committee unless a majority of the Committee was actually present.

(2) RECORD VOTES.—With respect to each record vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the Committee report on the measure or matter.

(c) REQUIRED MATTERS.—The report of the Committee on a measure or matter which has been approved by the Committee shall include the items required to be included by clauses 2(c) and 3 of Rule XIII of the Rules of the House.

(d) ADDITIONAL VIEWS.—If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays) in which to file such views in accordance with clause 2(l) of Rule XI of the Rules of the House.

(e) ACTIVITIES REPORT.—

(1) IN GENERAL.—The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending on January 3 of such year.

(2) CONTENTS.—Such report shall include separate sections summarizing the legislative and oversight activities of the Committee during that Congress.

(3) OVERSIGHT SECTION.—The oversight section of such report shall include a summary of the oversight plan submitted by the Committee pursuant to clause 2(d) of Rule X of the Rules of the House, a summary of the actions taken and recommendations made with respect to such plan, and a summary of any additional oversight activities undertaken by the Committee, and any recommendations made or actions taken thereon.

(f) OTHER COMMITTEE MATERIALS.—

(1) IN GENERAL.—All Committee and subcommittee prints, reports, documents, or other materials, not otherwise provided for under this rule, that purport to express publicly the views of the Committee or any of its subcommittees or members of the Committee or its subcommittees shall be approved by the Committee or the subcommittee prior to printing and distribution and any member shall be given an opportunity to have views included as part of such material prior to printing, release, and distribution in accordance with paragraph (d) of this rule.

(2) DOCUMENTS CONTAINING VIEWS OTHER THAN MEMBER VIEWS.—A Committee or subcommittee document containing views other than those of members of the Committee or subcommittee shall not be published without approval of the Committee or subcommittee.

(3) DISCLAIMER.—All Committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the Committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report: ''This report has not been officially adopted by the Committee on Transportation and Infrastructure (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its members.''.

(4) COMPILATIONS OF LAWS.—To the maximum extent practicable, the Committee shall publish a compilation of laws under the jurisdiction of each subcommittee.

(g) AVAILABILITY OF PUBLICATIONS.—Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, the Committee shall make its publications available in electronic form to the maximum extent feasible.

RULE VIII. ESTABLISHMENT OF SUBCOMMITTEES; SIZE AND PARTY RATIOS.

(a) ESTABLISHMENT.—There shall be 6 standing subcommittees. These subcommittees, with the following sizes (including delegates) and majority/minority ratios, are:

(1) Subcommittee on Aviation (43 Members: 26 Majority and 17 Minority).

(2) Subcommittee on Coast Guard and Maritime Transportation (16 Members: 10 Majority and 6 Minority).

(3) Subcommittee on Economic Development, Public Buildings, and Emergency Management (20 Members: 12 Majority and 8 Minority).

(4) Subcommittee on Highways and Transit (55 Members: 33 Majority and 22 Minority).

(5) Subcommittee on Railroads, Pipelines, and Hazardous Materials (45 Members: 27 Majority and 18 Minority).

(6) Subcommittee on Water Resources and Environment (40 Members: 24 Majority and 16 Minority).

(b) EX-OFFICIO MEMBERS.—The Chairman of the Committee shall serve as an ex-officio voting member on each subcommittee.

(c) RATIOS.—On each subcommittee there shall be a ratio of majority party members to minority party members which shall be no less favorable to the majority party than the ratio for the full Committee. In calculating the ratio of majority party members to minority party members, there shall be included the ex-officio member of the subcommittees.

RULE IX. POWERS AND DUTIES OF SUBCOMMITTEES.

(a) AUTHORITY TO SIT.—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

(b) CONSIDERATION BY COMMITTEE.—Each bill, resolution, or other matter favorably reported by a subcommittee shall automatically be placed upon the agenda of the Committee. Any such matter reported by a subcommittee shall not be considered by the Committee unless it has been delivered to the offices of all members of the Committee at least 48 hours before the meeting, unless the Chairman determines that the matter is of such urgency that it should be given early consideration. Where practicable, such matters shall be accompanied by a comparison with present law and a section-by-section analysis.

RULE X. REFERRAL OF LEGISLATION TO SUBCOMMITTEES.

(a) GENERAL REQUIREMENT.—Except where the Chairman of the Committee determines, in consultation with the majority members of the Committee, that consideration is to be by the full Committee, each bill, resolution, investigation, or other matter which relates to a subject listed under the jurisdiction of any subcommittee established in Committee Rule VIII referred to or initiated by the full Committee shall be referred by the Chairman to all subcommittees of appropriate jurisdiction within two weeks. All bills shall be referred to the subcommittee of proper jurisdiction without regard to whether the author is or is not a member of the subcommittee.

(b) RECALL FROM SUBCOMMITTEE.—A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of a majority of the members of the Committee voting, a quorum being present, for the Committee's direct consideration or for reference to another subcommittee.

(c) MULTIPLE REFERRALS.—In carrying out this rule with respect to any matter, the Chairman may refer the matter simultaneously to two or more subcommittees for concurrent consideration or for consideration in sequence (subject to appropriate time limitations in the case of any subcommittee after the first), or divide the matter into two or more parts (reflecting different subjects and jurisdictions) and refer each such part to a different subcommittee, or make such other provisions as he or she considers appropriate.

RULE XI. RECOMMENDATION OF CONFEREES.

The Chairman of the Committee shall recommend to the Speaker as conferees the names of those members (1) of the majority party selected by the Chairman, and (2) of the minority party selected by the ranking minority member of the Committee. Recommendations of conferees to the Speaker shall provide a ratio of majority party members to minority party members which shall be no less favorable to the majority party than the ratio for the Committee.

RULE XII. OVERSIGHT.

(a) PURPOSE.—The Committee shall carry out oversight responsibilities as provided in this rule in order to assist the House in—

(1) its analysis, appraisal, and evaluation of—

(A) the application, administration, execution, and effectiveness of the laws enacted by the Congress; or

(B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of such modifications or changes in those laws, and of such additional legislation, as may be necessary or appropriate.

(b) OVERSIGHT PLAN.—Not later than February 15 of the first session of each Congress, the Committee shall adopt its oversight plan for that Congress in accordance with clause 2(d)(1) of Rule X of the Rules of the House.

(c) REVIEW OF LAWS AND PROGRAMS.—The Committee and the appropriate subcommittees shall cooperatively review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the Committee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, the Committee and the appropriate subcommittees shall cooperatively review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the Committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the Committee.

(d) REVIEW OF TAX POLICIES.—The Committee and the appropriate subcommittees shall cooperatively review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within the jurisdiction of the Committee.

RULE XIII. REVIEW OF CONTINUING PROGRAMS; BUDGET ACT PROVISIONS.

(a) ENSURING ANNUAL APPROPRIATIONS.—The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, ensure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved.

(b) REVIEW OF MULTI-YEAR APPROPRIATIONS.—The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

(c) VIEWS AND ESTIMATES.—In accordance with clause 4(f)(1) of Rule X of the Rules of the House, the Committee shall submit to the Committee on the Budget—

(1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions; and

(2) an estimate of the total amount of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) BUDGET ALLOCATIONS.—As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) RECONCILIATION.—Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process, it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE XIV. RECORDS.

(a) KEEPING OF RECORDS.—The Committee shall keep a complete record of all Committee action which shall include—

(1) in the case of any meeting or hearing transcripts, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(2) a record of the votes on any question on which a record vote is demanded.

(b) PUBLIC INSPECTION.—The result of each such record vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(c) PROPERTY OF THE HOUSE.—All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as Chairman of the Committee; and such records shall be the property of the House and all members of the House shall have access thereto.

(d) AVAILABILITY OF ARCHIVED RECORDS.—The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The Chairman shall notify the ranking minority member of the Committee of any decision, pursuant to clause 3(b)(3) or clause 4(b) of such rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on written request of any member of the Committee.

(e) AUTHORITY TO PRINT.—The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the Committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of the Committee shall be paid as provided in clause 1(c) of Rule XI of the House.

RULE XV. COMMITTEE BUDGETS.

(a) BIENNIAL BUDGET.—The Chairman, in consultation with the chairman of each subcommittee, the majority members of the Committee, and the minority members of the Committee, shall, for each Congress, prepare a consolidated Committee budget. Such budget shall include necessary amounts for staff personnel, necessary travel, investigation, and other expenses of the Committee.

(b) ADDITIONAL EXPENSES.—Authorization for the payment of additional or unforeseen Committee expenses may be procured by one or more additional expense resolutions processed in the same manner as set out herein.

(c) TRAVEL REQUESTS.—The Chairman or any chairman of a subcommittee may initiate necessary travel requests as provided in Committee Rule XVII within the limits of the consolidated budget as approved by the House and the Chairman may execute necessary vouchers thereof.

(d) MONTHLY REPORTS.—Once monthly, the Chairman shall submit to the Committee on House Administration, in writing, a full and detailed accounting of all expenditures made during the period since the last such accounting from the amount budgeted to the Committee. Such report shall show the amount and purpose of such expenditure and the budget to which such expenditure is attributed. A copy of such monthly report shall be available in the Committee office for review by members of the Committee.

RULE XVI. COMMITTEE STAFF.

(a) APPOINTMENT BY CHAIRMAN.—The Chairman shall appoint and determine the remuneration of, and may remove, the employees of the Committee not assigned to the minority. The staff of the Committee not assigned to the minority shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he or she determines appropriate.

(b) APPOINTMENT BY RANKING MINORITY MEMBER.—The ranking minority member of the Committee shall appoint and determine the remuneration of, and may remove, the staff assigned to the minority within the budget approved for such purposes. The staff assigned to the minority shall be under the general supervision and direction of the ranking minority member of the Committee who may delegate such authority as he or she determines appropriate.

(c) INTENTION REGARDING STAFF.—It is intended that the skills and experience of all members of the Committee staff shall be available to all members of the Committee.

RULE XVII. TRAVEL OF MEMBERS AND STAFF.

(a) APPROVAL.—Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of Committee members and staff. Travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel shall be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel.

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made.

(3) The location of the event for which the travel is to be made.

(4) The names of members and staff seeking authorization.

(b) SUBCOMMITTEE TRAVEL.—In the case of travel of members and staff of a subcommittee to hearings, meetings, conferences, and investigations involving activities or subject matter under the legislative assignment of such subcommittee, prior authorization must be obtained from the subcommittee chairman and the Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the chairman of such subcommittee in writing setting forth those items enumerated in subparagraphs (1), (2), (3), and (4) of paragraph (a) and that there has been a compliance where applicable with Committee Rule VI.

(c) TRAVEL OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—In the case of travel outside the United States of members and staff of the Committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the Committee or pertinent subcommittee, prior authorization must be obtained from the Chairman, or, in the case of a subcommittee, from the subcommittee chairman and the Chairman. Before such authorization is given there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) The purpose of the travel.

(B) The dates during which the travel will occur.

(C) The names of the countries to be visited and the length of time to be spent in each.

(D) An agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of Committee jurisdiction involved.

(E) The names of members and staff for whom authorization is sought.

(2) INITIATION OF REQUESTS.—Requests for travel outside the United States may be initiated by the Chairman or the chairman of a subcommittee (except that individuals may submit a request to the Chairman for the purpose of attending a conference or meeting) and shall be limited to members and permanent employees of the Committee.

(3) REPORTS BY STAFF MEMBERS.—At the conclusion of any hearing, investigation, study, meeting, or conference for which travel has been authorized pursuant to this rule, each staff member involved in such travel shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(d) APPLICABILITY OF LAWS, RULES, POLICIES.—Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel, and by the travel policy of the Committee.

STIMULATE THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, we've heard a lot about stimulating the economy. We've passed legislation to stimulate the economy. The Senate is doing the same thing. It's all in the effort to get us out of this economic slump that we are going to supposedly pass legislation of $800 billion to move America forward to stimulate the economy, to have pro-growth.

But if you look at this massive bill a little closer, I would like to ask this question: There are some programs in this bill—just a few that I've picked out; there are a lot more—that I question whether or not these will stimulate the economy. By Congress taking taxpayer money and giving it to certain entities, does it stimulate the economy or is it just more pork? Is it just more favoritism to certain entities?

In the new Stimulation Economy Act, there's $4 billion that goes to neighborhood stabilization activities. What is that? That's the community groups like ACORN. You know ACORN. That's the one being investigated for voter fraud in several States, yet to be prosecuted, of course, but money to give to these organizations. How does that stimulate the economy? I don't know.

Three billion dollars goes to wellness programs; how we can take care of ourselves better. Does that stimulate the economy? Maybe not.

One billion dollars for census follow-up. What that means is after the census is taken, then a billion dollars is given to follow up on that.

Eight hundred million dollars goes to Amtrak. You know, Amtrak loses money every year. We have to give them money of the taxpayers to fund this subsidy.

Four hundred million dollars for climate change research. Now, I'm sure we all think we ought to study the climate and global warming and that sort of thing, but does that stimulate the economy to give $400 million to certain special interest groups to study climate change?

Six billion dollars to colleges. No question about it. Universities and colleges need money. But shouldn't a bill that appropriates money to the universities go in an appropriations bill rather than a bill that stimulates the economy?

Six hundred million dollars is going for new cars for government workers—not the average taxpayer but just government workers.

Fifty million dollars goes to the National Endowment of the Arts. Don't see how that's going to stimulate our economy.

I like this one a lot: $250 million for tax breaks for Hollywood movie producers so they can buy more film. Now, I don't know that those people in Hollywood need taxpayer money, but they're going to get it. And how that stimulates the economy, we'll let the taxpayers decide.

The Coast Guard is getting a new ice breaker, $88 million. Stimulate the economy? Maybe not.

Homeland Security is getting new furniture in the amount of $250 million taxpayer expense.

Seventy-five million dollars for stop-smoking programs. I'm not sure that will stimulate the economy.

And the one I like the most is $25 million for tribal, alcohol, and substance abuse reduction.

Now, this is taxpayer money. This doesn't belong to the Congress, it belongs to the people. And we have the obligation to take the people's money and use it wisely; in this case, to make the economy better. I doubt if these programs that I mentioned—and many, many others that are in this massive pork bill—will stimulate the economy. It's just another way of giving taxpayer money out to different groups.

What can we do to stimulate the economy? We ought to do the simple things. There are two things that I would suggest. One of those is a bill that Mr. GOHMERT has sponsored, my cohort from Texas. It's no taxes for 2 months. Everybody in the United States that works, no W–2 taken out of their income for 2 months. When we have our own money—that's the taxpayers—we will spend the money how we see fit, not how the government sees fit. Don't you think that might stimulate the economy in the short term?

And in the long term, rather than spend money that we do not have, that we have to go in debt for, that we have to borrow from the Chinese of all people, and saddle that debt to our kids and our grandkids and our great-grandkids, why don't we have a tax break for everybody that pays taxes? Straight across-the-board income tax reduction. People keep their own money. They will decide how to spend it. They will decide better than government how to spend the money.

These suggestions won't cost the government anything. Won't cost the people anything. It's an approach that I think that it's worth that we have a lively debate about on the House floor.

It's important that we get out of this economic decline, but the way to do it is not to spend more money and make government bigger. And the stimulus package is a big spending bill for government. More government control, more government involvement in our lives, and it doesn't help the economy a bit.

And that's just the way it is.

RECOGNIZING JANUARY AS POVERTY IN AMERICA AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to recognize this past January as Poverty in America Awareness Month and to thank the young intern in my office, Ms. Foster, for developing this very excellent statement.

Mr. Speaker, Nelson Mandela once proclaimed, ''Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right: the right to dignity and a decent life.''

During this season of economic crisis, we policymakers have an obligation to promote justice and to protect our citizens who are struggling. Poverty is a reality for far too many people in Chicago, Illinois, and throughout the Nation.

In the United States, 36 percent of our Nation is considered low income, with 17 percent living in poverty. In Illinois, 33 percent of the population is low income, with about 15 percent living in poverty

In 2007, 21 percent of Chicagoans lived in poverty, with another 21 percent teetering on its edge.

The current economic crisis is exacerbating these conditions. The unemployment rate in Illinois in the Nation is over 7 percent. Hundreds of thousands of jobs in Illinois have been lost in recent months. There are more than 500,000 foreclosures, 50,000 foreclosures in Cook County alone.

And due to an almost $4 billion State budget gap, programs vital to assisting the public, such as mental health centers, are facing funding reductions in the range of millions of dollars.

Poverty is most harmful to children, especially young children. Children in poverty are more likely to experience child abuse or neglect. Families in poverty often cannot provide appropriate resources for healthy child development. Children's physical health and cognitive abilities can be compromised. When compared with wealthier children, poor children have poorer outcomes in the areas of school achievement, emotional control, and behavior.

Living in poverty affects the quality of education, health care, and living conditions.

Mr. Speaker, I'm proud to be a part of a Congress that has crafted an economic recovery package that provides critical aid to families experiencing poverty. The substantial increases in the food stamp program will directly help families make ends meet. The provisions providing health care for those who lost their jobs during this crisis will help many in Chicago and throughout the Nation.

The one-time payment for families who rely on supplemental security income for the poor, elderly, and individuals with disabilities will provide a lifeline for families that are barely making it. The increases in the child tax credit will help families stand on their own feet.

In addition to these provisions of the American Recovery Bill that will help alleviate the effects of poverty, I look forward to moving towards a system of universal health coverage during this Congress to help all Americans have access to health care. I also anticipate that Congress will consider ways in which to improve public assistance programs, such as simplifying enrollment procedures for Medicaid and other safety net programs.

During this economic downturn, it is critical that we continue to support safety net programs to assure that those in need are assisted. The role of the Federal Government is especially necessary given that many State governments are cutting vital support programs to comply with State balanced-budget requirements.

And Mr. Speaker, as Mr. Mandela recognized, we have a responsibility to work to minimize the harm of poverty. Therefore, I join with my colleagues in recognizing January as Poverty in America Awareness Month and promise to continue to promote programs—no matter what else it is that I do—that are designed to help eliminate and reduce poverty in America.

I thank you, Mr. Speaker.

ONE TEAM—ONE FIGHT—ONE NAME: THE DEPARTMENT OF THE NAVY AND MARINE CORPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, thank you very much.

Mr. Speaker, last month I introduced H.R. 24, legislation to redesignate the Department of the Navy to be the Department of Navy and Marine Corps.

For the past 7 years, the language of this bill has been part of the House version of the National Defense Authorization Act, and I would like to thank the former chairman of the House Armed Services Committee, DUNCAN HUNTER, the current chairman of the Armed Services Committee, IKE SKELTON, and all of the members of the committee for their support.

Each year, the full House of Representatives have supported this change. This year I hope the Senate will support the change and adopt the House position and join in bringing proper respect to the fighting team, the Navy and Marine Corps.

There is much I could say about the history of both great services, but the reason for this legislation always comes down to one issue—whenever a chief of Navy operations or commandant of the Marine Corps has come to testify before the Armed Services Committee, I've heard the Navy and the Marine Corps say, ''We are one fighting team.'' This is true, and I believe this. Then why should not the team be named ''Navy and Marine Corps''?

Changing the name of the Department of the Navy to the Department of the Navy and Marine Corps is a symbolic gesture, but it is important to the team.

This legislation is not about changing the responsibilities of the Secretary of the Department, reallocating resources between the Navy and Marine Corps, or altering their mission. The Navy and Marine Corps have operated as one entity for more than 2 centuries, and H.R. 24 would enable the name of their department to illustrate this fight.

Over the years, I have been encouraged by the overwhelming support I have received for this change from so many members of the United States Armed Forces. I will quote one supporter of this change, the Honorable Wade Sanders, Deputy Assistant Secretary of the Navy for Reserve Affairs from 1993 to 1998, who said, ''As a combat veteran and former Naval officer, I understand the importance of the team dynamic, and the importance of recognizing the contributions of team components. The Navy and Marine Corps team is just that: a dynamic partnership, and it is important to symbolically recognize the balance of that partnership.''

Mr. Speaker, I would like to submit for the RECORD a list of others who have supported this effort to provide proper recognition for the Marine Corps. With their backing, I will continue to work diligently to see this bill through the House and push for the Senate's support. The Marines who are fighting today deserve this recognition.

Mr. Speaker, in closing, I would like to show what this change could mean to a family of a fallen Marine.

Mr. Speaker, first, this is a copy of a letter to a Marine family, a Marine captain who was killed for this Nation. The Secretary of the Navy sent this letter. We have removed the name respectfully, and it says, ''The Secretary of the Navy.''

''On behalf of the Department of the Navy''—this is a proud team. ''On behalf of the Department of Navy,'' the captain, Marine captain's wife received this letter of condolences. And I do commend the Secretary of the Navy for writing the letter of condolences.

But Mr. Speaker, if this bill should ever become the law of the land—and I hope this will be the year—that Marine family who gave a loved one for this country will receive the letter from the Department of Navy and Marine Corps and it will say in the heading, ''Dear Marine Corps Family, on behalf of the Department of Navy and Marine Corps, please accept my very sincere condolences.''

Mr. Speaker, this is what it should be: one Department of Navy and Marine Corps.

I hope, again, the House will send this to the Senate. I hope this year the Senate will accept the House position. It is the right thing to do for the team.

God bless America, and God bless our men and women in uniform, and please, God, continue to bless America.

H.R. 24: SUPPORTERS OF THE REDESIGNATION OF THE DEPARTMENT OF THE NAVY TO BE THE DEPARTMENT OF THE NAVY AND MARINE CORPS

In the past eight years, the following have supported the change:

INDIVIDUALS

Secretary of the Navy Paul Nitz (1963–1967); Assistant Secretary of the Navy H. Lawrence Garrett, III (1989–1992); Acting Secretary of the Navy Daniel Howard (1992); Secretary of the Navy John Dalton (1998–2001); General Carl Mundy, 30th Commandant of the Marine Corps; General Charles Krulak, 31st Commandant of the Marine Corps; Admiral Stansfield Turner; Rear Admiral James T. Carey (Chairman, National Defense PAC); Deputy Asst. Secretary of the Navy for Reserve Affairs Wade Sanders (1993–1998); James Zumwalt, Jr., (Son of the former CNO).

ASSOCIATIONS

Fleet Reserve Association; Marine Corps League; National Defense PAC; National Association of Uniformed Services; Veterans of Foreign Wars.

□ 1700

OUR BRAVE VETERANS NEED GOOD JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, there are many reasons to support the President's economic recovery package. Today, I rise to talk about one especially good reason, a reason that will help our Nation's brave veterans to get good jobs.

As we know, President Obama has ordered his military commanders to draw up plans for the withdrawal of our troops from Iraq. Many of them will be returning to civilian life. Making the transition from battlefield to the civilian workforce is always challenging. But, in these hard times, it's going to be harder than ever.

Last March, the Veterans' Affairs Department reported that returning veterans were having a harder time finding work than their civilian counterparts, and were earning less. That, Mr. Speaker, was before the economic crisis hit with full force.

We got another look at the problem in November, when the recruitment Web site, Monster.com, surveyed veterans about their experiences in the job market. It found that 81 percent of veterans don't feel fully prepared to enter the workforce and, of that number, 76 percent said they were having trouble translating their military skills to the civilian world. In addition, hundreds of thousands of veterans are struggling with fiscal and mental problems, making it that much more difficult to get and to keep a job.

Mr. Speaker, veterans and their advocates have begun to report that some employers are ignoring the Federal law requiring them to give returning soldiers their jobs back—their jobs back, at the same pay. To make matters even worse, many military family members have taken time off from their own jobs or even left those jobs completely in order to take care of their injured loved ones.

I was proud to sponsor the bill in the last Congress that doubled the amount of time that a military family member could take off under the Family and Medical Leave Act. But it's still unpaid leave, Mr. Speaker, and few Americans can afford that, particularly now. That is why we need to revisit the law and to amend it to provide paid leave under FMLA.

Mr. Speaker, there are many other things that we must do to help our brave veterans. Our new Veterans' Affairs Secretary, former General Eric Shinseki, has promised to make employment to veterans a top priority. He also wants to fast-track implementation of the new GI Bill, which will help more veterans to get the education they will need to succeed in the workforce.

I also know that my good friend, HILDA SOLIS, will make veterans' employment a priority when she becomes our new Secretary of Labor. She has seen firsthand the challenges that the servicemen and women face when they try to get jobs. I know that she will work to expand the Department of Labor's programs and job training and job search assistance for veterans.

Most importantly, Congress must move with a sense of urgency to pass an effective and far-reaching economic recovery package. The President's proposal is a very good start, but it needs to do even more to create jobs for veterans, because veterans have a lot to offer employers. They are mature, they are skilled, hardworking, dedicated, respectful of authority, and they know how to be part of a team. And they have proven that they can do their job even under the toughest of circumstances.

All they need, Mr. Speaker, is a chance. They did their job in Iraq and Afghanistan. Now it's time for us to do our job and to send an economic recovery package to the President's desk that will give our veterans and their families the bright future that they deserve.

BRING FEDERAL SPENDING UNDER CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, when a family is deeply head-over-heels in debt, they don't go out and borrow even more so they can double or triple spending, even if it would help the economy. And that is exactly the situation our government is in in regard to the so-called stimulus package, which we will take up again next week.

I voted against the big bailout of our financial firms both times. But the majority voted for this, and raised our national debt limit to an astounding $11.315 trillion. No one can comprehend a figure like $11.315 trillion. However, even worse, the Government Accountability Office has told us that we have over $55 trillion in unfunded future pension liabilities.

If we don't bring Federal spending under control, we will soon not be able to pay all of our Social Security, veterans' pensions, and all the other things we have promised our own people with money that will buy anything.

The Federal Government has become addicted to spending. The stimulus is a short-term fix that will cause even more serious problems in the very near future. Drug addicts prove every day that short-term fixes do not satisfy for very long.

When another Member of this body was asked a few days ago on MSNBC that, since our house was on fire, did we not need to pour water on it? He replied, Yes, but what we are doing with this stimulus package is like pouring kerosene on that fire.

The bill has some good things in it, but we simply cannot afford them. Probably the falsest charge made against those who oppose this stimulus is that we have to do something, and that if you vote against this, you're voting to do nothing.

First of all, we have, through the Treasury Department and the Federal Reserve, taken hundreds of billions of dollars worth of action in just the last few months. Because we rushed into some of those moves, we have been finding out that some of that money has been spent in ways that are simply ridiculous and in ways that justifiably angered the taxpayers.

One example. In fact, the Bank of America took $7 billion of the first $15 billion it received and increased its investment in a bank in China.

Now we are rushing through this stimulus package, and the taxpayers will find out over the next few weeks or months some of the ridiculous or wasteful things this money will be spent on.

What we should do is give these hundreds of billions in actions already taken some time to work, coupled with some really effective stimulus moves, like a cut in the payroll tax and a tax credit for people who buy or build homes or purchase cars or equipment.

Now, some of our leaders seem to be looking back in a dreamily but blind way to the New Deal. Most historians do not seem to realize this, but most economists realize that the New Deal delayed our recovery during the Depression.

In fact, in today's Washington Times, Mr. Speaker, 203 leading university economists have signed a full page ad which says, ''We, the undersigned, do not believe that more government spending is a way to improve economic performance. More government spending by Hoover and Roosevelt did not pull the United States economy out of the Great Depression in the 1930s. More government spending did not solve Japan's ''lost decade'' in the 1990s. As such, it is a triumph of hope over experience to believe that more government spending will help the U.S. today.''

These economists continue, ''To improve the economy, policymakers should focus on reforms that remove impediments to work, saving, investment and production. Lower tax rates and a reduction in the burden of government are the best ways of using fiscal policy to boost growth.''

That is an ad signed by 203 leading university economists in today's Washington Times.

Unemployment—just speaking about that—unemployment averaged over 17 percent a year all through the 1930s, and even averaged 10 percent during World War II. The Nation did not really begin the return to prosperity until after World War II ended.

Those who do not believe this should read a 2003 book by Jim Powell, called FDR's Folly—How Roosevelt and his New Deal Prolonged the Great Depression. Mr. Powell quotes David Kennedy, who wrote a Pulitzer Price-winning book in 1999, called Freedom From Fear, about the Great Depression.

Mr. KENNEDY wrote, ''Whatever it was, the New Deal was not a recovery program or, at least at any rate, not an effective one.''

Economists Richard Vedder and Lowell Gallaway wrote in 1977 that New Deal policies raised, ''labor costs, prolonging the misery of the Great Depression, and creating a situation where many people were living in rising prosperity at a time when millions of others were suffering severe deprivation.''

Vedder and Gallaway estimated that by 1940, unemployment was eight points higher than it would have been in the absence of higher payroll costs imposed by New Deal policies.

Economists Thomas Hall and J. David Ferguson reported, ''It is difficult to ascertain just how much the New Deal programs had to do with keeping the unemployment rate high, but surely they were important. A combination of fixing farm prices, promoting labor unions, and passing a series of antibusiness tax laws would certainly have had a negative impact on employment.''

Economist David Bernstein reported, ''New Deal labor policies contributed to a persistent increase in African American unemployment.''

Historian Michael Bernstein made a case that New Deal agriculture policies "sacrificed the interests of the marginal and the unrecognized to the welfare of those with greater political and economic power."

Mr. Powell summed his book up by saying, "A principle lesson for us today is that if economic shocks are followed by sound policies, we can avoid another Great Depression. A government will best promote a speedy business recovery by making recovery the top priority, which means letting people keep more of their money, removing obstacles to productive enterprise, and providing stable money and a political climate where investors feel that it's safe to invest for the future."

WE CANNOT SUBSIDIZE OR BORROW OUR WAY TO GROWTH

The SPEAKER pro tempore (Mr. BOCCIERI). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, when is the group in charge of the U.S. economy here in Washington going to wake up and take notice our trade accounts are as out of balance as our mortgage market?

Congress can't keep tweaking consumer purchasing with stimulus checks and then crossing its fingers in hopes that by some miracle it will actually lift our economy. More borrowed money simply means more short-term palliatives.

Hardworking families in our country do not need a consolation prize. They demand a real solution. What they need is a workable path by which they can become part of a growing economy. When recovery dollars are spent on goods largely imported from somewhere else, the promised bang to rescue our economy is received but as a mere whimper.

Congress must address the greater trade and tax structure problems pulling on our purse strings. Take, for example, trade deficits growing between our Nation and industrialized economies from other parts of the world. Those are just getting worse. Like the outsourcing of U.S. jobs. What are we going to do about that? Like global closed markets. Who's going to open those up? And, like the value added tax, which creates such a damper on U.S. production.

A trillion dollars more in spending by Congress will miss the real mark of

healing our economy by adding the important legs of tax reform and trade reform. While trade laws and tax laws remain as critical components of real long-term recovery, we cannot subsidize or borrow our way to growth. We are already paying over $200 billion on borrowed money to foreign interests, and those numbers are going to grow. And they are more than willing to put America in hock.

Wake up and take notice. If we want to see the benefits of growth, America must produce, not placate its way to prosperity.

As we approach NAFTA's 15-year anniversary, let's take a look at a textbook example of failed promises of prosperity. When NAFTA passed Congress by a tiny margin in 1993, proponents like President Clinton said that this new trade agreement would bring unprecedented prosperity and create millions of jobs across America. It was said the agreement would lock in trade surpluses, expand trade gains, and solve many of the social and economic ills facing North America, like illegal immigration.

Let's take a look at the record. On its 10th anniversary, the U.S.-Mexico trade surplus wallowed into an estimated $40 billion deficit.

□ 1715

And U.S. jobs reported lost? 879,000. And workers' wages? They failed to keep pace with productivity gains. We have not seen a single year of trade balance with Mexico since 1994, much less a surplus as was promised.

The growing trade deficit with Mexico is just one staggering figure in our trade deficit accounts. Wages in Mexico have fallen dramatically, and the drug trade has snuggled up against our border and yielded murder as well as violent crime that has surged over into our country in places like Phoenix. And there is an upheaval churning on both sides of the border.

Fifteen years ago, NAFTA was sold by the Clinton administration as a development strategy for Mexico, promising alleviation of poverty and inequity, while simultaneously halting illegal border crossings because it promised so much opportunity at home for Mexicans. Sound familiar? It is no surprise that many of the Wall Street proponents of the bailout were the same ones who wrote NAFTA 15 years ago and fought on the side of big business, just like today. Take Citigroup, for example, or Goldman Sachs. They were in there with both fists.

Mr. DREIER. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I will be pleased to yield to the gentleman when I am finished.

A healthy economy will require policy changes, not cough drops. We need products on our shelves that are produced by Americans. We need real wealth creation here at home. We need trade that is prosperous and balanced, in the black, not in the red. And, we must infuse the power of our marketplace here at home to produce long term, to spur the necessary social and physical infrastructures to restore economic strength to our Nation rather than growing weakness. We need free trade among free people. America needs balanced trade accounts, not more trade deficits and one-sided trade agreements. And America needs production, not subsidy.

Most of all, we need changes in our trade policies and our tax policies that create real investment and long-term growth in our Nation so we don't have to continue borrowing our way forward and making our children and grandchildren debtors into the vast part of this new century and millennium.

Now, the gentleman, who was a chief opponent to my views on NAFTA, what does he have to report as he asks for some of this time?

Mr. DREIER. I thank the gentlewoman for yielding. I wanted to rise and congratulate her for making some very good points, and to say that I completely concur with her argument in support of free trade among free peoples.

And I believe that if you look at the dramatic changes that have taken place, still very serious problems, the gentlewoman is absolutely right in focusing on narcotrafficking, which has been one of the most serious challenges. And President Felipe Calderon, the relatively new president of Mexico, has been very bold and courageous in standing up to those narcotraffickers.

And it is true, much of that has spilled over into the United States. But I believe that the fact that we are working together, Mexico and the United States, to try and focus on narcotrafficking and to try and encourage greater commerce so that we can sell more into Mexico is in fact a very good policy for us to pursue. We have the North American Free Trade Agreement. It is my hope, Mr. Speaker, that we will be able to build on that so that we can address the very correct concerns that my colleague has raised. And I thank my friend for yielding.

Ms. KAPTUR. I thank the gentleman for his comments, and just say I just wish that the main product that was being sent here wasn't illegal narcotics.

DEFICIT SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, I do appreciate my friend from Ohio pointing out the problems that arise with the trade deficit. That has been a problem.

When I first came here and was sworn in on this House floor back January of 2005, what I began to hear from the other side of the aisle, correctly, was that the Republicans controlled the White House, they controlled the House, and controlled the Senate, and they are spending too much money. They are engaged in deficit spending, and it has to stop. And they were right.

In my first 2 years here, we had on some bills the White House asking for way too much money; and, to try to be a party that went along with the President, many of my colleagues would say we have got to do this, we are in charge, and money got spent when it shouldn't have been spent. And we should have been better about not having deficit spending, but we blew it, and the American voters called us on it, properly.

I say us. I was often not happy and on the contrary, and some in my party called me a troublemaker and still do. But we call them the way we see them. And the fact is, deficit spending was wrong when it was being done by a Republican White House and Congress, or requesting from the Congress and the Republican Congress was doing it, because it is the Congress that does the appropriations, and it is wrong today. And so in November of 2006, when the Democrats were put in the majority in both the House and the Senate, I was hoping we would see the end of deficit spending, just as they promised. But that is not what happened. The deficit spending has gotten increasingly higher, and now in the first few weeks of this new term it has hit an all-time high.

You can't spend your way to prosperity. It doesn't work when you are spending your grandchildren and your great grandchildren's money. And you know, you have to know some day when we are dead and gone they are going to be cussing our names: Why did you run us up into such debt so we couldn't live like you did because you wouldn't control your spending? That is our obligation, and we owe so much better to the children and the generations to come.

There was a Rasmussen poll today that came out, and it says 45 percent of the American public are in favor of a tax cut-only stimulus bill. Stop the run-away spending on things that aren't stimulus. Why would Congress do that? Why did Congress do it, and why is it increasing in such a dramatic scale?

Well, there is an atmosphere of arrogance that is growing all the time in Washington that the people out there who are stimulating the economy, they are working, they are doing all they can, well, there are some in Washington who think they are just too stupid to spend the money so that it stimulates the economy, so we must have people in Washington, who know so much more and are so much better at spending other people's money, let the

people in Washington spend the hard-working folks' money.

In the last couple of weeks we had $350 billion, the second half of that bailout that was such a mistake back in September, that other half has been allocated and approved. Then you add the $819 billion plus whatever the Senate is going to add, you put those together, it is around $1.2 trillion. Why is that a significant number? Because $1.2 trillion happens to be the amount basically that every individual income taxpayer in America will pay for 2008 income tax. You want to see the economy stimulated? You give back every dime that every individual taxpayer paid in 2008, you will see the economy stimulated.

I am not even advocating that. I am just saying, give people back their money in their next two paychecks, the next two months' paychecks, a 2-month tax holiday, a 16⅔ percent tax cut for this year. A study by Moody's Economy says that will increase the GDP more in 1 year than any other tax proposal out there. It would be a 2-month tax holiday. And for those who don't make enough to pay income tax, you get to keep your FICA, so everyone, just like President Obama promised, will get an income tax holiday. You will get your money back.

But I was told last week when President Obama—and you can't be in a room with that guy and not really like him. He is a likeable, smart, congenial man. And when I was telling him about the tax holiday idea, it is not 3 months, 6 months, next year, it is in your next paycheck. He wanted the idea talked about, and now Larry Summers won't call me back.

EXECUTIVE COMPENSATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. I am all for the private sector paying executives whatever the private sector wants to, but it is very different when the so-called private sector firms, the firms that demand hundreds of billions of dollars in Federal funds, decide that they want to pay executives lavish salaries and enormous bonuses. That is why I have come to this floor often to talk about the executive compensation of those firms that have benefited from the $700 billion bailout also known as the TARP.

Why is this executive compensation issue important for those companies that have received TARP funds?

First, because of fairness. Executives who have driven their companies into the ditch so badly that they need a Federal bailout shouldn't be receiving enormous salaries.

Second, our constituents demand it. And if you don't think they demand it, see what happens when the administration comes, having gotten the second $350 billion and asks for another one-half trillion dollars, a third installment on the TARP. We will hear from our constituents.

Third, the law we passed demands that there be reasonable standards of executive compensation at every company that receives TARP funds. I thought the Bush administration would fail to follow that law, one of the many reasons I voted against it, and Section 111 of the TARP bill continues not to be applied.

And finally, and most importantly, our economy demands that we be tough with those who are coming to Washington for bailouts, because otherwise every executive and every industry is going to be coming here asking for a bailout.

So I was surprised this morning when my staff called me and said, ''Congressman, announce victory. President Obama and the Secretary of the Treasury have announced that we are going to have a $500,000 limit on executive compensation of those who have received TARP funds.'' That was even stricter than the limit that I was proposing.

Unfortunately, the Treasury Department has now issued a detailed statement of how they are going to carry out this $500,000 limit, and they have made a mockery of the solemn pledge made today by the President of the United States to the American people. The headline is, ''$500,000 Limit.'' However, the text of the Treasury announcement has three giant loopholes that make a nullity out of the statement of the President.

First, the limit has no application to those companies who have already received money unless they come back for even more. So Citigroup and AIG, who have already received well over $40 billion apiece in government money, have no limits, and they can pay $1 million a month, $2 million a month, to whatever executive they choose.

But, second, what about those companies that are going to get more money in the future? How are they affected by the Treasury Department's interpretation of the President's statement? Well, they can pay any amount they want as long as they have a shareholder vote. And here is the beautiful part. They can pay it even if the shareholders vote against paying it. It is a nonbinding resolution. So you can get a huge amount of money from the government before today, then get another helping of TARP money after today and pay any executive anything you want as long as you have a nonbinding resolution of your shareholders which you are free to ignore.

Now, there are a few companies that are going to face a real limit, not the ones who got the first helping like the $25 billion that went to the major banking institutions; not those who got their second helping, an extraordinary amount of money that they may have gotten prior to today; not those who got the third helping of TARP funds, the ''ordinary'' amount that might be distributed in the future. But if you come back for a fourth helping, then and only then do you face a real $500,000 limit on executive compensation.

Finally, the proposal is supposed to contain limits on luxury perks. But what does the proposal really contain in the fine print? It says that the board of directors of these companies has got to adopt a policy dealing with such items as private jets and lavish parties. Well, these are the boards of directors who have already approved every private jet and the concept behind every lavish party that these companies have already had. So what good is it to have these same board of directors adopt new policies which will simply mirror their own old policies on luxury perks?

I look forward to working with the administration, with the Treasury Department, so that the words of the President of the United States to the American people today are not rendered moot, but rather are actually carried out. We need a real $500,000 limit on all those firms that are holding our TARP funds, our taxpayer money. And I hope those companies choose to return the money to the Treasury, then they can pay their executives whatever they want.

□ 1730

PUBLICATION OF THE RULES OF THE COMMITTEE ON THE BUDGET, 111TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, pursuant to House Rule XI clause 2, I am submitting the Committee on the Budget's rules for the 111th Congress. The rules were adopted during our Committee's organizational meeting, which was held January 22, 2009.

RULES OF PROCEDURE OF THE COMMITTEE ON THE BUDGET, HOUSE OF REPRESENTATIVES OF THE UNITED STATES, 111TH CONGRESS

GENERAL APPLICABILITY

Rule 1—Applicability of House Rules

Except as otherwise specified herein, the Rules of the House are the rules of the committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege.

MEETINGS

Rule 2—Regular meetings

(a) The regular meeting day of the committee shall be the second Wednesday of each month at 11 a.m., while the House is in session.

(b) The chairman is authorized to dispense with a regular meeting when the chairman determines there is no business to be considered by the committee. The chairman shall give written notice to that effect to each

member of the committee as far in advance of the regular meeting day as the circumstances permit.

(c) Regular meetings shall be canceled when they conflict with meetings of either party's caucus or conference.

Rule 3—Additional and special meetings

(a) The chairman may call and convene additional meetings of the committee as the chairman considers necessary, or special meetings at the request of a majority of the members of the committee in accordance with House Rule XI, clause 2(c).

(b) In the absence of exceptional circumstances, the chairman shall provide written notice of additional meetings to the office of each member at least 24 hours in advance while Congress is in session, and at least 3 days in advance when Congress is not in session.

Rule 4—Open business meetings

(a) Each meeting for the transaction of committee business, including the markup of measures, shall be open to the public except when the committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, clause 2(g)(1).

(b) No person other than members of the committee and such congressional staff and departmental representatives as the committee may authorize shall be present at any business or markup session which has been closed to the public.

Rule 5—Quorums

A majority of the committee shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present.

Rule 6—Recognition

Any member, when recognized by the chairman, may address the committee on any bill, motion, or other matter under consideration before the committee. The time of such member shall be limited to 5 minutes until all members present have been afforded an opportunity to comment.

Rule 7—Consideration of business

Measures or matters may be placed before the committee, for its consideration, by the chairman or by a majority vote of the members of the committee, a quorum being present.

Rule 8—Availability of legislation

The committee shall consider no bill, joint resolution, or concurrent resolution unless copies of the measure have been made available to all committee members at least 6 hours prior to the time at which such measure is to be considered. When considering concurrent resolutions on the budget, this requirement shall be satisfied by making available copies of the complete chairman's mark (or such material as will provide the basis for committee consideration). The provisions of this rule may be suspended with the concurrence of the chairman and ranking minority member.

Rule 9—Procedure for consideration of budget resolution

(a) It shall be the policy of the committee that the starting point for any deliberations on a concurrent resolution on the budget should be the estimated or actual levels for the fiscal year preceding the budget year.

(b) In the consideration of a concurrent resolution on the budget, the committee shall first proceed, unless otherwise determined by the committee, to consider budget aggregates, functional categories, and other appropriate matters on a tentative basis, with the document before the committee open to amendment. Subsequent amendments may be offered to aggregates, functional categories, or other appropriate matters, which have already been amended in their entirety.

(c) Following adoption of the aggregates, functional categories, and other matters, the text of a concurrent resolution on the budget incorporating such aggregates, functional categories, and other appropriate matters shall be considered for amendment and a final vote.

Rule 10—Roll call votes

A roll call of the members may be had upon the request of at least one-fifth of those present. In the apparent absence of a quorum, a roll call may be had on the request of any member.

HEARINGS

Rule 11—Announcement of hearings

The chairman shall make a public announcement of the date, place, and subject matter of any committee hearing at least 1 week before the hearing, beginning with the day in which the announcement is made and ending the day preceding the scheduled hearing unless the chairman, with the concurrence of the ranking minority member, or the committee by majority vote with a quorum present for the transaction of business, determines there is good cause to begin the hearing sooner, in which case the chairman shall make the announcement at the earliest possible date.

Rule 12—Open hearings

(a) Each hearing conducted by the committee or any of its task forces shall be open to the public except when the committee or task force, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, or would compromise sensitive law enforcement information, or would tend to defame, degrade, or incriminate any person, or would violate any law or rule of the House of Representatives. The committee or task forces may by the same procedure vote to close one subsequent day of hearing.

(b) For the purposes of House Rule XI, clause 2(g)(2), the task forces of the committee are considered to be subcommittees.

Rule 13—Quorums

For the purpose of hearing testimony, not less than two members of the committee shall constitute a quorum.

Rule 14—Questioning witnesses

(a) Questioning of witnesses will be conducted under the 5-minute rule unless the committee adopts a motion pursuant to House Rule XI clause 2(j).

(b) In questioning witnesses under the 5-minute rule:

(1) First, the chairman and the ranking minority member shall be recognized;

(2) Next, the members present at the time the hearing is called to order shall be recognized in order of seniority; and

(3) Finally, members not present at the time the hearing is called to order may be recognized in the order of their arrival at the hearing.

In recognizing members to question witnesses, the chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

Rule 15—Subpoenas and oaths

(a) In accordance with House Rule XI, clause 2(m) subpoenas authorized by a majority of the committee may be issued over the signature of the chairman or of any member of the committee designated by him, and may be served by any person designated by the chairman or such member.

(b) The chairman, or any member of the committee designated by the chairman, may administer oaths to witnesses.

Rule 16—Witnesses' statements

(a) So far as practicable, any prepared statement to be presented by a witness shall be submitted to the committee at least 24 hours in advance of presentation, and shall be distributed to all members of the committee in advance of presentation.

(b) To the greatest extent possible, each witness appearing in a nongovernmental capacity shall include with the written statement of proposed testimony a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or sub-grant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years.

PRINTS AND PUBLICATIONS

Rule 17—Committee prints

All committee prints and other materials prepared for public distribution shall be approved by the committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the committee.

Rule 18—Committee publications on the Internet

To the maximum extent feasible, the committee shall make its publications available in electronic form.

STAFF

Rule 19—Committee staff

(a) Subject to approval by the committee, and to the provisions of the following paragraphs, the professional and clerical staff of the committee shall be appointed, and may be removed, by the chairman.

(b) Committee staff shall not be assigned any duties other than those pertaining to committee business, and shall be selected without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions.

(c) All committee staff shall be entitled to equitable treatment, including comparable salaries, facilities, access to official committee records, leave, and hours of work.

(d) Notwithstanding paragraphs a, b, and c, staff shall be employed in compliance with House rules, the Employment and Accountability Act, the Fair Labor Standards Act of 1938, and any other applicable Federal statutes.

Rule 20—Staff supervision

(a) Staff shall be under the general supervision and direction of the chairman, who shall establish and assign their duties and responsibilities, delegate such authority as he deems appropriate, fix and adjust staff salaries (in accordance with House Rule X, clause 9(c)) and job titles, and, at his discretion, arrange for their specialized training.

(b) Staff assigned to the minority shall be under the general supervision and direction of the minority members of the committee, who may delegate such authority, as they deem appropriate.

RECORDS

Rule 21—Preparation and maintenance of committee records

(a) A substantially verbatim account of remarks actually made during the proceedings shall be made of all hearings and business meetings subject only to technical, grammatical, and typographical corrections.

(b) The proceedings of the committee shall be recorded in a journal, which shall among other things, include a record of the votes on any question on which a record vote is demanded.

(c) Members of the committee shall correct and return transcripts of hearings as soon as practicable after receipt thereof, except that any changes shall be limited to technical, grammatical, and typographical corrections.

(d) Any witness may examine the transcript of his own testimony and make grammatical, technical, and typographical corrections.

(e) The chairman may order the printing of a hearing record without the corrections of any member or witness if he determines that such member or witness has been afforded a reasonable time for correction, and that further delay would seriously impede the committee's responsibility for meeting its deadlines under the Congressional Budget Act of 1974.

(f) Transcripts of hearings and meetings may be printed if the chairman decides it is appropriate, or if a majority of the members so request.

Rule 22—Access to committee records

(a)(1) The chairman shall promulgate regulations to provide for public inspection of roll call votes and to provide access by members to committee records (in accordance with House Rule XI, clause 2(e)).

(2) Access to classified testimony and information shall be limited to Members of Congress and to House Budget Committee staff and staff of the Office of Official Reporters who have appropriate security clearance.

(3) Notice of the receipt of such information shall be sent to the committee members. Such information shall be kept in the committee safe, and shall be available to members in the committee office.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

OVERSIGHT

Rule 23—General oversight

(a) The committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject of which is within its jurisdiction.

(b) The committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under clause (1)(d) of Rule X of the Rules of the House, and, subject to the adoption of expense resolutions as required by clause 6 of Rule X, to incur expenses (including travel expenses) in connection therewith.

(c) Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Administration and the Committee on Oversight and Government Reform in accordance with the provisions of clause (2)(d) of House Rule X.

REPORTS

Rule 24—Availability before filing

(a) Any report accompanying any bill or resolution ordered reported to the House by the committee shall be available to all committee members at least 36 hours prior to filing with the House.

(b) No material change shall be made in any report made available to members pursuant to section (a) without the concurrence of the ranking minority member or by a majority vote of the committee.

(c) Notwithstanding any other rule of the committee, either or both subsections (a) and (b) may be waived by the chairman or with a majority vote by the committee.

Rule 25—Report on the budget resolution

The report of the committee to accompany a concurrent resolution on the budget shall include a comparison of the estimated or actual levels for the year preceding the budget year with the proposed spending and revenue levels for the budget year and each out year along with the appropriate percentage increase or decrease for each budget function and aggregate. The report shall include any roll call vote on any motion to amend or report any measure.

Rule 26—Parliamentarian's Status Report and Section 302 Status Report

(a)(1) In order to carry out its duty under sections 311 and 312 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending and revenues as compared to the levels set forth in the latest agreed-upon concurrent resolution on the budget, the committee shall advise the Speaker on at least a monthly basis when the House is in session as to its estimate of the current level of spending and revenue. Such estimates shall be prepared by the staff of the committee, transmitted to the Speaker in the form of a Parliamentarian's Status Report, and printed in the Congressional Record.

(2) The committee authorizes the chairman, in consultation with the ranking minority member, to transmit to the Speaker the Parliamentarian's Status Report described above.

(b)(1) In order to carry out its duty under sections 302 and 312 of the Congressional Budget Act to advise the House of Representative as to the current level of spending within the jurisdiction of committees as compared to the appropriate allocations made pursuant to the Budget Act in conformity with the latest agreed-upon concurrent resolution on the budget, the committee shall, as necessary, advise the Speaker as to its estimate of the current level of spending within the jurisdiction of appropriate committees. Such estimates shall be prepared by the staff of the committee and transmitted to the Speaker in the form of a Section 302 Status Report.

(2) The committee authorizes the chairman, in consultation with the ranking minority member, to transmit to the Speaker the Section 302 Status Report described above.

Rule 27—Activity report

After an adjournment of the last regular session of a Congress sine die, the Chair of the committee may file any time with the Clerk the committee's activity report for that Congress pursuant to clause (1)(d)(1) of rule XI of the Rules of the House without the approval of the committee, if a copy of the report has been available to each member of the committee for at least seven calendar days and the report includes any supplemental, minority, or additional views submitted by a member of the committee.

MISCELLANEOUS

Rule 28—Broadcasting of meetings and hearings

(a) It shall be the policy of the committee to give all news media access to open hearings of the committee, subject to the requirements and limitations set forth in House Rule XI, clause 4.

(b) Whenever any committee business meeting is open to the public, that meeting may be covered, in whole or in part, by television broadcast, radio broadcast, still photography, or by any of such methods of coverage, in accordance with House Rule XI, clause 4.

Rule 29—Appointment of conferees

(a) Majority party members recommended to the Speaker as conferees shall be recommended by the chairman subject to the approval of the majority party members of the committee.

(b) The chairman shall recommend such minority party members as conferees as shall be determined by the minority party; the recommended party representation shall be in approximately the same proportion as that in the committee.

Rule 30—Waivers

When a reported bill or joint resolution, conference report, or anticipated floor amendment violates any provision of the Congressional Budget Act of 1974, the chairman may, if practical, consult with the committee members on whether the chairman should recommend, in writing, that the Committee on Rules report a special rule that enforces the Act by not waiving the applicable points of order during the consideration of such measure.

REVISION TO BUDGET ALLOCATIONS AND AGGREGATES FOR CERTAIN HOUSE COMMITTEES FOR FISCAL YEARS 2008 AND 2009 AND THE PERIOD OF FISCAL YEARS 2009 THROUGH 2013

Mr. SPRATT. Madam Speaker, under section 201 of S. Con. Res. 70, the Concurrent Resolution on the Budget for fiscal year 2009, I hereby submit for printing in the CONGRESSIONAL RECORD a revision to the budget allocations and aggregates for certain House committees for fiscal years 2008 and 2009 and the period of fiscal years 2009 through 2013. This revision represents an adjustment to certain House committee budget allocations and aggregates for the purposes of sections 302 and 311 of the Congressional Budget Act of 1974, as amended, and in response to consideration of the Senate amendment to the bill H.R. 2 (Children's Health Insurance Program Reauthorization Act of 2009). Corresponding tables are attached.

Under section 323 of S. Con. Res. 70, this adjustment to the budget allocations and aggregates applies while the measure is under consideration. The adjustments will take effect upon enactment of the measure. For purposes of the Congressional Budget Act of 1974, as amended, a revised allocation made under

section 323 of S. Con. Res. 70 is to be considered as an allocation included in the resolution.

BUDGET AGGREGATES

[On-budget amounts, in millions of dollars]

	Fiscal Year 2008 [1]	Fiscal Year 2009 [1 2]	Fiscal Years 2009–2013
Current Aggregates:——			
Budget Authority–	2,564,244–	2,532,592–	n.a.
Outlays–	2,466,685–	2,572,179–	n.a.
Revenues–	1,875,401–	2,029,659–	11,780,293
Change in the Childrens' Health Insurance Program Reauthorization Act (H.R. 2):			
Budget Authority–	0–	10,621–	n.a.
Outlays–	0–	2,387–	n.a.
Revenues–	0–	3,801–	32,826
Revised Aggregates:——			
Budget Authority–	2,564,244–	2,543,213–	n.a.
Outlays–	2,466,685–	2,574,566–	n.a.
Revenues–	1,875,401–	2,033,460–	11,813,119

n.a. = Not applicable because annual appropriations Acts for fiscal years 2010 through 2013 will not be considered until future sessions of Congress.
[1] Current aggregates include spending covered by section 301(b)(1) (overseas deployments and related activities) that has not been allocated to a committee.
[2] Current aggregates do not include Corps of Engineers emergency spending assumed in the budget resolution, which will not be included in current level due to its emergency designation (section 301(b)(2)).

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES

[Fiscal years, in millions of dollars]

	2008–		2009–		2009–2013 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
House Committee:						
Current allocation:						
Energy and Commerce	89	81	884	847	3,153	3,148
Change in the Childrens' Health Insurance Program Reauthorization Act (H.R. 2):						
Energy and Commerce	0	0	10,621	2,387	50,060	32,817
Revised allocation:						
Energy and Commerce	89	81	11,505	3,234	53,213	35,965

AMERICA'S FINANCIAL CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Mr. Chairman, it is a pleasure to be able to join with some of my colleagues here tonight. And we're going to be talking about a subject that is, I believe, near and dear to many people's hearts, or at least of concern to many people. And I suppose one way to introduce this subject would be to take a look at something that has been in the news now for 6 and 7 years, and that would be the subject of how much money we have spent in the war in Iraq.

Many people were observing that we were spending way too much money, that the budget was out of balance and we are just wasting money over in Iraq and in Afghanistan. And yet ironically, in the very first month of this new administration and this new Congress, we spent more money in that first month than what we spent in 2 years in the two different wars for 6 and 7 years added together. If you add all of the money spent in Iraq, all of the money spent in Afghanistan and add it all together, it is less than what we spent in the first couple of months of Congress this year.

Now, how do we get to that point? What brought this about? If you want to try to take a look at how much money does that mean, that says that we spent in the first month more money than the entire tax revenue that we're planning to collect for the year 2008. It would be as if you had your own family budget, and in January you spent all of your income for the year. You have got 11 very lean months to take a look at.

So how is it that we got to this point? That is what we are going to be talking about. We're going to have a nice kind of roundtable discussion with many people from different States. And so I want to back up just a little bit and take a look at how did we get to this point that we have the economy in the condition that it's in?

Well, the story goes back quite a ways. It goes back to the Carter years. People found that as people were trying to get mortgages, particularly in certain areas of economically disadvantaged areas in various cities, that it was hard for them to get home loans. And so they put together the Community Reinvestment Act. And in a sense, what it was saying to banks is, you have got to take a few of your loans and loan them to people who it's not clear that they will be able to pay it back, because somehow or another people everywhere need to have a chance to buy a home and to own a home.

Well, that idea was then followed up with the creation of a couple of quasi-governmental but also quasi-private organizations that were little known at the time called Freddie Mac and Fannie Mae. And those organizations were in the same business of trying to help people that were sort of middle-income buyers or lower-income buyers to be able to buy a house. And so they helped to write loans and underwrite loans. The theory was, at least implicit, that the government IOU was behind the things that Freddie and Fannie took care of.

Then as we moved along further, we moved up to the Clinton era. Toward the end of Clinton's days, what he did was increased the percentage of the loans that Freddie and Fannie had to make and increased the percentage of them that were very risky loans. In other words, essentially what he was saying was that the government is forcing Freddie and Fannie to make loans and that we know an awful lot of them are not going to be paid. And of course when you start to mandate that quasi-governmental groups are going to make bad loans, then pretty soon you're going to have trouble.

Well, this coincided then, as we move along a couple further years, to the era when Alan Greenspan drops the interest rates extremely low because the economy is tanking. In 2000, Greenspan started dropping the interest rates. And then you create this idea of, well, hey, if we have got all of this money at tremendously low interest rates, where are you going to park it? Well, let's park it in real estate because real estate always goes up. You can't make a mistake in real estate.

In my first early days here at Congress, boy, did I feel stupid that I hadn't bought a great big multimillion-dollar house, because if I could have just afforded the interest payments on it for 4 years, it would have doubled in

value between 2000 and 2004 or 2005. Of course, I would have to have been smart enough to buy it in 2000 and smart enough to sell it by 2005.

Well, as everybody knows, that old bubble popped. And increasingly all of these loans that were being made started in the process of defaulting. And it was not just people in economically disadvantaged areas that were making these loans. No. Wall Street got into the deal. And so did the speculators. And so what started to happen was you had people going out there and selling all of these loans. The local banks went through the Community Reinvestment Act and would make the loans. But as soon as they made the loan, they turned it right on over to Fannie and Freddie, assuming that if anything goes wrong, the Federal Government is going to bail them out.

Then you get to the point where people are running around who are mortgage brokers. And they don't care what kind of job you have. If you want to borrow a half a million bucks, fine, because they simply write the loan, make the commission on the loan, and the loan is passed on largely to Freddie and Fannie.

In the meantime, Wall Street was taking all of these loans, packaging them together and slicing and dicing them and selling them all over the world and making a great deal of money in the process as the housing bubble was going up and up. Everything looked pretty good.

And then you had the rating agencies, such as Standard & Poor's or the other one would be Moody's. They were all giving these things Triple A ratings. This is good stuff. Everybody around the world, buy all of these loans that are made to people who we know really don't have the ability to pay these loans.

And so now you get this situation where you're spiraling upward and upward. The bubble is about to pop. Did anybody see it coming? Well, the answer is, yes, as a matter of fact they did. President Bush saw it coming. He saw it coming in 2003. And he approached the legislature. He said, I have got to have the legislative authority to rein Freddie and Fannie in because these guys are going crazy making these loans, and it's going to mess the whole economy up.

And so Congress, while we were in the majority in 2004, we passed a bill that allowed the President to have the authority to regulate Freddie and Fannie to stop this runaway train. It went to the Senate, and it was killed by the Democrats.

Now let's take a look at what appeared in the New York Times, not exactly a right-wing oracle, about that very time, September 11, 2003. And this is part of the quote, September 11, 2003, New York Times, ''These two entities, Fannie Mae and Freddie Mac, are not facing any kind of financial crisis.'' Who would say that? Representative BARNEY FRANK of Massachusetts, the ranking Democrat on the Financial Services Committee. ''The more people exaggerate these problems, the more pressure there is on these companies, the less we will see in terms of affordable housing.''

Mr. BROUN of Georgia. Would the gentleman yield?

Mr. AKIN. I would yield to the gentleman from Georgia who is quite an authority on this subject. Thank you for joining us tonight, gentleman.

Mr. BROUN of Georgia. Mr. AKIN, I just appreciate your yielding time. I would like to clarify something you said here just for my own personal edification and I hope the edification of the people who are watching tonight. You said just a few moments ago that the President of the United States asked for more regulatory authority over Freddie and Fannie. Is that correct?

Mr. AKIN. That's correct. That was 2003 in the New York Times, September 11, the President sees this coming, he says that we've got to regulate them more.

I'm reclaiming my time. People are saying that this is a failure of free enterprise. This has nothing to do with the failure of free enterprise. This is a failure of socialism.

Mr. BROUN of Georgia. That is what I wanted to clarify, if you don't mind yielding back a second. But the thing is, the President of the United States, President Bush, who I have not always been in agreement with on many things, but he was asking to regulate these GSEs, government-sponsored enterprises, Freddie Mac and Fannie Mae. And it was actually Freddie and Fannie, along with the Community Reinvestment Act, plus the low interest rates that were out there so that these subprime loans could be made. This is what created our housing bubble that just rose so quickly and then burst so rapidly that the housing prices went down. If I remember correctly, the Republicans in the House, we also, in fact, passed a bill. Is that not correct?

Mr. AKIN. That's correct. We passed a bill. Reclaiming my time, we did pass a bill. And this is something that we saw as a problem. But as you will recall, the way that the Senate body works, while we sent legislation over to them, this article goes on to say the Democrats opposed it. And we did have the 60 votes to get it passed. So nothing was done. And perhaps if there is any blame that needs to be made on the economy being in the condition it's in, it really rests with the U.S. Congress, with the House and the Senate.

Now these other rating agencies that said that you're going to give a Triple A rating to this trash, certainly they ought to have to be accountable as well. And certainly Wall Street was knowing that they were selling trash and rating it Triple A and selling it all over the world. It wasn't that they hadn't done some things wrong, but to allow that to happen, first of all, the Congress was out to lunch.

Mr. BROUN of Georgia. But it was not the free enterprise system. It was not deregulation. It was not anything except for the Democrats here in Congress that blocked regulation. And it was, actually, there were programs that were established by Congress. If I remember correctly, the Carter administration passed the Community Reinvestment Act initially. And under the Clinton administration it was markedly expanded to force banks to make these loans where people couldn't pay. Is that not correct?

Mr. AKIN. Reclaiming my time, my understanding was what Clinton did was not so much in the Community Reinvestment Act, although that was done with ACORN and all, but more particularly he specifically required that Fannie and Freddie make loans that essentially we knew weren't going to be any good. I yield.

Mr. BROUN of Georgia. I appreciate that. So, the Community Reinvestment Act, and that is where I was going, and I appreciate your mentioning that, and ACORN became a bunch of thugs using extortion. That is what I hear from my bankers at home in Georgia, that ACORN folks would come in and threaten them because they couldn't expand their services and they couldn't put in ATM machines unless they would make these bad loans. And that is what created this whole financial debacle. And the blame, though, lies right at the feet of the people who are pushing this stimulus package saying it was free enterprise.

Mr. AKIN. Reclaiming my time, gentlemen. I think you struck something that strikes me as being a tremendous irony. The people who created the problem now are charged with fixing it. And that leaves us in kind of an interesting—and I think that the reason that I wanted to take a little bit of time with you, gentlemen, and knowing that you know this subject, the reason I want to take time on it is because sometimes people want to say, oh, we don't want to go witch-hunting or go looking at who we are going to blame. But on the other hand, if we don't understand how we got into the problem, we will end up doing the same dumb thing over again. And that is my concern.

Mr. BROUN of Georgia. Absolutely. If the gentleman will yield, I'm a physician, as the gentleman knows. And in medical practice we look at problems and we try to find solutions to those problems. In fact, it is quite different from what lawyers do. Lawyers generally just argue problems. We try to fix problems. We try to find solutions to those problems. And so we look at

all the symptoms. We look at the causative factors that come to bear in any disease entity.

Now we've got a horrible disease problem of a poor economy. The American people are hurting, hurting terribly. And we're right now in a debate about a bill that the House passed last week, the Senate is taking it up now. But there is in my opinion a tremendous amount of blindness by our colleagues, particularly on the other side, about what are the causation factors of the housing burst that has really created this economic problem that we have in this Nation.

□ 1745

And I commend the gentleman for bringing this up because that statement that the New York Times put in place, I think, is very indicative of what's going on now. And I heard the same people who were arguing back in 2003 and earlier against regulating Fannie and Freddie, those same people, when we were talking about the TARP funds, the Wall Street bailout, kept making a case that we need to make more of these loans in the name of affordable housing, make those loans to people who cannot afford to pay them.

Mr. AKIN. Reclaiming my time, you know, gentlemen, somehow or other people want to try and package this as compassionate. I'm trying to think of people such as myself or other people in my district and what happens if you put someone into a house, and maybe they can afford a $250,000 house, and you put them in a $400,000 house, and all of a sudden, every month they've got that mortgage payment coming due; and the financial pressure, it starts to drive the husband and wife apart and make the children's lives hell as eventually they end up on a street side with their sofa on the sidewalk because they can't afford it. How is that compassionate? I don't understand.

But gentleman, I note that we have some other distinguished guests here. Could we come back to you in just a minute?

Mr. BROUN of Georgia. Well, I have to leave in a second.

Mr. AKIN. I will yield.

Mr. BROUN of Georgia. I'd like to tell you and the American public a story if you yield just another minute or two.

Mr. AKIN. I yield.

Mr. BROUN of Georgia. Okay. Thank you. I've got a friend who's in the timber land business. He buys and sells timber land. And he was telling me a story during this whole period of time when real estate prices were going up. He had a piece of property in my district on the market for $1.3 million. A gentleman came in and said, I want to buy your land. My buddy said fine. Here's the contract. The buyer signed it. Went to closing.

My good friend, when he got to closing, of course, got his check for the $1.3 million. But he found out because of the problems with the banking industry making these sub prime low doc, no doc, low documentation, no documentation loans, that the buyer actually borrowed $1.7 million for a $1.3 million piece of property. So he put $400,000 cash money in his pocket.

Now, if the property went up to $2 million or 2.1 or $2 million then the bank would be happy. Both the buyer, and the seller in this deal would have been happy, and everybody would have been fine.

But my friend found out that the buyer had no job. He had no assets. He had no way to pay for this loan for $1.7 million.

Mr. AKIN. So reclaiming my time, you're just giving an example of this absolutely crazy runaway policy that we have. It's basically a free money, you don't have any job, you don't have any money, borrow whatever you want and speculate and hope things work out right.

Mr. BROUN of Georgia. Well, that's the point I was trying to make if the gentleman would yield.

Mr. AKIN. I yield.

Mr. BROUN of Georgia. That's exactly the point I'm trying to make is that this whole banking industry debacle was crazy and it was set up by policy that Congress established, and Republicans tried to do something about it because we, as the Republican Party, people here in the House, members of the Banking Committee in the Senate, Financial Services over here on the House side, realized that this was a disaster in the making and they tried to do something about it. And every effort that we did was blocked by the Democrats, who, right now, today want to force down the throat of the American people this stimulus bill that, in reality, is nothing, nothing but a steam roller of socialism that's being shoved down the throat of the American public and it's going to strangle to death the American economy, as well as the American people.

Mr. AKIN. Reclaiming my time, gentleman, we are going to get to that very point that you're making, and I thank you so much, Congressman BROUN from Georgia. And I sometimes think of it as doctor, but now you're congressman. You've got a couple of different hats. I appreciate your just straightforward approach. This is what we're talking about that's hurting a whole lot of very small, very average people. And the thing that really makes me sick about it is we saw the thing coming, and not only has the American economy got a cold, we've given pneumonia to the rest of the world, and there are people starving because of these very policies.

And somehow, putting somebody in a house that they can't afford, I don't see how there's anything compassionate about that.

But we are joined by another doctor from the great State of Georgia as well, Dr. GINGREY, but maybe we should call him Congressman GINGREY. I would be happy to yield to you sir.

Mr. GINGREY of Georgia. And I thank the gentleman from Missouri for yielding. And I thank my colleague from Georgia, Dr. BROUN, for his timely and insightful comments.

It's good to join with you this hour, Mr. Speaker, to try to shed some light on this issue, a terribly important issue to the American people when we're in these rather dire economic circumstances. But the big problem, of course Representative AKIN and Representative BROUN, Mr. Speaker, spent time explaining how we got into this mess. And I think it's very important that they did this and kind of set the stage for where we are today, why we're here, how we got there, what the problem is and basically, who's to blame. And certainly, if you do the math, connect the dots, it's pretty clear. I won't go back through that important information.

But we're now trying to decide, Mr. Speaker, what to do about it, how to get out of this recession that we're in. And unfortunately, what the Democratic majority and what President Obama has recommended, I just don't think passes the smell test. I really feel that the likelihood of this being successful, when you look, Mr. Speaker, at the spending in this bill, this economic stimulus bill as it's called, where's the beef? I mean, the old expression—I don't see where there's anything or hardly anything in $825 billion that's going to do a whole lot of stimulating.

Mr. AKIN. Reclaiming my time just a minute. What you're doing is you're fast forwarding a little bit. We started by talking about how did we get in this mess. I was going to make just a comment. Sometimes people say this is as bad as the Great Depression. Certainly it's not. It's not as bad as what things were under Jimmy Carter when we had double digit unemployment and double digit inflation. But we can make it that bad if we work at it and do the wrong things. So that's scaling it.

Now, what you're talking about is we've got a solution that's being proposed. It's a solution that's proposed by the Pelosi Democrat Congress. We saw the vote on that last week. Not a single Republican voted for it. But they had a proposal, and I think it's great that we do have a problem. We acknowledge there's a problem, and they made a proposal. And that's what you're talking about, Doctor, and you're talking about the mechanics of what they're proposing, and I think we need to take a look at that. And what you're saying, from what I'm hearing you say is, you don't think it's going to work. And I yield.

Mr. GINGREY of Georgia. Well, if the gentleman will yield to me again and I appreciate it. He said it exactly right. It is the Pelosi proposal, the Democratic majority proposal, the Harry Reid proposal. But it's certainly not the Congressional proposal, because we Republicans, Mr. Speaker, are part of that mix. And as the gentleman from Missouri points out, we were never consulted. There was no essentially no markup, no regular order.

And as Representative AKIN says, the importance of getting it right—you know, some people use the expression for goodness sake, don't just sit there, do something. Well, I happen to be a doctor too, an OB/GYN doctor, and I know a lot of times it's better to not just do something, sit there. The baby will come.

But we're not recommending though that we do nothing, Mr. Speaker. We're just saying that when you've got a bill with 825, more in the Senate, billions of dollars in it, it needs to stimulate the economy for sure. And it needs to put people back to work for sure, not just maybe.

And as the gentleman from Missouri said, we could make matters far worse than they were in the late 70s under President Jimmy Carter, and we could even get as bad as it was back in 1929, 30, 31, 32, so we want to get it right.

And if the gentleman will bear with me just for a minute, I would appreciate it. I wanted to show a poster or two to just to kind of put the spending, the so-called stimulus, in perspective. And if my colleagues will look at this first poster, and the question at the top says, can you afford to pay for the Democratic spending bill? And basically, at $825 billion, the economic stimulus plan that's sailing through Congress would cost each American family more than $10,000 on average. More than $10,000. In fact $10,500.

Mr. AKIN. Reclaiming my time, you're saying this is $10,000 for every family in America is what this thing is going to cost?

Mr. GINGREY of Georgia. Exactly. If the gentleman will yield further. Exactly that's what I'm saying. And to put that in more perspective, the average family, for food, clothing and health care, an expensive line item in the family budget, food, clothing and health care, they spend $10,400 and for shelter, $11,600. Fully a third of that cost is what we're putting on their backs.

Listen, colleagues on both sides of the aisle, wouldn't we be better off just giving every family in America a check for $3,000? And we could probably end up doing it a whole lot cheaper than $825 billion. And by golly, that would work.

So that's what we're trying to do here tonight, Mr. Speaker, is just point out that there's a better way of doing this. We, in the Republican minority, who have not been included, not been asked except asked to vote for this thing, no questions asked, no amendments, we do have a better idea. And I know as we get further into the hour tonight, Mr. Speaker, we'll be talking about that. And I will look forward to that opportunity. I will yield back to the gentleman. I know there's others here on the floor that would like to speak on this issue.

Mr. AKIN. Reclaiming my time, I appreciate, Doctor, and Congressman your joining us and your perspective. I think when you start talking about $800 billion or $1 trillion, those are such box car size numbers, it's a little bit tricky to put them in perspective. I think you've done a great job when you bring it down to the fact that the stimulus package that was just passed last week by the Democrats, that would be your medical care and your food and clothing for an average family. That's what that would be. That's how much it's going to cost an average family. Or you could say it's what it costs you to have your house. Those are significant numbers. I think it brings it home, and we really to ask ourselves what are we getting for this stimulus package?

And with that, I note that we have a distinguished colleague of mine from all the way out on the West Coast, Congressman DREIER, who has been here a number of years and is really on top of these issues. It's an honor to have you joining us. I yield to the gentleman.

Mr. DREIER. Thanks for reminding me that I've been around a long time. I appreciate that very much.

Let me, Mr. Speaker, express my appreciation to my very good friend from St. Louis for taking this time to talk about what obviously is priority number one for working families all across this country, and that is survival; survival, because we all know how difficult it is out there. We're regularly hearing from our constituents that they are losing their homes, they are having a difficult time making ends meet.

This afternoon I had the chance to meet with some local officials from one of the counties that I'm privileged to represent. And in San Bernardino County in California, the numbers of homes that have gone into foreclosure, it is mind boggling to see the challenges.

And I will tell you, when you think of a young family out there, working, trying to hold things together and they're losing their home and having a difficult time making ends meet, we all know, Democrat and Republican alike, that it is absolutely essential that we put into place government policies that will help to address those challenges.

Now, Mr. Speaker, my friend from St. Louis just brought to my attention an amazing quote that his 88-year old father brought to mind for him since he had lived through this period of time, that being the Great Depression. And it's a quote from the Treasury Secretary, I appreciate his putting this chart up there because I actually scribbled it down, and I don't know if I could read my scribbling of it. But I'd like to share it with our colleagues.

The Secretary of the Treasury, Henry Morgenthau, in 1939, as we were tragically headed into the great World War II, and as we were, in large part because of the war, able to emerge from the Great Depression, had an amazing statement that he, as Franklin Delano Roosevelt's Treasury Secretary, at the end of the Great Depression in 1939, in his testimony provided before the House Ways and Means Committee. And in that, and Mr. Speaker, I commend this to my colleagues. He said, ''We have tried spending money. We are spending more than we have ever spent before and it does not work. I say, after 8 years of the administration,'' that being the Roosevelt administration, ''we have just as much unemployment as when we started, and an enormous debt to boot.'' What an incredible statement that was made by Franklin Delano Roosevelt's Treasury Secretary in 1939. And the last line, Mr. Speaker, an enormous debt to boot, of course, brings to mind the fact that in 1939, the American people and financial interests in this country were financing that debt.

□ 1800

Today, we know that that debt is coming from all over the world, that it is held by peoples all over the world, and that creates another very unique challenge for us.

So I would say that, as we know that our constituents are hurting, I believe very, very strongly that the answer to the problem of the families who have lost their homes and of the people who are losing their jobs is not to put into place a $1.1, $1.2, $1.3 trillion spending package. We don't know what the size of it is going to be because, with $1.1 trillion, if you take the $347 billion in servicing, that would have been an $825 billion program over the next decade. It is being debated on by our friends, our colleagues, in the Senate now.

As we look at that challenge, it seems to me that people understand that that is not the panacea, and nowhere is that made clearer than in the words of the Treasury Secretary who served under the great President Franklin Roosevelt when he said that we have tried spending money, that we are spending more than we have ever spent before, and it does not work. I say, after 8 years of the Roosevelt administration, there was just as much unemployment as when we started and an enormous debt to boot.

Mr. AKIN. Reclaiming my time for just a minute, I appreciate your perspective because we can stand here and talk about boxcar numbers and economic theory and policy, but you are

bringing it down to what it has to do with the guy in the street, what it has to do with me.

There is a picture that always sticks in my mind. I don't know. You know, sometimes you take in mental pictures, and there is a picture that sticks in my mind. When we get talking about these charts and everything, I always want to come back to this picture, and that is a picture of a house, and sitting right there on the sidewalk is somebody's sofa. I think about the young dads who have just gotten married and who may have a kid or two, and they are struggling, and they are trying to keep their heads above water, and they tell their wives not to buy any food, and they tell their kids not to buy any toys. They are still trying to pay this debt off, and they keep getting worse and worse behind. Finally, they go out there, and that is when they end up with that sofa that's sitting on a sidewalk.

That is what we are talking about with these socialistic policies. Here it all started with this ''give somebody something,'' and somehow or other, Uncle Sam and socialism are going to make it work.

Mr. DREIER. Would my friend yield for just one moment again?

Mr. AKIN. I would yield.

Mr. DREIER. I will say that, as I look at that last line once again, an enormous debt to boot, it brings to mind that child who is there. It is that child who is going to be shouldering the burden of a $1.1, $1.2, $1.3 trillion spending package that has been put before us, and that package has already passed through this House. Speaker PELOSI has announced that it is going to be completed by the end of next week.

I wish very much that we would spend some time looking at what it is that we have offered as an alternative to create jobs and to allow people to keep dollars in their pockets.

I thank my friend for yielding. I suspect that he is going to outline the very, very viable package which can provide that immediate boost which the American people want and need.

Mr. AKIN. Reclaiming my time, yes. Gentlemen, thank you for coming to that point, because I don't like people to come in here and be critical and say that it's no good, that it will not work, and then don't offer a better alternative. The good news is that there is a better alternative. We don't have to be doing what we are doing.

I noticed that my colleague from Georgia, again Dr. GINGREY, Congressman GINGREY, has got a chart here.

Would you like me to yield, and do you want to explain what you have?

Mr. GINGREY of Georgia. I very much appreciate the gentleman's yielding. I thank him for that. I do have a chart I want to reference.

First of all, Mr. Speaker, I want to say that the American people are beginning to realize that this is unlikely to work and that there is a tremendous burden that it is going to put on them. As I pointed out on the previous chart, it is $10,400 per family. Now, they don't get that. That is not any money that comes to them. That is the debt burden.

Now, in fact, in a recent Gallup Poll—the very reliable Gallup Poll. Everybody has heard of Gallup—there was a survey of 1,000 adult people nationwide; thirty-eight percent were in opposition to this bill as proposed, and another 17 percent said no matter what they do with it, no matter what changes they make, this is not the way to go. It is just as Secretary Morgenthau knew back in 1939. I wish Secretary Paulson and Secretary Geithner could understand that. Just throwing more money at this indiscriminately is not going to solve the problem. It is just going to sink us deeper and deeper into a recession and possibly even into a depression.

So, yes, we have some ideas, and of course, my colleagues are here, and they are going to present some of these ideas.

I want to yield back to the gentleman from Missouri, but let me quickly reference the poster.

''Sizing up the Stimulus'' is the title of the poster. Again, just to put this into perspective, the proposed stimulus is $1.2 trillion when you include the debt service over 10 years. So it's $825 billion and then the debt service. Then you compare that to other expenditures, to very important expenditures—to the Vietnam War, which was $111 billion with a B, not a T; to the invasion of Iraq, which was $551 billion with a B, not a T; and to the New Deal. We were referencing that, and that is what Mr. Morgenthau was talking about. It was $32 billion, and he said it was way too much spending, and here we're talking about $1.2 trillion.

Again, I think it would be better to cut taxes for everybody. We'll get into that later. I know the gentleman will do that, and maybe we'll give everybody a check for $2,500 rather than what we are doing.

So I yield back to the gentleman, and I thank him for the time.

Mr. AKIN. Reclaiming my time, I am also joined here today with Congressman LATTA from Ohio. I believe he has got some charts and can help cast a little bit more light on exactly what this bill is that was just passed last week and what it means.

It has $500 million for the National Endowment for the Arts. I wonder if that's going to get the economy going. It has got $54 billion for 19 programs that the OMB—that is the Office of Management and Budget—said were completely ineffective programs. Yet we are going to put $54 billion into programs that, by our own definition, do not work. Particularly if you want to take a look at another one, there is $355 million for STD funding. That may put a totally different meaning on the word ''stimulus.''

Anyway, we are joined here by Congressman LATTA from Ohio. Thank you for joining us, gentlemen, and I am interested in your perspective. I yield.

Mr. LATTA. I appreciate the gentleman for yielding, and I also appreciate the comments that we have already heard from the gentleman from Georgia and also from the gentleman from California.

Just to follow up, I was not going to speak to this, but if I may, I just happen to have in front of me the unemployment numbers during the Great Depression and the numbers leading into the Great Depression. I think about the statement from the Secretary of Treasury in 1939 and what he said about what the spending had done. When President Roosevelt was sworn into office in 1933, according to the Bureau of Labor Statistics, we had a 24.9 percent unemployment rate.

Mr. AKIN. Reclaiming my time, let's get this number down. As to the number of unemployed when we started into the first big recession that was going to become the Great Depression, what was the percentage?

Mr. LATTA. According to the Bureau of Labor Statistics, in 1933, when he was sworn in, there was 24.9 percent unemployment.

Just to kind of jump forward a little bit to the statement that was made to the House Ways and Means Committee by FDR's Secretary of the Treasury in 1939, that number was at 17.2 percent unemployment in this country. So, when they were talking of their trying the spending and of their trying to see how much they could do by spending more and more and more to get these numbers down, it did not work.

Just fast-forwarding a little bit, unfortunately, when we got close to entering World War II in 1941—when the United States was becoming that arsenal of democracy—we had an unemployment rate of 9.9 percent. Then through the main war years of '42, '43, '44, and '45, we saw our unemployment rate go down to 4.7, 1.9, 1.2, and 1.9 percent. Again, let's just think about that. We had 16 million Americans in uniform at that time. We had everybody working—we had everybody in the war plants. All of the women were working—so Rosie the Riveter was everywhere. That unemployment rate dropped, but it was because of World War II, not because of what was going on in the Roosevelt administration in the 1930s.

Mr. AKIN. Reclaiming my time, your point is just what was observed by the guy who was doing all of this Keynesian economics, this guy Morgenthau. After spending us into tremendous debt, he just basically said, after 8 years, we weren't able to create any

jobs, and you're saying it was basically World War II that generated the jobs; am I correct? I yield.

Mr. LATTA. I appreciate the gentleman for yielding.

That is absolutely correct. I don't think there is any economist out there who will say there was anything until we got into World War II when we saw the Great Depression break. Before Pearl Harbor in 1941, December 7, the unemployment rate was going down. Why? Because we had Americans working in those defense plants, who were making those arms that we were shipping overseas at the time, for example, under Lend-Lease. So we watched those numbers start to drop, and they really dropped, of course, during World War II when Americans were out there in uniform and in the defense plants.

As the gentleman had mentioned a little bit earlier, one of the things that concerns me is: Where are we going with this debt? Because we just keep adding to it in this country.

Mr. AKIN. I hate to interrupt you. Could I reclaim my time for just a minute?

We are joined here on the floor by another expert we have got, and I want to get right back to you, but Congressman SCALISE is trying to catch an airplane pretty soon. I wanted to try to fit him in because I think he has an interesting perspective that just ties in beautifully with where you were going, Congressman LATTA.

So I yield to you, Congressman SCALISE.

Mr. SCALISE. I thank the gentleman from Missouri for yielding. I thank the gentleman from Ohio for yielding.

What we have been talking about is a discussion we have been having here on this floor for the last few weeks. I am very encouraged that so many people across this country have started to really look at this bill closely and to recognize that, in fact, the bill that has been moving through the legislature here in Congress in the last few weeks is not, in fact, a stimulus bill. It is a massive spending bill, a bill that really will not do much to help get the economy started.

The Congressional Budget Office reports, of course, show that very little of this money will go into the economy, but what it will do is add a massive additional national debt to a debt that is already over $11 trillion. We are already hearing that this bill is already approaching $900 billion. Some reports show over $1 trillion. In addition, the budget that is going to be presented in just a few weeks by President Obama is expected to be $1 trillion out of balance.

All of this money that would be added to the national debt could add over 25 percent in 1 year to the total national debt of this country, whether or not it would actually provide stimulus to the economy. Most reports show it would not create any jobs. What it would do is increase inflation, devalue the dollar and put a tremendous burden on our children and grandchildren. I think that is why it is so important that we have worked so hard to come up with an alternative plan, a better way to solve this problem. That is, to go and look at tax cuts that will actually help middle-class families and small businesses that will create the jobs, not government spending, which in many cases has been spent on programs that have failed in the past and that create more government jobs. We need to be creating jobs in the private sector, and that is what I think is so encouraging.

As we have been presenting these alternatives, I think people across the country have seen and have realized that this is a much better way. It is so important after the failed bailouts of the last year that we get this right, and that is why it is important that we have been talking about this as people are seeing it. I think they are realizing some of the same things that we saw in that bipartisan vote last week when not only all Republicans voted ''no'' but when, in fact, nearly a dozen Democrats also could not even stomach some of the spending by their own leadership and said ''no'' as well, because there is a better way.

I appreciate the fact that you have been highlighting this, as have other Members, to show that there are better ways to solve this problem for the American people and to show how the American people have, I think, galvanized and have said the same thing. Big government spending in Washington is not going to solve this problem. Let's let middle-class families who are out there tightening their belts already in States that are trying to balance their own budgets show the better way as opposed to the failed old approaches of liberal, big government spending.

So I think the fact that we need to look out for our children and grandchildren is an extra highlight and why it is so important that we get this right and that we solve this problem the correct way. That is what this alternative plan does.

I yield back.

□ 1815

Mr. AKIN. Reclaiming my time, Congressman SCALISE, thank you very much for your perspective, and I appreciate your optimistic and positive approach.

We're not here just to say something won't work. We've got a better way to solve the problem. We've got something that has worked time after time historically, and the approach that is being proposed, which is just massive government spending, not only did it not work for Morgenthau, who was the guy who was the champion of this Keynesian economics for FDR, but it's never worked subsequently. It didn't work for the Japanese for 10 years, as they ran up huge debts, spent a whole lot of money.

And the average American in this country has got enough common sense to realize that just dumping a whole lot of money, if you're in financial trouble and you're the captain of your own little family, you're not going to go out and buy brand new cars and run up a whole lot of debt. It doesn't make any sense. And for government to do that, the public knows that won't work either.

But I want to get back to my good friend, Congressman LATTA from Ohio, and I did interrupt you, and I yield to the gentleman.

Mr. LATTA. I appreciate you yielding back, and I think what you're talking about is, when we're running up these debts, I'd just like to run across just numbers.

Let's just go back. If you look at this number on this chart right now, we're looking at over $10 trillion, $10.6 trillion of debt that this country owes, but let's just go back a few years, and it doesn't take us very long to do this.

In 1979, the United States debt was at $829 billion; 1989, it was $2.8 trillion; 1999, $5.6 trillion. And here we are 10 years later just doubling this number, when you look from 1999 to where we are today at $10.6 trillion.

But the real question that really concerned me is this, not only that massive huge debt but who owns this debt, you know, and you start looking at this chart right here. Right now, $682 billion of our debt today is owned by China. Going across, you're looking at Japan. Japan owns $577 billion; the United Kingdom, $360 billion; the Caribbean Banking Centers, $220 billion; the oil exporters—we send our money over to them. They're using our money to buy our debt. They have $198 billion; Brazil, $129 billion.

But it always wasn't this way. You know, in 1979, let's just go back a few years again. 1979, we had foreign debt of $119 billion; 1989, $429 billion; 1999, $1.2 trillion. These numbers are just escalating.

And the problem we have today is this. We're having a situation out there is what happens when these other countries start stimulating their own economy and they start saying, you know what, we can't buy that American debt, who's going to be out there to buy that debt? And we have a couple of alternatives; either not issue that debt or have to put a higher interest rate out there to make these other countries want to buy our debt. Americans are saying we're not buying it; these other countries are.

So I have a real concern of these problems, that other countries are owning our debt, that they could actually start dictating to the United States. The Chinese are telling us that

we have to do something about our economy, you know.

Mr. AKIN. Reclaiming my time, I think the gentleman, what you are saying is—and you're saying it in a pretty sophisticated way, but just some poor old guy from Missouri, what I think you are saying, just like when we issued all of these loans that people couldn't pay, what we're doing, in a national sense, is we're like running down a dead-end street, and pretty soon, as we keep printing more and more money and keep getting more and more foreign countries buying our debt, there's going to become a time, a reckoning, and boy, it's really going to be unpleasant when we hit that stone wall at 70 miles an hour. Is that getting in the direction of what you're saying, Congressman? I yield.

Mr. LATTA. I appreciate the gentleman for yielding again.

Again, you are absolutely correct. We're hitting that situation right now. The rest of the world is looking at the same problems that we're having in this country, but we're issuing this massive debt out there, saying, please, buy our debt.

And all we can do is, there's been very few articles in the national papers about this, and one of the few times we've seen some of the articles, they're saying, well, we have to make it attractive enough to keep people wanting to buy it out there. Well, how far is that and when are we going to get to that?

My good German grandmother used to tell her grandkids this one saying, that he who goes a borrowing goes a sorrowing. And you know, we're at that point.

And the real question is how are the future generations of this country, not just this generation but the next generation, and the one right after that, going to pay for this debt and how are they going to do that?

Mr. AKIN. Reclaiming my time, that is the question, isn't it? How is this going to work? And I think that really there are two theories here in terms of the way you handle the problem that we're in with the economy.

One is you spend money like mad, which is what FDR tried to do and turned a recession into a Great Depression, and the Japanese followed that same example, went down the same street for 10 years, had a great big depression over there because they had a bunch of these guys thinking you could, quote, stimulate the economy by spending money like mad that you don't have.

But that raises the question in that we already have the amount of debt that you're talking about. We should have great economy if that theory worked, shouldn't we?

Mr. LATTA. Absolutely.

Mr. AKIN. I mean, we've got a tremendous amount of debt; therefore, we shouldn't have any economic troubles. And just as Henry Morgenthau found out, it doesn't work. And the approach that is being done by the Pelosi Congress and what is being asked for by our new President is based on this Keynesian model of economics which really doesn't work.

I also promised my good friend, the gentleman from the congressional district in Ohio, Congressman JORDAN, wanted to let you have—we've got about 5 minutes or so here. I wanted to let you have a chance to chip in on the whole conversation. You have been very helpful, and your thinking is highly respected, I know, in our caucus.

Mr. JORDAN of Ohio. I appreciate the gentleman for putting this Special Order hour together. This must be the Ohio hour because I notice the last two presiding officers over the Chamber were Ohioans as well, and then of course my friend from just north of our district, Congressman LATTA and his expertise in this.

Think about the average family, what they saw from their government last week. I think it's an important place to start as we think about this discussion.

The typical family, what did they see from their government? They saw the United States Senate confirm for Secretary of the Treasury a gentleman who didn't pay his taxes on time. Think about it, not just any Cabinet position but Secretary of the Treasury. Then they saw from the House of Representatives, the other side of Congress, they saw the House of Representatives pass a stimulus package that will not do anything to foster and promote economic growth. I mean, that's your government at work, America, certainly not where we need to be.

Think about this stimulus package that we've been talking about and what it doesn't mean for promoting economic growth now and what it means, long-term implications for our kids and grandkids and the debt that it preserves.

First thing is this, and my colleague, our colleague from Louisiana I think said it right. The American people get it. They have figured out that this, quote, stimulus package is not what our country needs at this particular time. They don't like the process that was used and, frankly, the lack of process, the lack of the fact that the Republicans weren't included, and they don't like the finished product, the finished product that has such things in it like $600 million for the government to buy a new fleet of automobiles.

I'd much rather cut taxes so that families can use that tax money, their tax money, to purchase their own car versus giving more cars to the bureaucrats who work here in Washington.

So they don't like the process. They don't like the product. And I think they also understand, which was being pointed out very well by our friend and colleague from Ohio, Congressman LATTA, they understand that this spending spree that has grabbed Washington over the last several months is just wrong to do to future generations of Americans. It is wrong to saddle our kids and our grandkids with this kind of debt, the kind of debt that Congressman LATTA was pointing out and I know Congressman AKIN has pointed out earlier in the hour.

Think about this. We're going to run a deficit this fiscal year approaching 10 percent of gross domestic product. Never in the history of this country have we run that kind of debt. You have to go back to World War II when we're fighting a world war to when it's close to 6 percent of GDP. This year it looks like it's going to be close to 10 percent of gross domestic product.

They understand that's not the direction to go. They understand that what really fosters economic growth is reducing the tax burden on families, on taxpayers, on small business owners so they can keep more of their money, put it to work in the private sector, put it to work in their small business, creating jobs, protecting jobs, and promoting economic growth for the future. That's where we need to focus.

Short-term, fast-acting tax relief versus big government spending. The American people understand tax relief is where we need to go. That's the alternative we've been supporting. That's the alternative we'll continue to support. And the good news is, that's what the Senate is beginning to look at.

We did a press conference today with some of the Senate Republicans, and they are talking about focusing on some of the same tax cut provisions we tried to get in the bill over here on the House side.

Mr. AKIN. Reclaiming my time for just a second here, what you're talking about is where I really wanted to get to with this conversation tonight.

We're not just saying things won't work. Yes, what's being proposed, putting the government tremendously into debt, a lot Federal spending does not solve the problem, but there is a way to solve this problem. It's just going to require a little discipline, like some good wrestlers in the State of Ohio know, and I want to let you continue with that because we have a solution, a positive way, a bold approach to take care of this problem. We don't have to turn a recession into a great depression. But the solution that's being proposed always created depressions from recessions. We don't want to do that. We've got a way to solve the problem.

I yield.

Mr. JORDAN of Ohio. I appreciate the gentleman yielding.

My colleague said earlier that if big Federal Government spending was going to get us out of this mess it would have happened a long time ago

because we've certainly been doing that. And you're exactly right. The easiest thing in the world to do for politicians, for policy-makers, for Members of Congress is to spend money. It's the easy thing to do.

The tough thing to do is the discipline thing to do. I had an old coach in high school and he talked about discipline every day in practice. And his definition was this. Discipline is doing what you don't want to do when you don't want to do it. It meant doing it his way when you'd rather do it your way, but it left an impression on me.

And frankly, the disciplined thing to do is to say we're going to stop this excessive spending; we're going to reduce the tax burden here so that business owners and families can have more of their money and promote economic growth and do the things that we know work in an economy. That's what we have to focus on and have the discipline to say we're not going to continue to spend and spend and spend and mortgage our kids' and grandkids' future.

Mr. AKIN. Reclaiming my time, I very much appreciate your perspective in getting to the positive solution.

And I would yield to the gentleman. We've just got a minute or two, but if you'd like to join us, I yield.

Mr. FORTENBERRY. I want to thank the gentleman for having this very important discussion tonight on the House floor.

My fear is what we've done here in the name of stimulus is actually create an unrestrained, unsustainable spending bill. And since the year 2000 or so, it's very important to note that the Federal Government has actually grown by about 60 percent. We've been on an 8-year stimulus run in the name of spending, if you will, and yet we remain in economic straits at the moment.

I think this is very important to point out because the other problem here is the massive amounts of debt that we're going to compile if this bill should be passed. Debt that is unpaid for—the stimulus bill not being paid for—will be passed along to future generations, children and grandchildren, or it will be sold, the wealth asset value of this country sold overseas to foreign debt holders, or it will come out in other forms of taxation such as inflation.

Mr. AKIN. Just reclaiming my time for a second, you're talking in kind of economic terms, but further, what does that mean to the average person in our district? It means a lower standard of living, doesn't it? It means you can't make ends meet. It means you're not going to buy the food you want to buy. And I yield again.

Mr. FORTENBERRY. Inflation is a very regressive form of taxation, particularly among the most vulnerable among us.

With that, let me say, I don't want to see any family experience unemployment, any business take a downturn or any family experience a foreclosure. And with that said, I think it's very, very important that we work very hard to get this right, a plan that makes sense, that maximizes economic productivity through any type of new governmental policies that we set, but a plan that is also potentially paid for over time and that does have some new bold ideas in it.

One of the problems here as well, though, is that much of the spending is targeted to States, and some States like Nebraska, we've been very fortunate to be insulated from these larger downward economic trends. We have a strong ag economy that is hitting some bumps at the moment, but nonetheless, we also have a set of values, if you will, where people work hard and take responsibility for themselves and care for their neighbor. Businesses, as well as our citizens, have made prudential decisions about buying and lending, and we haven't suffered like the rest of the country in this regard.

But with that said, this bill effectively asks Nebraskans to subsidize other States that may have been poorly governing and want the Federal Government basically to make the tough decisions for them, not force them to make the tough decisions.

Mr. AKIN. Reclaiming my time, I think what you're saying in a polite, sort of sensitive way is California has been spending money at an incredible pace, and the question is, should Nebraska have to subsidize California? And that's really what we're talking about, isn't it? I yield back to the gentleman from Nebraska.

Mr. FORTENBERRY. I thank the gentleman for the time.

I think we are. It's a very important point to be made that a lot of communities in a lot of places have had to make choices with limited budgets to set priorities and have not rushed up to Washington to say bail us out, help us out. They have made those tough choices responsibly, and it's places like those, like Nebraska and other places, that I fear are subsidizing other places that have not performed admirably in terms of governance.

Another point here is I think there are some bold, new, innovative ideas in this overall package. I think they could be potentially considered as stand-alone measures. President Obama has a strong focus on, for instance, alternative energy development for a sustainable energy future.

□ 1830

This economic crisis was precipitated by, you recall, a very high spike in energy costs which accelerated other difficulties in the economy. But we've almost forgotten that now. Can you imagine where we would be if gas were $4 a gallon right now? So we've dodged a bullet right there.

But trying to get underneath the question as to what our real economic vulnerabilities are, including our overdependence on foreign oil and fossil fuel in general, is an important policy consideration.

So there are some admirable components here that might ought to be considered as a part of a reasoned stimulus plan that has a payment schedule for it, or stand alone separately.

So we don't want to stand here and simply oppose everything in that regard. But we are halfway.

Mr. AKIN. Reclaiming my time.

I think we've got just a very short amount of time left.

But your point is so good. Our objective is not just to say what won't work but to say what won't work because we know it won't work, and instead, let's adopt something that's helping those families. I was talking about it earlier, the picture that just keeps jumping in my mind—and this is happening all over the world because of our lack of bold and decisive and disciplined action here—the picture that comes to my mind is the house with the foreclosure and the easy chair and the sofa sitting on the sidewalk. And I'm thinking about the mom or the dad of that family and the pressure that they feel where they're just dumped right out of their house. This is not just economic numbers, this is the people of our country.

I yield my last 30 seconds.

Mr. FORTENBERRY. Well, again, I'm grateful.

We don't, again, want to see any family suffer any unemployment or suffer any situation like that. But I think this letter that I got today from a constituent back home from Gail in Fremont says quite a bit. She said, ''I'm writing to let you know I oppose the stimulus, Congressman. I'm opposed,'' she adds, ''to the overwhelming debt the government is all too willing to place on us with no long-range plan for getting us back on stable ground.''

She goes on, ''What is the Federal Government doing without during this emergency?'' She says, ''In my home when there's no money, we do without. We don't spend money we don't have. I'd rather tighten my belt for a time than to live the rest of my life under the burden of increased taxes for this bloated stimulus package.''

Unrestrained, unsustainable spending is the issue here, and we need to maximize economic productivity through smart thinking about what really is stimulus.

Mr. AKIN. Reclaiming my time.

Thank you, Madam Speaker.

RELATING TO SELECTION OF MEMBERS TO SERVE ON INVESTIGATIVE SUBCOMMITTEE OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore (Ms. KILROY). Without objection, upon a joint determination under clause 5(a)(4) of rule X not later than February 27, 2009, the Chair and ranking minority member of the Committee on Standards of Official Conduct may select an uneven number of Members named under that rule to serve on an investigative subcommittee.

There was no objection.

APPOINTMENT OF MEMBERS TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Permanent Select Committee on Intelligence:

Mr. HASTINGS, Florida
Ms. ESHOO, California
Mr. HOLT, New Jersey
Mr. RUPPERSBERGER, Maryland
Mr. TIERNEY, Massachusetts
Mr. THOMPSON, California
Ms. SCHAKOWSKY, Illinois
Mr. LANGEVIN, Rhode Island
Mr. PATRICK J. MURPHY, Pennsylvania
Mr. SCHIFF, California
Mr. SMITH, Washington
Mr. BOREN, Oklahoma
Mr. GALLEGLY, California
Mr. THORNBERRY, Texas, and
to rank after Mr. ROGERS, Michigan:
Mrs. MYRICK, North Carolina
Mr. BLUNT, Missouri
Mr. MILLER, Florida
Mr. KLINE, Minnesota
Mr. CONAWAY, Texas

APPOINTMENT OF MEMBERS TO SELECT INTELLIGENCE OVERSIGHT PANEL

The SPEAKER pro tempore. Pursuant to clause 4(a)(5) of rule X, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members of the House to the Select Intelligence Oversight Panel of the Committee on Appropriations:

Mr. HOLT, New Jersey, Chairman
Mr. OBEY, Wisconsin
Mr. MURTHA, Pennsylvania
Mr. REYES, Texas
Mr. DICKS, Washington
Mrs. LOWEY, New York
Mr. SCHIFF, California
Mr. ISRAEL, New York
Mr. CALVERT, California, Ranking Minority Member
Mr. LEWIS, California
Mr. YOUNG, Florida
Mr. HOEKSTRA, Michigan
Mr. FRELINGHUYSEN, New Jersey

CONGRESSIONAL PROGRESSIVE CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Thank you, Madam Speaker.

Tonight we're here for the Congressional Progressive Caucus, and I'm joined by my colleague, the honorable HANK JOHNSON, who hails from the State of Georgia. And we are the Progressive Caucus. And we're here week after week, month after month to help the American people understand that the progressive community throughout America has a group of people in Congress who are willing to stand up and stand strong and project a progressive vision for all of the Nation.

The Progressive Caucus has designed something we call the progressive message. So this is what we do. We come together, and we talk about our progressive vision for our country.

We started off only a few weeks ago talking about the need to hold the executives accountable and to not simply wipe things that happened in the past 8 years under the rug. Then we came back last week to talk about the economy and the stimulus package. And because we're facing a rising unemployment rate, foreclosure rate that is increasing, because people are losing their jobs, because things are getting tougher every day, we've got to stick with this issue of the economy so we can talk to people about which way forward, what do we do, what is the progressive message to help America go forward.

So with that, I want to introduce my colleague, my good friend from the great State of Georgia, to introduce himself and the topic tonight, Mr. HANK JOHNSON.

Congressman, let me yield to you. How are you doing?

Mr. JOHNSON of Georgia. I'm doing great.

Mr. ELLISON, you have been a shining light and a great example of a courageous congressman who doesn't run with the crowd and do what's popular but you do what's right, and I'm happy to join you tonight.

You know, I am deeply concerned—and have always been deeply concerned—about the fact that there's been a transfer of wealth in this country, a shift of the money from the middle class to the upper 10 percent of earners here in this country. In fact, since 2001, the figures show that worker productivity went up, while at the same time, 96 percent of the income growth went to the wealthiest 10 percent of this country. And so that's a clear indication that something is wrong with the policies that we have been following over the last 8 years.

And despite the wealth that has been transferred into the hands of a small minority of Americans, we still see that the pursuit of greed has brought us to the point where we're closer to a depression than we have been since the Great Depression. And so I'm happy to be a progressive.

The other side of that is conservative. Let's leave everything the way we want to leave it, and let's do business as usual.

We cannot do that.

So I'm happy to be a member of the Progressive Caucus espousing, along with yourself, new ideas; and it's a new time. It's time for change.

Mr. ELLISON. If the gentleman yields back.

Congressman JOHNSON, you know, we are the progressives. We want progress. And if you say you're a conservative, what, over the past 8 years, do you want to conserve? Do you want to conserve these exploding unemployment rates they've handed us? Do you want to conserve this war in Iraq and Afghanistan? Maybe you want to conserve this regime of deregulation which has allowed businesses, and particularly in the financial sector, to do whatever they want and not have to worry about consumers. Is that what you're trying to conserve?

The fact is the people of America don't want conservatism. They want a progressive vision. They're looking at things like I have up on this graph right here.

They're looking at Minnesota. We have an unemployment rate in 2008 of 6.9 percent. Last year, 2007, it was 4.7. In California, they're looking at 9.3 percent unemployment this year, 5.9 percent the year before.

What about our colleagues from Michigan, Congressman JOHNSON? We've got a serious problem.

The question is if you look at these high unemployment rates, and you look at every blue line is 2007 and every red line is 2008, as you can tell, unemployment is up all across the Nation everywhere.

These things did not happen by accident. They are the product of a set of policies, many of which were promulgated right in this gallery you and I are in right now. Many of the policies saying that poor people have too much money and rich people don't have enough money promulgated right here. Tax cuts for the wealthiest Americans, no accountability. As a matter of fact, it was put into legislation that the whole credit default swap market would be excluded from regulation, and now we know that these derivative products cause so much risk in the system that we don't know what to do about it.

The fact is, the policies and the procedures that have brought this about were done right here during the last 8 years, and we are now going to project a progressive vision to get us out of it.

Let me just say this before I turn it over to you, Congressman.

America has suffered 11 straight months of joblessness, of increasing job losses, totaling more than two million in the last year, 1.3 million jobs lost in the last 3 months alone. The job losses totaled over 500,000 in November, the biggest 1-month jump in 34 years. Now that's serious business.

So, facing these kinds of things, Congressman, what would be your thought as to what we should be thinking about right now?

Let me yield to you.

Mr. JOHNSON of Georgia. Okay. Before I answer that, Congressman, I do want to talk about—you mentioned something very interesting and that is the lack of regulation in the financial markets. Oil futures contracts were taken out of the regulatory process by the laws of a senator who would become the Republican nominee for president's financial adviser. And now we have that candidate, that unsuccessful candidate for President, proposing his own economic plan, is what he said he was going to do.

And it took me back to as a young man, my dad decided that he wanted to get under the sink and do something with the plumbing. And he's like a college-educated guy. Never took any plumbing classes or anything. But anyway, we came out of that situation with puddles and puddles of water in the kitchen. So, you know, my mother called in the plumber. She did not entrust fixing what had been messed up to the guy who messed it up.

And so that's where we are right now with our economic plans in this country, our—we call it the stimulus package.

Mr. ELLISON. If I can reclaim my time.

The American Recovery and Reinvestment Act.

I yield back to the gentleman.

Mr. JOHNSON of Georgia. Yes. Thank you.

So we've got a group of folks who were right here as you say, Congressman ELLISON, they were right here in this very Chamber, and they had the leadership up until 2006; and they aided and abetted this country's decline and all of the things that contributed to it.

And so but now they want to dictate the solutions to getting us out of this morass. And it just doesn't make sense.

I hope the American people are paying great attention because my friends on the other side of the aisle, the only thing that they propose is more tax cuts for the wealthiest 10 percent, and that's certainly not going to work.

We've got to take care of our basic safety net. We've got people in this country who've lost their jobs, they've lost their homes. They are on the street—families, no place to live, no food. And so we've got to fix those things while we also pay attention to the future needs of this country preparing us for the global economy and the long-term future.

And with that, Congressman. I'm going to yield back.

□ 1845

Mr. ELLISON. Congressman JOHNSON has correctly pointed out that we have got people losing their jobs. Unemployment is climbing up to 10 percent in many States, and we don't want to reach that point nationally. But one of the things that I think you will agree with me, Congressman JOHNSON, is that when you lose your job in America, so often you also lose something else—your health care.

You and I have been joined by JIM MCDERMOTT from the great State of Washington, who has been fighting the good fight for so long, knows this issue of health care, and many other issues as well.

Congressman MCDERMOTT, welcome. What can you tell us about the other side of losing a job, or even folks who do have a job, their health care crisis?

Mr. MCDERMOTT. You know, first, I want to say that I want to commend you, KEITH, for bringing this issue of the real vision we need at a time like this. People are looking out there and feeling pretty bummed out by an awful lot of what is going on. Yet, America has been able to rise above things like this in the past, and we are going to do it again.

One of the issues the last time we had this kind of mess—in 1932—that we didn't get done, was health care for everybody. Now, when you lose your job, that is bad enough. Not to have money to send your kids to college, just to barely pay the mortgage and maybe keep some food on the table, keep the car running, and that is all, and suddenly not be able to take your kids to the doctor when you're sick is a horrible feeling as a parent because your kids look to you to take care of them. They haven't got anybody else.

And so what we did today on SCHIP was really the beginning of the vision of what needs to be happening for all Americans because today we were talking about 8 million kids in this country that don't have health insurance, and we took care of 4 million of them, but we didn't talk about the 40-some million adults who don't have health insurance, many of whom are being added to the roles every day as they lose their insurance when they lose their job.

Now, in this country we have always said the market will take care of them; that people can go out and buy their own health insurance, and the insurance companies will have some kind of plan. But it flat is not true. When you lose your job, the likelihood of you being able to find an insurance policy that you can afford and still pay your mortgage and still pay some money for food and run the car and a few things, is absolutely zero.

I mean, in the State of Washington, the highest paid unemployed person gets $518 a week. That is $2,000 a month. Now that is a very slim group of people. Most people are getting the average in the State of Washington—$360 a week. So that is a little over $1,200, $1,300, $1,400 a month to live on. And to be able to buy a policy that can cover the problems of your family is almost nonexistent.

So what I am here to talk about is the fact that this country needs a national health insurance. Buried in this economic recovery package are the seeds of beginning that process. What we have said is if you are losing your job—and we have a program today called COBRA. I don't know what it stands for. It's some acronym in the government. But what it means is when you lose your job, you can keep your health insurance in the company you work for if you can pay the premium.

You have to pay the premium plus 2 percent. So you have to pay 102 percent of the premium, right. So here you are, unemployed, and you get out there and you're supposed to come up with the money to pay 102 percent of the premium. Most people can't do it.

So in this bill we made it possible. We put money in there for us to pay 65 percent of the premium for people who have lost their job and are eligible to take advantage of staying in their company plan under the COBRA program.

It's the first step because the people that are losing their jobs—if you think about it, if you're 65, you're taken care of. You have got Medicare. But if you're below 65, you're really dependent on where your employment is or how rich you are. Most people are getting their health insurance through their employment.

Well, between 55 and 65 is when the wheels start falling off your wagon. When you're 30, you're never going to be sick. You're going to be able to do anything you want in your life. When you get to 50, maybe a little high blood pressure, a little arthritis. Things start to happen to people. It's just at that point they lose their job. They are absolutely uncovered.

So this provision buried in this $900- or $800-some-odd-billion is the first step toward dealing with the problem of people who are under 65 and not children. We took care of most of the children today, and we have taken care of the seniors, but we have got this whole other group of people between the ages of 18 and 65 who it's a lottery—where do you work, who covers you.

We really need a single-payer health care system, in my view. People immediately say, oh, no, no. You're talking about Canada, you're talking about Great Britain.

Mr. ELLISON. Would the gentleman yield for just a moment?

Mr. McDERMOTT. Sure.

Mr. ELLISON. So you think America should join the 36 other countries in the world that have a single-payer system?

Mr. McDERMOTT. Absolutely. It's ridiculous that we are the only industrialized country who have never figured out how to do this. And I am going to enter into the RECORD an article from the New Yorker Magazine by Atul Gawande, who is a doctor and a medical writer, about the process by which we are going to get to a plan. Let me just lay it out for you. I think people out there ought to be thinking about it.

Every country in the industrialized world has a different plan. None of the plans are the same. Germany started in 1883. The Prime Minister at that point was worried about the social disruption and said, Let's give them some health care benefits. So they got started on this process, and it's been going since 1883, through two world wars, the German system.

The German system is different than ours would be. The French system, the British system, the Canadian system. The Canadian system started in British Colombia in Saskatchewan, one of the central provinces of the country. Different circumstances.

In British Colombia, the doctors said we can't take care of these old people in the hospitals. We have got to start a health insurance plan. So they started the BC health program.

Saskatchewan, they had a socialist government in that province at that point. They started the system, and it gradually spread all across Canada, and finally at the end they put together an umbrella that sort of tied it all together.

Now, Great Britain started in a different way. Great Britain started in the middle of the Second World War. They realized they had to have healthy people. So the government built hospitals, the government hired the doctors. It was all government everything. And that is their system. Every system comes in a different way.

Now, the United States in 2009 is not going to have Canada, it's not going to have Great Britain, it's not going to have France, it's not going to have anybody else. It's going to have an American system designed by this Congress, with the leadership of President Obama, that deals with the problems as they are today in this country.

Mr. JOHNSON of Georgia. Would the gentleman yield?

Mr. McDERMOTT. Sure.

Mr. JOHNSON of Georgia. Congressman, it's nice to have you with us, and I admire you so much, both in your foreign affairs philosophy as well as your domestic philosophy. I appreciate the fight that you have put up over many years.

You know, as I see it, health care is also an economic issue, and it's an issue of education as well, because if you have got children who are not healthy, when they go to school, they can't give their best. And so, as they grow up, they can't compete with other students from other countries who have had a healthy preventive health-type of experience.

It's an economic issue because we have got to compete in a global economy now. American workers—and it's so important that our workers, our middle-class workers, that they are able to access health care, remain healthy, wealthy, and wise, if you will. And so it's an economic issue. It's like removing termites from your house. If you know you have got termites, you know that they are going to at some point eat up the whole frame. And so to prevent that from happening is very important.

Health care is one of those important areas that has been neglected for so long for working-class people. And so I am glad that we have a President that is going to be assertive in terms of changing this system that does not work for anybody but the insurance companies as far as I can see.

And so this American Recovery and Reinvestment Plan includes, of course, some outlay for health care. If you could comment, if I might ask.

Mr. McDERMOTT. There's another piece. I have got to say I am excited because I was just down at the White House and the President just signed SCHIP. He gave a wonderful speech before he signed the bill, and said, This is just a start. We are going to take some more steps.

It's exciting to have somebody leading. And a part of what he has asked us to do in this economic recovery bill is begin the IT buildup that we need in our health care system. When you go to a doctor, and I practiced medicine for 20 years, so I wrote all my stuff out. And if you went to see a doctor somewhere else across the country, there's no way that doctor would know what I had done for you or what I might have prescribed for you, or anything else.

But if we have an electronic system that is protected so privacy is protected—I mean you have got to protect people's privacy. But if you get sick in Minneapolis—or St. Paul, I guess more like it—and you then come to Seattle, the doctor who sees you in Seattle doesn't know anything, because if you don't remember what the medications are or what the x-rays showed or anything else, there's no way he is going to know it.

But with the money that is invested in this economic recovery package for medical technology, for IT work, intellectual properties, you are making it possible for a doctor in Seattle to sit down at his computer with the numbers that Mr. ELLISON would give him and find out what went on with him when he was treated in St. Paul.

Mr. JOHNSON of Georgia. Would the gentleman yield?

Mr. McDERMOTT. Sure.

Mr. JOHNSON of Georgia. We have cut down on so many medical errors. I know that you being a doctor, you could probably relate to this. The penmanship of the average doctor is quite, some say, arrogant. You can't understand what is written.

So electronic medical records would be a clear communications device that would cut down on medical mistakes, pharmaceutical errors, and the like. That is an investment in the future of this country, and also it sets up our entrepreneurs, Congressman ELLISON. It sets us up to lead the way as future developing nations see the need to bring that kind of technical expertise to their own health care systems.

And so it puts us in a great position in the future, as does the recovery package with respect to energy.

Congressman ELLISON.

Mr. ELLISON. Thank you, Congressman. I am going to yield back to Dr. McDERMOTT because he was driving at a point that I think the American people need to hear about.

Congressman McDERMOTT, when you were there at the White House and President Obama had just given his speech, all you guys who were instrumental in getting SCHIP together probably gathered around the desk and you saw him write his name on that bill which, in effect, makes SCHIP law, as a medical professional, as a person dedicated to the health of our Nation, what did you feel?

Mr. McDERMOTT. You know, I have got to admit, it brought a tear to my eye when he talked in his speech about the fact that when your kids look at you, they expect you to be able to take care of them. And if you haven't got health insurance, then you're caught between a kid that has got a problem and, Can I fill the prescription? Or, If I go and get a big hospital bill with my kid, how am I going to deal with that?

□ 1900

It is a terrible feeling. I remember once when my daughter was in the hospital and she was in the ICU, and you are sitting there wondering if your child is going to make it or not. It is a scary kind of thing as a parent. And to see the President talk about it and say we are going to fix this was really very exciting. And I think that, although I was here in 1993 when we tried it with Mrs. Clinton and at that time business was opposed to us and the medical profession was opposed to us and some labor unions were opposed, and it was really tough going.

Things have changed today. Business wants to have a change, the medical professions want to have a change, and labor unions. And I think it is not going to come quickly and easily, because the status quo is always hard to change in a country. But I bring this article, and I am going to put it in the RECORD, because I want people to read it and realize that it is absolutely possible for us to make a major change, not just tinkering around the edges, but to really make a change that will make it possible to take away from all of us any fear that we are ever going to be economically destroyed, as Mr. JOHNSON says, or that we are going to be not able to be taken care of when we are sick, just on a human basis.

Mr. ELLISON. If the gentleman would yield back for a moment. I want to thank Congressman JOHNSON and you, Congressman MCDERMOTT, for coming here today, because what you are talking about is not just dealing with the immediate situation. We are not saying, well, we are on the Titanic, let's put the deck chairs over there. No, let's move them back over there. We are projecting a progressive vision for our Nation. We are saying we are going this way. And that is why we are here with the progressive message today.

I just want to remind people, we are here with the Progressive Caucus projecting a progressive message, talking about economic prosperity for all Americans. We have talked about unemployment. And Congressman JOHNSON and I had a great dialogue; and when you came, Congressman MCDERMOTT, we began an important conversation about how health care has a vital role to play in the economic health of a family and a Nation. I think we pointed out, when General Mills spends more money on health care than it does on steel, we have got a problem. When Starbucks spends more money on health care than it does on coffee beans, we have got a problem. Both things are true. It is time to move forward. Medical debt being one of the major drivers in bankruptcy. This is the time. The time is now to begin universal health care. And signing SCHIP I believe was the beginning of good times to come.

Mr. MCDERMOTT. You are going to hear people say it is too much, it is too big, we can't do it. But all you have to do is look back at what Franklin Delano Roosevelt did in 1932, when he came into office, with 25 percent unemployment in this country, and he sat down with his people and he said, ''We have got to have Social Security because old people don't have any money to live on when they get old. We don't have any money for poor people, so we are going to have a welfare program. We don't have any money for workers when they lose their jobs, so we are going to have unemployment insurance. And we don't have any money for kids that get dropped off in orphanages because their parents can't take care of them, so we are going to put together a foster care program.'' That was all done in 1935, in the Social Security Act of 1935. It was a huge step forward. And we have a progressive message for this country that we can do that again.

Even in the midst of our darkest hours with all the banks and foreclosures and all this stuff, if we think small, we are going to do small; but if we do and we think big, we can actually get some major steps forward. And I think the American people are ready to listen to this. I think that they have listened to the fiscal conservatives say, ''We are going to be a fiscal conservative; we are going to waste $1 trillion on a war, and we are going to run the banks into the ditch and we are going to bail them out,'' people are tired of hearing that. I fly home on the planes, and the flight attendants say to me, ''My tax money is going to bail out those guys. I want my tax money to go for things that will help me and my family and all the Americans.''

And I think that the progressive message, its time is now. So I really commend you guys for coming down here and doing this. I have to run off, but I will come back another night and work with you.

Mr. JOHNSON of Georgia. If the gentleman will yield for just one second. Let me start by saying this. The new deal and the investment that was made in this country after the great depression caused this country to prosper; and the money, there were jobs for middle class, and people accumulated wealth. They were able to buy their homes, buy their cars, send their kids to college. But back then there was a whole set of conditions in existence that are not in existence now. But things like infrastructure, health care, which have gone neglected for so long, these are the new areas that we can create jobs. We are talking about 3 million to 4 million jobs will be saved or created by this American Recovery and Reinvestment Act, and we have got to think out of the box in terms of what these long-term measures that are included in the stimulus package will produce in the long term. And if I could get you to just comment on that.

Mr. MCDERMOTT. You go back and you look at history; and I was reading something just today in the Smithsonian magazine. Do you realize that the land grant colleges, the universities in this country were started in the middle of the civil war by Abraham Lincoln? I mean, the country is in chaos, people are dying everywhere. All this is going on, and he said, ''We have to think about the future. We are going to start land grant universities. We are going to give them.'' And every State has one. I am sure Georgia has one, I am sure Minnesota has one. We have got one. Washington State University was created, the idea was created in the middle of the war. The National Science Foundation was created by Abraham Lincoln in the middle of the war.

In these times of the deepest darkest stuff, you have to make long-term investments and think about where we are going in the future. And this bill is filled with it in terms of the health care and in terms of the alternative energy things. Those are changes that are not going to be on the table next Wednesday; they are going to be affecting us in 2 or 3 or 4 or 5 years, but our kids are going to be better off and our country will be better off because we got back up on the road and started thinking long term.

Mr. JOHNSON of Georgia. I think we have got to be broad-minded as we look for solutions to this difficulty that we face that was caused by the conservative movement, the trickled-down economic theories, a failed policy, miserably, a miserably failed policy. And it is causing so much misery to the 90 percent of the people who were working and did not participate in the accumulation of wealth over the last 8 years.

So I am glad that Congressman ELLISON and the Progressive Caucus is taking the lead in ushering in change in the United States Congress. And I will say that I think that the House version of the American Recovery and Reinvestment Act; I don't like the way that the plan is shaping up on the Senate side, it seems like they are wanting to cut things that are important for a changing economy. They want to cut, things like $400 million has been removed for HIV/AIDS prevention and treatment and also STD prevention. Our schools, our middle schools, junior high schools, high schools are rife with persons who are either infected or at risk for being infected by these illnesses. And to the extent that we can prevent these kinds of developments, which are so costly to treat, we are going to actually have a savings when we look at it holistically.

Mr. ELLISON. Well, Congressman, I know you and I join together in thanking Congressman MCDERMOTT, who did such a great job. But on your point, I just want to say that it is too bad that the Senate proposed to cut the provisions on HIV and STD treatment, because it is stimulative. We would be hiring people who would go out to these schools and talk to young people about the importance of proper sexual health, of respecting their bodies and respecting other people, understanding the medical situation that arises when you are irresponsible, when you are unlucky enough to be infected with these horrendous diseases, which are preventable if you know what you are talking about, if you are well armed with good information. It is really too bad. And that is one of the reasons we

have to come here, because we are not here as an extension of the Obama administration. We love the fact that he signed SCHIP today. Go for it, President Obama. But if it ever comes a time when we don't agree, we will be here saying that.

So it is critical today that you bring out differences that we have with the Senate package, because it is our job to project a progressive vision. And if you want to know and if folks want to know how to reach us with their progressive vision, they can send their ideas to this e-mail at the bottom of this document here.

I didn't really want to interrupt you, but I just thought it would be an important time to say, don't expect the Progressive Caucus to come to the House floor saying thumbs up to everybody. Expect the Progressive Caucus to say that we agree with some things, we don't agree with others. We are projecting a progressive vision that includes all Americans, that says all Americans should have health, all Americans should have civil rights, all Americans should have a shared economic prosperity.

So forgive me for that interruption, but you inspired me for a moment.

Mr. JOHNSON of Georgia. It is important to note that in addition to promoting policies that led us into this economic downturn in previous House sessions under the control of my friends on the other side, in addition to them willingly going along with certain things that they should have known were going to result in problems for the middle-class people of this country, there was also just simply being a rubber stamp and letting things go by without caring about the impact just to be team players. That kind of situation destroyed the check and balance system between the President, the executive branch, and the legislative branch. So we are now charged with the responsibility and the obligation to be, as much as we really like the new President and the new administration and the new policies and that kind of thing, we have got to remain diligent that we move with haste and with all deliberate speed on certain things.

The American people voted for change. They voted for change in this body, they voted for change in the executive branch, and change we must fight for. And so when we have those who would take us back, it is our duty and our obligation to speak out against them. And that is why I support our courageous Speaker of the House, NANCY PELOSI. She gets a bad rap on radio and sometimes in print with people demonizing her.

□ 1915

But there is a reason why you want to reach out and kill the head of a movement. And it is because that person is being very effective. And so I think that for the most part, we should stand tall with the House version and stand behind our House leadership as they fight for the things that we've worked so carefully for and got into the American Recovery and Reinvestment Act that the Senate threatens now to take away because of wanting to compromise and getting some Republican votes.

Mr. ELLISON. Will the gentleman yield? If you don't mind, if you have a few other facts and figures at your disposal, would you mind detailing for us tonight some of the other things that you believe we need to stick with and not compromise away? Do you have a list of those kinds of things?

Mr. JOHNSON of Georgia. Yes. I would say one of the things would be the extension of the unemployment benefits. And another thing would be the increase in public assistance money, food stamps, and the like that serve as a safety net. It is just obscene in this country that we would allow people to be living under bridges and we don't even have enough homeless shelters for people. And many of the people are suffering from some kind of health ailment that has been neglected chronically. And so that is important.

I think it is very important that we make a strong investment in our public transportation system. And that money, that pot of money has been decimated by the Senate. And it doesn't take us well into the future. We have to think more in terms of clean and efficient energy that is environmentally safe, that starts contributing to the global warming, because that threatens to take us all out, all the people on Earth. It changes our entire way of living. And so there are certain things we must address and we must address them now. And it is for the long-term benefit of America and the world.

Mr. ELLISON. Will the gentleman yield?

Mr. JOHNSON of Georgia. I will.

Mr. ELLISON. One of the things that I think is important to bear in mind is that as we look at the American Recovery and Reinvestment Act, it is not only stimulus. We keep talking stimulus, stimulus, stimulus. That is not really the right way to describe what we're doing. It is for long-term investment. It is to deal with an emergency issue, but it is also to invest in the long-term health of our Nation. So it is not just stimulus. It is important for the American people to know that.

But I do like this chart because a conservative economist named Mark Zandi did it. And he got his computers out, did some readings and figured out what is going to stimulate the economy the most, what is going to give the economy the most punch. And he found that one of the lowest things on his chart was make the income tax cuts expiring in 2010 permanent. That is like .9 percent. That is pretty low. But the big ones, the big ones that he found were things like temporary increase in food stamps. That is 1.73. That is the highest one on here. That is going to jack up and get people, that is going to help stimulate the economy, things like extend unemployment compensation benefits, 1.64 percent, things you mentioned just a moment ago, that we have to stick with the House version and hold up. Increasing infrastructure spending, 1.59. These are things that are really going to stimulate the economy. And I think it is important that as we really focus on stimulating the economy, we don't give in to ideological matters.

One thing I will say regarding the Obama administration, and you know I'm a big fan, is that President Obama reached out to the Republican Caucus, came to talk to them and tried to work with them. And they completely rebuffed him. And they told him just nothing doing. And here he is reaching across the aisle, trying to move us to this post-partisan place. And not one of them, even though they got their tax cuts, voted for the stimulus package. So in my opinion, I think we should not try to, we should put all the weight on stimulating the economy. We get the economy moving.

We have proved to the American people that conservatives are bad in economics. They don't understand economics very well. When the Democratic President left office in the year 2000, we had a $288 billion surplus. It didn't take long for the Republican President to mess it all up. And the reason was because they are bad at economics. They don't understand economics. Actually they like economics where the rich people get and the poor people don't. If I may, they don't quite understand that a rising tide lifts all boats. You have to make sure that everyone is part of the economic life of the country in order to have a strong, robust economy. You can't just have tax cuts for the rich people. By definition, being rich means you don't need the money. You just stick that money in your back pocket. Maybe it can just sit in an account. But when you give moneys to the poor for things like unemployment insurance, things like food stamps, when you invest in the Nation's infrastructure, then you are really building the economy. Then you're really stimulating the economy.

In my view, I will say with all due respect to our President, who I believe is a great leader, that he has tried to work with them on the other side of the aisle. They have rejected and rebuffed his overture. So skip their tax cuts. Let's get to some real stimulative stuff.

And I yield back.

Mr. JOHNSON of Georgia. Thank you, Congressman. That whole process

of trying to get bipartisan support here in the House I guess was probably doomed to failure from the outset because there was no good-faith being exercised by my friends on the other side. It was just politics as usual. Let's play ''gotcha'' politics, and let's use our control over the media to get our message out and to undercut public support for the change that Americans voted for in November.

And I think that the fact that no Republican bucked their leadership to vote in favor of this plan despite the fact that President Obama made significant concessions to my friends on the other side of the aisle, they kept moving the goalposts. If you do this, then they want something down here.

Mr. ELLISON. Do you remember Charlie Brown, whenever he tried to kick the ball, Lucy always picks the ball up. And they picked the ball up on the President, even though they said they were going to hold it down.

I yield back.

Mr. JOHNSON of Georgia. A tremendous analogy. And so we have seen what happened in the House of Representatives. The Senate is supposed to be a more thoughtful and deliberative body. But isn't that the place where all of the earmarks come from? And it is politics up there, too, even though the Senators are elected for 6 years as opposed to the 2 years that Representatives are elected for. And we simply cannot afford to cede our constitutional obligations to the Senate with respect to this reinvestment plan.

Mr. ELLISON. So Congressman, we're going to begin to wrap up our hour at this time. We're going to allow somebody else to offer their views to the American people. But as we get ready to wrap up, I wonder if you have any remarks you would like to share before we hand it over.

Mr. JOHNSON of Georgia. Yes. My friends on the other side have become what they call ''fiscally conservative'' once they lost the majority in the House. And the reason why they lost the majority is because people did not like this idea of increasing spending while at the same time cutting revenues by giving a tax break to the top 10 percent of wealthiest individuals who didn't need it. And so I find it ironic that we hear the voices of those same proponents of failed policy wanting to dictate how we get out of this and what policies we should have. And I just think that now is the time for change. Now is the time for Members of the Progressive Caucus and all the other caucuses to insist that our carefully structured recovery and reinvestment package is not eviscerated by the Senate and then is crammed down our throat in conference committee. I just really want us to stand tall on this one. And I do believe that our Speaker is going to lead that effort. And for that I want to thank her and let her know that we will be right there for her.

Mr. ELLISON. And if the gentleman yields back, you can bet I will be right there with you standing behind our great Speaker, NANCY PELOSI, a leader for all America, a transformative leader, a leader with energy. The fact that she has children the same age as you and I, Congressman, doesn't undermine her energy level. She is energetic. She is powerful. She is visionary. She is progressive. And you and I are here today talking about the Progressive Caucus.

We're here talking about a progressive vision for our Nation. We're making an obvious observation. In the Progressive Caucus you say, look, if you don't like government, if you believe government is the problem, as Ronald Reagan famously said, ''government is the problem,'' it stands to reason you might not be good at it. If you think government is not a good idea to begin with, you might not invest the time, energy and resources necessary to be good at it. And therefore it should be no surprise to anyone that the government, that the Republicans and the conservatives are bad at economics. They are just not good at it. And so it is not surprising to me that they would think that you could increase spending around a war, cut taxes, and then think that things are going to go well economically—they didn't go well economically—and then deregulate everything, and then neglect the infrastructure.

Well, we're back to offer a progressive vision, to say to America that it is time to have an inclusive economy, to have civil rights, to have environmental protection and to make a better way forward for all Americans. This has been Congressman KEITH ELLISON with the Progressive Caucus with Congressman JOHNSON. Thank you, sir. Congressman MCDERMOTT joined us and we are very proud to be here representing the Progressive Caucus with the progressive message.

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ANNALS OF PUBLIC POLICY: GETTING THERE FROM HERE

HOW SHOULD OBAMA REFORM HEALTH CARE?

(By Atul Gawande)

In every industrialized nation, the movement to reform health care has begun with stories about cruelty. The Canadians had stories like the 1946 Toronto Globe and Mail report of a woman in labor who was refused help by three successive physicians, apparently because of her inability to pay. In Australia, a 1954 letter published in the Sydney Morning Herald sought help for a young woman who had lung disease. She couldn't afford to refill her oxygen tank, and had been forced to ration her intake ''to a point where she is on the borderline of death.'' In Britain, George Bernard Shaw was at a London hospital visiting an eminent physician when an assistant came in to report that a sick man had arrived requesting treatment. ''Is he worth it?'' the physician asked. It was the normality of the question that shocked Shaw and prompted his scathing and influential 1906 play, ''The Doctor's Dilemma.'' The British health system, he charged, was ''a conspiracy to exploit popular credulity and human suffering.''

In the United States, our stories are like the one that appeared in the Times before Christmas. Starla Darling, pregnant and due for delivery, had just taken maternity leave from her factory job at Archway & Mother's Cookie Company, in Ashland, Ohio, when she received a letter informing her that the company was going out of business. In three days, the letter said, she and almost three hundred co-workers would be laid off, and would lose their health-insurance coverage. The company was self-insured, so the employees didn't have the option of paying for the insurance themselves—their insurance plan was being terminated.

''When I heard that I was losing my insurance, I was scared,'' Darling told the Times. Her husband had been laid off from his job, too. ''I remember that the bill for my son's delivery in 2005 was about $9,000, and I knew I would never be able to pay that by myself.'' So she prevailed on her midwife to induce labor while she still had insurance coverage. During labor, Darling began bleeding profusely, and needed a Cesarean section. Mother and baby pulled through. But the insurer denied Darling's claim for coverage. The couple ended up owing more than seventeen thousand dollars.

The stories become unconscionable in any society that purports to serve the needs of ordinary people, and, at some alchemical point, they combine with opportunity and leadership to produce change. Britain reached this point and enacted universal health-care coverage in 1945, Canada in 1966, Australia in 1974. The United States may finally be there now. In 2007, fifty-seven million Americans had difficulty paying their medical bills, up fourteen million from 2003. On average, they had two thousand dollars in medical debt and had been contacted by a collection agency at least once. Because, in part, of underpayment, half of American hospitals operated at a loss in 2007. Today, large numbers of employers are limiting or dropping insurance coverage in order to stay afloat, or simply going under—even hospitals themselves.

Yet wherever the prospect of universal health insurance has been considered, it has been widely attacked as a Bolshevik fantasy—a coercive system to be imposed upon people by benighted socialist master planners. People fear the unintended consequences of drastic change, the blunt force of government. However terrible the system may seem, we all know that it could be worse—especially for those who already have dependable coverage and access to good doctors and hospitals.

Many would-be reformers hold that ''true'' reform must simply override those fears. They believe that a new system will be far better for most people, and that those who would hang on to the old do so out of either lack of imagination or narrow self-interest. On the left, then, single-payer enthusiasts argue that the only coherent solution is to end private health insurance and replace it with a national insurance program. And, on the right, the free marketeers argue that the only coherent solution is to end public insurance and employer-controlled health benefits so that we can all buy our own coverage and put market forces to work.

Neither side can stand the other. But both reserve special contempt for the pragmatists, who would build around the mess we have. The country has this one chance, the

idealist maintains, to sweep away our inhumane, wasteful patchwork system and replace it with something new and more rational. So we should prepare for a bold overhaul, just as every other Western democracy has. True reform requires transformation at a stroke. But is this really the way it has occurred in other countries? The answer is no. And the reality of how health reform has come about elsewhere is both surprising and instructive.

No example is more striking than that of Great Britain, which has the most socialized health system in the industrialized world. Established on July 5, 1948, the National Health Service owns the vast majority of the country's hospitals, blood banks, and ambulance operations, employs most specialist physicians as salaried government workers, and has made medical care available to every resident for free. The system is so thoroughly government-controlled that, across the Atlantic, we imagine it had to have been imposed by fiat, by the coercion of ideological planners bending the system to their will.

But look at the news report in the Times of London on July 6, 1948, headlined ''FIRST DAY OF HEALTH SERVICE.'' You might expect descriptions of bureaucratic shock troops walking into hospitals, insurance-company executives and doctors protesting in the streets, patients standing outside chemist shops worrying about whether they can get their prescriptions filled. Instead, there was only a four-paragraph notice between an item on the King and Queen's return from a holiday in Scotland and one on currency problems in Germany.

The beginning of the new national health service ''was taking place smoothly,'' the report said. No major problems were noted by the 2,751 hospitals involved or by patients arriving to see their family doctors. Ninety per cent of the British Medical Association's members signed up with the program voluntarily—and found that they had a larger and steadier income by doing so. The greatest difficulty, it turned out, was the unexpected pent-up demand for everything from basic dental care to pediatric visits for hundreds of thousands of people who had been going without.

The program proved successful and lasting, historians say, precisely because it was not the result of an ideologue's master plan. Instead, the N.H.S. was a pragmatic outgrowth of circumstances peculiar to Britain immediately after the Second World War. The single most important moment that determined what Britain's health-care system would look like was not any policymaker's meeting in 1945 but the country's declaration of war on Germany, on September 3, 1939.

As tensions between the two countries mounted, Britain's ministers realized that they would have to prepare not only for land and sea combat but also for air attacks on cities on an unprecedented scale. And so, in the days before war was declared, the British government oversaw an immense evacuation; three and a half million people moved out of the cities and into the countryside. The government had to arrange transport and lodging for those in need, along with supervision, food, and schooling for hundreds of thousands of children whose parents had stayed behind to join in the war effort. It also had to insure that medical services were in place—both in the receiving regions, whose populations had exploded, and in the cities, where up to two million war-injured civilians and returning servicemen were anticipated.

As a matter of wartime necessity, the government began a national Emergency Medical Service to supplement the local services. Within a period of months, sometimes weeks, it built or expanded hundreds of hospitals. It conducted a survey of the existing hospitals and discovered that essential services were either missing or severely inadequate—laboratories, X-ray facilities, ambulances, care for fractures and burns and head injuries. The Ministry of Health was forced to upgrade and, ultimately, to operate these services itself.

The war compelled the government to provide free hospital treatment for civilian casualties, as well as for combatants. In London and other cities, the government asked local hospitals to transfer some of the sick to private hospitals in the outer suburbs in order to make room for victims of the war. As a result, the government wound up paying for a large fraction of the private hospitals' costs. Likewise, doctors received government salaries for the portion of their time that was devoted to the new wartime medical service. When the Blitz came, in September, 1940, vast numbers of private hospitals and clinics were destroyed, further increasing the government's share of medical costs. The private hospitals and doctors whose doors were still open had far fewer paying patients and were close to financial ruin.

Churchill's government intended the program to be temporary. But the war destroyed the status quo for patients, doctors, and hospitals alike. Moreover, the new system proved better than the old. Despite the ravages of war, the health of the population had improved. The medical and social services had reduced infant and adult mortality rates. Even the dental care was better. By the end of 1944, when the wartime medical service began to demobilize, the country's citizens did not want to see it go. The private hospitals didn't, either; they had come to depend on those government payments.

By 1945, when the National Health Service was proposed, it had become evident that a national system of health coverage was not only necessary but also largely already in place—with nationally run hospitals, salaried doctors, and free care for everyone. So, while the ideal of universal coverage was spurred by those horror stories, the particular system that emerged in Britain was not the product of socialist ideology or a deliberate policy process in which all the theoretical options were weighed. It was, instead, an almost conservative creation: a program that built on a tested, practical means of providing adequate health care for everyone, while protecting the existing services that people depended upon every day. No other major country has adopted the British system—not because it didn't work but because other countries came to universalize health care under entirely different circumstances.

In France, in the winter of 1945, President de Gaulle was likewise weighing how to insure that his nation's population had decent health care after the devastation of war. But the system that he inherited upon liberation had no significant public insurance or hospital sector. Seventy-five per cent of the population paid cash for private medical care, and many people had become too destitute to afford heat, let alone medications or hospital visits.

Long before the war, large manufacturers and unions had organized collective insurance funds for their employees, financed through a self-imposed payroll tax, rather than a set premium. This was virtually the only insurance system in place, and it became the scaffolding for French health care. With, an almost impossible range of crises on its hands—food shortages, destroyed power plants, a quarter of the population living as refugees—the de Gaulle government had neither the time nor the capacity to create an entirely new health-care system. So it built on what it had, expanding the existing payroll-tax-funded, private insurance system to cover all wage earners, their families, and retirees. The self-employed were added in the nineteen-sixties. And the remainder of uninsured residents were finally included in 2000.

Today, Sécurité Sociale provides payroll-tax-financed insurance to all French residents, primarily through a hundred and forty-four independent, not-for-profit, local insurance funds. The French health-care system has among the highest public-satisfaction levels of any major Western country; and, compared with Americans, the French have a higher life expectancy, lower infant mortality, more physicians, and lower costs. In 2000, the World Health Organization ranked it the best health-care system in the world. (The United States was ranked thirty-seventh.)

Switzerland, because of its wartime neutrality, escaped the damage that drove health-care reform elsewhere. Instead, most of its citizens came to rely on private commercial health-insurance coverage. When problems with coverage gaps and inconsistencies finally led the nation to pass its universal-coverage law, in 1994, it had no experience with public insurance. So the country—you get the picture now—built on what it already had. It required every resident to purchase private health insurance and provided subsidies to limit the cost to no more than about ten per cent of an individual's income.

Every industrialized nation in the world except the United States has a national system that guarantees affordable health care for all its citizens. Nearly all have been popular and successful. But each has taken a drastically different form, and the reason has rarely been ideology. Rather, each country has built on its own history, however imperfect, unusual, and untidy. Social scientists have a name for this pattern of evolution based on past experience. They call it ''path-dependence.'' In the battles between Betamax and VHS video recorders, Mac and P.C. computers, the QWERTY typewriter keyboard and alternative designs, they found that small, early events played a far more critical role in the market outcome than did the question of which design was better. Paul Krugman received a Nobel Prize in Economics in part for showing that trade patterns and the geographic location of industrial production are also path-dependent. The first firms to get established in a given industry, he pointed out, attract suppliers, skilled labor, specialized financing, and physical infrastructure. This entrenches local advantages that lead other firms producing similar goods to set up business in the same area—even if prices, taxes, and competition are stiffer. ''The long shadow cast by history over location is apparent at all scales, from the smallest to the largest—from the cluster of costume jewelry firms in Providence to the concentration of 60 million people in the Northeast Corridor,'' Krugman wrote in 1991.

With path-dependent processes, the outcome is unpredictable at the start. Small, often random events early in the process are ''remembered,'' continuing to have influence later. And, as you go along, the range of future possibilities gets narrower. It becomes more and more unlikely that you can simply

shift from one path to another, even if you are locked in on a path that has a lower payoff than an alternate one.

The political scientist Paul Pierson observed that this sounds a lot like politics, and not just economics. When a social policy entails major setup costs and large numbers of people who must devote time and resources to developing expertise, early choices become difficult to reverse. And if the choices involve what economists call ''increasing returns''—where the benefits of a policy increase as more people organize their activities around it—those early decisions become self-reinforcing. America's transportation system developed this way. The century-old decision to base it on gasoline-powered automobiles led to a gigantic manufacturing capacity, along with roads, repair facilities, and fuelling stations that now make it exceedingly difficult to do things differently.

There's a similar explanation for our employment-based health-care system. Like Switzerland, America made it through the war without damage to its domestic infrastructure. Unlike Switzerland, we sent much of our workforce abroad to fight. This led the Roosevelt Administration to impose national wage controls to prevent inflationary increases in labor costs. Employers who wanted to compete for workers could, however, offer commercial health insurance. That spurred our distinctive reliance on private insurance obtained through one's place of employment—a source of troubles (for employers and the unemployed alike) that we've struggled with for six decades.

Some people regard the path-dependence of our policies as evidence of weak leadership; we have, they charge, allowed our choices to be constrained by history and by vested interests. But that's too simple. The reality is that leaders are held responsible for the hazards of change as well as for the benefits. And the history of master-planned transformation isn't exactly inspiring. The familiar horror story is Mao's Great Leap Forward, where the collectivization of farming caused some thirty million deaths from famine. But, to take an example from our own era, consider Defense Secretary Donald Rumsfeld's disastrous reinvention of modern military operations for the 2003 invasion of Iraq, in which he insisted on deploying far fewer ground troops than were needed. Or consider a health-care example: the 2003 prescription-drug program for America's elderly.

This legislation aimed to expand the Medicare insurance program in order to provide drug coverage for some ten million elderly Americans who lacked it, averaging fifteen hundred dollars per person annually. The White House, congressional Republicans, and the pharmaceutical industry opposed providing this coverage through the existing Medicare public-insurance program. Instead, they created an entirely new, market-oriented program that offered the elderly an online choice of competing, partially subsidized commercial drug-insurance plans. It was, in theory, a reasonable approach. But it meant that twenty-five million Americans got new drug plans, and that all sixty thousand retail pharmacies in the United States had to establish contracts and billing systems for those plans.

On January 1, 2006, the program went into effect nationwide. The result was chaos. There had been little realistic consideration of how millions of elderly people with cognitive difficulties, chronic illness, or limited English would manage to select the right plan for themselves. Even the savviest struggled to figure out how to navigate the choices: insurance companies offered 1,429 prescription-drug plans across the country. People arrived at their pharmacy only to discover that they needed an insurance card that hadn't come, or that they hadn't received pre-authorization for their drugs, or had switched to a plan that didn't cover the drugs they took. Tens of thousands were unable to get their prescriptions filled, many for essential drugs like insulin, inhalers, and blood-pressure medications. The result was a public-health crisis in thirty-seven states, which had to provide emergency pharmacy payments for the frail. We will never know how many were harmed, but it is likely that the program killed people.

This is the trouble with the lure of the ideal. Over and over in the health-reform debate, one hears serious policy analysts say that the only genuine solution is to replace our health-care system (with a single-payer system, a free-market system, or whatever); anything else is a missed opportunity. But this is a siren song.

Yes, American health care is an appallingly patched-together ship, with rotting timbers, water leaking in, mercenaries on board, and fifteen per cent of the passengers thrown over the rails just to keep it afloat. But hundreds of millions of people depend on it. The system provides more than thirty-five million hospital stays a year, sixty-four million surgical procedures, nine hundred million office visits, three and a half billion prescriptions. It represents a sixth of our economy. There is no dry-docking health care for a few months, or even for an afternoon, while we rebuild it. Grand plans admit no possibility of mistakes or failures, or the chance to learn from them. If we get things wrong, people will die. This doesn't mean that ambitious reform is beyond us. But we have to start with what we have.

That kind of constraint isn't unique to the health-care system. A century ago, the modern phone system was built on a structure that came to be called the P.S.T.N., the Public Switched Telephone Network. This automated system connects our phone calls twenty-four hours a day, and over time it has had to be upgraded. But you can't turn off the phone system and do a reboot. It's too critical to too many. So engineers have had to add on one patch after another.

The P.S.T.N. is probably the shaggiest, most convoluted system around; it contains tens of millions of lines of software code. Given a chance for a do-over, no self-respecting engineer would create anything remotely like it. Yet this jerry-rigged system has provided us with 911 emergency service, voice mail, instant global connectivity, mobile-phone lines, and the transformation from analog to digital communication. It has also been fantastically reliable, designed to have as little as two hours of total downtime every forty years. As a system that can't be turned off, the P.S.T.N. may be the ultimate in path-dependence. But that hasn't prevented dramatic change. The structure may not have undergone revolution; the way it functions has. The P.S.T.N. has made the twenty-first century possible.

So accepting the path-dependent nature of our health-care system—recognizing that we had better build on what we've got—doesn't mean that we have to curtail our ambitions. The overarching goal of health-care reform is to establish a system that has three basic attributes. It should leave no one uncovered—medical debt must disappear as a cause of personal bankruptcy in America. It should no longer be an economic catastrophe for employers. And it should hold doctors, nurses, hospitals, drug and device companies, and insurers collectively responsible for making care better, safer, and less costly.

We cannot swap out our old system for a new one that will accomplish all this. But we can build a new system on the old one. On the start date for our new health-care system—on, say, January 1, 2011—there need be no noticeable change for the vast majority of Americans who have dependable coverage and decent health care. But we can construct a kind of lifeboat alongside it for those who have been left out or dumped out, a rescue program for people like Starla Darling.

In designing this program, we'll inevitably want to build on the institutions we already have. That precept sounds as if it would severely limit our choices. But our health-care system has been a hodgepodge for so long that we actually have experience with all kinds of systems. The truth is that American health care has been more flotilla than ship. Our veterans' health-care system is a program of twelve hundred government-run hospitals and other medical facilities all across the country (just like Britain's). We could open it up to other people. We could give people a chance to join Medicare, our government insurance program (much like Canada's). Or we could provide people with coverage through the benefits program that federal workers already have, a system of private-insurance choices (like Switzerland's).

These are all established programs, each with advantages and disadvantages. The veterans' system has low costs, one of the nation's best information-technology systems for health care, and quality of care that (despite what you've heard) has, in recent years, come to exceed the private sector's on numerous measures. But it has a tightly limited choice of clinicians—you can't go to see any doctor you want, and the nearest facility may be far away from where you live. Medicare allows you to go to almost any private doctor or hospital you like, and has been enormously popular among its beneficiaries, but it costs about a third more per person and has had a hard time getting doctors and hospitals to improve the quality and safety of their care. Federal workers are entitled to a range of subsidized private-insurance choices, but insurance companies have done even less than Medicare to contain costs and most have done little to improve health care (although there are some striking exceptions).

THE AMERICAN ECONOMY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Madam Speaker, I very much appreciate the privilege to address you this evening on the floor of the United States House of Representatives. And I also appreciate the dialogue that takes place here on the floor. This is the most deliberative body anywhere in the world. And we have a privilege to be part of it. And as we engage in this debate, it is the circumstance that across this country, Madam Speaker, people listen in. And they're reading the blogs and the newspapers and following the blogs and watching their cable news networks and also some regular TV. And as this conversation goes

on here, Madam Speaker, it echoes out across the entire land. And as this conversation echoes across the entire land, it also becomes part of the national dialogue, this national dialogue that takes place in our schools, in our churches, at the workplace, in the coffee shop, in the break room, across the backyard fence, on the snowmobile and outside doing chores.

Over and over again, Americans interact with each other. And while that is going on, they talk about a lot of things that matter to them such as the aftermath of the Super Bowl, but also current events. And America is, at this point, transfixed on the current event of the—I think not aptly named—''stimulus plan'' that is being debated over in the Rotunda of the United States Senate, Madam Speaker.

And so as this American conversation takes place, they are moving towards a consensus. And sometimes we don't achieve that consensus, Madam Speaker. But the more dialogue we have, the more facts that are brought to play, and in fact many Members in this body know that if they can bring the emotional anecdote to play, it also moves people's opinions.

□ 1930

The things that move people's opinions bring us towards a consensus. When we arrive at a consensus, that consensus, if America's consensus doesn't match up with the Congressional census you will see many Members, Madam Speaker, in this Chamber will shift their position to realign themselves with their constituents.

Now, there are two ways to do this job. One way is to stand up and lay out the framework of the principles that we believe in as individual Members, and then hang on to that framework, attach to it the components of public policy that are compatible with the fundamental belief framework. That's what I believe I've done. And I very much like the input that I received from my constituents the people from my State and across the country, that adds to my knowledge base so that I can make a reasoned, informed decision. That's the approach I think the founders had in mind when they wrote this Constitution and established this constitutional republic, was that there would be representatives in this constitutional republic that would come here. We owe our constituents, all of them, our best effort. And more importantly, Madam Speaker, we owe them our best judgment. That's one way of doing this job here in the United States Congress.

The other is, Madam Speaker, to take a position that you're going to get in front of your constituents, see where they are going, check the wind speed, the barometer, so to speak, and then put up a vote and take a position that reflects the position of your constituents. That goes on in this Congress too often, Madam Speaker, and it troubles me. It troubles me because we are elected for our effort and our judgment, and we owe our constituents our best judgment. But if our judgment is just simply to check the wind, put our finger in the air, then we're not offering to the system we have here the things that we should have to contribute.

And I would bring a little anecdote of Robespierre to mind. He was pretty well established within the French revolution. He was an advocate for the effective and ruthless utilization of the guillotine to get rid of his political enemies and get rid of the aristocracy that he believed had drug the French down and brought about this revolution. But as the people marched in the streets Robespierre went to the window and looked out and saw the mobs marching through the streets in France. This would be about 1789. And he said, I'd better get in front of them and see where they are going for I am their leader.

Now, that's no kind of leader that just simply tries to lead the mob wherever it is that they happen to be going. And some months later Robespierre was one of about 16,000 Frenchmen and women that found themselves a head shorter. But that kind of leadership didn't work very well for Robespierre, and it doesn't work very well for the United States of America.

It's our task to have a vision for the future. We need to articulate that vision. We need to articulate the principles that we believe in and build policies around those tried and true principles that have created this great American Nation. It isn't going to be a giant mosaic of 435 Members that stick their finger in the wind and decide what position they're going to take that will extend their tenure here in the United States Congress, Madam Speaker. It's going to be the people who look into the future with a vision that they can sell to the American people and say, maybe you're not here yet. Maybe you're not ready to move where we need to go. But this Nation is too important to be a reactionary Member of Congress. We've got to be leadership Members of Congress. We're each elected for our leadership as well.

So let me submit, Madam Speaker, that I look back on last year's vote, that vote before the election. There was a $700 billion bailout, without a prediction on the prospects of it's success, it simply was an emphatic request from then Secretary of the Treasury Paulson that he needed to have a checking account with $700 billion in it, all borrowed money, I might add, so that he could spend it at his discretion to pick up the toxic debt, as he described it. And that's how we ended up with the TARP fund.

And so we let the first half of that out, the $350 billion. And the second half was contingent upon the successful deployment of the first half. And I've seen not the signs of success of that first half. In fact, our stock market has continued to tank. Our economic indicators are going in the wrong direction. There's $350 billion that went into his hand that much of it did get expended, with the other $350 billion, and now this Congress has approved that it go there. It only took the approval of one body to do that. And the Senate did that. That's a start on this economic stimulus component.

But I did not hear a clearly articulated argument back then, back that started here on September 19 when Secretary Paulson came to this Congress and culminated in a vote that was in early October. I didn't hear clearly articulated principles that they would adhere to on how America was going to get back on track.

And so I look on this continuum of mistakes that have been made, and I take us back to a year, and it's my recollection, it's not confirmed date, but about 1978 when the Community Reinvestment Act was passed and became law. That's a component of the flaws that we have. It was legislation that I think was inspired for the right reasons. I think it was well-intentioned, but it turned out to be a large mistake. And it was because there were lenders that would redline certain inner city neighborhoods that they decided that the value of the real estate wasn't going to be sustained in those neighborhoods and sometimes the residents didn't have a very good credit rating. So, with the combination of those two things they just said these whole neighborhoods we're not going to loan money in. People there couldn't buy a house. They can't buy a house. That sent the real estate value spiraling downward. And a blanket decision like that, by drawing a red line around the map was the wrong thing to do, Madam Speaker. But the roots of problem were created out of the good intentions of trying to provide for loans for residences within those neighborhoods that had been redlined, and the Community Reinvestment Act was born. And it was refreshed again in the early '90s, I believe it was 1993, brought up to a little more modern language.

Once you lay down a foundation and a parameter like that, then you encourage the lenders to give bad loans. And when the lenders were giving bad loans in order to be positioned so that their portfolios were a certain percentage of those bad loans, doing so so they had the ability to expand, and we had an economy that was expanding, although, going to the '80s it was not. We had our farm crisis, our real estate crisis and our energy crisis all together in the '80s and we lost 3,000 banks in the United States. And I remember clearly the load and the difficulties that we had. My neighborhood and myself included, aged very quickly during those

years of the '80s. So the Community Reinvestment Act from 1978 didn't turn out to manifest itself in its negative composition because we had an economic crisis in the '80s that was taking banks down and requiring the FDIC to come in and take over the banks and make some moves to prop back up our financial world. And they did some moves then in the '80s that we haven't done here in this particular era.

But in any case, by the time we got into the early '90s, the Community Reinvestment Act was re-established and refreshed; and at that point, things started to move. When we got into the late 1990s and the early 2000s, then we saw unnatural interest rates. We saw the money supply such that the interest rate was driven down. Part of the reason for that was to create an economy that would create a housing boom. So if you have a housing boom that's driven by low interest rates, people would look at that and conclude that they could build a new home or they could buy a high quality used home that allowed someone in that used home to build a new home. And the housing boom began. And it set up a market that exceeded the demand. And we reached the point where we had the highest home ownership of any time in our Nation's history. I remember President Bush announcing that we'd reached 68 percent of the people in America lived in their own homes. And I think that number got marginally higher after he had made that statement.

But in any case, as this came together we had a lot of those were bad loans. We had bad loans that were made into these neighborhoods under the incentive of the Community Reinvestment Act and facilitated in a very large way, by Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac, who had been set up as a quasi-government entities, later privatized, and then moved towards the quasi-government agencies again, and here on the floor of this Congress, when the problems began to arise and we saw that Fannie Mae and Freddie Mac weren't capitalized consistent with the other lending institutions, their competitors, and they weren't regulated in the same fashion as their competitor lending institutions, that gave an unfair advantage to the Fannie Mae and Freddie Mac institutions who were the secondary loan market. And they nearly cornered the secondary loan market, the mortgage market in the United States.

And we came to the floor in this Congress once in 2001, plus or minus a year on that one if you might, Madam Speaker. But again, and made the debate that we should regulate Fannie Mae and Freddie Mac more like other lending institutions because it was too high a risk for the taxpayers to take. Well, that amendment and that effort failed in those earlier years in this millennium, Madam Speaker.

And then, I remember the date, it was here on this floor and it took place from that microphone there and that microphone over there. It was an amendment that was brought to the floor October 26, 2005, by Congressman Jim Leach of Iowa, who was and remains very well respected among the banking community and the lending institutions. He brought an amendment that would have brought Fannie Mae and Freddie Mac into the similar capital requirements of the banks, and the similar regulatory requirements of the banks.

I think he stopped one step short with that amendment. I think he should have moved them towards the clear free market side of this. But in any case, as that amendment was debated, twice in this millennia, twice in this last decade at least we've had an opportunity to get Fannie Mae and Freddie Mac right.

They were, again, Madam Speaker, playing off and capitalizing on the language in the Community Reinvestment Act that said make bad loans in these neighborhoods that don't have a very good value of their real estate. But twice we turned away from shoring up Fannie Mae and Freddie Mac, tightening them up, putting them back into the competitive marketplace. And so we found ourselves in a situation, when AIG was ready to go under and the $85 billion got poured in there about in that era, that's a little bit before that, Fannie Mae and Freddie Mac became very unstable and we had to step in as the Federal Government and nationalize the balance of Fannie Mae and Freddie Mac. Now the taxpayers own Fannie and Freddie. And now Fannie and Freddie don't have any new regulation that requires them to meet those capital and regulatory requirements. But we missed an opportunity to privatize them and regulate them according to the other lending institutions. The compound effect of the Community Reinvestment Act, mark-to-market accounting, the credit default swaps that were taking place, the lack of regulation on Fannie Mae and Freddie Mac and the defense that came from the now chairman of the Financial Services Committee, from Massachusetts, who stood at that microphone and debated Mr. Leach, who was at this microphone, and at a certain point the political center of gravity on that debate went towards the gentleman from Massachusetts, and I think the lobbying effect had an effect on the result as well, Madam Speaker.

But in any case, the Leach amendment went down. That was our last opportunity that I know on this floor to get Fannie Mae and Freddie Mac right.

So we had large financial indicators that were going in the wrong direction. And as this started to tumble it started to snowball down hill it took us to this point on September 19, when Secretary Paulson came to the Capitol and insisted that he have the $700 billion checking account to spend as he saw fit, and within those narrow parameters. Well, not so very narrow parameters, within a broad definition, a huge authorization/appropriation, and maybe the largest that had ever passed out of this Congress. And I'm not certain about that. But it was huge.

□ 1945

So it brought us to this point where there was a $700 billion bill on the floor of the United States House of Representatives, and that bill passed off the floor with, I think, too many Republican votes, and I would have been pleased if it had had none, but there were an awful lot of Democratic votes as well, Madam Speaker. That was the time that this Congress passed the Rubicon. It was the time we had a chance to draw back.

If cooler heads had prevailed and if we had gone back and had actually gotten a do-over on that, I do not believe the $700 billion bailout bill would have passed, because the American people have now seen what has unfolded. They expected to see the markets increase and stability come into our marketplace and to see capital that had been chased to the sidelines come back into the marketplace again. It has not done that. In fact, it looks like more capital has gone to the sidelines because money is smart, and smart money finds its way into the best investment at the time. Right now, that money has been scared out of the marketplace.

I listened to the gentleman from Minnesota, who left the floor a moment ago, Madam Speaker, and he talked about the surplus that we had in the year 2000. That happens to be the last year of the Clinton administration. It is true that we had a surplus during several of those years, and the gentleman from Minnesota, I will say, recognized that he was in the process of misspeaking and backed up to say that the budget surplus was an accomplishment of the administration at the time. At least that was the implication of his words. It was not a quote. I don't want it to be characterized as that, Madam Speaker. Then they go on and argue that this deficit is a deficit that comes out of the Bush administration, and so here we are.

We have a Member of Congress here who will argue and who has argued that the Clinton administration deserves the credit for the surplus that was in our budget in the year 2000 and that the Bush administration deserves the blame for the deficit that we have today. Well, all right. On the surface, maybe you can make that connection, and I would be happy to have this dialogue with the gentleman from Minnesota. Should he arrive on this floor,

I would be happy to yield and have that dialogue.

The first point I would make is that all of this spending starts here in the House of Representatives. There is no President who can initiate spending. There is no Senator who can initiate spending. According to the Constitution, all appropriations bills start here in the House of Representatives. We start them here, and they cannot be authorized and they cannot be spent until the majority of the House of Representatives approves them. Sure, we start them here. We send them to the Senate. The Senate passes them. They come back to a conference. We conference, both vote and pass them. If they pass, then they go to the President for his signature. Yet the House, if determined and organized and unwilling to cave in to the Senate or in to the White House, controls every penny of spending that comes through this United States Government—every penny of appropriations. We do it here. It is ordered by the Constitution.

So it does not do for any Member of Congress or for the rest of the world to say, Madam Speaker, that the responsibility was in the hands of the President. Although, we recognize that the Presidents do exert significant influence on the judgment of Members of Congress and that they do present a budget to this floor and that they do negotiate those budgets, because they sit back with the veto power that gives an appropriate tension that helps bring out a negotiated solution most of the time.

Madam Speaker, Congress has the responsibility, and the President cannot initiate spending, and so I will submit this: this $700 billion bailout plan that passed last year was on our watch. It was on my watch, and it was on the watch of the gentleman from Minnesota. I voted ''no.'' He can speak to how he voted. I believe I recall that was a ''yes.'' The $700 billion, as big a mistake as I believe it was, was also a mistake that was made not just by the gentleman from Minnesota but by the current President of the United States, who voted for the $700 billion plan as a Senator of the United States, and that is attached to him as his responsibility. He needs to answer for the $700 billion bailout plan that gets attached to this huge stimulus package that he is partly the author of and the advocate of.

So, even though the stimulus plan passed out of the House with not a single Republican vote, when it came time to vote for this stimulus plan, so to speak, the ''yes'' votes by the Republicans were a big goose egg up on the scoreboard. Not one Republican thought it was a good idea to roll out this $819 billion in spending in the stimulus plan from the House, which was accompanied by $347 billion in interest liability that goes with it.

You have to pay interest on your debt. We are probably going to end up borrowing money to pay interest on the debt, and I can tell you that spirals downward pretty fast.

When added to the roughly $100 billion in the Senate, the $819 billion takes it up to about $900 billion. The interest rate that is out of the House side, $347 billion, is the low number. The lowest estimated number I can come up with, with the interest and with the Senate dollars in there, is $1.25 trillion in stimulus money. That number is $1.247 trillion. That gets coupled to the $700 billion that was the bailout plan from last year, the $700 billion that President Obama and the gentleman from Minnesota voted for. Now the $1.25 trillion that is being debated in the United States Senate is all his. The President owns that. When you add that together, it rounds pretty handily to $2 trillion.

Now we have a $2 trillion bailout/stimulus plan and a stock market that continues to tank and a financial world out there that lacks confidence that government has been doing the right thing since the election and, in fact, since before the election. We have watched our economy spiral downward. We have watched our market indicators spiral downward. We have watched our unemployment rates go up. Those indicators do not indicate confidence in the leadership that we have in the financial world.

So the financial world, the investment world, the people who are putting capital in that is used to expand the productivity and the distribution and the market share of our companies, are pulling their capital out. They are increasingly holding it. They are buying bonds. I am sure that some of it is sewn up in the mattress by now, that some of it is invested in gold, that some of it is invested in foreign currency as well. Although, I am a bit surprised that our dollar has held up as strongly as it has, and that is more an indicator of the weakness of foreign currency rather than a reason to consider there to be strength in this U.S. dollar today. In any case, the supply of U.S. dollars has gone up, and as it has, the instability goes with it.

So we have a $2 trillion stimulus plan that is 100 percent lock, stock and barrel owned by President Obama, who said to us that it is one leg of a multilegged stool that has to be built in order to get this economy back on track again.

Now let me submit that there are two ways to look at this economic situation. One of them is the Keynesian approach, which is, if government can pour enough money into the economy and get enough money into the hands of enough people who will take that money and spend enough of it, that it will stimulate the economy. So, if more people go out and buy a loaf of bread or buy a car or maybe go to the theater or to the ball game or maybe buy a ball glove themselves, that increased spending will stimulate a demand that will cause more manufacturing and more goods to be brought into our economy. That is the Keynesian approach.

The problem with it is that, looking back in history and at the times when we have done such things, the actual economic numbers do not support the idea that pouring money willy-nilly into the economy in an indiscriminate fashion results in the stimulation of our economy.

I will not argue, Madam Speaker, that there aren't some places where government can invest money that does stimulate the economy. One of those places would be investing in transportation links that open up development in new areas and that help goods and services move back and forth in a more efficient fashion. That does create economic development. Transportation has been the number one best tool to use to grow economic development throughout the history of all of humanity.

So I do not take it all off the table, but there is much that is on the table that I would take off. I would not put a dollar into the National Endowment for the Arts and call it economic development or stimulus.

Here is another piece that I was just looking at. Of the infrastructure funding within the stimulus package, there is language in there that bans that money from going into facilities that allow religious worship in them. To me, it looks like that is a first amendment violation in that we would discriminate against facilities that allow people to pray and to have religious worship. Maybe they've got a different definition of ''religious worship'' than I have, but I don't know of a single school where there isn't prayer that takes place, not just by students who are sitting there, taking a test, but by faculty/administration where prayer is also a part of their daily lives.

I can think of the public school where my kids graduated. On the Friday after September 11, the superintendent invited in all of the pastors in the community and brought together all of the students in the school, K through 12. They had a prayer service there for the victims of September 11 and for this Nation, which was in great peril at the time. It was an open, full-blown prayer session in the gymnasium of the public school. That is worship, Madam Speaker.

If none of those dollars could go to a public school like that because people prayed inside that building, I have to tell you I think there are folks writing this legislation who are praying on the American people. I would reject that thought process. I would find the person who

put that language in there—I suspect it was a staff person more than a Member, but the Member must have facilitated it—and I would pull them out root and branch. We don't need those kinds of people in this Congress who are going to put America's religious faith as a target and write it into legislation and exclude facilities from public finance that allow worship in them. It is an outrageous thing. It is the most outrageous.

Among the other outrageous things that are in this bill or where there have been precedents set and parameters set: $400 million for education and for the prevention of sexually transmitted diseases. Economic stimulus plan. I wonder what economic guru and I wonder what department of economics would be sitting around to come up with an idea like that.

I know that President Obama has said that he is familiar with the College of Economics at the University of Chicago, where he taught constitutional law. I don't know that that would be the kind of a policy that would emerge from a think tank at the University of Chicago. I suspect not.

As for the places I have been and as for the people whom I have met, if I took them seriously, it would not come out of their economics departments either. I can't imagine the mindset of people, who have the public trust, drafting into legislation legislation that now is in the $900 billion zone, plus the more than $347 million in interest. I can't imagine what kind of a think tank would produce an idea that got past the first sentence where we would stimulate the economy by investing $400 million in sexually transmitted diseases. It may be a good program, but I can tell you, Madam Speaker, that the return on that investment with regard to a stimulus plan would no way in the world be measured in our economy by investing $400 million in sexually transmitted disease prevention. So that is one of those bizarre ideas. If that is a stimulus plan, that is not it, not for me, not for the taxpayers of America, and it ought to be out of there.

I will just read from this: ''In order to control and prevent sexually transmitted diseases, the Centers for Disease Control used its budget for the following purposes:'' This is within the existing budget of the Centers for Disease Control. ''A transgender beauty pageant in San Francisco that advertised available HIV testing.'' There would be an economic stimulus plan within the budget of the CDC, I presume. I would reject that as well. The Centers for Disease Control funded an event also put on by the Stop AIDS Project called ''Got Love: Flirt, Date, Score'' that taught participants how to flirt with greater finesse. This our Federal tax dollars.

It embarrasses me to read that for two reasons. One is this dialogue in this public sphere makes me a little uneasy. The other is that we have people who are entrusted, Madam Speaker, with the American people's tax dollars who would, with a straight face and maybe even under the light of day, take that money and divert it to these kinds of projects.

I have a list here. I cannot bring myself to read the rest of it because I think that it goes downhill from there. In fact, clearly, it does.

So a $700 billion bailout plan, coupled with a $1.25 trillion stimulus package. It is a $2 trillion approach here that is designed to supposedly stimulate and fix this economy. The President has said that he inherited a $1 trillion deficit. I do not know that it is $1 trillion—it may be—but he also owns a $2 trillion bailout/stimulus plan. It is his plan. He voted for the $700 billion.

□ 2000

He's advocated the 1¼ trillion, even though I think that the President's approach to this is slightly more reasonable than that of the Speaker of the House, Madam Speaker, in that there's at least been lip service paid to the idea that there should be a little more stimulus in it, a little more for small business, and there should be less in this wish list. But when I look at the wish list, it comes to me this way. It appears to be the huge wish list that's been produced by the activist liberals in this Congress, Madam Speaker, and they can't seem to restrain themselves from jumping on this and putting in everything under the sun that they couldn't get passed when they were held more accountable.

One of the former Members of the Congress who has been an effective leader on the other side of the aisle, from where I stand, said never let a crisis go to waste. Well, I have to tip my hat to that philosophy, however much I disagree with it. The Speaker, the leadership, the Chairs of the committees, both Appropriations, Financial Services and a number of others, have not allowed this crisis to go to waste. They've jumped on it with every opportunity to expand government, to grow government, to raise the baseline, to pour hundreds of billions of dollars and, in fact, cumulatively $2 trillion into this President Obama-owned $2 trillion bailout/stimulus plan that has no record of working.

And there's a belief over on this side of the aisle—and I'd love to do this debate on the floor of Congress one day, maybe even today, maybe even tonight. There's a belief that Franklin Delano Roosevelt somehow saved America from the Great Depression. Well, I looked at that. I was taught that. I sat in the classrooms from probably eighth grade on where it was the mantra that FDR saved us from the Great Depression and won World War II. In fact, I didn't hear my parents rebut that either. It didn't come from the home when I began to look at it differently.

I will say FDR was very, very useful in fighting and winning World War II. He was great for the spirit of America. He held our will together, and it was a hard thing to do, and he provided a high level of confidence in American military and our Commander in Chief that was, I will say, essential in winning World War II in the way that we did, but that doesn't equate into giving him a pass into what went on in the 1930s.

And I'm not here either, Madam Speaker, to advocate that my Iowa President, Herbert Hoover, got everything right. He got almost everything right up to and until the time—in his entire life, he was a magnificent individual, an utterly brilliant man that sometimes the things he touched literally turned to gold, speaking of the gold mining industry in Australia. His life and his history was just a never-ending string of success, which gave him a sense, I think, of false confidence that he could manage an economy, support Smoot-Hawley, and use the government to get us out of an economic problem.

That set the stage for FDR to be elected in 1932, who came into this and began to kick off the New Deal, the New Deal that had within it a multitude of projects. Ones that come to mind are WPA, the CCC. There were a number of others. And as I watched that unfold, I went through the history of the New Deal, having been taught continually that the New Deal was what bailed us out of the Great Depression.

And so when I was a junior in high school, I was assigned the task of writing a term paper, and I don't recall clearly, but I believe I had to select from a list of possible topics, and I think we might have been able to offer our own. But in any case, I chose the New Deal and the Great Depression and FDR because I had been convinced by the educators that FDR got us through the depression, and it was his creativity and innovativeness that saved us from that economic crisis.

And so I began to do the homework to write that term paper, and I took it very seriously. It was a project for me and it was personal. It was personalized and it was internalized. And the big part of it for me was to go into the public library, the public library, the Carnegie library in Denison, Iowa, where I went to high school. I sat down in there and I began to pull the newspapers. The newspaper was a county seat newspaper, remains today, same newspaper, county seat of about 6,500 people today, and they published twice a week.

I began getting those old newspapers out, and I started when the stock market crashed in October of 1929, and I

read that newspaper thoroughly, took my notes. There were no copy machines in those days, so I was preparing the footnotes for the term paper that I was writing. And then I went through newspaper by newspaper, turning the pages, reading the relevant articles that had to do with the financial situations, any layoffs that we had, any notices, advertisement by banks, interest rates, things of that nature.

I actually remember the cigarette commercials stood out to me as being far different than they were even at that time, and as I read through those newspapers and tracked the beginning, the discussion, the dialogue, the acts of Congress and the implementation of the components of the New Deal, I read it all the way through twice a week, newspapers from October 1929 all the way up until the Japanese attacked Pearl Harbor, December 7, 1941. At that point, all the news became war, and it was impossible to track the economics in any kind of a relevant fashion.

But it was a good study period to look at. October 29 to December 1941, every newspaper, took notes, wrote footnotes, wrote a term paper which I wish I had it today, and I actually looked for it and can't find it. But in any case, when I completed that study and was ready to put the term paper together, I remember sitting in the room, the newspaper room in the library, looking up at the ceiling and thinking, this is far different than I thought it would be.

I really didn't see evidence there that the New Deal had stimulated the economy. I didn't see evidence it had saved us from the depths of the Great Depression. I couldn't follow that huge vast government programs, government taking over entity after entity and managing an economy, I couldn't see the evidence that it had significantly reduced unemployment. I couldn't see the evidence that capital had come into the investment markets, and if you tracked the Dow Jones Industrial Average, that Dow stayed down and way down throughout the 1930s, and unemployment that was about 25 percent going into FDR's first term hung in there pretty tough all the way through. And I believe the lowest unemployment we had throughout that entire decade was 14 percent.

Now, those things that I saw, that I read, when I come into something with a conclusion that I'm seeking to ratify with evidence and walk away from that having turned 180 degrees, realizing that FDR's New Deal plan wasn't a plan that bailed us out of the Great Depression but at best, at best, it can only be critiqued and analyzed to have perhaps diminished the depths to which we fell in the Great Depression, at the great cost of delaying the recovery, all of that borrowed money and the tax money that came away from the private sector and was poured into growing government, that money that went in was money that scared other capital out of the investment business and kept private industry from growing. And so government investment made private capital hesitant, that that was left that wasn't taxed away, and Madam Speaker, it delayed the recovery from the Great Depression.

So even if FDR's New Deal diminished the depths to which we might have fallen if he would have done a hands-off, if he would have been a cool Ike, not a Hoover, if he had done that, I think we would have recovered quickly. I think we would have bounced back quickly, but that wasn't what happened.

Government spending brought about indecision and scared capital way from the marketplace, and it hired government workers, many, many government workers. The CCC camps would be among them, and I know what it's like to try to hire labor when government competes against you for that labor. Government will always pay when you're talking about blue collar jobs. Government will pay the highest wages. They'll pay the highest benefits. They'll give the most job security.

So if you're out there and you have a family to raise and you're unemployed, you're looking for a job, and you go out into the job market and you put out your applications and you stand in line and you begin to market yourself and you have a choice between going to work for Uncle Sam and going to work for the new entrepreneur down the road that just put together enough capital on a wing and a prayer to start up an entrepreneurial business that might grow into something magnificent, when government outbids the private sector for labor, they also, Madam Speaker, delay the recovery of a depression, of recession, or they diminish the growth during our bull markets in our good times as well.

And that is what happened during the Great Depression. The Federal Government competed with the private sector for capital, by nationalizing, by competing for labor. When that happened, it diminished the inspirations of the entrepreneurs. They hired workers away that might have been entrepreneurs themselves but took them out of the labor force and the private sector. Government grew, the private sector shrunk, the stock market sunk and stayed flat.

In fact, from that time in October of 1929, the Dow Jones Industrial Average did not recover to that level, not at all through the 1930s, not at all through the 1940s. Not until 1954 did the Dow Jones Industrial Average get back to the place where it was in October of 1929.

So one might even argue—in fact, Madam Speaker, I will argue—that not only did not the New Deal get us out of the depression, it might have helped bridge us marginally to get to the Second World War, but I'll argue the Second World War didn't take us out of it either because we didn't get recovered. But what did happen was the Second World War destroyed the rest of the world's industry, and it left the U.S., having been on a huge growth boom in our manufacturing and industry here to meet the war effort for the world and for our 16,000, mostly men but also women, that served in uniform during that period of time.

So we found ourselves in a world that needed to be rebuilt, that was hungry for the products of industry, and with the only major industrial country in the world that hadn't been destroyed in the Second World War, and as our industry cranked out product after product, and as we exported overseas and as the greenback became the currency of the world, when all that happened, we were recovering economically. And that's why it took until 1954.

So the Second World War was a big stimulus plan. We spent a lot of big government money, but the private sector, as we emerged from the Second World War, is what put the real meat on the bones and brought us out of that and took us through the recovery that reached that level in 1954. And then that's the part of the economy that now that I remember in my life's experience, Madam Speaker.

But we should not fool ourselves into believing that the New Deal was a good deal. We should instead go back and replay history, reset that clock and play it out. What if Coolidge had remained President? What if we would have set a policy from this very floor of this Congress that we were going to have fiscal discipline and tax relief and get as much money into the hands of the productive sector of the economy as we possibly could? That would be a very interesting exercise to reset that clock and game-play that out.

I believe that we may have dropped deeper, but I also believe that we would have recovered much more quickly, and I believe we would be a stronger, more robust economy today if we had made those decisions then.

So this brings us now fast forward into 2009, this day today. We're here watching a stock market that has tanked, that hasn't quite lost half of its value, but it's juggling underneath and falling below the 8,000 floor. We have indicators that show that there are 10.5, 11 million people, maybe more, that are unemployed and looking for work; although, the real unemployment numbers are marginally a little more than half of that number.

We have economic indicators that mean capital is scarce and unemployment numbers going up. Investment capital is diminishing. Smart money is going to the sidelines. Demand for loans has shrunk substantially. It hasn't disappeared entirely. The marketing of these homes that were the

toxic debt that Secretary Paulson talked about, actually there was a little bump in the transfer of those, but until we work our way through this, this economy is not going to be back on a solid foundation.

□ 2015

We have to get it on a solid foundation by having solid economic theory here on the floor of this Congress, not the idea that a new New Deal is going to somehow be better than the old New Deal. And I would challenge, Mr. Speaker, our President to lay out some data, show me where the New Deal actually worked. And I understand his position that FDR didn't spend enough money, that if he had just spent more money, if he hadn't lost his nerve, if he hadn't been worried about fiscal responsibility, there would have been a lot bigger old New Deal that would have brought us out of the depression before the Second World War. I understand the President believes that because FDR lost his nerve on spending that it brought about a recession within a depression. That's something I had never heard before. I understand that's a belief. And I understand that the President of the United States believes that we have to construct a multilegged stool of New Deal-like programs in order to, in a Keynesian way, stimulate this economy, that we have a real political problem on our hands that is an economic problem on our hands that lays down a parameter here that will set a precedent if we go forward with this stimulus plan for the United States of America that we can never go back and fix again. Once you cross that line, once you write that mammoth check, once you obligate our children and our grandchildren to pay the interest on this debt—and Lord knows if they could ever pay the principal—once you buy into this huge, humongous, Keynesian, multitrillion-dollar bailout/stimulus plan which says that government is the solution and the only answer and that, yes, private sector can tag along but they aren't big enough to make a difference. Even though some of these companies are, quote, too big to fail, or, more accurately, too big to be allowed to fail. If the private sector can be too big to be allowed to fail, how can they not be big enough to work us out of this calamity? How can we draw a conclusion that we can create jobs out there from the government side of this argument when the very fact that those jobs haven't been created in the private sector says there wasn't a demand for them, they weren't economically sound or smart capital would have found a way to create those jobs in the first place. But what we have is a self-confident, overconfident, in fact, arrogant government that believes that they are the solution and that they can lead the private sector. And when I hear the statement come out that the CEOs of these corporations that receive bailout money will be limited to no more than $500,000 a year in compensation, it sounds like enough money to me, also, Mr. Speaker. But I will tell you that it's wrongheaded policy and it's what happens when you have the Federal Government engaging in providing capital into the private sector, they also begin to micromanage the private sector. When they micromanage the private sector, you get things like wage reductions for CEOs and boards of directors. And you get things like perhaps one day you'll see, well, a wage increase for the workers. Now when I hear that and I think the President of the United States wants to tell a company how much they can pay their CEOs and their board of directors, is there any principle there that remains that would keep, Mr. Speaker, the President of the United States or this Congress from telling these companies what they will pay their workers? If the President has enough influence in this Congress and holds the checkbook through the Secretary of the Treasury, and I'm pretty uneasy about him having our checkbook actually with his tax problems, but in any case, if he holds the checkbook and the directive of the President is that the blue collar workers on the line aren't making enough money per hour, if you're going to see a stream of capital come into the company, the lending institution, for example, then you're going to comply with the demands of the President. They don't have to be the law of the land. They don't have to be something that is legislation that is debated and voted up or down on the floor of this Congress. They only have to be the intimidation effect of we will make your life miserable, Mr. CEO and Board of Directors, if you don't comply with this verbal comment that was made by the President of the United States, or the chairman of a committee. That's how government gets in the business of managing corporations. That's how European socialism emerges in our private sector, a little piece at a time, sometimes in a veiled way and it seems to all be justified as it comes along and it sounds good to us because we don't want to be bailing out companies whose CEOs and boards of directors are taking out hundreds of millions of dollars in bonuses. I agree with that, that sentiment. I think I saw that the Wall Street executives only bonused themselves, in the aggregate, $20 billion last year. $20 billion? While we saw our stock market tank, while we saw all of our indicators go down and meanwhile while they're taking checks from the Federal Government. But it's very dangerous to be in the business, the Federal Government, of managing the private sector. So the alternative is we have to let some of them fail. There has to be a deterrent there to allow some of them to fail. And if we're not willing to do that, then European-style socialism at best here we come, faster than you can believe, fast enough that an historian will get whiplash watching what happens in this Congress.

And as I looked at the poster that was put up on the floor, Mr. Speaker, the poster that says Congressional Progressives, I was about ready to go to that Web site, cpc.grijalva.house.gov, and I will go there within the next few hours, Mr. Speaker, because I have taken a look at these Web sites and it helps me understand what's going on in the minds of the folks that are voting on that side of the aisle of the United States Congress. So my little visit over last weekend to the Democratic Socialists of America Web site, and I would point out that is the Socialist Party of America, that little visit to that Web site tells me a few things. First, they make the argument that they're not Communists. You can get into the nuances of that, Mr. Speaker, and I would encourage you to look at that definitional difference. I think it's a nuance, the difference between their definition of socialism and communism, but it comes to this. They don't believe everything should be owned by the government. They think that there are small businesses that need to be run by entrepreneurs, supply and demand, barber shops and convenience stores, presumably, not the chains, just the individuals, maybe the doughnut shop down the road, some of those things need to be run by individuals, but by and large their statement very clearly is, large companies need to be run by the people affected by them. That is a dramatic departure from one of the huge foundations of what's made this country great, our free market economy.

So we would actually see a position taken on a Web site of the Democratic Socialists of America that the government should make sure that we run these corporations for the benefits of, well, let's just say the people affected by them. That would mean, then, that the telephone customers would be the ones who would call the shots. They would say, here's how it benefits me, and you would make those decisions according to my wishes, not according to me paying by bills willingly. Let's just say that you had a sports bar chain. Well, then you'd run that for the benefit of the people that are using it. So I guess the drinkers would make the call there, Mr. Speaker. That's the philosophy that they define as different than communism, and I think it's a nuance. But when I look at that philosophy and I see within that page that they call for the nationalization of the oil industry, the nationalization of the refineries and I'm watching out of this Congress come a call for the nationalization of our auto manufacturers and imposing regulations on them so that

they do not have the latitude to clearly and freely make a profit without the government telling them what to do, then I read through the Democratic Socialists of America and they say we are an active political party but we do not advance candidates on our ticket because our legislative wing is the Progressive Caucus in the United States Congress. I'll say it again. Our legislative wing is the Progressive Caucus in the United States Congress. That's right off the Democratic Socialists of America Web site. So go there. I think that's the Congressional Progressives that was the poster that was here and that's what I want to check. But I know that on that list there are 72 Members of Congress, one Member of the United States Senate, a self-professed socialist, 72 Members in this Congress who constantly are advocating for the policies that I read on the socialist Web site. The link is there. They claim the link. The Progressive Caucus has the Web site and it names the people and the Members, and today they hold gavels and they're Chairs of committees, full committees, Chairs of subcommittees. These are the people that are advocating the policies that scared the living daylights out of the American people in the aftermath of World War II. And we quit saying words that are considered to be pejorative about folks who want to collectivize our American economy and assets.

And so, Mr. Speaker, I think it is important that you, all Members of this Congress and the American people go visit those Web sites, do a little research, dig into it themselves and then listen to the debate. Because once you understand the source of the ideas, then it's easier to understand where this is going. And we can see piece by piece, component by component, how this is being linked together, how Americans are losing their freedom piece by piece, how we're trading our freedom off for dependency one government policy at a time. A perfect example would be the SCHIP legislation that passed off the floor of this house today on its way to the President's desk. It may have been signed by now. I saw the giddy glee with which some people were applauding when that passed. I will tell you, it makes me sick at heart, Mr. Speaker. The SCHIP program, I describe it as Socialized Clinton-style Healthcare for Illegals and their Parents. And it is. It lays a foundation stone for socialized medicine in America. It was passed out of this Congress first in 1997. And I supported it as a State Senator. We took it up to 200 percent of poverty. I didn't have the understanding of how the machinery of politics churns us through year by year, decade by decade and generation by generation and brings us inevitably to a point where SCHIP at 200 percent of poverty, designed to help needy children and needy families that couldn't pay for the health insurance and made enough money that they didn't qualify for Medicaid, all under the right kind of motives, both sides, Republicans and Democrats, was brought first out of the floor of this Congress a little over a year ago, not at 200 percent of poverty but a family of four, all families that is a standard, at 400 percent of poverty, brought to this floor, passed off this floor with a straight face over to the Senate. 400 percent of poverty. That in my State would have paid a subsidy for health insurance premiums in families of four that made $106,000 a year, while we're charging people alternative minimum tax because that's taxing people that are too rich, and 70,000 families in America would qualify to pay the rich man's tax, the alternative minimum tax, 70,000 families, and at the same time qualify to have the health insurance for their children subsidized by the taxpayer. We've crossed the line, gone across that line over into a huge foundation stone for socialized medicine.

Well, it came back to this Congress, we shot it down, the President of the United States, President Bush, vetoed the SCHIP bill. Now it came back to us today, the conference report, that set simply a 300 percent of poverty to avoid the criticism. There are waivers in there that allow States like New Jersey and New York to go to 400 percent of poverty, or more, and the restraints are not there so that they can write more waivers and essentially it is health insurance for children and children of millionaires do qualify for this bill that passed the floor today. Children of millionaires will have their health insurance paid for by middle-income and low-income and upper-income taxpayers when it can't be justified. This bill that passed off of here today takes at least 2.4 million children off of private sector insurance and puts them over onto the public dole. And when you get to that point, you have reached a foundation stone for socialism, Mr. Speaker, and that's the essence of my discussion today.

I thank the Speaker for his indulgence, and I would yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STARK (at the request of Mr. HOYER) for today on account of medical reasons.

Mr. POE of Texas (at the request of Mr. BOEHNER) for today until 3 p.m. on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, February 10 and 11.

Mr. INGLIS, for 5 minutes, today and February 10.

Mr. POE of Texas, for 5 minutes, February 11.

Mr. JONES, for 5 minutes, February 11.

Mr. PENCE, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. GOHMERT, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GORDON of Tennessee, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

ENROLLED BILL SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2. An act to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, pursuant to House Concurrent Resolution 26, 111th Congress, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 29 minutes p.m.), the House adjourned until Monday, February 9, 2009, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

381. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting an annual report providing information requested by House Report 106-616 of the National Defense Authorization Act for Fiscal Year 2001; to the Committee on Armed Services.

382. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's ''Major'' final rule

— Interactive Data to Improve Financial Reporting [Release Nos. 33-9002; 34-59324; 39-2461; IC-28609; File No. S7-11-08] (RIN: 3235-AJ71) received February 2, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

383. A letter from the Secretary, Department of Education, transmitting the Department's report on how to improve the Historically Black College and University (HBCU) Capital Financing Program; to the Committee on Education and Labor.

384. A letter from the Vice Admiral, USN Director, Defense Security Cooperation Agency, transmitting the Agency's reports containing the 30 September 2008 status of loans and guarantees issued under the Arms Export Control Act; to the Committee on Foreign Affairs.

385. A letter from the Secretary, Department of Commerce, transmitting the Department's report on Foreign Policy-Based Export Controls for 2009; to the Committee on Foreign Affairs.

386. A letter from the Acting Assistant Secretary Legislative Affairs, Department of State, transmitting correspondence from the Speaker of the National Assembly for the Republic of Korea; to the Committee on Foreign Affairs.

387. A letter from the Acting Assistant Secretary Legislative Affairs, Department of State, transmitting a certification pertaining to Australia Group members consistent with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons on Their Destruction; to the Committee on Foreign Affairs.

388. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-632, ''Boys and Girls Clubs of Greater Washington Plan Repeal Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

389. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-631, ''Fiscal Year 2009 Balanced Budget Support Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

390. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-630, ''Public Schools Hearing Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

391. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-629, ''Targeted Ward 4 Single Sales Moratorium and Neighborhood Grocery Retailer Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

392. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-627, ''Langston Hughes Way Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

393. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-626, ''Solid Waste Disposal Fee Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

394. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-625, ''Retired Police Annuity Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

395. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-624, ''School Saftey and Security Contracting Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

396. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-623, ''Abatement of Nuisance Properties and Tenant Receivership Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

397. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-622, ''Washington Metropolitan Area Transit Commission Composition Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

398. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-621, ''Debris Removal Mutual Aid Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

399. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-620, ''Insurance Coverage for Emergency Department HIV Testing Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

400. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-656, ''Bolling Air Force Base Military Housing Real Property Tax Exemption and Equitable Tax Relief Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

401. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-655, ''Prohibition of the Investment of Public Funds in Certain Companies Doing Business with the Government of Iran and Sudan Divestment Conformity Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

402. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-663, ''Real Property Tax Benefits Revision Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

403. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-664, ''Emergency Care for Sexual Assault Victims Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

404. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-665, ''Grocery Store Sidewalk Cafe in the Public Space Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

405. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-666, ''Eckington One Residential Project Economic Development Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

406. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-667, ''Approval of the Verizon Washington, DC Inc. Cable Television System Franchise Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

407. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-668, ''Mortgage Lender and Broker Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

408. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-685, ''Walker Jones/ Northwest One Unity Health Center Tax Abatement Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

409. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-686, ''Bicycle Safety Enhancement Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

410. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-687, ''Technical Amendments Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

411. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-701, ''Housing Regulation Administration Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-702, ''Timely Transmission of Compensation Agreements Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-688, ''Conversion Fee Clarification and Technical Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-689, ''St. Martin's Apartments Tax Exemption Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-690, ''Inoperable Pistol Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-691, ''Emergency Medical Services Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-692, ''Domestic Partnership Police and Fire Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-693, ''Gateway Market Center and Residences Real Property Tax

Exemption Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-694, ''Equitable Street Time Credit Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-695, ''Limitation on Borrowing and Establishment of the Operating Cash Reserve Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-696, ''Alcoholic Beverage Enforcement Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

422. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-703, ''Intrafamily Offenses Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

423. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-704, ''Medical Insurance Empowerment Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

424. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-705, ''Water and Sewer Authority Equitable Ratemaking Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

425. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-706, ''Comprehensive Stormwater Management Enhancement Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

426. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-707, ''Washington, D.C. Fort Chaplin Park South Congregation of Jehovah's Witnesses, Inc. Real Property Tax Relief Temporary Act of 2009,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

427. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-697, ''Office of Public Education Facilities Modernization Clarification Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

428. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-698, ''AED Installation for Safe Recreation and Exercise Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

429. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-699, ''Housing Waiting List Elimination Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

430. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-700, ''Housing Production Trust Fund Stabilization Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

431. A letter from the Chief Operating Officer/ Executive Secretary, Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

432. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-641, ''Appointment of the Chief Medical Examiner Temporary Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

433. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-642, ''Day Care and Senior Services Temporary Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

434. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-640, ''Hal Gordon Way Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

435. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-639, ''Dr. Purvis J. Williams Auditorium and Athletic Field Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

436. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-638, ''Taxation Without Representation Street Renaming Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

437. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-636, ''Reverend Dr. Luke Mitchell, Jr. Way Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

438. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-635, ''Duke Ellington Way, Chuck Way, and Cathy Hughes Way at the Howard Theater Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

439. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-634, ''Juvenile Speedy Trial Equity Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

440. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-662, ''Closing of a Public Alley and Extinguishment of a Public-Alley Easement in Square 749, S.O. 07-8916, Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

441. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-661, ''Bud Doggett Way Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

442. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-660, ''Rhode Island Avenue Metro Plaza Revenue Bonds Approval Amendment Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

443. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-659, ''Closing of a Public Alley in Square 617, S.O. 07-9709, Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

444. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-658, ''Asbury United Methodist Church Equitable Real Property Tax releif Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

445. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 17-657, ''New Convention Center Hotel Technical Amendments Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

446. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 17-637, ''Dr. Ethel Percy Andrus Designation Act of 2008,'' pursuant to D.C. Code section 1-233(c)(1); to the Committee on Oversight and Government Reform.

447. A letter from the Secretary, Department of Education, transmitting the Department's thirty-ninth Semiannual Report on Audit Follow-Up, covering the period April 1 through September 20, 2008, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b) Public Law 100-504; to the Committee on Oversight and Government Reform.

448. A letter from the White House Liaison, Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

449. A letter from the Deputy White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

450. A letter from the Secretary, Department of Veterans Affairs, transmitting the Department's report on competitive sourcing efforts for fiscal year 2008, pursuant to Public Law 108-199, section 647(b) of Division F; to the Committee on Oversight and Government Reform.

451. A letter from the Chief Financial Officer, Federal Mediation and Conciliation Service, transmitting a report under the Federal Manager's Integrity Act (FMFIA) for Fiscal Year 2008; to the Committee on Oversight and Government Reform.

452. A letter from the Director of Administration, National Labor Relations Board, transmitting the Board's report on competitive sourcing efforts for the prior fiscal year, pursuant to Public Law 108-199, section 647(b) of Division F; to the Committee on Oversight and Government Reform.

453. A letter from the General Counsel, Office of Government Ethics, transmitting the Office's report on competitive sourcing efforts completed or initiated in fiscal year 2008, pursuant to Public Law 108-199, section 647(b); to the Committee on Oversight and Government Reform.

454. A letter from the Senior Associate General Counsel, Office of the Director of National Intelligence, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

455. A letter from the Acting General Counsel, Peace Corps, transmitting a report

pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

456. A letter from the Director, Department of Interior, transmitting the Department's report entitled, ''National Park Service Centennial Initiative 2008 Progress Report''; to the Committee on Natural Resources.

457. A letter from the Director, Department of Justice, transmitting the Department's report entitled, ''National Drug Threat Assessment (NDTA) 2009''; to the Committee on the Judiciary.

458. A letter from the President and CEO, National Safety Council, transmitting the Council's Fiscal Year 2008 Audit Report, pursuant to 36 U.S.C. 463 Public Law 259-83d; to the Committee on the Judiciary.

459. A letter from the Program Analyst, Department of Transportation, transmitting the Department's ''Major'' final rule — Washington, DC Metropolitan Area Special Flight Rules Area; Correction [Docket No. FAA-2004-17005; Amendment No. 93-91] (RIN: 2120-AI17) received January 26, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

460. A letter from the Assistant Secretary for Legislative Affairs, Department of the Treasury, transmitting the Department's report entitled, ''Report on the Taxation of Social Security and Railroad Retirement Benefits in Calendar Years 1997 through 2004,'' pursuant to Public Law 98-21, section 121; to the Committee on Ways and Means.

461. A letter from the Director, Executive Office of the President Office of National Drug Control Policy, transmitting a letter regarding Plan Colombia; jointly to the Committees on Appropriations and Foreign Affairs.

462. A letter from the Assistant Secretary for Civil Rights, Department of Education, transmitting the Department's annual report for the Office for Civil Rights for Fiscal Years 2007-2008; jointly to the Committees on Education and Labor and the Judiciary.

463. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''Final Report to Congress on the Informatics for Diabetes Education and Telemedicine (IDEATel) Demonstration, Phases I and II,'' pursuant to pUB. l. 105-33, section 4207(e); jointly to the Committees on Ways and Means and Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REHBERG:

H.R. 845. A bill to authorize the Crow Tribe of Indians water rights settlement, and for other purposes; to the Committee on Natural Resources.

By Mr. CUMMINGS:

H.R. 846. A bill to require institutions receiving assistance under the Emergency Economic Stabilization Act of 2008 to report certain corporate data, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. NADLER of New York, Mr. KING of New York, Mr. MCMAHON, Mr. RANGEL, Mr. ACKERMAN, Mr. ARCURI, Mr. BISHOP of New York, Mr. BURGESS, Mr. CROWLEY, Mr. ENGEL, Mr. HALL of New York, Mr. HIGGINS, Mr. HIMES, Mr. HINCHEY, Mr. ISRAEL, Mr. LEE of New York, Mrs. LOWEY, Mr. MAFFEI, Mr. MASSA, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. MCHUGH, Mr. MEEKS of New York, Mr. PASCRELL, Mr. SERRANO, Ms. SUTTON, Mr. TONKO, Mr. TOWNS, Mr. WEINER, Ms. WOOLSEY, and Ms. CLARKE):

H.R. 847. A bill to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. ISSA, Mr. BERMAN, Mrs. BLACKBURN, Mr. HODES, Ms. WASSERMAN SCHULTZ, Mr. WEINER, Mr. COHEN, Mr. NADLER of New York, Mr. WEXLER, Mr. PETERSON, Mr. JOHNSON of Georgia, Mr. SCHIFF, Mr. SHERMAN, Mr. SHADEGG, Ms. JACKSON-LEE of Texas, Ms. LINDA T. SÁNCHEZ of California, Ms. HARMAN, and Mr. WAXMAN):

H.R. 848. A bill to provide parity in radio performance rights under title 17, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. GEORGE MILLER of California (for himself, Mr. BARROW, and Ms. WOOLSEY):

H.R. 849. A bill to require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes; to the Committee on Education and Labor.

By Ms. VELÁZQUEZ (for herself, Mr. PITTS, Mr. GRAVES, Mr. SHULER, Mr. MORAN of Virginia, and Mr. FATTAH):

H.R. 850. A bill to encourage the development of small business cooperatives for healthcare options to improve coverage for employees (CHOICE) including through a small business CHOICE tax credit; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GIFFORDS:

H.R. 851. A bill to establish executive compensation and corporate governance requirements for institutions receiving assistance under the Troubled Assets Relief Program; to the Committee on Financial Services.

By Ms. LORETTA SANCHEZ of California (for herself, Mr. HILL, Mr. SHULER, Mr. ELLSWORTH, Mr. COSTA, and Mr. BARROW):

H.R. 852. A bill to authorize the Secretary of the Treasury to issue Re-Build America Bonds to finance essential infrastructure projects; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER (for himself, Mr. MATHESON, Ms. BORDALLO, and Mrs. MYRICK):

H.R. 853. A bill to amend title 18, United States Code, to prohibit the use of interstate commerce for suicide promotion; to the Committee on the Judiciary.

By Mr. CLAY (for himself and Mr. TOWNS):

H.R. 854. A bill to require the Archivist of the United States to promulgate regulations to prevent the over-classification of information, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. FORBES (for himself and Mr. KENNEDY):

H.R. 855. A bill to amend the Public Health Service Act to authorize medical simulation enhancement programs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RADANOVICH (for himself, Mr. NUNES, Mr. CARDOZA, Mr. CALVERT, Mr. MCCARTHY of California, Mr. ROHRABACHER, Mrs. MCMORRIS RODGERS, and Mr. COSTA):

H.R. 856. A bill to provide flexibility for the operation of the Bureau of Reclamation C.W. ''Bill'' Jones Pumping Plant and the Harvey O. Banks Pumping Plant of the State of California in times of drought emergency, to support the establishment of a fish hatchery program to preserve and restore the Delta Smelt in the Sacramento-San Joaquin Delta, and for other purposes; to the Committee on Natural Resources.

By Mr. MOORE of Kansas (for himself, Mr. CLEAVER, Mrs. MCCARTHY of New York, Ms. GIFFORDS, Mr. SCOTT of Georgia, Mr. CHILDERS, Mr. GRAYSON, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. RYAN of Ohio, Mr. DEFAZIO, Mr. ELLISON, Mr. ISRAEL, Mr. MCDERMOTT, Mr. SCHIFF, Mr. DOGGETT, Ms. BERKLEY, Mr. BOCCIERI, Mr. KISSELL, Mr. MASSA, Mr. PERRIELLO, Mr. GENE GREEN of Texas, Mr. MCGOVERN, Mr. EDWARDS of Texas, Mr. HOLT, Mr. CONYERS, Mr. BRALEY of Iowa, Mr. CHANDLER, Mr. SCHAUER, Mr. CARNAHAN, Mr. LIPINSKI, Mr. HINOJOSA, Mr. SPACE, Mr. REYES, Mr. TIERNEY, Mr. CLAY, Ms. PINGREE of Maine, Mr. DRIEHAUS, and Mr. MELANCON):

H.R. 857. A bill to limit compensation to officers and directors of entities receiving emergency economic assistance from the Government, and for other purposes; to the Committee on Financial Services.

By Mr. ENGEL (for himself, Mr. TERRY, and Mrs. SCHMIDT):

H.R. 858. A bill to prohibit the manufacture, marketing, sale, or shipment in interstate commerce of products designed to assist in defrauding a drug test; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ (for herself, Mr. PITTS, Mr. GRAVES, Mr. SHULER, Mr. MORAN of Virginia, Mr. FATTAH, Mr. BARTLETT, Mr. LUETKEMEYER, Ms. CLARKE, Mr. GRIFFITH, and Mr. SCHOCK):

H.R. 859. A bill to encourage the development of small business cooperatives for healthcare options to improve coverage for employees (CHOICE) including through a small business CHOICE tax credit; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, Ms. ROS-LEHTINEN, Mr. ABERCROMBIE, Mr. FARR, Mr. HASTINGS of Florida, Mr. HINCHEY, Mrs. CHRISTENSEN, Mrs. CAPPS, Mr. HONDA, Mr. KIRK, Ms. LEE of California, Mr. GRIJALVA, Ms. WASSERMAN SCHULTZ, Ms. HIRONO,

Mr. KLEIN of Florida, and Mr. SABLAN):

H.R. 860. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Natural Resources.

By Mr. MINNICK:

H.R. 861. A bill making supplemental appropriations for job creation, school repair and modernization, and tax reduction for the fiscal year ending September 30, 2009, and for other stimulative purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE (for himself, Ms. HIRONO, Ms. BORDALLO, Mr. FALEOMAVAEGA, Mr. COLE, Mr. MORAN of Virginia, Mr. YOUNG of Alaska, and Mr. KILDEE):

H.R. 862. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUMENAUER (for himself and Mr. MCGOVERN):

H.R. 863. A bill to amend the Internal Revenue Code of 1986 to allow employees to receive transportation fringe benefits for the same month both in the form of transit passes and reimbursement of bicycle commuting expenses; to the Committee on Ways and Means.

By Mr. BOSWELL (for himself, Mr. TERRY, Mr. BRALEY of Iowa, Mr. LATHAM, Mr. PETERSON, Mr. LOEBSACK, and Mr. KING of Iowa):

H.R. 864. A bill to amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself and Mr. GOODLATTE):

H.R. 865. A bill to convey the New River State Park campground located in the Mount Rogers National Recreation Area in the Jefferson National Forest in Carroll County, Virginia, to the Commonwealth of Virginia, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADY of Texas (for himself, Mr. BILBRAY, Mr. CULBERSON, Mr. ROHRABACHER, Mr. MCCAUL, Mr. MARCHANT, Mr. LATTA, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. FRANKS of Arizona, Mr. BROUN of Georgia, Mr. HARPER, Mr. BURTON of Indiana, Mr. KINGSTON, and Mr. SAM JOHNSON of Texas):

H.R. 866. A bill to provide an exception to certain mandatory minimum sentence requirements for a law enforcement officer who uses, carries, or possesses a firearm during and in relation to a crime of violence committed while pursuing or apprehending a suspect; to the Committee on the Judiciary.

By Mr. BRIGHT (for himself and Mr. ROGERS of Alabama):

H.R. 867. A bill to authorize the Secretary of the Interior to conduct a study to assess the suitability and feasibility of designating certain lands as the Chattahoochee Trace National Heritage Corridor, and for other purposes; to the Committee on Natural Resources.

By Mrs. CAPPS (for herself and Mr. TERRY):

H.R. 868. A bill to amend title XIX of the Social Security Act to provide funds to States to enable them to increase the wages paid to targeted direct support professionals in providing services to individuals with disabilities under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. CHANDLER (for himself and Mr. ROGERS of Kentucky):

H.R. 869. A bill to designate the Federal building and United States courthouse located at 101 Barr Street in Lexington, Kentucky, as the ''Scott Reed Federal Building and United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. COHEN (for himself, Mr. WHITFIELD, Mr. CONYERS, Mr. SULLIVAN, and Mrs. BONO MACK):

H.R. 870. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B for medically necessary dental procedures; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONAWAY (for himself, Mr. BOREN, Mr. OLSON, Mr. BRADY of Texas, Mr. CARTER, Mr. BURGESS, Mr. BARTON of Texas, Mr. CULBERSON, Mr. THORNBERRY, Mr. BOUSTANY, Mr. SCALISE, Mr. NEUGEBAUER, Mr. GENE GREEN of Texas, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. REYES, and Mr. GONZALEZ):

H.R. 871. A bill to amend the Internal Revenue Code of 1986 to provide that the taxable income limit on the allowance for depletion shall not apply in 2008 to domestic marginal oil or gas wells; to the Committee on Ways and Means.

By Ms. DEGETTE (for herself and Mr. CASTLE):

H.R. 872. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research, to direct the National Institutes of Health to issue guidelines for such stem cell research, and for other purposes; to the Committee on Energy and Commerce.

By Ms. DEGETTE (for herself and Mr. CASTLE):

H.R. 873. A bill to amend the Public Health Service Act to provide for human embryonic stem cell research; to the Committee on Energy and Commerce.

By Mr. DELAHUNT (for himself, Mr. FLAKE, Ms. DELAURO, Mrs. EMERSON, Mr. MCGOVERN, Mr. MORAN of Kansas, Ms. EDWARDS of Maryland, Mr. PAUL, and Mr. FARR):

H.R. 874. A bill to allow travel between the United States and Cuba; to the Committee on Foreign Affairs.

By Ms. DELAURO (for herself, Ms. ESHOO, Ms. DEGETTE, Ms. SCHAKOWSKY, Mr. ENGEL, Ms. CASTOR of Florida, Mr. MURPHY of Connecticut, Ms. SUTTON, Mrs. LOWEY, Ms. SLAUGHTER, Mr. HINCHEY, Mr. MCGOVERN, Ms. WASSERMAN SCHULTZ, Ms. HIRONO, Mr. GRIJALVA, Mr. SCHAUER, Mr. NADLER of New York, Mr. BISHOP of New York, Ms. LINDA T. SÁNCHEZ of California, Mr. MCDERMOTT, Mr. RYAN of Ohio, Ms. GIFFORDS, Mr. FILNER, Mr. HALL of New York, Ms. LEE of California, Ms. PINGREE of Maine, Ms. KAPTUR, Mr. BISHOP of Georgia, Ms. MOORE of Wisconsin, and Mr. DEFAZIO):

H.R. 875. A bill to establish the Food Safety Administration within the Department of Health and Human Services to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 876. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kazakhstan; to the Committee on Ways and Means.

By Mr. FORBES (for himself and Mr. LIPINSKI):

H.R. 877. A bill to intensify stem cell research showing evidence of substantial clinical benefit to patients, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GINGREY of Georgia (for himself, Mr. AKIN, Mr. ALEXANDER, Mr. BILBRAY, Mr. BOOZMAN, Mr. BROUN of Georgia, Mr. BURTON of Indiana, Mr. DEAL of Georgia, Ms. FALLIN, Mr. GOHMERT, Mr. HARPER, Mr. SAM JOHNSON of Texas, Mr. JONES, Mr. KING of Iowa, Mr. KINGSTON, Mr. LINDER, Mr. MARCHANT, Mr. PRICE of Georgia, Mr. ROE of Tennessee, and Mr. WESTMORELAND):

H.R. 878. A bill to amend the Immigration and Nationality Act to make changes related to family-sponsored immigrants and to reduce the number of such immigrants; to the Committee on the Judiciary.

By Ms. GRANGER:

H.R. 879. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance; to the Committee on Ways and Means.

By Mr. HASTINGS of Washington (for himself and Mrs. MCMORRIS RODGERS):

H.R. 880. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt bond financing for fixed-wing emergency medical aircraft; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. HOEKSTRA, Mrs. SCHMIDT, Mr. BISHOP of Utah, Mr. LAMBORN, Mr. BROUN of Georgia, Mr. BACHUS, Mr. FRANKS of Arizona, Mr. ROGERS of Kentucky, Mr. EHLERS, Mr. GOODLATTE, Mr. RADANOVICH, Mr. INGLIS, Mr. JORDAN of Ohio, Mr. FORTENBERRY, Mr. JOHNSON of Illinois, Mr. MCCAUL, Mr. ROGERS of Alabama, Mr. WILSON of South Carolina, Mr. GINGREY of Georgia,

Mr. SMITH of New Jersey, Mr. CARTER, Mr. SHIMKUS, Mr. SULLIVAN, Mr. MARCHANT, Mrs. BACHMANN, Mr. TERRY, Mr. NEUGEBAUER, Mr. LATTA, Mr. WAMP, Mr. MCHENRY, Mr. DAVIS of Kentucky, Mr. GARY G. MILLER of California, Mr. BARTLETT, Mr. BOOZMAN, Mr. SCALISE, Mr. SOUDER, Mr. FORBES, Mr. ROONEY, Mr. PITTS, Mrs. MCMORRIS RODGERS, Mr. MCCOTTER, Mr. WESTMORELAND, and Mr. COLE):

H.R. 881. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

By Mr. KING of New York:

H.R. 882. A bill to amend the Internal Revenue Code of 1986 to increase the age at which distributions from qualified retirement plans are required to begin from 70 1/2 to 75, and for other purposes; to the Committee on Ways and Means.

By Mr. KING of New York:

H.R. 883. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in income taxes on Social Security benefits; to the Committee on Ways and Means.

By Mr. KIRK:

H.R. 884. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on the capital loss carryovers of individuals to $20,000; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut (for himself, Mr. HINCHEY, Mr. HOLT, Mr. DEFAZIO, Mr. NYE, and Mr. TOWNS):

H.R. 885. A bill to elevate the Inspector General of certain Federal entities to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978; to the Committee on Oversight and Government Reform.

By Mr. LEWIS of Georgia:

H.R. 886. A bill to amend title II of the Social Security Act to apply an earnings test in determining the amount of monthly insurance benefits for individuals entitled to disability insurance benefits based on blindness; to the Committee on Ways and Means.

By Mr. LOEBSACK (for himself, Mr. BRALEY of Iowa, Mr. BOSWELL, Mr. KING of Iowa, and Mr. LATHAM):

H.R. 887. A bill to designate the United States courthouse located at 131 East 4th Street in Davenport, Iowa, as the "James A. Leach United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mrs. MALONEY:

H.R. 888. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the temporary mortgage and rental payments program; to the Committee on Transportation and Infrastructure.

By Mr. MARKEY of Massachusetts:

H.R. 889. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal energy efficiency resource standard for retail electricity and natural gas distributors, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY of Massachusetts (for himself and Mr. PLATTS):

H.R. 890. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard for certain electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself, Ms. LEE of California, Mr. HINCHEY, Mr. NADLER of New York, Mr. MCMAHON, Mr. BERMAN, Mr. KIRK, Mr. SERRANO, Mr. INSLEE, Mr. ISRAEL, Mr. DAVIS of Illinois, Mrs. LOWEY, Mr. KING of New York, Mr. SIRES, Mr. MORAN of Virginia, Mr. DOYLE, Mr. FILNER, Mr. CAPUANO, Mr. VAN HOLLEN, Ms. SCHWARTZ, Mr. CONNOLLY of Virginia, Mr. BISHOP of New York, Mr. TIERNEY, Mr. FRANK of Massachusetts, Mr. MARKEY of Massachusetts, Mrs. TAUSCHER, Mr. DELAHUNT, Mr. HALL of New York, Mr. CARNAHAN, Mr. BLUMENAUER, Mrs. CAPPS, and Mr. PRICE of North Carolina):

H.R. 891. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 892. A bill to deny certain Federal funds to any institution of higher education that admits as students aliens who are unlawfully present in the United States; to the Committee on Education and Labor.

By Mr. NADLER of New York (for himself, Mr. DELAHUNT, Mr. CONYERS, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BOUCHER, Mrs. CAPPS, Mr. CAPUANO, Mr. CLAY, Ms. DELAURO, Mr. DOGGETT, Mr. FATTAH, Mr. FILNER, Mr. HINCHEY, Mr. HODES, Mr. HOLT, Mr. HONDA, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MORAN of Virginia, Ms. NORTON, Mr. PASTOR of Arizona, Mr. PAUL, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. SCOTT of Virginia, Ms. SHEA-PORTER, Mr. SHERMAN, Mrs. TAUSCHER, Mr. VAN HOLLEN, Mr. WELCH, Mr. WEXLER, and Mr. WU):

H.R. 893. A bill to modify certain provisions of law relating to torture; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ORTIZ (for himself and Mr. BRADY of Texas):

H.R. 894. A bill to ensure the safety of expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas; to the Committee on Armed Services.

By Mr. PASCRELL (for himself and Mr. CAMP):

H.R. 895. A bill to amend the Federal Water Pollution Control Act to reauthorize the sewer overflow control grants program; to the Committee on Transportation and Infrastructure.

By Mr. PITTS (for himself, Mr. BARTLETT, Mr. GINGREY of Georgia, Mr. PENCE, Mr. COLE, Mr. HERGER, Mr. LATTA, Mrs. BLACKBURN, Ms. FALLIN, Mr. BRADY of Texas, Mr. ISSA, Mr. BROWN of South Carolina, Ms. FOXX, Mr. MARCHANT, Mr. MCKEON, Mr. AKIN, Mr. CONAWAY, Mr. WESTMORELAND, Mr. MILLER of Florida, Mr. RADANOVICH, Mr. LAMBORN, Mr. SOUDER, Mr. ROONEY, Mrs. MYRICK, Mrs. BACHMANN, Mr. ROGERS of Kentucky, Mr. BURTON of Indiana, Mr. LEE of New York, Mr. WILSON of South Carolina, Mr. BOOZMAN, Mr. BROUN of Georgia, Mr. SENSENBRENNER, Mr. WITTMAN, Mr. KLINE of Minnesota, and Mr. LINDER):

H.R. 896. A bill to expedite the construction of new refining capacity on closed military installations in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PUTNAM (for himself, Mr. COURTNEY, Mr. PAUL, Mr. SESSIONS, Mr. BURTON of Indiana, Mr. GRIJALVA, Ms. GRANGER, Mr. BOUSTANY, Mr. KENNEDY, and Mrs. BACHMANN):

H.R. 897. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Ways and Means.

By Mr. ROSKAM:

H.R. 898. A bill to authorize grants to establish and improve criminal forensic laboratories; to the Committee on the Judiciary.

By Mr. SCHOCK (for himself, Mr. SHIMKUS, and Mr. PETRI):

H.R. 899. A bill to require States to hold special elections in the event of a vacancy in the office of a Senator representing the State, and for other purposes; to the Committee on House Administration.

By Mr. SHADEGG (for himself, Mrs. BLACKBURN, Mr. KINGSTON, Mr. CARTER, Mr. HERGER, Mrs. MCMORRIS RODGERS, Mr. RADANOVICH, Mr. MCCOTTER, Mr. BARRETT of South Carolina, Ms. FOXX, Mr. DANIEL E. LUNGREN of California, Mr. PITTS, Mr. MILLER of Florida, and Mrs. MYRICK):

H.R. 900. A bill to establish procedures for causes and claims relating to the leasing of Federal lands (including submerged lands) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, and for other purposes; to the Committee on the Judiciary.

By Ms. SHEA-PORTER:

H.R. 901. A bill to amend title 11 of the United States Code to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems; to the Committee on the Judiciary.

By Mr. SMITH of Washington (for himself, Mr. DICKS, Mr. MCDERMOTT, Mr. INSLEE, Mr. BAIRD, and Mr. LARSEN of Washington):

H.R. 902. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK (for himself and Mrs. MILLER of Michigan):

H.R. 903. A bill to amend the Public Health Service Act to enhance the roles of dentists and allied dental personnel in the Nation's disaster response framework, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STUPAK (for himself and Mr. RYAN of Ohio):

H.R. 904. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of Medicaid managed care organizations by extending the discounts offered under fee-for-service Medicaid to such organizations; to the Committee on Energy and Commerce.

By Mr. STUPAK (for himself, Mr. MCCOTTER, and Mr. KILDEE):

H.R. 905. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve, and for other purposes; to the Committee on Natural Resources.

By Mrs. TAUSCHER (for herself, Mr. CARDOZA, Ms. ZOE LOFGREN of California, Ms. BERKLEY, and Mr. HINCHEY):

H.R. 906. A bill to provide incentives for affordable housing; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TERRY:

H.R. 907. A bill to amend the Internal Revenue Code of 1986 to provide for a livestock energy investment credit; to the Committee on Ways and Means.

By Ms. WATERS (for herself, Mr. MARKEY of Massachusetts, Mr. SMITH of New Jersey, Mr. SCHIFF, Mr. CONYERS, Mr. SCOTT of Virginia, and Mr. WAXMAN):

H.R. 908. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to reauthorize the Missing Alzheimer's Disease Patient Alert Program; to the Committee on the Judiciary.

By Ms. WATSON (for herself, Mr. SERRANO, Mr. NADLER of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. SLAUGHTER, Ms. KILPATRICK of Michigan, Ms. SHEA-PORTER, Mr. HARE, Mr. MICHAUD, Mr. KUCINICH, Ms. MATSUI, Ms. EDWARDS of Maryland, Mr. CARSON of Indiana, Ms. CLARKE, Mr. TOWNS, Ms. WOOLSEY, Mr. BUTTERFIELD, Mr. CUMMINGS, Mr. SCHIFF, Mr. DAVIS of Illinois, Mr. RUSH, and Ms. KAPTUR):

H.R. 909. A bill to amend the State Department Basic Authorities Act of 1956 to provide for the establishment and maintenance of existing libraries and resource centers at United States diplomatic and consular missions to provide information about United States culture, society, and history, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HOYER (for himself, Mr. VAN HOLLEN, Mr. WOLF, Mr. MORAN of Virginia, Ms. NORTON, Ms. EDWARDS of Maryland, and Mr. CONNOLLY of Virginia):

H. Con. Res. 37. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Ms. NORTON (for herself, Mr. MARIO DIAZ-BALART of Florida, Mr. HOYER, Mr. WOLF, Mr. MORAN of Virginia, Mr. CUMMINGS, Mr. VAN HOLLEN, Ms. EDWARDS of Maryland, Mr. CONNOLLY of Virginia, and Mr. KRATOVIL):

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service; to the Committee on Transportation and Infrastructure.

By Ms. NORTON (for herself, Mr. MARIO DIAZ-BALART of Florida, Mr. HOYER, Mr. WOLF, Mr. MORAN of Virginia, Mr. CUMMINGS, Mr. VAN HOLLEN, Ms. EDWARDS of Maryland, Mr. CONNOLLY of Virginia, and Mr. KRATOVIL):

H. Con. Res. 39. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run; to the Committee on Transportation and Infrastructure.

By Mr. PASCRELL (for himself, Mr. PLATTS, Mr. GRIJALVA, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. DELAHUNT, Mr. SMITH of New Jersey, Mr. HINCHEY, Mr. CARNEY, Mr. KENNEDY, Mr. THOMPSON of California, Mr. GEORGE MILLER of California, Ms. HERSETH SANDLIN, Mrs. NAPOLITANO, Ms. BERKLEY, Ms. BORDALLO, Mr. VAN HOLLEN, Mr. ALTMIRE, Mr. ROSS, Mr. MURTHA, Mr. HOLT, Mr. LOBIONDO, Mr. LAMBORN, Ms. ROS-LEHTINEN, Ms. EDWARDS of Maryland, Mr. BOSWELL, Mr. SNYDER, Mr. TAYLOR, Mr. ROGERS of Alabama, Ms. SUTTON, Mrs. DAVIS of California, Mr. CUMMINGS, Mr. SESTAK, Ms. MCCOLLUM, Mr. NYE, Mr. MARKEY of Massachusetts, Mr. BRADY of Pennsylvania, Mr. HOLDEN, Mrs. MCCARTHY of New York, Mr. CAPUANO, Ms. GIFFORDS, Mrs. CHRISTENSEN, Mr. WALZ, Mr. SPRATT, Mr. HARE, Mr. MICHAUD, Mr. GONZALEZ, Mr. BROWN of South Carolina, Mr. BRALEY of Iowa, Mr. RYAN of Ohio, Mr. ROTHMAN of New Jersey, Mr. SIRES, Mr. CONNOLLY of Virginia, Mrs. EMERSON, and Mr. LEWIS of Georgia):

H. Con. Res. 40. Concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month; to the Committee on Energy and Commerce.

By Mr. GORDON of Tennessee:

H. Res. 115. A resolution providing amounts for the expenses of the Committee on Science and Technology in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. HALL of Texas (for himself and Mr. SKELTON):

H. Res. 116. A resolution expressing support for the designation of February 8, 2010, as ''Boy Scouts of America Day'', in celebration of the Nation's largest youth scouting organization's 100th anniversary; to the Committee on Oversight and Government Reform.

By Mr. LIPINSKI (for himself, Mr. EHLERS, Mr. AKIN, Mr. BAIRD, Mr. BARTLETT, Mr. BILBRAY, Ms. BORDALLO, Mr. BROUN of Georgia, Mr. CALVERT, Mr. CLEAVER, Mr. COSTELLO, Mr. GORDON of Tennessee, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. HONDA, Mr. INGLIS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE of California, Mr. MANZULLO, Ms. MATSUI, Mr. NEUGEBAUER, Mr. OLSON, Mr. PETRI, Mr. REYES, Ms. RICHARDSON, Mr. ROHRABACHER, Mr. SMITH of Nebraska, Ms. SUTTON, Mr. WILSON of Ohio, Mr. BRADY of Pennsylvania, and Mr. MCNERNEY):

H. Res. 117. A resolution supporting the goals and ideals of National Engineeers Week, and for other purposes; to the Committee on Science and Technology.

By Mr. PENCE:

H. Res. 118. A resolution electing minorty members to certain standing committees; considered and agreed to.

By Mr. TOWNS:

H. Res. 119. A resolution providing amounts for the expenses of the Committee on Oversight and Government Reform in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Ms. SLAUGHTER (for herself and Mr. DREIER):

H. Res. 120. A resolution providing amounts for the expenses of the Committee on Rules in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. SKELTON:

H. Res. 121. A resolution providing amounts for the expenses of the Committee on Armed Services in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. FILNER:

H. Res. 122. A resolution providing amounts for the expenses of the Committee on Veterans' Affairs in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. BERMAN (for himself and Ms. ROS-LEHTINEN):

H. Res. 123. A resolution providing amounts for the expenses of the Committee on Foreign Affairs in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. OBERSTAR:

H. Res. 124. A resolution providing amounts for the expenses of the Committee on Transportation and Infrastructure in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. SMITH of New Jersey:

H. Res. 125. A resolution calling on the central authority of Brazil to immediately discharge all its duties under the Hague Convention by facilitating and supporting Federal judicial proceedings as a matter of extreme urgency to obtain the return of Sean Goldman to his father, David Goldman, for immediate return to the United States; to the Committee on Foreign Affairs.

By Mr. GEORGE MILLER of California (for himself and Mr. MCKEON):

H. Res. 126. A resolution providing amounts for the expenses of the Committee on Education and Labor in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. THOMPSON of Mississippi (for himself and Mr. KING of New York):

H. Res. 127. A resolution providing amounts for the expenses of the Committee on Homeland Security in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. BOEHNER (for himself, Mr. DRIEHAUS, Mr. RYAN of Wisconsin, Ms. KAPTUR, Mr. RYAN of Ohio, Mr. TURNER, Mr. JORDAN of Ohio, Ms. SUTTON, Mr. LATTA, Ms. FUDGE, Mr. AUSTRIA, Mr. BOCCIERI, and Ms. KILROY):

H. Res. 128. A resolution honoring Miami University for its 200 years of commitment to extraordinary higher education; to the Committee on Education and Labor.

By Mr. CARDOZA (for himself, Mr. COSTA, Mr. HONDA, and Ms. MATSUI):

H. Res. 129. A resolution recognizing the historical significance of the Merced Assembly Center to the Nation and the importance of establishing an appropriate memorial at that site to serve as a place for remembering the hardships endured by Japanese Americans, so that the United States remains vigilant in protecting our Nation's core values of equality, due process of law, justice, and fundamental fairness; to the Committee on the Judiciary.

By Mr. DELAHUNT (for himself, Mr. FILNER, Mr. BOUSTANY, Mr. CAPUANO, Ms. SCHAKOWSKY, Mr. ELLISON, Mr. COHEN, Mrs. CAPPS, Mr. GEORGE MILLER of California, Mr. FRANK of Massachusetts, Mrs. DAVIS of California, Ms. MCCOLLUM, Mr. NEAL of Massachusetts, Ms. KILROY, Mr. BLUMENAUER, Mr. HINCHEY, Ms. EDWARDS of Maryland, Mrs. HALVORSON, Mr. PERRIELLO, Mr. YARMUTH, Mr. SESTAK, Mr. RAHALL, Mr. ISSA, Mr. OLVER, Mr. PRICE of North Carolina, Mr. SCHIFF, Mr. GRIJALVA, Mr. POLIS of Colorado, Ms. PINGREE of Maine, Ms. BALDWIN, Mr. RANGEL, and Mr. FORTENBERRY):

H. Res. 130. A resolution expressing support for the appointment of former Senator George Mitchell as Special Envoy for Middle East Peace, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FRANK of Massachusetts:

H. Res. 131. A resolution providing amounts for the expenses of the Committee on Financial Services in the One Hundred Eleventh Congress; to the Committee on House Administration.

By Mr. GRIJALVA (for himself and Mr. KILDEE):

H. Res. 132. A resolution honoring the life and memory of the Chiricahua Apache leader Goyathlay or Goyaale, also known as Geronimo, and recognizing the 100th anniversary of his death on February 17, 2009, as a time of reflection and the commencement of a ''Healing'' for all Apache people; to the Committee on Natural Resources.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Ms. LEE of California, Mr. CLEAVER, Mrs. CHRISTENSEN, Ms. FUDGE, Mr. AL GREEN of Texas, Ms. EDWARDS of Maryland, Ms. CLARKE, Mr. JOHNSON of Georgia, Mr. CLAY, Mr. MEEKS of New York, Mr. BUTTERFIELD, Mr. CONYERS, Mr. SCOTT of Georgia, Mr. DAVIS of Illinois, Mr. RANGEL, Mr. SCOTT of Virginia, Ms. MOORE of Wisconsin, Mr. CARSON of Indiana, Mr. LEWIS of Georgia, Mr. BISHOP of Georgia, Ms. JACKSON-LEE of Texas, Mr. RUSH, and Mr. THOMPSON of Mississippi):

H. Res. 133. A resolution honoring Barack Hussein Obama and the significance of his becoming the first African-American President of the United States; to the Committee on Oversight and Government Reform.

By Mr. LEWIS of Georgia (for himself, Mr. CONYERS, Mr. MCDERMOTT, Mr. SCOTT of Virginia, Mr. SCHIFF, and Mr. JOHNSON of Georgia):

H. Res. 134. A resolution recognizing the 50th Anniversary of Dr. Martin Luther King, Jr.'s visit to India, and the positive influence that the teachings of Mahatma Gandhi had on Dr. King's work during the Civil Rights Movement; to the Committee on the Judiciary.

By Mr. SPRATT:

H. Res. 135. A resolution providing amounts for the expenses of the Committee on the Budget in the One Hundred Eleventh Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. BORDALLO introduced a bill (H.R. 910) for the relief of Judge John S. Unpingco; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. TIM MURPHY of Pennsylvania.

H.R. 19: Mr. LEWIS of California, Mr. HUNTER, Mr. ROYCE, and Mr. DREIER.

H.R. 22: Mr. TERRY.

H.R. 28: Mr. MCHUGH.

H.R. 31: Mr. BISHOP of Utah, Mr. HOLT, Mr. MANZULLO, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, Mr. DAVIS of Kentucky, Mr. LIPINSKI, and Mr. PALLONE.

H.R. 81: Mr. MCNERNEY.

H.R. 104: Mr. FRANK of Massachusetts and Mr. PASTOR of Arizona.

H.R. 116: Mr. BILBRAY.

H.R. 131: Mr. HALL of Texas, Mr. BAIRD, Mr. DUNCAN, Mr. MARIO DIAZ-BALART of Florida, Mr. MARCHANT, Mr. BRADY of Texas, Mr. COLE, Mr. CULBERSON, Mr. DEAL of Georgia, Ms. FOXX, Mr. GOHMERT, Mr. FORBES, Mr. ISSA, Mr. LAMBORN, Mr. KING of Iowa, Mr. KINGSTON, Mr. KIRK, Mr. KLINE of Minnesota, Mr. LINDER, Mr. LOBIONDO, Mr. LUCAS, Mr. DANIEL E. LUNGREN of California, Mr. MCCOTTER, Mr. MCKEON, Mr. MANZULLO, Mr. GARY G. MILLER of California, Mr. NEUGEBAUER, Mr. NUNES, Mr. PENCE, Mr. RADANOVICH, Mr. RAHALL, Mr. REHBERG, Mr. REYES, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHULER, Mr. SMITH of Nebraska, Mr. SMITH of Texas, Mr. STUPAK, Mr. STEARNS, Mr. UPTON, Mr. WESTMORELAND, Mr. WHITFIELD, Mr. LATOURETTE, Mrs. MILLER of Michigan, Mrs. MYRICK, Mr. PITTS, Mr. POE of Texas, Mr. REICHERT, Mr. ROYCE, Mr. SENSENBRENNER, Mr. TANNER, Mr. TERRY, Mr. THORNBERRY, Mr. WALDEN, Mr. TIBERI, Mr. MICA, Mr. FRELINGHUYSEN, Mr. HUNTER, Mr. AKIN, Mr. BILBRAY, Mr. BURGESS, Mr. EHLERS, Mr. MCCARTHY of California, Mr. MILLER of Florida, Mr. PUTNAM, Mr. SHUSTER, Mr. SIMPSON, Mr. SMITH of New Jersey, Mr. SULLIVAN, Mr. TIAHRT, Mr. BROWN of South Carolina, Mr. ROGERS of Michigan, Mr. WAMP, Mr. MOORE of Kansas, Mr. KIND, Mr. KILDEE, Mr. BACA, and Mr. COSTELLO.

H.R. 146: Mr. GARY G. MILLER of California.

H.R. 148: Mr. LATHAM.

H.R. 155: Mr. LATTA, Mr. GERLACH and Ms. GINNY BROWN-WAITE of Florida.

H.R. 156: Ms. GRANGER, Mr. MARCHANT, Mr. STUPAK, and Mr. DRIEHAUS.

H.R. 159: Mrs. MILLER of Michigan, and Mr. PASTOR of Arizona.

H.R. 200: Mr. LEWIS of Georgia.

H.R. 235: Ms. WASSERMAN SCHULTZ, Mr. RYAN of Ohio, Mr. GARY G. MILLER of California, Mr. WILSON of Ohio, Mr. SMITH of New Jersey, Mr. GORDON of Tennessee, Mr. POE of Texas, Mr. COSTELLO, Mr. LOBIONDO, Mr. ROE of Tennessee, Mr. ROSKAM, Mr. HALL of Texas, Mr. SKELTON, Ms. MATSUI, and Mr. EDWARDS of Texas.

H.R. 265: Mr. PAYNE.

H.R. 272: Mr. SIRES, Mrs. MILLER of Michigan, and Mr. BROWN of South Carolina.

H.R. 274: Mr. GERLACH.

H.R. 305: Mr. OLVER, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mrs. MALONEY, Mr. GEORGE MILLER of California, and Mr. RANGEL.

H.R. 336: Mr. MCNERNEY and Ms. SUTTON.

H.R. 347: Mr. MITCHELL and Mr. FALEOMAVAEGA.

H.R. 385: Mr. POSEY, Mr. MCKEON, and Mr. BRIGHT.

H.R. 393: Ms. GRANGER.

H.R. 395: Mr. MARCHANT.

H.R. 398: Mr. HALL of New York, Mr. NADLER of New York, Mrs. BIGGERT, Mr. MCNERNEY, Mr. BAIRD, Ms. WOOLSEY, Mr. SMITH of Washington, and Mr. CAPUANO.

H.R. 404: Ms. GIFFORDS, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. SERRANO, Mr. CONNOLLY of Virginia, Mr. HONDA, Mr. GONZALEZ, Mr. MCNERNEY, Mr. MARKEY of Massachusetts, and Mrs. NAPOLITANO.

H.R. 415: Mr. LEE of New York.

H.R. 444: Mr. ABERCROMBIE, Mr. MOORE of Kansas, Mr. WEXLER, Mr. WELCH, Mr. JOHNSON of Georgia, Mr. MURTHA, and Mr. ROSS.

H.R. 467: Ms. LINDA T. SÁNCHEZ of California.

H.R. 502: Mr. TERRY.

H.R. 503: Mrs. CAPPS, Mr. RYAN of Ohio, Ms. SHEA-PORTER, Mr. LANGEVIN, Mr. MARIO DIAZ-BALART of Florida, and Mr. BAIRD.

H.R. 515: Mr. DEFAZIO, Mr. RYAN of Ohio, Mr. GALLEGLY, Mr. COSTELLO, Mr. SIRES, Mr. TONKO, Mr. WILSON of Ohio, Ms. LINDA T. SÁNCHEZ of California, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. ROTHMAN of New Jersey.

H.R. 527: Ms. SLAUGHTER and Ms. BERKLEY.

H.R. 528: Mr. LATOURETTE.

H.R. 550: Mrs. MILLER of Michigan.

H.R. 560: Mr. BAIRD.

H.R. 578: Ms. SLAUGHTER.

H.R. 579: Mr. HALL of New York.

H.R. 593: Mr. HOLT, Mrs. NAPOLITANO, Mr. LUJÁN, and Ms. WOOLSEY.

H.R. 595: Ms. LINDA T. SÁNCHEZ of California, and Mr. KUCINICH.

H.R. 610: Mr. KENNEDY, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, and Mr. PASCRELL.

H.R. 614: Mr. MCCOTTER, Mr. WITTMAN, Mr. COBLE, and Mr. TIM MURPHY of Pennsylvania.

H.R. 616: Mr. HASTINGS of Washington, Mr. CHANDLER, Mr. ADERHOLT, Mr. ROSS, Mr. BOUCHER, Mr. GRIFFITH, Mr. MCMAHON, Mr. BRALEY of Iowa, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. WALZ, Mr. BLUNT, Mr. GRAVES, Mr. BISHOP of Georgia, Mr. ALEXANDER, and Mr. LATHAM.

H.R. 620: Mr. OLSON, Mrs. EMERSON, and Mr. YOUNG of Florida.

H.R. 624: Mr. BERRY, Mr. NADLER of New York, Mr. TIBERI, and Mr. HILL.

H.R. 626: Mr. RUPPERSBERGER.

H.R. 630: Mr. CONAWAY, Mr. HERGER, Mr. MCCAUL, Mr. BURTON of Indiana, Mr. LAMBORN, Mr. GERLACH, Mr. COFFMAN of Colorado, Mr. PLATTS, Mr. NEUGEBAUER, and Mr. KLINE of Minnesota.

H.R. 634: Mr. TIM MURPHY of Pennsylvania and Mr. BOEHNER.

H.R. 636: Mr. TIM MURPHY of Pennsylvania.

H.R. 644: Ms. GIFFORDS, Mrs. NAPOLITANO, Mrs. KIRKPATRICK of Arizona, and Mr. GONZALEZ.

H.R. 661: Mr. SCHOCK and Mr. LATHAM.

H.R. 664: Mr. SOUDER, Mr. SCHOCK, and Mr. BROUN of Georgia.

H.R. 683: Ms. TITUS.

H.R. 684: Mr. OLVER, Mrs. CAPPS, and Ms. WOOLSEY.

H.R. 699: Ms. DEGETTE.

H.R. 707: Mr. GARY G. MILLER of California, Mr. SENSENBRENNER, Ms. ZOE LOFGREN of California, Mr. OLSON, Mr. TIBERI, Mr.

MCCOTTER, Mr. YOUNG of Florida, Mr. DENT, Mr. ROONEY, Ms. JENKINS, Ms. ROS-LEHTINEN, Mr. SHULER, Mr. TOWNS, Ms. WATERS, Mrs. MYRICK, Ms. KILPATRICK of Michigan, Mrs. NAPOLITANO, Mr. ROGERS of Michigan, Mr. ORTIZ, Mr. MCINTYRE, Mr. LAMBORN, and Mr. OBERSTAR.

H.R. 708: Mr. BACHUS, Mr. BOEHNER, Mr. BUCHANAN, Mr. CAO, Mr. COBLE, Mr. DAVIS of Kentucky, Mr. FLEMING, Mr. HALL of Texas, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. LAMBORN, Mr. LINDER, Mrs. MCMORRIS RODGERS, Mr. PETERSON, Mr. PITTS, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROONEY, Mr. TIBERI, and Mr. WAMP.

H.R. 715: Ms. GIFFORDS.

H.R. 731: Mr. BROUN of Georgia and Mr. MILLER of Florida.

H.R. 734: Mr. RAHALL.

H.R. 746: Mr. CARSON of Indiana, Mr. KAGEN, Ms. BORDALLO, and Ms. GIFFORDS.

H.R. 757: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 758: Mr. VAN HOLLEN, Mr. TIM MURPHY of Pennsylvania, Ms. JACKSON-LEE of Texas, Mr. SCHAUER, Mr. SESTAK, Mr. RYAN of Ohio, Ms. SCHWARTZ, Mr. DRIEHAUS, Mr. ROGERS of Alabama, and Mr. CARNAHAN.

H.R. 759: Mrs. CHRISTENSEN, and Ms. DEGETTE.

H.R. 764: Mr. LATTA and Mrs. MYRICK.

H.R. 774: Mr. MAFFEI, Ms. SLAUGHTER, Mr. ARCURI, and Mr. BISHOP of New York.

H.R. 775: Mr. GERLACH, Mr. BOYD, Mr. SHUSTER, Mr. WELCH, Mr. WHITFIELD, Mr. RAHALL, Mr. ROTHMAN of New Jersey, and Mr. KLINE of Minnesota.

H.R. 779: Mr. SENSENBRENNER.

H.R. 795: Mr. YARMUTH.

H.R. 800: Mr. LATTA and Mrs. MYRICK.

H.R. 812: Mr. SENSENBRENNER, Mr. MOORE of Kansas, and Mr. MCHUGH.

H.R. 836: Mr. LINDER and Ms. BERKLEY.

H.J. Res. 1: Mr. DEAL of Georgia.

H.J. Res. 18: Mr. DOGGETT and Mr. CONNOLLY of Virginia.

H. Con. Res. 14: Mrs. EMERSON, Mr. MCHUGH, Mr. FRANK of Massachusetts, Mr. SERRANO, and Mr. DAVIS of Illinois.

H. Con. Res. 29: Mr. MCHENRY and Mr. MCHUGH.

H. Con. Res. 34: Mr. CONNOLLY of Virginia, Mr. SESTAK, and Mr. ROTHMAN of New Jersey.

H. Con. Res. 36: Mr. KLEIN of Florida.

H. Res. 22: Ms. KILPATRICK of Michigan and Mr. MCGOVERN.

H. Res. 36: Ms. SUTTON.

H. Res. 49: Mr. MCKEON, Mr. BISHOP of Georgia, Ms. FUDGE, Ms. EDWARDS of Maryland, Ms. TITUS, Mr. CUELLAR, Mr. CARSON of Indiana, and Ms. DELAURO.

H. Res. 54: Mr. BILBRAY.

H. Res. 65: Mr. TOWNS, Ms. BERKLEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GRIJALVA.

H. Res. 69: Ms. ROS-LEHTINEN and Mr. FRANK of Massachusetts.

H. Res. 76: Mr. HINCHEY, Mr. GRIJALVA, Ms. BORDALLO, Mr. HASTINGS of Florida, Mr. FORTENBERRY, and Mr. WOLF.

H. Res. 77: Mr. GOODLATTE.

H. Res. 110: Mr. BRADY of Pennsylvania, Mr. HOLDEN, Mrs. DAHLKEMPER, Mr. MURTHA, Mr. PITTS, Mr. SHUSTER, Mr. GERLACH, Ms. SCHWARTZ, Mr. BILIRAKIS, Mr. THOMPSON of Pennsylvania, Mr. KANJORSKI, Mr. PLATTS, Mr. FATTAH, Mr. SESTAK, Mr. BARROW, Ms. CASTOR of Florida, Mr. DINGELL, Mr. WEINER, Mr. STUPAK, Mr. BOUCHER, Mr. MATHESON, Mr. SCOTT of Virginia, Mr. ALTMIRE, Mr. MARKEY of Massachusetts, Mr. RUSH, Mr. INSLEE, Mr. WILSON of Ohio, Mr. SHULER, Mr. BACA, Mr. ETHERIDGE, Mr. CHANDLER, Mr. RYAN of Ohio, Mr. WELCH, Mr. VISCLOSKY, Mr. TOWNS, Mr. SPACE, Mr. SHIMKUS, Mr. HINCHEY, Mr. LYNCH, Mr. BISHOP of New York, Mr. WEXLER, Ms. LINDA T. SÁNCHEZ of California, Ms. DELAURO, Mr. NEAL of Massachusetts, Mr. HARE, Mr. KILDEE, Mr. BOCCIERI, Mrs. MCCARTHY of New York, Mr. BUTTERFIELD, Mr. HIGGINS, Mr. PASCRELL, Mr. KIND, Mr. CAPUANO, Mr. THOMPSON of California, Mr. CRENSHAW, Mr. BOSWELL, Mr. Carney, Mr. GUTIERREZ, Mr. CLAY, Mr. CLYBURN, and Mr. PATRICK J. MURPHY of Pennsylvania.

H. Res. 111: Mr. ROTHMAN of New Jersey.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 135: Mrs. NAPOLITANO.

SENATE—*Wednesday, February 4, 2009*

The Senate met at 10:30 a.m. and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

From the rising of the Sun to its setting, O God, Your Name is great among the nations. Thank You for the wonder of Your grace. Today, help our Senators to be energized by Your amazing grace. May this favor enhance their talents and impart to them the wisdom to choose the right path. As they walk on the road that glorifies You, help them to use their individual abilities to supplement the talents of their colleagues, producing a bipartisan harvest of accomplishments. May they commit themselves this day to Your care, for You are their mighty rock and fortress. Lord, lead and guide them so Your Name will be honored. We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 4, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BENNET thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Hawaii.

SCHEDULE

Mr. INOUYE. Mr. President, today the Senate will resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act, and Senators will offer and debate amendments to the bill. Rollcall votes are expected to occur this afternoon.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ECONOMIC STIMULUS

Mr. MCCONNELL. Mr. President, according to news reports, President Obama called congressional Democrats down to the White House the other night to talk about treating this bill more like a stimulus and less like a free-for-all. I commend him for the effort, and I appreciate it. But after yesterday, it looks like they might need a little stronger medicine.

The day after meeting with President Obama, Democrats offered several amendments, and every single one of them added to the total cost of what is already nearly a $1 trillion spending bill—$11 billion here, $25 billion there, another $6 billion somewhere else. In other words, real money. By the end of the first day of debate, the Democrats had added more than $41 billion to a bill that just about everybody else in America already thought was way too large.

On this side, Republicans offered some amendments too. All but one of them, however, sought to reduce the cost to the taxpayer. The President has tried to set some priorities. Unfortunately, Democrats keep throwing more money on top of an already incredibly bloated bill. At some point, we are going to have to learn to say no. If we are going to help the economy, we need to get hold of this bill. Making it bigger isn't the answer.

The President seems to recognize the problem. Last night, he repeated his call for discipline and restraint in a letter from OMB Director Peter Orszag. Its message was clear: The Nation is in a financial crisis and this bill should be stripped of everything that doesn't aim to solve the crisis. As Mr. Orszag put it:

> We need to recognize that this recovery and reinvestment plan is an extraordinary response to an extraordinary crisis. It should not be seen as an opportunity to abandon the fiscal discipline that we owe each and every taxpayer in spending their money and in keeping the United States strong in a global, interdependent economy.

This bill needs to be cut down, and we should start with permanent spending increases, which only increase the deficit from here on out. This is a permanent spending bill that has been slipped into a bill that was supposed to be timely, temporary, and targeted. Many of these additions may be very worthwhile, but they still don't belong in a stimulus bill. So the first thing we need to do is to make a distinction between what grows the economy and what doesn't. Anything that doesn't ought to be cut out. That is what the President said Monday night, that is what he repeated last night; that we need to be, ''trimming out things that aren't relevant to putting people back to work right now.'' Add up the interest payments and the total nonstimulus spending in this bill and it is in the hundreds of billions of dollars. That is completely unacceptable. So there is plenty of room to cut wasteful spending. As Mr. Orszag said in his letter, the President is ''insistent that the bill not include any earmarks or special projects.''

Another target-rich area is all the spending for new programs that claim to create new jobs. What people don't realize is how much it costs to create some of these jobs. Analysts have gone through some of the new programs and here is what they have found: $524 million for a program at the State Department that promises to create 388 jobs here at home. That comes to $1.35 million per job. Let me say that again—$1.35 million per job; $125 million to the DC Water and Sewer Authority. That comes to $480,000 per job; $100 million for 300 jobs at USAID. That is $333,333 per job. That is just a few. Surely there are more efficient ways to create jobs with taxpayer dollars than this.

So there is plenty of room to cut in this bill. It is time we started doing some of it. America is already staring at a $1 trillion deficit. The bill before us, in its current form, will cost, with interest, $1.3 trillion. Soon we will vote on an Omnibus appropriations bill that will cost $400 billion. The President is talking about another round of bank bailout funds that some say could cost as much as $4 trillion.

This isn't monopoly money. All of it is borrowed money that the taxpayers will have to pay back at some point. I think we owe it to them to lay all these things out on the table now so America can see what it is getting into. I think we owe it to the American people to show some restraint on the bill that is before us.

Republicans have a number of better ideas for making this bill simpler, more targeted, and more directly beneficial to workers and to homeowners.

We have been sharing those ideas for the last week.

Economists from both sides of the political spectrum recognize that housing is at the root of the current downturn. We believe we should fix this problem first before we do anything else—certainly before we build a fish barrier, spruce up offices for bureaucrats or build a water slide. I mean, let's get serious. We can either talk about fixing the problem or we can take immediate action to help 40 million Americans stay in their homes or buy a new one. That is our choice.

We need to act now, and soon we will be voting on a Republican better idea to do that. But first there are plenty of areas in this bill we can cut, even before we consider some of the good Republican ideas that President Obama has said he wants to incorporate into the final bill.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Reid (for Inouye-Baucus) amendment No. 98, in the nature of a substitute.

Murray amendment No. 110 (to amendment No. 98), to strengthen the infrastructure investments made by the bill.

Vitter amendment No. 179 (to amendment No. 98), to eliminate unnecessary spending.

Isakson-Lieberman amendment No. 106 (to amendment No. 98), to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain home purchases.

Feingold amendment No. 140 (to amendment No. 98), to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking and requiring disclosure of lobbying by recipients of Federal funds.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be permitted to engage in a colloquy with my colleagues for 30 minutes, if that is acceptable to the Democratic leader.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INOUYE. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. I thank the Senator from Hawaii.

Mr. President, Republicans believe we ought to fix housing first, and we would like to talk about that for the next 30 minutes. Mr. KYL, the Senator from Arizona, is here for that purpose. Senator ENSIGN is here, who is the author of an amendment that would provide 4 to 4.5 percent mortgages for up to 40 million Americans so they could buy new homes or refinance their homes. Senator ISAKSON is here, who is the author of an amendment to provide a $15,000 tax credit for the next year to home buyers. We believe these proposals would provide instant jobs. Housing got us into this economic mess and housing will help get us out of the economic mess.

The Republican leader, Senator MCCONNELL, stated that this is a big spending bill. I was on the telephone last night with the former budget chairman, Senator Domenici of New Mexico, who has been counting in his retirement. He said it took our country from the time of its founding until the mid-1980s to build up a national debt of $850 billion, which was the size of this so-called stimulus package when it came over here. So we are talking about real borrowed money, and our goal is to reorient the whole discussion: first, to housing; second, to letting taxpayers keep more of their own money; and, third, to get out of the bill those items that don't belong in the bill.

The former Congressional Budget Office director in a previous Democratic administration, Alice Rivlin, said we needed two bills: one that would include legislation that created jobs now, and the second would be legislation that might take care of long-term investments that might help our country. She also said there should be a very high standard before we borrow money to spend on anything. Especially, as the Republican leader said, at a time when next week we may be hearing from Secretary Geithner that we need several hundred billion more for banks, and then more for housing, and then more for the annual appropriations bill, and then, on down the road, more for a health care bill.

I see the Senator from Arizona, and he is a leading member of the Finance Committee, and as we think about reorienting toward housing, it would seem to me, Senator KYL, that we should focus whatever money we do have on the problem we have, rather than borrowing money to dribble away on good-sounding projects that don't actually create jobs.

Mr. KYL. Mr. President, if I may respond to the Senator from Tennessee, I appreciate his focusing laser-like on this subject because, in many respects, we are treating the symptoms of the problem rather than the cause of the problem. While treating the symptoms can have some salutary effect, we are not going to ultimately solve the problem until we get to the root cause. I think virtually everybody agrees on what the root cause of our current problem is: the collapse in the housing market.

That caused a cascade of other effects, and some of those can be dealt with simultaneously, but the bottom line is, as the Senator from Tennessee noted, we have to fix housing first. Because until that is done, all of these other symptoms are going to remain.

There are a lot of smart people whose comments I am going to quote in a moment because they are well-respected—they are Democrats, they are Republicans—but I would like to turn, first, to my folks in Arizona, whom I like to go to for advice. So last weekend I met with Marge Lindsey and her group of realtors from Arizona. I started out by saying: All right, tell me how it is. She said: It is not good. They went on to point out that between 40 and 50 percent of what they are doing right now is dealing with foreclosed homes, or what they call the short sales—getting ready for foreclosure—and that the rest of the market has virtually collapsed. She said something has to be done to prevent the continual decline in housing values.

My home is in a perfectly good neighborhood, I pay my mortgage and all, but it is out of my control because all around me others are having problems first, and because they are having problems, it is drawing down the value all around. So the people who play by the rules and are not doing anything wrong are along for the ride down. Until that is arrested somehow, all of these other symptoms are going to exist. That was their analysis.

Now, if I can quote some other really smart people, if the Senator would allow me? The New York Times editorialized toward the end of last year, November 11:

> Clearly, the [financial] system won't stabilize until house prices stabilize, and banks won't lend freely until losses on mortgages abate. . . .All roads, into and out of this crisis, run through the housing market.

Exactly the point the Senator from Tennessee is making.

Very recently, January 28, the new CBO Director, Director Elmendorf, said this in testimony:

> Turmoil in the housing and financial markets is likely to continue for some time, even with vigorous policy actions and especially without them. Most economists think that to generate a strong economic recovery in the next few years, further actions to restore the health of the housing sector and the financial system are needed.

A lot of folks rely on the advice of Warren Buffett. I probably should have relied more on the advice of Warren Buffett in my investments. I wouldn't be where I am today. Here is what he said in April of last year:

Things connected with housing, whether it's in brick or whether it's in carpet, those businesses have shown no uptick at all.

His point is that once housing is affected, everything else that has anything to do with it is affected.

He made this comment as well:

The market won't really come back until you get a close to normal ratio of vacant homes, homes up for sale, compared to current sales, and that's a ways off.

We all listened with interest to Alan Greenspan. Here is what he testified to in October of last year before Congress:

A necessary condition for this crisis to end is a stabilization of home prices in the United States.

Here is how I conclude all of this. The experts back home agree. They are seeing it on the ground. The experts who look at this from an economic standpoint, from a national macroeconomic standpoint, all agree. We need to heed their advice and address the housing crisis first. We cannot wave a magic wand and stop housing prices from falling further. Would that we could—we would do that. That is the market, and we cannot stop it.

What is happening is that home values, in a ratio to mortgages, are declining. So the other point the realtors told me was a lot of folks, through no fault of their own, are now paying mortgages on homes that exceed the value of the homes. That is the upside-down element. We can affect that part of the equation. That is to say, we can't stop home values from going down until we do something else first. The thing we can affect is that ratio—what people are paying in their monthly mortgage payments. I am going to leave that to my colleagues. The Senator from Nevada is here. The Senator from Georgia is here. They will talk about a better Republican idea of how we can address the costs people pay every month in their mortgages as a way of making them more healthy, able to pay the mortgage, not going to foreclosure, and ultimately fix that value of homes, and then we are on the road to recovery.

The last thing I wanted to say is that the secondary market is a big part of this. When people lend money, they want to then be able to sell that mortgage to somebody. That has been the whole cause of this, the toxic loans in the secondary market.

In the Financial Times of August 26 of last year, Dr. Martin Feldstein said:

Mortgage-backed securities cannot be valued with any confidence until there is more certainty about the future of house prices.

That is precisely what this better Republican idea will get to. As my colleagues discuss these ideas of how to relate to this, remember what the original cause of the problem is, what we can affect and we cannot affect, and how we want to focus laser-like on fixing housing first.

I appreciate the efforts of my colleagues.

Mr. ALEXANDER. I thank my colleague for so clearly outlining the nature of the problem.

I ask the Chair to let me know when we are about 3 minutes from the expiration of the time.

There are two proposals we want to discuss which will be voted on here which will help fix housing first. The first is by the Senator from Nevada, Mr. ENSIGN. Senator ENSIGN's idea will create instant jobs and give a jolt to the economy by giving an opportunity for lower mortgage interest rates to those persons who can afford to buy or refinance their home.

There are other proposals, such as one by Senator MCCAIN, to help people who are in trouble with their mortgage. The focus of my colleague is primarily on creditworthy Americans who could refinance their homes, save money, and get the economy moving?

Mr. ENSIGN. The case has been made that we need to fix housing first because it is the underlying cancer that is affecting our economy, and that cancer is spreading to other parts of the economy. If we don't fix the underlying problem, it will not matter what we do with the rest of the spending bill. The spending bill will not help the economy. It is going to continue to get worse and worse. If home values continue to go down, no amount of money will help. We will have to have three or four TARP funds, trillions of dollars, and it is not going to help because we have not fixed the underlying problem.

Several of us got together. I happen to be the lead author on the bill, but this is really a compilation of many minds trying to fix housing. We have incorporated one of the ideas from Senator ISAKSON. I will let him describe that.

One of the hallmarks of the bill is we try to fix housing in the bill. We eliminate the wasteful spending, and we have some targeted tax credits for families and small businesses to create jobs. We try to take care of the whole package, and we do it in a fiscally responsible way, so the total cost will be under $500 billion. It is not the $1.1 trillion the other side of the aisle has put forward. Such spending would put a tremendous burden on future generations.

What we have said is that we are going to allow anybody who has at least a 5-percent equity in their home, or if they already have a Fannie Mae-Freddie Mac-backed loan, would be able to refinance at about 4 to 4.2 percent interest. The average American family who refinances will save over $400 a month. That is not a one-time saving, that is a saving through a 30-year fixed loan. That is like a permanent tax cut.

All of the economists have told us that one-time tax rebates give a little bit of stimulus, but they cost more in the long run. Permanent tax relief is really what stimulates the economy. If a family only receives a one-time check, all they are going to do is pay down debt or save the money. But if they know they have over $400 per month, that is something they can count on. They can budget that. They can start spending that money. That will actually help stimulate the economy.

The economists who have done the studies are Glenn Hubbard and Christopher Mayer. They said this proposal will stabilize housing prices next year because they expect housing prices to go down by about 12 percent. If you lower interest rates on the average of about 1 percent, that historically has meant housing prices will rise about 7 to 8 percent. If we can get them down about a point and a half, they figure, instead of going down by 12 percent, housing prices next year will stabilize. We all know that if you do not stabilize housing prices in the United States, the economy is going to continue to go down.

I see the Presiding Officer from Colorado. Colorado is one of those States that is having pretty severe housing problems now. These housing problems started in my State, Nevada, and in Arizona, Florida, and California. They have spread to the rest of the country, so we need to fix this problem.

We have also put a limit on it. This is not for the rich. This is for loans of $750,000 or less. That is going to take care of about 40 million Americans. That is what this takes care of, 40 million people refinancing their homes—40 million households, not Americans—40 million households getting on average of over $400 a month. Put the numbers to that. That is a huge amount of money.

Mr. ALEXANDER. If I understand the proposal, if I am a creditworthy person, I can either refinance my home or buy a new home at this lower interest rate, which today would be between 4 and 4.5 percent for a 30-year mortgage. I would have that fixed mortgage all during that 30-year period of time.

Mr. ENSIGN. That is correct, this is a 30-year fixed. This is not an adjustable rate mortgage where there are catches and in a couple of years it is going to go up again and I am going to have to worry about that. This is a 30-year fixed mortgage that can be very significant to the average family's budget.

We believe this is going to be one of the big fixes. You combine this with the other proposals, such as Senator ISAKSON's proposal, and the other things Senator MCCAIN and Senator MARTINEZ have come in with, with mitigation for those who are underwater—ours does some for houses that are underwater if they are backed by Fannie and Freddie right now. But all of the proposals together—I believe we can do exactly what we say needs to be done, and that is fix housing first.

But our proposal also takes out all of the spending in the bill that does not create jobs. We still have tax incentives in there for families and small businesses to create jobs, but we take out all of the $200 billion in new entitlement spending, all of the other 34 new programs that are created. There are some worthy programs in there that most of us would support. At this time, we should not be spending money on new programs, especially without eliminating other programs.

We believe this is fiscally responsible. It is going to help the economy. It is going to help the housing problem. I appreciate your leadership, Senator ALEXANDER, for bringing this colloquy together so we can talk about the underlying problem.

Mr. ALEXANDER. I thank Senator ENSIGN for his leadership and the others on his proposal for their leadership. We hope it will attract significant Democratic support because I have heard a number of them say we need to reorient this toward housing.

Senator ISAKSON was in the real estate business, and he often reminds us that this is not the first housing crisis we have had. As I understand, Senator ISAKSON, the proposal you made, which would be a tax credit to homeowners, was originally tried in the 1970s and worked?

Mr. ISAKSON. That is right, and I am delighted the Senator from Tennessee called this colloquy today so we could talk for a few minutes about what JON KYL and JOHN ENSIGN said is the heart of the problem, and that is the U.S. housing market. Our houses are down 25 percent in the last 18 months. Equity lines of credit are dissolved because houses are underwater. One in five houses in the United States is worth less than what is owed on it.

It is rare when you come to the Senate at a time of crisis that you have a roadmap to success. Most of the time, we are trying to feel our way through to find out what to do that is right. We have a roadmap to success.

I ask unanimous consent to have printed in the RECORD two articles from the New York Times, one from April of 1975 and one from July of 1975.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 7, 1975]

NEW HOUSING TAX CREDIT PROMPTS RISE IN BUYING

(By James Feron)

WHITE PLAINS.—The recently enacted Federal tax credit on the purchase of new homes and condominiums signed into law last weekend seems to be achieving or even surpassing its goal, according to initial reports on the situation in the metropolitan area.

Robert Jacobs, marketing director of One Strawberry Hills, a 118-unit condominium in Stamford, Conn., said today that the idea was to reduce the number of empty and unsold housing units, ''and to that we can only say, ''Amen.''

Mr. Jacobs closed deals on four apartments yesterday and today, he said. ''All were borderline cases where the $2,000 tax credit was evidently the deciding factor. We expect to sell at least 10 of our 35 unsold units the same way.''

He reported that ''one man who had been renting in this area, who was married but with no children, said he was in a 50 per cent tax bracket and the $2,000 credit would mean more like $4,000 to him.''

The new Federal law calls for a 5 per cent tax credit up to a maximum of $2,000 on the purchase of a new home providing, among other things that the title be taken or the purchase be made between March 12 and Dec. 31 of this year, that construction began before March 26 and that the house or condominium is the purchaser's principal residence.

BUILDERS PLEASED

Builders interviewed in several suburban areas were generally delighted with the law although they agreed that one provision in particular would create difficulties until the Internal Revenue Service produced a clarified regulation.

The difficult clause provides that purchases eligible for the tax credit be made at the lowest price the home was offered for sale. There is vast uncertainty over how to determine ''lowest price'' in an industry where prices listed in prospectus offerings can be adjusted upward, where rebates and other incentives change price levels and where subsequent additions to unsold units change their value.

John Tedesco, president of Kaufman and Broad Homes of New Jersey, said a few days ago that ''if the I.R.S. doesn't set some limit, such as 'lowest price since Jan. 1, 1975,' for example, the incentives will evaporate.''

Potential buyers, meanwhile are said to have been visiting housing developments and condominiums throughout the metropolitan area in increasing numbers since last Sunday, the day after the measure became law. Martin Berger, president of. Robert Martin Corporation, Westchester's largest builder, said a few days ago:

''We couldn't believe it. Easter Sunday is not usually a big day and the weather was bad, but people came to us asking about the credit and others reported the same thing. This could provide a tremendous boost to the sagging residential construction business and to the economy in general.''

INTEREST GROWS

The initial interest of last weekend was intensified yesterday and today, especially where builders linked the $2,000 credit to their advertisements in today's newspapers.

At Applehill Farm, in Chappaqua, Westchester County, where 56 homes are being built in a ''cluster'' development on a former estate, Tom Bisogno said couples shopping for the $70,000 to $90,000 units were asking if they qualify for the rebate. ''We believe they do,'' he said, ''because ours is a new development, less than a year old.''

Mr. Bisogno said he expected the real crush to come when the I.R.S. clarified its ''lowest price'' ruling: Louis Buonpane of the Parker Imperial, a condominium on the Palisades in North Bergen, NJ, opposite 86th Street in Manhattan, said traffic increased ''right after the President signed the bill.''

Like Strawberry Hill, Parker Imperial is adding the tax credit to previously announced price reductions necessitated by a sluggish market. ''It's a good selling tool, this tax credit, added to everything else,'' Mr. Buonpane said.

Another question puzzling some builders was how to define when construction began. Many felt that the I.R.S. would refer to putting down a ''footing,'' or pouring concrete, but Mr. Tesdesco asked, ''If you clear the plot and install services have you started construction on a house?''

Builders said that setting Dec. 31 as the cut-off date would force quick decisions, which they liked. One builder said, ''We're going to begin 'countdown' advertising as soon as we can—'You have only 100 days to make up your mind, etc.,'—to encourage decisions. It could be dynamite for this market.''

[From the New York Times, July 27, 1975]

HOME BUYERS GET A NEW ENTICEMENT

(By Ernest Dickinson)

Thousands of new housing units throughout the nation that failed to meet the price qualification for 5 per cent Federal tax credit it will do so now because of an amendment liberalizing the law.

The change, builders predict, will give an added boost to new-home buying, especially between Labor Day and the end of the year.

The law as it was passed in March specified that new houses, condominiums and mobile homes had to be sold at the lowest price for which they had ever been offered if their buyers were to be eligible for the credit of as much as $2,000.

But some builders with units that had been on the market many months did not roll back prices to their original levels because, they said, they could not do so without losing money.

Under the amendment, which was signed into law June 30, the builder must certify only that the price is the lowest at which the home has been offered since Feb. 28, 1975.

The change greatly enlarges the number of qualifying properties from which home buyers can choose this summer and fall. The increase is most apparent among high-rise condominiums.

At The Greenhouse In Cliffside Park, N.J., for example, 100 of the 340 units remain unsold. None of them qualified for the tax credit previously, but all of them do now.

Ira Norris, the president of the Kaufman and Broad Development Company, the builder, explained why. A high-rise condominium is a large project, he noted, and once construction starts, the entire building must be completed. During the two-year construction period, however, many costs escalated month by month. So completed apartments cannot be sold at the price for which they were offered two years earlier.

Ordinarily, builders of low-rise or single-family detached housing can avoid that trap. If houses are not selling, the builder can simply stop construction.

The new tax-law provision helps not only future buyers but some past buyers as well. Its benefits are retroactive. A buyer who closed a deal in the spring but did not qualify for a tax credit then may now be able to obtain it.

This will be true if the only reason the property was not eligible then was that the builder had sold it at a price he raised before Feb. 28. A recent buyer who believes that his new-home purchase may now entitle him to a tax credit should contact his builder or local Internal Revenue Service office.

Some developers are taking the Initiative in such situations. The builder of High Point of Hartsdale, in Westchester County, for example, will soon be sending letters of congratulation and the required certificates to about eight buyers who previously purchased

condominium apartments that only now qualify for the credit.

Leland Zaubeler, a vice president of the Robert Martin Corporation of Elmsford, which is building the 500-unit High Point, said that about 15 per cent of the unsold partments that previously did not qualify for a tax credit do qualify now. ''The amendment is beneficial,'' Mr. Zaubeler said. ''It helps carry out the original intent of the law—to move new housing.''

The biggest problem with the legislation, according to many builders, is that many people still do not understand what a tax credit is.

According to Mr. Norris, they refuse to believe it is not simply a tax deduction. ''We've had people bring lawyers into our offices because they think we are trying to sell them a bill of goods,'' he said. A tax credit is subtracted from the final sum one owes the Government. If a home buyer qualified for a $1,750 tax credit and his tax bill came to $1,750 or less, he would not pay any tax.

Despite widespread misunderstanding, however, people are starting to shop around again at last,'' said a spokesman for U.S. Home Corporation in Clearwater, Fla., one of the nation's largest builders. ''The tax credit has gotten people out looking, though they may end up buying homes that don't qualify.''

George A. Frank, who heads the Builders Institute of Westchester and Putnam counties, agrees.

Westchester has about 800 new unsold condominium units but very few new single-family homes, he said, adding: ''Because of costs, with new houses bringing about $75,000 here, there has been no large-scale building.''

But Mr. Frank and others believe that a ''countdown psychology'' will develop in the fall as more and more buyers realize that they have only until the end of the year to get a tax credit.

''It's a very persuasive opportunity,'' said one builder. ''If the average condominium sells for $50,000, you can put down $5,000, or 10 per cent, because most developers offer a 90 per cent mortgage. Then the $2,000 off your income tax represents 40 per cent of the down payment''

The amount of the tax credit is figured by taking 5 per cent of the total cost of acquisition (including closing costs), minus any profit the buyer might realize in selling his old house. The credit cannot exceed the total tax liability. If a buyer qualifies for a maximum $2,000 credit but his Federal tax totals only $1500, the latter amount is all he can claim.

In general, homes that were never before occupied and that were under construction or completed before March 26, 1975, qualify for the credit.

Mr. ISAKSON. I will read the headlines: ''New Housing Tax Credit Prompts Rise in Buying; Consumers Respond to Federal Law by Closing Deals on Condominiums and Homes Here, Builders Say,'' and ''Home Buyers Get a New Enticement.''

In 1975, when the average price of a house was $35,000, the United States was in worse shape than we are in today. We are fast approaching it, but we were worse. There was a 3-year supply of unsold houses on the market, and there were no buyers.

Congress, the Democratic Congress, and Gerald Ford, a Republican President, passed a housing tax credit of $2,000 for a family who bought and occupied as their home a standing vacant house in inventory at the time, which is because all the inventory was new homes. That $2,000 tax credit spurred people to go to the marketplace, spurred them to buy those houses, and in 1 year's time we went from a 3-year supply of housing to a 10-month supply of housing. We solved 70 percent of the problem with a tax credit.

What we are talking about in our legislation is a bill I introduced in January of last year. Everybody said it cost too much. Then, it cost $11.4 billion. We have now spent $3 or $4 trillion, and we have not solved the problem yet. I suggest it is time we looked at an economical solution.

What we have offered is a $15,000 or 10 percent of the purchase price of the house, whichever is less, tax credit which could be claimed against the 2008 tax return that will be filed in April or can be taken 50 percent in 2009, 50 percent in 2010. What the family gets is a $15,000 tax credit or, as I said, 10 percent of the purchase price, whichever is less.

This is going to benefit mainstream America. When they receive it, they have to live in the house for 3 years as their home. If for some reason they move out during that time, it is prorated. But what will happen in America now is what happened in 1975 when these articles in the Times reported: Sales will come back, the floor will be put under the housing market, values will stabilize, and they will begin to appreciate. And, as they do, equity will return to America's families; stability will return to the basic biggest asset our families have, their home; and we will begin to work our way out of this deep downward spiral we are currently in.

As has been said, it is not a catch phrase and it is not a slogan. If we do not fix housing first, it does not matter what else we fix because throwing money at the symptoms, as JON KYL said, will not work. If you are a doctor and you are trying to cure a patient, you go to the root of the infection or the root of the problem, and you cut it out or you deal with it.

This proposal, providing good, efficient, effective mortgage money for refinance for Americans with good credit or those with Freddie Mac and Fannie Mae loans, this will bring borrowers who are in the market back to the market and will solve the problem.

My last comment to the Senator from Tennessee—I call people who used to work for me all the time to see how it is going. I call them in various States, including the State of Tennessee.

In Atlanta, GA, a couple of weeks ago, I talked to Glennis Beacham, who is very successful. I said: Glennis, have you got a lot of buyers?

She said: I have a lot of buyers, Johnnie. They have money. They want one of two things: They want a foreclosure or a short sale.

Right now you have a bottom-fishing market. You do not have people who see any opportunity, and the buyers who are in are exploiting; they are not investing. It is time we incentivize all American families with their own money because it is their tax money against which the credit will be taken to go out and buy a house. When we do, we will begin to fix housing first, and we will begin to stabilize a very teetering economy.

I commend the Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Georgia. Just to make sure it is clear, sometimes we confuse tax deduction and tax credit. This is a $15,000 tax credit. That means cash money, real money, that you can, instead of paying it to the IRS, put in your pocket. Am I correct?

Mr. ISAKSON. You can invest it in your house.

Mr. ALEXANDER. You can invest it in your house. The Senator from Wyoming is here.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 7 and a half minutes remaining.

Mr. ALEXANDER. Mr. President, please let me know when 2 minutes is remaining.

I thank the Senator from Georgia. We have now heard a proposal to give to all creditworthy Americans, which can be up to 40 million, the opportunity to buy or refinance a house with a Treasury-backed 4- to 4.5-percent mortgage. We have heard Senator ISAKSON's proposal to give everyone who buys a home within this next year up to a $15,000 tax credit.

The Senator from Wyoming was a small businessman before he came to the Senate and is our only accountant here. What is the Senator's reaction to that, and how does he see housing fitting into the economic stimulus package that is being discussed?

Mr. ENZI. We need to pass a bill that will fix housing first. We recognized the problem about a year and a half ago, but Congress has not focused on the housing piece of that and come up with a solution that will work to fix housing.

''Fix Housing First,'' the slogan the Senator came up with, I appreciate the efforts of the Senator from Tennessee and the understanding that he has of this and the ability to pull people together. I thank Senator ENSIGN for all of the work he has done on a substitute bill. I particularly thank the Senator from Georgia, Mr. ISAKSON, for an idea that he has seen work before and knows will work again and has done the math on it to update it to today. But we have to fix housing first. That is what started the problem, that is

what is continuing the problem, that is what has tightened the pocketbooks of Americans.

A realtor from Buffalo, WY, was in my office yesterday. He said the banks do have some money, that they had made 50 loans, they were processing 50 loans at the moment. He said, unfortunately, only two of those were for house sales. The rest of them were all refinancing as the interest rates have come down.

Even people who can afford to buy a house are not buying a house because they do not know where the bottom is in the housing market. So until we do something to put a bottom in the housing market and assure people who have bought houses as part of their retirement that their value is not going to go clear through the floor, America is not going to recover from this. People are not going to start spending. It is not Government spending that solves the problem, it is individual spending that solves the problem. And the individuals have stopped spending.

Government money spends twice, circulates twice; private money circulates seven times. We have to get the private money, the individual money, the personal money, back into the economy again, and that will make a difference.

The crisis began with the decline of housing prices in our Nation, a rising tide of foreclosures from homeowners who could no longer afford to make mortgage payments. The decline in the housing market sent shockwaves through our financial system as everybody realized their triple-A-rated investments looked more like junk bonds. With banks unwilling to lend against assets of an unknown value, our credit market came grinding to a halt. That is where we are today.

Now, the original plan of TARP was to buy toxic loans, to get those out of the market, to stabilize the banks. That did not happen. When we work in a hurry to pass something around here, particularly if it deals with a lot of dollars, we can often wind up in a different direction than where we thought we were going. Right now this bill is not focused on housing. It needs to be focused on housing, and focused on housing first.

Government spending by itself will not solve the problem. We cannot spend our way out of it. We have tried that before. We tried it in the 1930s. Government interference did not help. So we need to take some of this money and devote it to stemming foreclosures, invigorating the housing market, and getting our financial institutions and individual investors to step back into the market without fear.

I have a lot more I would like to say, but I know our time is limited. I would like the Senator from Tennessee to be able to conclude this discussion, conclude the beginning of the long discussion I hope will put housing first. Until we solve housing first, we do not have a solution.

Mr. ALEXANDER. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. The Senator from Tennessee has 3 minutes remaining.

Mr. ALEXANDER. I thank the Senator from Wyoming for his leadership and his understanding of business that has come the hard way, through experience in his town.

The Senator from Arizona, Mr. MCCAIN, is on the Senate floor to speak on a different amendment. But he, too, has a proposal that will deal with fixing housing first. So our point is this: We understand Americans are hurting, that our economy is in a slump. But we also understand that if we do not deal with the national debt, we will be doing the worst thing that we could ever do to the working men and women of America: that is, having long-term inflation where dollars do not amount to anything and you cannot buy anything.

So our focus, instead of adding to the debt by over $1 trillion, is to reorient the stimulus package toward a true stimulus and fix housing first. That is what the 4-percent mortgage for creditworthy Americans is for. That is what the $15,000 tax credit for home buyers is for. That is what the Republican proposals to help people with foreclosures are for. That is part 1, fix housing first.

Part 2 is let people keep more of their own money. Those are tax reductions. Then part 3 is take off this bill all of the spending items that do not have anything to do with creating jobs now. So we welcome the calls for bipartisan work. We are ready to work. We have good ideas: fix housing first, let people keep more of their own money, and focus the bill on spending projects that create jobs today, not those that do not.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I appreciate the courtesy of Senator FEINGOLD and Senator MCCAIN, who I know have a very important amendment. They have allowed me to come to the floor before them and speak about the amendment Senator SNOWE and I will be offering later.

I thank Senator FEINGOLD and Senator MCCAIN, and it is not my intention to give a lengthy speech at this point.

Last week, Americans were horrified to hear the news that Citigroup and other companies receiving taxpayer money from the Troubled Asset Relief Program were paying their employees billions and billions of dollars in bonuses.

Today, along with Senator OLYMPIA SNOWE, our colleague from Maine, I will offer a bipartisan amendment to this legislation that makes it clear it is not enough to say these Wall Street bonuses are wrong; they have to be paid back.

Taxpayers must be protected, and that is what the amendment Senator SNOWE and I are offering will do. Our proposal gives the institutions that received Troubled Asset Relief Program money and paid these outlandish bonuses a simple choice: The institutions will pay back the cash portion of any bonus paid in excess of $100,000 within 120 days of the amendment's enactment or those institutions would face an excise tax of 35 percent on what is not repaid to the Treasury.

The money can be repaid by buying back the preferred stock the Federal Government owns in these companies or in any other fashion the institution chooses. Senator SNOWE and I have had extensive legal review with respect to the constitutionality of this provision. We believe it passes constitutional muster.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter sent to me yesterday by Edward Kleinbard of the Joint Committee on Taxation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR WYDEN: You have asked me whether I believe that there is a constitutional issue associated with your legislative proposal to impose an excise tax on certain 2008 bonuses paid by TARP recipients that do not repay the amount of those bonuses in 2009 (through redeeming the preferred stock issued to the United States). There are many Supreme Court and other cases that have considered the question of when a tax might be held to be unconstitutional by virtue of its retroactive application, and as a result I am not able to answer your question definitively without more time to read the extensive jurisprudence. As a very preliminary matter, however, I believe that your proposal would be held to be constitutional if challenged in court.

First, I believe that there is a powerful argument that your proposal is simply not retroactive. Taxpayers can avoid the tax completely by repurchasing shares they sold to the United States; the excise tax would be imposed, not on prior bonuses, but on the taxpayer's affirmative post-enactment decision not to repurchase those shares at the same price that the shares were sold to the United States. Moreover, the timing, repurchase price and amount of shares that must be repurchased are not punitive, and are commensurate with the conduct that Congress can rationally find to be contrary to the purpose and intent of the EESA legislation that authorized the Treasury's investments.

Even if the excise tax were (contrary to the conclusion suggested above) viewed as having retroactive effect, the Supreme Court has generally given a high level of judicial deference to economic legislation and has repeatedly upheld retroactive taxation as constitutional, so long as the legislation is "supported by a legitimate legislative purpose furthered by rational means . . ." *Pension Benefit Guaranty Corp.* v. *R.A. Gray & Co.*, 467 U.S. 717 (1984). For example, under the Tax Reform Act of 1969, an individual was permitted a $30,000 exemption in calculating his minimum tax liability. The Revenue Act of 1976, passed in October of 1976,

reduced the exemption to $10,000 and applied the change retroactively to all tax years beginning after December 31, 1975. The Supreme Court upheld this retroactive amendment in *United States* v. *Darusmont*, 499 U.S. 292 (1981).

As another example, the Tax Reform Act of 1986 granted a special deduction for the sale of employer securities by an estate to an employee stock ownership plan (''ESOP''). In December of 1987 Congress amended the statute to provide that the securities sold to an ESOP must have been directly owned by the decedent immediately prior to his or her death, and made the amendment effective as if it had been contained in the statute as originally enacted. In *United States* v. *Carlton*, 512 U.S. 26 (1994), the Supreme Court once again upheld the retroactive application of the tax, in this case against an estate that had relied on the original language to engage in a transaction that it believed would have reduced its tax liability by several million dollars. There are numerous other appellate and Supreme Court cases to similar effect.

Your legislative proposal presents a particularly strong case for constitutionality since it has only a modest look-back period, as was the case in *Darusmont*, and is arguably a curative measure (with regard to the executive compensation provisions of TARP), as was the case in *Carlton*.

Please let me know if you have any further questions.

EDWARD KLEINBARD,
Joint Committee on Taxation.

Mr. WYDEN. I will read briefly now from the letter from Mr. Kleinbard. I will quote from the second paragraph:

There is a powerful argument that your proposal is simply not retroactive.

It is his judgment, based on what he has been able to look at thus far, it would be constitutional.

Mr. Kleinbard states specifically:

Taxpayers can avoid the tax completely by repurchasing shares they sold to the United States; the excise tax would be imposed not on prior bonuses, but on the taxpayer's affirmative post-enactment decision not to repurchase those shares at the same price that the shares were sold to the United States. Moreover, the timing, repurchase price and amount of shares that must be repurchased are not punitive, and are commensurate with the conduct that Congress can rationally find to be contrary to the purpose and intent of the EESA legislation that authorized the Treasury's investments.

I think anyone who looks at the letter from the Joint Committee on Taxation will see that the bipartisan amendment Senator SNOWE and I will be offering with respect to excessive cash bonuses is a matter that does pass constitutional muster and clearly is in the taxpayers' interest.

I note my colleagues, particularly from Tennessee and Georgia, have made a number of good points that I happen to feel strongly about with respect to the need to address the current housing crisis, and one of the things we have seen with respect to housing and all of the other economic challenges we have is we have to get people's confidence back in the American economy.

I believe the Snowe-Wyden amendment will help to generate that confidence by saying at some point we are going to say excessive bonuses are being paid, in effect, with taxpayer money. I mean these are companies who received billions and billions of taxpayer dollars.

If we are going to have the confidence we need to promote housing, as the distinguished Senators from Tennessee and Georgia both noted, we have to make sure taxpayers do not say: This is wrong. This is not right to give these excessive bonuses with taxpayer money.

I would note that Senator SNOWE and I set the limit for bonuses at $100,000. So, clearly, we want to be sensitive to the young person getting started in financial services, someone, perhaps, who was a secretary. But it is the outlandish bonuses that we are concerned about.

I would also note these TARP institutions have not yet paid their 2008 taxes. So what we have is a situation where a number of these companies have not yet paid their 2008 taxes. In other parts of this economic recovery legislation we are giving retroactive tax benefits. Certainly, that is the case with the net operating loss provisions, the carryback provisions, with respect to business.

So it seems to me, if you are giving those kinds of retroactive tax breaks, you surely ought to take steps to protect taxpayers, as Senator SNOWE and I seek to do with our legislation. The bottom line is, the Wall Street firms that took bailout money knew they were not supposed to pay their executives lavish bonuses, but they went ahead and paid out more than $18 billion in bonuses anyway.

The Wyden-Snowe amendment makes sure these firms can't take the money and give the Congress and taxpayers the runaround. If they took the bailout money, the Wall Street firms either have to pay taxpayers back for the excessive bonuses, or they ought to pay a tax on these bonus payments. Either way, they should not be allowed to pay outrageous bonuses to executives and stick taxpayers with the bill. It is fundamentally wrong to reward with billions of taxpayer dollars this kind of conduct. We have all heard about handing out of bonuses to executives at firms responsible for the current economic meltdown. But what happened a couple of weeks ago takes this to a completely different level. At a time when the Congress is faced almost on a weekly basis with requests for billions of dollars of additional money, how in the world can we allow these kinds of bonuses, with taxpayer money, to stand, as if the economy were booming?

My colleagues from Wisconsin and Arizona have been waiting patiently. I hope Members will look at the amendment Senator SNOWE and I are offering. I hope they will look at the legal analysis provided by the Joint Committee on Taxation with respect to how and why this particular proposal passes constitutional muster. I hope the Senate will say it is not enough to just give speeches about how it is wrong to hand out these bonuses with taxpayer money but will back bipartisan legislation to correct it and to protect taxpayers at a critical time when we must increase confidence in how major economic decisions are made.

I yield the floor.

AMENDMENT NO. 140

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent that the pending business be set aside and that we take up amendment No. 140.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I am pleased to be working with a tripartisan group on this issue: Senators MCCASKILL, GRAHAM, LIEBERMAN, BURR, and COBURN and, of course, most significantly, how great it is to be working again with my friend JOHN MCCAIN. This is an issue, in addition to ones we have worked on over the years, that he and I care deeply about, trying to deal with the abuse of earmarks. It is a real cancer in our budget system.

Our amendment is straightforward. It establishes a 60-vote point of order against unauthorized earmarks in appropriations bills. It also requires that recipients of Federal funding disclose what they spend on lobbying.

Before arguing the need for the amendment, I want to briefly acknowledge that we have actually come a long way in recent years in disclosing earmarks. In the last Congress, we passed the Honest Leadership and Open Government Act of 2007, more commonly referred to as the ethics and lobbying reform bill. That measure was the most significant earmark reform Congress has ever enacted, and it reflected what I think is a growing recognition by Members that the business-as-usual days of using earmarks to avoid the scrutiny of the authorizing process or of competitive grants are coming to an end. It was no accident that the two Presidential nominees of the two major parties were major players on that reform package. It would be a mistake not to acknowledge how far we have come. The Honest Leadership and Open Government Act was an enormous step forward. I commend the majority leader, Senator REID, as well as our former colleague from Illinois, President Obama, for their work in ensuring that landmark bill passed. But it would be a mistake not to admit that we still have a long way to go.

Our amendment will build on the significant achievements of the 110th Congress by moving from what has largely been a system designed to dissuade the

use of earmarks through disclosure to one that actually makes it much more difficult to enact them. The principal provision of this amendment is the establishment of a point of order against unauthorized earmarks on appropriations bills. Obviously, to overcome the point of order, supporters of the unauthorized earmark will need to obtain a supermajority of the Senate. As a further deterrent, the bill provides that any earmarked funding which is successfully stricken from the appropriations bill will be unavailable for other spending in the bill. It isn't the sort of a thing where you can borrow from one piece and fix it with another. You have to reduce the bill by that amount.

As I mentioned earlier, the amendment also requires all recipients of Federal funds to disclose any money spent on registered lobbyists. It is only fair that the American people know which entities receiving Federal funding are spending money to lobby Congress. There may be no connection between the lobbying and the Federal funding, but a little transparency would help everyone decide that for themselves.

I truly am delighted that President Obama is committed to keeping this stimulus package free of earmarks. We can ensure that his commitment is made good on future appropriations bills by adopting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I am pleased to join with my good friend Senator FEINGOLD in offering this fiscally responsible amendment, along with Senators MCCASKILL, BURR, LIEBERMAN, GRAHAM, COBURN, and others. May I say that I find there are very few pleasant aspects of losing an election, but one of them that I most value is going back to work with my friend from Wisconsin, Senator FEINGOLD, whom, for now many years, I have had the great honor and privilege of working with as we attempt to bring about the reforms which will help restore the confidence and trust of the American people in the way we do business in Washington but also in our stewardship of their tax dollars. I am pleased to join with my good friend Senator FEINGOLD.

Senator FEINGOLD outlined the provisions of the amendment so I don't want to repeat them. But I also want to point out that some people are saying: Why should we have this on this legislation, when this stimulus package does not directly apply? We know there is an omnibus appropriations bill coming down the pike. The House of Representatives intends to take it up soon. There is apparently, unfortunately, another TARP that may be coming, not to mention the other appropriations bills that will be coming. So the sooner we address this issue, the better off we will be. I also think one of the reasons why support for the stimulus package is rapidly eroding is because you don't have to call it an earmark and it doesn't have to be technically an earmark, but when you see many of the provisions in this stimulus bill, they have nothing to do with stimulus and everything to do with spending. They are fundamentally earmarks as well, certainly in their effect.

It is not only appropriate but necessary to adopt this amendment so that the American people will know in the future, when we make tough decisions, this kind of practice of adding absolutely unnecessary, unwarranted spending of their tax dollars on appropriations bills without a proper process of scrutiny and ability to reject them will not occur. It will not restore their confidence. The stimulus package before us is important, but right now the American people see it not as a stimulus but a spending package. That is why this provision will restore some confidence in the future way we address their tax dollars.

Every time Senator FEINGOLD and I have tried to kill off a specific unwanted and unnecessary and, many times, outrageous appropriation, if we had succeeded, it would have taken down the whole bill. So one of the important aspects of this legislation is to allow us to rifleshot and remove unnecessary and wasteful spending.

I don't have to go through the list, but it is always kind of fun to do it. Even though we passed in January 2007, by a vote of 96 to 2, an ethics and lobbying reform package that had meaningful reforms, by August of 2007, we were presented with a bill containing very watered-down earmark provisions and doing far too little to rein in wasteful earmarks. Since we adopted the much heralded reforms of January 2007, we have spent $188,000 for the Lobster Institute, which includes a lobster cam at the bottom of the ocean, which so far we have been unable to make work; $98,000 to develop a walking tour of Boydton, VA, population 454; $212,000 for olive fruit fly research in Paris, France; $1.95 million for the Charles B. Rangel Center for Public Service; $150,000 for the Montana Sheep Institute—almost every one of these earmarks location specific required—$345,000 for tree planting in Chicago; $196,000 for the renovation of an historic post office in Las Vegas; $150,000 for the STEEED program, Soaring Towards Educational Enrichment via Equine Discovery, a youth program in Washington, DC; $100,000 for Cooters Pond Park in Prattville, AL; $50,000 for construction of a National Mule and Packers Museum in Bishop, CA; $244,000 for bee research in Weslaco, TX.

The point is, some of these projects I am talking about may have virtue. It may be of the utmost national importance in this time of record deficits that we have a lobster cam at the bottom of the ocean and that we should spend $188,000 for it. But it should be subject to debate and discussion and amendment and acceptance or rejection.

What Senator FEINGOLD and I are seeking is a process where these earmarks can be judged on their value, their contribution to the overall economy, and whether they are necessary. Under the present system, they are still inserted without the Congress having the ability to carefully examine them.

It also would require recipients of Federal dollars to disclose any amounts that the recipient has expended on registered lobbyists. There is a new game in town—not so new, it has been going on for some years, but it grows—and that is that special interests, universities, others will go to a specific lobbying group, and they will then seek the earmarks this interest desires and believes is required. There are certain, obviously, amounts of money given to those lobbyists for their work. We are not saying they should not do that. We are saying that the amounts of money given to the lobbyists as a result of the recipients of Federal dollars obtaining those funds should be revealed.

Again, $446,500 for horseshoe crab research at Virginia Tech in Virginia; $500,000 for a maritime museum in Mobile, AL; $360,000 for Hawaii rain gauges; $401,850 for the Shedd Aquarium in Chicago, IL.

This process has got to end. The American people do not trust the Congress to dispose of their tax dollars without these billions of earmarks, or at least a process where they are scrutinized and Members of Congress have the ability not to just vote on an appropriations bill that appears on the Member's desk shortly before the vote takes place. The appropriators will tell us these are all worthwhile projects. They are not, and they have resulted in corruption. There are former Members of Congress residing in Federal prison today because this process—this process—has corrupted people. It has to be fixed.

So I could go in citing examples of unauthorized earmarks and policy riders in appropriations bills and conference reports. But I think you have the picture. By the way, an egregious example that is being investigated today is that for one of the appropriations bills, appropriations were inserted after the bill was passed and signed by the President of the United States—a remarkable occurrence—a remarkable occurrence. It shows how far we have gone in our obligations to the American people.

I would like to say a word to my own side of the aisle. We just lost an election, and I will take the responsibility

for that. But I can assure my colleagues on this side of the aisle that one of the reasons why Republicans lost the last election is because our base, who are concerned about our stewardship of their tax dollars, believes we got on a spending spree which has mortgaged our children's futures.

If there is a future on this side of the aisle, then we have to clean up our act on spending. Time after time, when some of us said: You have to veto these spending bills, the answer was: Well, we have to please Members. What we did was we alienated those American citizens—frankly, of all parties—who feel strongly we have lost our sense of obligation to them as far as careful stewardship of their tax dollars is concerned.

I wish to mention one other thing. I had a very good conversation with the President of the United States. We all want to work together to pass this stimulus, a stimulus package that will get our economy going again. I look forward, as do other Members on this side of the aisle, as well as the other side, to sit down, and let's have some serious negotiations so we can eliminate wasteful and unnecessary spending that is part of the stimulus package that is before the Senate today.

We should make sure we adopt an amendment that as soon as the GDP improves for two quarters by 2 percent, we will then enact spending cuts to put us on the road to a balanced budget. We need to do that. We used to talk about millions of dollars and then we started talking about billions of dollars and now we are talking about trillions of dollars of deficits that will be run up that we will lay on future generations of Americans.

With this stimulus package, there must be a commitment to stop this spending and to reduce spending once our economy recovers, so we can have some sense of ability to put this Nation on a path to a balanced budget to eliminate the debt and deficit we are laying on future generations of Americans.

Americans are beginning to turn against the stimulus package as it is presently designed. They are doing that because they do not believe it is a stimulus package. They believe, correctly, it is a spending package. I urge my colleagues to help restore confidence in whatever the outcome is, that we adopt this amendment, so in the future the American people can be sure we will have done our very best to eliminate unnecessary, wasteful, and corrupting spending that has characterized the expenditures we have made in the past on appropriations bills that contained those unwanted, unnecessary spending practices.

I thank the Senator from Wisconsin, again, and my friend, Senator LIEBERMAN, and Members on both sides of the aisle who will support this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Chair.

I rise to speak in favor of the Feingold-McCain amendment. I heard my friend from Wisconsin refer to this as an amendment with tripartisan support. Hearing that, I rushed to the floor to validate his description of it.

I am proud to be a cosponsor of this legislation. It is quite appropriate that this amendment is being offered on this Economic Recovery and Reinvestment Act. I support this act strongly. It is critically important. It is gravely important we adopt this legislation, and adopt it soon, to kick start our economy, to start creating and protecting jobs again.

But there is an awful lot of money in this measure that has to be spent quickly. There are oversight actions and institutions that have been made part of the Economic Recovery and Reinvestment Act. But it gives us an opportunity to deal directly with what has become known as the earmark problem or the earmark crisis or the earmark scandal to some.

I support this amendment and have cosponsored it because it does not end what has begun to be described as earmarks. It reforms the process. It creates a legislative vehicle for any 1 of 100 of us to stand and say: Hey, wait a second. What is this appropriation without authorization that has been put into this bill and to essentially demand, by raising a point of order, that 60 of the 100 of us agree that it is worth spending taxpayers' money on this particular appropriation.

This is necessary because we have taken a legitimate constitutionally created function of Congress—the power to appropriate—and we have misused it in too many cases that it now requires us to create a process to basically say, at times when it is justified: Stop. Stop this particular appropriation, this particular earmark.

When I talk about a constitutionally ordained process, I am talking about the fact that the Constitution gives Congress, uniquely, the power to appropriate public funds. It is simply a matter of record, which my colleagues from Wisconsin and Arizona have made more than clear this morning again, that the power we have been given to appropriate has, in some cases, been misused in what now are called earmarks. So we need to create this checkpoint to say: No, let's demand 60 votes for this one.

The amendment would also require all recipients of Federal dollars to disclose any amounts the recipient has expended on registered lobbyists. This is a way also to create some transparency—the sunlight that Justice Brandeis, I believe it was, said was the best disinfectant for bad behavior in Government.

So I am proud to be a cosponsor. I hope we take this moment, as we appropriate necessary funding—hundreds of billions of dollars—to say that on all other appropriations bills coming along, every Member of this Senate will have the opportunity to ask something very reasonable and sensible: If they doubt the necessity, the validity of a particular appropriations earmark, that 60 of us have to say: No, we think it is OK.

AMENDMENT NO. 106

Madam President, I am not sure, at this point, what the regular order is. I also have come to the floor to speak about an amendment the Senator from Georgia, Mr. ISAKSON, and I have offered. If it is appropriate, now I would speak for a few minutes on it. If not, I will wait until that amendment comes up.

The PRESIDING OFFICER. The Senator has that right.

Mr. LIEBERMAN. I thank the Chair, and I promise my colleagues I will be brief.

Senator ISAKSON and I have offered an amendment which will create a $15,000 tax credit for any purchaser of a home within a year after the date of enactment. There is no recapture clause for that. We do so to offer one of what we hope will be a series of measures to revive the housing market and housing values as a critical part of reviving our economy and creating jobs.

Very briefly, it was the subprime mortgage scandal, the bubble in housing prices, the collapse of housing prices, that has been at the heart of the follow-on collapse in our financial institutions and the collapse in confidence, particularly, the confidence of the American consumer, whose demand, whose consumption, drives 70 percent of the American economy.

So bottom line: I saw a statistic from a reputable economist about a week ago, 2 weeks ago now, that estimated in the last year there had been a loss of $4 trillion in the value of real estate in our country—$4 trillion. We are talking about $4 trillion of value in houses, which for most Americans—middle-income, lower middle, and lower income—who could afford to own a house, was the major asset they had, the major asset of value, the major source within them for which they had economic confidence because it was worth something beyond what the mortgage was. That is part of what gave them the confidence then to go out and consume, to drive our economy forward.

The collapse of housing values, the dramatic drop in activity—housing purchases and sales—is at the heart of the collapse in confidence and the spiraling downward of our economy today, and we simply will not get our economy going again unless we get that moving.

This credit Senator ISAKSON and I are proposing—we are not saying is going

to solve all the problems. There has to be action in other ways. There has to be action through the Treasury Department in the second tranche of the so-called TARP money to help people stay in their homes, particularly those who are in homes that are now worth less than the mortgage they have. There has to be action to try to lower interest rates and so on.

But we think this action will really kick start the housing market by giving a $15,000 tax credit, refundable, to anybody who buys a house within a year of the date of enactment. That will drive sales. As you watch the interest rates coming down—and interest rates are at a low of many years, when you can get a mortgage—and then with the action through the Treasury Department to increase liquidity, and you add on a $15,000 tax credit, I think people are going to go out and buy homes. That is going to begin to raise the value of homes. If a home sells on the street, everybody else's house goes up in value. Then people's sense of their own wealth, their own economic well-being, is going to increase, and I think it will give them the confidence to go out and begin to consume.

In 2008, I can tell you, Connecticut's housing market experienced its sharpest decline in home sales and median home prices in 20 years. Single family home sales fell nearly 24 percent. This proposal Senator ISAKSON and I are making obviously costs some money. But compared to other proposals that have been made, this one will pay a return on the dollar.

Although we are waiting for a final estimate, I would anticipate the amendment could cost as much as $20 billion. However, we have had economic estimates from credible economists who have looked at the amendment Senator ISAKSON and I are offering and said they believe it could lead to as many as 1.1 million home purchases within this year, that it would generate 539,000 new jobs, mostly in construction, and $14 billion in Federal tax revenues. So that is a tremendous return on what this will cost the Treasury. Senator ISAKSON will show it in his comments, because we have talked about this—this has been tried once before in a terrible housing crisis in the 1970s and worked very well.

I am proud to stand with my friend from Georgia. This is a bipartisan amendment; perhaps I should say tripartisan. It deserves to have tripartisan and, I would hope, unanimous support as something that has been proven in the past and will work again today to get people's home values rising, because there will be the demand to buy houses in America once again.

I thank the Chair, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CARDIN. Madam President, will the Senator yield for a moment?

Mr. ISAKSON. I will.

Mr. CARDIN. Madam President, I ask unanimous consent to be recognized after the Senator from Georgia has completed his comments.

The PRESIDING OFFICER. Is there objection?

Mr. ISAKSON. Reserving the right to object, would it be good to lock in the speakers who are here at the same time?

Mr. GRASSLEY. Madam President, I don't want to do that because I am the manager for this bill and I have been waiting to speak. I want the floor after the Senator from Maryland completes his remarks, and I think I am entitled to it.

Mr. ISAKSON. I would never cross the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, first, I want to thank Senator LIEBERMAN for his very responsive remarks and for his cosponsorship for this legislation that creates a floor for housing once again and for us to end what has become a terrible economic crisis.

AMENDMENT NO. 106, AS MODIFIED

I called this amendment up last night and now I wish to ask unanimous consent to send a modification of the amendment to the desk for replacement of the existing amendment.

The PRESIDING OFFICER. Are there objections to the modification?

Without objection, the amendment is modified.

The amendment (No. 106), as modified, is as follows:

On page 449, beginning on line 16, strike through page 450, line 22, and insert the following:

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009, and

''(B) on or before the date that is 1 year after such date of enactment.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act.

Mr. ISAKSON. Madam President, the amendment is merely a technical amendment on dates and no other substantial change.

It is rare that we have a roadmap to success in times of difficulty, but this country has once before realized a housing crisis every bit as bad as the one we have today and economic troubles and unemployment every bit as dangerous, and that was in 1974. In 1975, the Democratic Congress and a Republican President, Gerald Ford, came together for the American people and passed a $2,000 tax credit for the purchase of any standing, vacant, new house and in one year's time a 3-year inventory had been dissipated to 10 months, housing was restored, values returned, and the economy again began to prosper.

Thirteen months ago, in January of last year, I introduced this same amendment. It was scored at that time by Joint Tax at a cost of $11.4 billion. The Finance Committee in its wisdom elected not to include this in the proposal because they said it was too expensive. Since they said that was too expensive, we have spent $4 trillion between the Federal Reserve and the Congress and the U.S. Treasury, and the problem is worse. So I would submit this is a very small price to pay for a solution that at least we have an historical precedent that it works.

The score on this legislation is $18.9 billion. The legislation provides a $15,000 tax credit, or 10 percent of the purchase price, against either 2008 income where one can monetize it at the closing date this year, or half in 2009 and half in 2010, for anyone who buys as their principal residence any single-family dwelling or single-family condominium or attached townhouse available in the United States of America. We have a pervasive housing problem, and the worst hurt right now are the people who are paying their mortgages, the people who are in decent shape, the people who are having to sell because of a transfer; they have no market and they don't because everybody is going for short sales or they are going for foreclosures or they are going bottom fishing. They are bottom fishing with your equity and mine. They are bottom fishing to find the best deal they can get at the bottom of the trough. It is going to keep spiraling down until this Congress and this country address the root of the problem which is the death of the housing market, puts a floor under it, stabilizes it, and gives it a motivation to improve.

Senator LIEBERMAN's quote is absolutely correct. Right now, we are at a housing sale rate of a half a million houses a year. This country averaged 1.2 million in the last 10 years. This bill will take us back to 1.2 million, as his statistics prove. We have tremendous unemployment. This legislation will bring about estimates of 500,000 to 600,000 jobs back to America, not in 2 years, not in 10 years, but now. So I respectfully submit we have a chance to join together, learn from history, repeat history that worked, and adopt this amendment.

I thank Senator LIEBERMAN for his support. I thank Senator CHAMBLISS for coming on as a cosponsor and Senator CORKER and, as I understand from the calls I have had in the last day, many more from both sides of the aisle. It is time to fix America's problem, not throw money at the symptoms. It is time to fix housing first in the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Madam President, let me comment on the underlying bill and then I will ask unanimous consent to set aside an amendment so I can offer an amendment.

First, let me comment on the underlying bill. We need to give President Obama the tools necessary for our economic recovery. President Obama said 2 weeks ago in his inaugural address the challenges we face are real, they are serious, and they are many. They will not be met easily or in a short span of time, but they will be met.

I think our responsibility is to make sure he has the tools necessary in order to be able to deal with our economic crisis. The current status of our economy is worse than any of us have seen in our lifetime. The gross national product fell 4 percent in the final quarter of 2008; our unemployment rates are at 7.2 percent.

Regarding home ownership and foreclosure, I know my Republican colleagues have had some discussion about trying to do more in that regard. This bill will save homeowners their homes. In my State of Maryland, we had 41,500 foreclosures in 2008, an increase of 71 percent. I need to point out that last year, it was the Senate Republicans who required seven cloture votes on the Foreclosure Prevention Act before we could take it up. At that time, 8,500 families were in some stage of foreclosure every day. The five months of stalling caused 1.2 million families to receive some form of foreclosure filings. The Republicans blocked amendments to provide additional funding for housing counseling and to let bankruptcy judges modify terms of subprime mortgages which could have kept 600,000 families in their homes.

So let me make it clear. We all want to preserve home ownership. We all want to prevent foreclosure. The underlying bill will help us get to that moment which we should have done earlier, and I regret that the filibusters prevented us from doing that.

Now, it is not only home ownership. People are losing their jobs. Retailers, automobile dealers, and restaurants are feeling the pinch. Small business owners are closing their doors. We need

jobs and we need consumer confidence. The underlying legislation will allow for job growth. That is the No. 1 objective: Create more jobs in America because we are losing them today. President Obama made it clear the criteria for this bill must be that the investments we make must be targeted to new job growth. He does that through targeted tax credits and tax cuts, through aid to our local governments to avoid the layoffs that each one of our States will confront with State workers. In my State of Maryland, Governor O'Malley is having a very difficult time with the State budget. He knows we need help in order to preserve State employment and to preserve the type of services that the State must provide for essential services during a recession.

This legislation provides direct investment for projects that are ready to go, that will create jobs, and that are the right investments for America's future. I don't disagree with my colleagues as we look at each individual request that is made here. There are no earmarks in this legislation, but we want to make sure there are right investments for America's future, whether it is improving education, educational facilities, energy so we can become energy independent, broadband so that we can compete in the future, health care technology so we can become more efficient in the way we deliver health care, our transportation system—I particularly mention public transportation which is critically important for our communities—or whether it is preserving home ownership. Also, the underlying bill must be temporary. We need to get back to balancing the budget; we understand that.

So what does this bill mean for the people of Maryland? Well, our State will receive directly $3.1 billion. We will receive $420 million for highways, $240 million for transit projects, $27 million for drinking water improvements, $96 million to improve wastewater facility plants, which is in desperate need in Maryland. The State energy program will get $8.5 million; weatherization assistance so that homeowners can have their homes much more efficient as it relates to the use of energy, $56.5 million. Many of the infrastructures that are being improved by this bill are 30, 40, 50 years old. A lot of our wastewater treatment facilities are in need of modernization. They are ready to go. The money has not been there for it. These are capital improvements so we can compete and have a better society. Once it is done, we can get back to being more competitive and get back to the budget discipline that is so necessary in this Congress.

Let me talk for a moment about the real estate market. The real estate market triggered this recession. We know that. I was listening to my colleagues talk about that on the floor and I agree with them. It is difficult for people to get into the mood to buy a home. They don't know whether we have hit bottom. So I particularly appreciate the Finance Committee for bringing out in this legislation the first-time homeowners tax credits, legislation that I introduced last Congress. It was included in the bill we passed in the last Congress, but it was a noninterest-bearing loan of $7,500. The Finance Committee has now changed that to a credit, which I think will be much more effective. First-time home buyers now know that if they get into the home buying market, the Federal Government is going to help them with a credit. That is what it should be, and I know there will be some additional efforts made to strengthen that amendment.

In regards to small business, I said earlier small businesses are the heart of America. It is where our economic strength is. The American dream is not only owning a home; the American dream is also owning a small business, being your own boss. Unfortunately, too many small businesses today have on their front door ''going out of business.'' We have to do more to protect small businesses. At the end of the day, when we pull out of this recession, we need to have small businesses in place because they are the economic engine of America. Madam President, 99.7 percent of the businesses in Maryland are small businesses and 80 percent of all new job growth is created by small businesses.

We had in the Small Business Committee a roundtable where we talked to small businesses in our State, in our country. It is interesting that a year ago, one out of every seven small business owners used their personal credit cards in order to get credit for their business. We understand that. Today that is 50 percent. It is the only place they can get credit. It is the most expensive and it can be pulled at any time. We have to help small business owners with their credit problems. We have to make sure the government procurement actually gets down to the small business owner. In this underlying legislation, the SBA loans, the 504 program, the 7(a) loans, there are major provisions to make it less expensive for small businesses. That is good. I support that. There is a microborrowing provision in this legislation for small businesses. That is important. That is going to help. But we need to do more. We need to do more to help small businesses, minority businesses, women-owned businesses, veterans' businesses.

AMENDMENT NO. 237 TO AMENDMENT NO. 98

For that reason, I ask unanimous consent to set aside the pending amendment so that I may offer amendment No. 237.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Ms. LANDRIEU and Ms. SNOWE, proposes an amendment numbered 237 to amendment No. 98.

Mr. CARDIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend certain provisions of the Small Business Investment Act of 1958, related to the surety bond guarantee program)

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by adding at the end the following:

''(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed $10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.''.

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by adding at the end the following:

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

(c) SUNSET.—The amendments made by this section shall remain in effect until September 30, 2010.

Mr. CARDIN. Madam President, let me very briefly explain this amendment.

This amendment improves the SBA program for surety bonds for small businesses. In the underlying bill the committee has brought out an additional $15 million that will allow SBA to help with the surety program.

The challenge today is that for small business to get a government contract of over $100,000, they have to put up a surety bond. It is very difficult for them to get that surety bond. The SBA has a program to help them obtain a surety bond. The challenge is that the current limit is $2 million. For any contract over $2 million the program cannot be used. Well, with the underlying bill and the types of procurement we are anticipating, there are going to be larger contracts. What this amendment does is increase the $2 million to $5 million.

Secondly, in order to qualify for a small business, your annual revenue must be below the Federal guidelines or State guidelines if it is a State contract.

What the underlying amendment does is use the Federal guidelines, which is $31 million, for construction contractor businesses and $13 million for specific trades as the standard for being eligible for the Federal SBA program on your surety bond. I am very pleased that this amendment has the support of the leadership of the Small Business Committee, Senators LANDRIEU and SNOWE. It is bipartisan. The CBO scored this at no cost, so it will not cost money. I urge my colleagues to support it.

Lastly, Senator SNOWE will be offering an amendment to make sure Federal procurement laws and regulations apply to all the contracts awarded under this legislation and that SBA regularly reports on these contracts to Congress. I am a cosponsor of that amendment; I strongly support that amendment. I hope we will also consider that amendment.

In conclusion, I am optimistic about our future, but we have a lot of work to do. We need to pass this legislation quickly and give President Obama the tools he needs so we can see that our economy is rebuilt and grown to its full capacity. I am confident we will reach that day by acting on this legislation, and it will be sooner rather than later.

I thank my colleague and yield the floor.

Ms. SNOWE. Mr. President, I rise today to speak in support of this amendment I have cosponsored with Senators CARDIN and LANDRIEU. This amendment would reinvigorate the Small Business Administration's, SBA, Surety Bond Guarantee Program, to ensure that small businesses are able to secure the surety bonds they need to compete for contracts, grow, and hire more employees. In our current economic recession, small businesses are finding it even more difficult to secure the credit lines necessary to get bonds in the private sector.

As a result, the SBA surety bond program is more important than ever. Surety bonds are critical to small companies' survival and competitiveness. Our bipartisan amendment would increase, on a temporary basis, the limits on the SBA Surety Bond Guarantee Program from $2 million to $5 million for contracts awarded under the SBA program. This amendment would also raise the current small business size standards for state and local contracts in order to update and modernize the surety bond guarantee eligibility.

I encourage my colleagues to support this crucial small business surety amendment. This amendment was written after consulting with small business owners across the country, the SBA, and surety bonding companies on how best to revitalize this critical program. Without these changes, fewer small businesses will have the opportunity to participate on the plethora of construction and infrastructure projects that are likely to occur across the nation because of this stimulus package. Without these bonds many small businesses will be unable to compete for contracts and government work. For new companies, obtaining a surety bond will become a barrier to entry and competition they are unable to overcome.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENTS NOS. 168, 197, AND 238, EN BLOC, TO AMENDMENT NO. 98

Mr. GRASSLEY. Madam President, on behalf of our leadership, I ask unanimous consent to temporarily set aside the pending amendment, and I call up three amendments and ask that they be reported by number. They are DeMint, No. 168; Thune, No. 197; and Thune, No. 238.

I further ask that Senator THUNE be the next speaker on the Republican side and that Senator JOHANNS follow him, with a Democrat in between.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. DEMINT, proposes an amendment numbered 168.

The Senator from Iowa [Mr. GRASSLEY], for Mr. THUNE, proposes amendments numbered 197 and 238.

The amendments are as follows:

AMENDMENT NO. 168

(Purpose: In the nature of a substitute)

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. REDUCTION IN CORPORATE MARGINAL INCOME TAX RATES.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''and'' at the end of subparagraph (A),

(2) by striking ''but does not exceed $75,000,'' in subparagraph (B) and inserting a period,

(3) by striking subparagraphs (C) and (D), and

(4) by striking the last 2 sentences.

(b) PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) of such Code is amended by striking ''35 percent'' and inserting ''25 percent''.

(c) CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking ''35 percent'' and inserting ''25 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 2. REDUCTION IN INDIVIDUAL MARGINAL INCOME TAX RATES.

(a) IN GENERAL.—Paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) REDUCTION IN RATES AFTER 2008.—In the case of taxable years beginning after 2008, the tables under subsections (a), (b), (c), (d), and (e) shall be applied—

''(A) by substituting '25%' for '28%' each place it appears, and

''(B) without regard to—

''(i) the rates on taxable income in excess of the amount with respect to which the 25 percent rate (determined after the application of subparagraph (A)) applies, and

''(ii) any limitation on the amount of taxable income to which the 25 percent rate (determined after the application of subparagraph (A)) applies.''.

(b) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 101 of such Act (relating to reduction in income tax rates for individuals).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. REPEAL OF ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

''No tax shall be imposed by this section for any taxable year beginning after December 31, 2008, and the tentative minimum tax for any such taxable year of any taxpayer which is a corporation shall be zero for purposes of this title.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 4. PERMANENT REDUCTIONS IN INDIVIDUAL CAPITAL GAINS AND DIVIDENDS TAX RATES.

Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (relating to sunset of title) is repealed.

SEC. 5. ESTATE TAX RELIEF AND REFORM AFTER 2009.

(a) RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 (relating to general rule for unified credit against gift tax), after the application of subsection (f), is amended by striking ''(determined as if the applicable exclusion amount were $1,000,000)''.

(b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT EQUAL TO $5,000,000.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended to read as follows:

''(c) APPLICABLE CREDIT AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

''(2) APPLICABLE EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is $5,000,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2009, the $5,000,000 amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000,

such amount shall be rounded to the nearest multiple of $10,000.''.

(c) FLAT ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended to read as follows:

''(c) TENTATIVE TAX.—The tentative tax is 15 percent of the amount with respect to which the tentative tax is to be computed.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (1) and (2) of section 2102(b) of such Code are amended to read as follows:

''(1) IN GENERAL.—A credit in an amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $60,000 shall be allowed against the tax imposed by section 2101.

''(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit allowed under this subsection shall not be less than the proportion of the amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $175,000 which the value of that part of the decedent's gross estate which at the time of the decedent's death is situated in the United States bears to the value of the decedent's entire gross estate, wherever situated.''.

(B) Section 2502(a) of such Code (relating to computation of tax), after the application of subsection (f), is amended by adding at the end the following flush sentence:

''In computing the tentative tax under section 2001(c) for purposes of this subsection, 'the last day of the calendar year in which the gift was made' shall be substituted for 'the date of the decedent's death' each place it appears in such section.''.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Code of 1986 (relating to computation of tax) is amended by striking ''if the provisions of subsection (c) (as in effect at the decedent's death)'' and inserting ''if the modifications described in subsection (g)''.

(B) MODIFICATIONS.—Section 2001 of such Code is amended by adding at the end the following new subsection:

''(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

''(1) the tax imposed by chapter 12 with respect to such gifts, and

''(2) the credit allowed against such tax under section 2505, including in computing—

''(A) the applicable credit amount under section 2505(a)(1), and

''(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).

For purposes of paragraph (2)(A), the applicable credit amount for any calendar year before 1998 is the amount which would be determined under section 2010(c) if the applicable exclusion amount were the dollar amount under section 6018(a)(1) for such year.''.

(2) GIFT TAX.—Section 2505(a) of such Code (relating to unified credit against gift tax) is amended by adding at the end the following new flush sentence:

''For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

(f) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

(1) IN GENERAL.—The following provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such provisions, are hereby repealed:

(A) Subtitles A and E of title V.

(B) Subsection (d), and so much of subsection (f)(3) as relates to subsection (d), of section 511.

(C) Paragraph (2) of subsection (b), and paragraph (2) of subsection (e), of section 521.

The Internal Revenue Code of 1986 shall be applied as if such provisions and amendments had never been enacted.

(2) SUNSET NOT TO APPLY TO TITLE V OF EGTRRA.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(3) REPEAL OF DEADWOOD.—

(A) Sections 2011, 2057, and 2604 of the Internal Revenue Code of 1986 are hereby repealed.

(B) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2011.

(C) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2057.

(D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604.

SEC. 6. INCREASE IN CHILD TAX CREDIT MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 201 (relating to modifications to child tax credit) and 203 (relating to refunds disregarded in the administration of federal programs and federally assisted programs) of such Act.

SEC. 7. BASE BROADENING.

(a) IN GENERAL.—Section 63 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(h) RESTRICTION OF ITEMIZED DEDUCTIONS AFTER 2008.—In the case of any taxable year beginning after 2008, no itemized deductions shall be allowed under this chapter other than—

''(1) the deduction for qualified residence interest (as defined in section 163(h)(3)), and

''(2) the deduction allowed under section 170.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

AMENDMENT NO. 197

(The amendment is printed in the RECORD of Tuesday, February 3, 2009, under ''Text of Amendments.'')

AMENDMENT NO. 238

(Purpose: To ensure that the $1 trillion spending bill is not used to expand the scope of the Federal Government by adding new spending programs)

At the appropriate place, insert the following:

IN GENERAL.—Notwithstanding any other provision of this Act, for each amount in each account as appropriated or otherwise authorized to be made available in this Act, the Office of Management and Budget shall make determination about whether an authorization for that specific program had been enacted prior to February 1, 2009, and if no such authorization existed by that date, then the Office of Management and Budget shall reduce to zero the amount appropriated or otherwise made available for each program in each account where no authorization existed.

Mr. GRASSLEY. Madam President, our Nation's fiscal outlook is very grim. The Congressional Budget Office projects the Federal budget deficit will exceed $1 trillion. Despite this enormous deficit, President Obama is urging Congress to enact a massive stimulus plan that would add another $1 trillion in Government debt over the next 10 years. The President and his advisers insist that we must spend this money as quickly as possible in order to save our economy.

In the grassroots of my State, I don't think people argue with things that are in this bill that are truly stimulus, but I am getting outrage from my constituents about the large part of this bill that is strictly big-time spending.

In normal times, such fiscal excess, stimulus or otherwise, would be widely criticized and promptly rejected. But we all know these are not normal times. Our economy faces the worst recession since the Great Depression. Such comparisons may be overblown but everybody is understandably concerned about the present state of our economy. Congress needs to take action—and we are doing that—to address declining growth and rising unemployment. But we must not let our desire for a quick fix undermine our ability to address the real challenges we face.

A sustainable fiscal policy depends on a growing economy. A sound economy depends on a sound fiscal policy. Unfortunately, there doesn't seem to be any consensus on what constitutes sound policy. But I think we can all agree that Government doesn't create wealth; Government only expends wealth. So we have to be about the business of having an environment that creates wealth.

There are two opposing views on how to help the economy. Some people say consumption is the key to economic growth. When people go shopping, the economy is good, so we need to spend more, they say. Other people say investment is the key. When businesses invest, the economy is good, so they say we need to save more.

Some economists try to reconcile these opposing views by suggesting the

correct route depends upon the circumstances. When workers are fully employed and factories are fully utilized, they say we need to save more and increase supply. But when workers are unemployed and factories are idled, they say we need to spend more and increase demand. While this explanation is appealing, it doesn't withstand careful scrutiny.

We are told that in order to stimulate the economy, all the Government has to do is put more money into the hands of consumers and they will spend it back into prosperity. The problem with this approach is that the only way the Government can put money into somebody else's hands is by taking it from somebody else's pockets—either in the form of taxes or borrowing. Now, this is a zero-sum game in which one person's loss is another's gain. Some economists try to obscure this fact by introducing a concept known as the marginal propensity to consume. In my judgment, that is just a fancy way of saying some people spend more of their money than others.

According to this concept, low-income people are more likely to spend an extra dollar than higher income people; thus, taking from the rich and giving it to the poor will stimulate consumer demand and boost the overall economy. It is the Government kind of playing the role of Robin Hood.

This concept is flawed because it ignores the very important role of people saving. Money that is saved does not disappear; it flows back into the economy in the form of business loans or consumer credit. Saving is just another form of spending—specifically spending on capital goods, such as factories and equipment, or consumer goods such as cars and houses.

Of course, the critics say this is not always true. During a recession, banks are less willing to lend and businesses are less willing to borrow. Thus, some of the money previously available in the economy is no longer being used, like right now with the credit crunch. It has been stuffed, in some cases, under the proverbial mattress, whether that is in anybody's home or in a bank vault. Thus, advocates of fiscal stimulus claim the Government can borrow and spend during a recession without crowding out other private sector spending. This is true only in a very narrow sense that increasing money supply allows the Government to borrow and spend without reducing the amount of money available to the rest of our population. That is monetary policy masquerading as fiscal policy. Moreover, when the Government borrows money, whether it is new money or old money, what the Government is really borrowing is the resources it acquires; thus, every dollar the Government spends has an ''opportunity cost'' in terms of the potential uses of those resources.

Much of the confusion over this point comes from the failure to recognize the nature of money in our economy. Economists often talk about the multiplier effect in order to explain how each dollar of Government spending can result in more than a dollar of economic activity. But the multiplier effect is simply a way of illustrating the fact that if I give you a dollar, you will spend part of it and save part of it. The portion you spend goes to someone, who spends a portion and saves a portion, and so on and so on; thus, $1 effectively multiplies into many dollars.

Contrary to what some people might have you believe, the multiplier effect applies to every dollar, not just the dollar spent by the Government. According to Federal Reserve data over the past 50 years, the ratio between gross domestic product and our money supply—defined as currency plus bank reserves—has ranged from a ratio of 10 to 1, to 20 to 1. In other words, every dollar in our economy supports between $10 and $20 of economic activity.

During a recession, there are fewer workers producing fewer goods and services. That is why this is called a recession. Because the level of output is lower, the level of spending is lower as well. That means the available dollars are being used less. Economists often refer to this as a decline in the velocity of money. The money no longer being used reflects the goods and services no longer being produced. With fewer goods and services available to buy, Government efforts to borrow and spend will increase the money supply. Instead of the Federal Reserve increasing bank reserves to boost private lending, the Government will increase borrowing to boost private spending. But this is really monetary policy disguised as fiscal policy.

The success or failure of this policy will depend upon how the additional money is used. Unfortunately, when some advocates of Government stimulus talk about priming the pump, they give the impression that we can grow our economy by simply spending money and it doesn't matter in any way how you spend that money.

Consider the following comments by the great economist John Maynard Keynes, whom I don't agree with very much. He said this:

> If the Treasury were to fill old bottles with banknotes, bury them at suitable depths in disused coal mines . . . and leave it to private enterprise . . . to dig the notes up again . . . there need be no more unemployment. . . .

People are probably laughing at that. Nearly everyone would recognize the ill effects of printing up $1 trillion and dropping it from helicopters. But what if the Government hired 10 million Americans to dig holes and fill those holes back up and paid them each $100,000? Would this prime the pump and get our economy moving again? The answer should be obvious: It would be a complete waste of resources.

The 19th century economist Fredrick Bastiat once observed:

> There is only one difference between a bad economist and a good one: the bad economist confines himself to the visible effect; the good economist takes into account both the effect that can be seen and those effects that must be foreseen.

When the Government borrows money for some activity, that is what is seen. But what is not seen is what could have been created had those workers and resources been used in some different way. The benefit of a Government stimulus plan must then be weighted against cost. So far, there has been no comprehensive cost-benefit analysis of this proposed stimulus bill.

I may have talked about a lot of economic philosophy, but it is pertinent to what we are doing on the Senate floor this week, the stimulus bill. There is a glaring omission given in recent comments that have been made by President Obama. So I want my colleagues to take into consideration what my President says.

Shortly before his inauguration, President Obama gave a series of speeches and interviews. I will read a couple sentences from them. According to the January 16 Washington Post:

> Obama repeated his assurance that there is ''near unanimity'' among economists that government spending will help restore jobs in the short term, adding that some estimates of necessary stimulus now reach $1.3 trillion.

The President-elect said he believes that direct Government spending provides the most ''bang for the buck'' and that his advisers have worked to design tax cuts that would be most likely to spur consumer spending.

They quote President Obama:

> ''The theory behind it is I set the tone,'' Obama said. ''If the tone I set is that we bring as much intellectual firepower to a problem, that people act respectfully toward each other, that disagreements are fully aired, and that we make decisions based on facts and evidence as opposed to ideology, that people will adapt to that culture and we'll be able to move together effectively as a team.''

Going on to quote President Obama:

> I have a pretty good track record at doing that.

I was quoting from the Washington Post, but also quoting within that article what the President said.

Now I want to go to a January 10 radio address by then-President-elect Obama, now our President:

> Our first job is to put people back to work and get our economy working again. This is an extraordinary challenge, which is why I've taken the extraordinary step of working—even before I take office—with my economic team and leaders of both parties on an American recovery and reinvestment plan that will call for major investments to revive our economy, create jobs, and lay a solid foundation for future growth.

I asked my nominee for chair of the Council of Economic Advisers, Dr. Christina

Romer, and the Vice President-elect's chief economic adviser, Jared Bernstein, to conduct a rigorous analysis of this plan and come up with projections of how many jobs it will create—and what kind of jobs they will be. . . .

The report confirms that our plan will likely save or create 3 to 4 million jobs. . . .

The jobs we create will be in businesses large and small across a wide range of industries. And they'll be the kind of jobs that don't just put people to work in the short term, but position our economy to lead the world in the long term.

That is a quote from the January 10 radio address by then-President-elect but now our President.

These comments from President Obama are noteworthy for several reasons. First, he is our President, and we ought to respect his views, not always agreeing with them but consider them. First, he suggests a level, in these quotes I just gave, of unanimity among economists, and that unanimity does not exist. Second, he suggests his administration will make decisions based on the facts instead of ideology. Third, he suggests his plan will create jobs that are more than just temporary.

In that regard, I note that the Congressional Budget Office released an analysis of the House stimulus bill. According to the Congressional Budget Office, the House stimulus bill will create between 3 million and 8 million new jobs over the next 3 years, depending on whether the multiplier assumption is low—that will be 3 million—or high—that will be 8 million.

Given the cost of the House bill, these figures imply a very surprising and a very troubling result. The CBO estimate shows it will cost between $90,000 and $250,000 per job created. These numbers should be contrasted to those under the CBO baseline which show the gross domestic product per worker is about $100,000.

In other words, the jobs being created by the House bill could cost as much as 2½ times more than the jobs that would be created without the stimulus bill. There has been a lot of talk about "bang for the buck," particularly during this debate. But there doesn't seem to be any interest in actually making sure it happens. In other words, that it actually happens, we get bang for the buck. Before we spend another $1 trillion, we ought to make sure we are getting our money's worth.

It should also be noted that the Congressional Budget Office's analysis only covers the years 2009 through 2011, but if you assume the ratio of employment to Government spending remains the same throughout the 10-year projection period that we always have in our bills, there will be only a few thousand new jobs. Moreover, if you adopt the standard assumption that increasing the national debt by $1 trillion will crowd out private sector investment, the net result will be fewer jobs because of this stimulus bill.

I have written a letter to the Congressional Budget Office Director requesting an analysis of both the House and Senate stimulus bills. This analysis will cover the full 10-year period, consistent with the January baseline.

The Director has indicated to me that this is a very complicated process, and their analysis may not be completed until next week. I strongly encourage my colleagues to have the CBO analysis before we have a final vote on this bill. The Senate must have the opportunity to carefully review the Congressional Budget Office analysis.

Let me repeat what I said at the beginning. Congress needs to take action to address declining growth and rising unemployment. At the grassroots of America, there may not be consensus on that, but there is an overwhelming feeling that Congress can do things that will help the economy. But for sure, before we spend another $1 trillion, Congress must take time to look before we leap.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 140

Mr. INOUYE. Madam President, I rise in opposition to the Feingold-McCain amendment. Yesterday, I received a message from the Obama administration that concludes that the economy faces its most serious crisis since the Great Depression, and I think that is something to which we all agree.

It goes further and says the economic recovery package now being considered by this body is an essential step in putting the economy back on the path of growth.

Our President, President Obama, has asked the Congress to send a bill to him before the February recess, and I believe we have that responsibility to act quickly and responsibly. Therefore, I believe now is not the time to debate controversial legislation that is not relevant to economic recovery.

There are no earmarks contained in the American Recovery and Reinvestment Act that we are now considering before the Senate. I maintain that now is not the time to debate Senate floor procedures for the consideration of appropriations bills.

However, I oppose this amendment on its merits. This amendment is an attempt to undermine Congress's power of the purse. Under this amendment, congressionally directed spending items that are not specifically authorized could be stripped from legislation.

As Senators are well aware, Congress is often called upon to approve spending that is not yet authorized. In a January 15, 2009, report the Congressional Budget Office concluded that in recent years, the total amount of unauthorized appropriations averaged between $160 billion and $170 billion per year.

In fact, for the current fiscal year, there are over $718 billion worth of authorizations that expire before September 30, 2009. This includes funding for housing programs, energy programs, environmental programs, transportation programs, the Low-Income Home Energy Assistance Program, homeland security programs, public health programs, veterans programs, and on and on.

This amendment could tie the Senate in knots. Conference reports could be amended and returned to the other body, and once amended the House could further amend the bill. The regular order for producing spending bills is the best prescription for producing responsible spending bills, not creating new rules that will make the process so cumbersome that we will not be able to complete our work.

This legislation would also hand over to the President the authority to determine what spending should be considered by the Senate. Under this amendment, if the President requests funding for an unauthorized program, the funding would not be subject to a point of order. The Senate should not give such power to any President.

Nor is it clear to me why it would be all right for authorizers to authorize earmarks, for the President to earmark funds, but Members who are not authorizers could not earmark funds in spending bills.

I remind the Senate that the last highway authorization bill contained over 6,474 earmarks, and the last water authorization bill contained over 600 earmarks.

I believe Congress took significant action during the 110th Congress to add unprecedented levels of transparency and accountability to the process of earmarking funds for specific projects.

Under the rules in 2007, each bill must be accompanied by a list identifying each earmark that it includes and which Member requested it. Those lists are made available online before the bill is ever voted on.

In the Senate, each Senator is required to send the committee a letter providing the name and location of the intended recipient, the purpose of the earmark, and a letter certifying that neither the Senator nor the Senator's immediate family has a financial interest in the item requested. This certification is available on the Internet for at least 48 hours prior to a floor vote on the bill.

We also significantly reduce the level of funding for earmarks. In the 2008 bill, the total dollar amount of earmarks for nonproject-based accounts was reduced by 43 percent. In the fiscal year 2009 appropriations bill, we will further reduce earmarks.

In our continuing effort to provide unprecedented transparency to the

process, the chairman of the House Appropriations Committee and I announced new reforms to begin in the 2010 bills.

To offer more opportunity for public scrutiny of Member requests, Members will be required to post information on their earmark requests on their Web sites at the time the request is made, explaining the purpose of the earmark and why it is a valuable use of taxpayers' funds.

To increase public scrutiny of committee decisions, earmark disclosure tables will be made publicly available the same day as the Senate subcommittee or the full committee takes action.

We are committed to keeping earmark funding levels below 1 percent of discretionary spending in subsequent years.

The new requirements included in this amendment will hamstring the Senate from fulfilling its responsibility. The amendment says no funds can be included in appropriations bills unless already included in an authorization bill that has passed the Senate during this session.

I remind my colleagues the Senate has not passed a foreign affairs authorization bill in many years. All these measures aren't authorized. In the past 7 years, we haven't enacted an intelligence authorization bill. We don't have one for last year or the year before. It has been 7 years since the Senate passed an authorization bill for Customs. Should we stop funding the construction of ports of entry on our borders? The Environment and Public Works Committee does not report legislation through the Senate to authorize specific Federal buildings. Does that mean we should stop repairing and improving the security or constructing Federal buildings that house over 1 million Federal employees? The Agricultural Research Service has never been authorized. Yet it has existed for 56 years. Should we stop funding agricultural research? The National Oceanic and Atmospheric Administration has never been authorized—NOAA has never been authorized—so does that mean we should stop funding for hurricane forecasting and severe weather forecasting, tsunami forecasting? Congress has not authorized juvenile justice funding for the last 2 years. Does that mean we stop funding to keep kids out of gangs and in school?

Under this amendment, the Senate would be required to defer action on all items which it feels are important when the companion authorization bill is tied up. Are we going to allow the filibuster of an authorization bill to stop Congress from exercising its constitutionally mandated power of the purse? This amendment also applies to items which have been approved by the House. Any such item could be stricken if the authorization bill has not been completed.

Last year, we faced a situation on the Defense Subcommittee, which I am privileged to chair, in which we completed action on the Appropriations Act before we completed action on the Authorization Act. We were told by the President, the Department of Defense, the commanders on the field in Iraq and Afghanistan: You cannot stall this. So we passed the appropriations bill before the authorizing bill. Yet under this amendment, all the House items could be stricken by the Senate.

The Constitution gives the power of the purse to the Congress. It is our job to use that power responsibly. We have put procedures in place to make the process transparent and to hold Members accountable for their spending decisions. Rule XVI already establishes rules against funding and including unauthorized spending in general appropriations bills. Rule XLIV already establishes rules concerning congressionally directed spending items.

I can't speak for all my colleagues, but I can say this much. I was not elected by my constituents in Hawaii to be a rubberstamp. They expected me to use my initiative and to address my colleagues and tell them about the urgent requests we need. I could go on and on and tell you about many of the projects that have been part of the law today because we took congressional initiative. Therefore, I urge a ''no'' vote on the Feingold-McCain amendment.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Dakota is recognized.

AMENDMENT NO. 238

Mr. THUNE. Madam President, I wish to speak to an amendment that I introduced and filed and was made pending at the desk earlier today. What that amendment will do is eliminate new Government programs that are created by the proposed $1 trillion stimulus legislation that is before the Senate today.

Earlier yesterday, I presented some information about the size and scope of this legislation and tried to put in very visual terms the immense amount of money we are talking about when you start looking at $1 trillion. It is $900 billion, but when you add interest on top of this—$340 billion, $350 billion in interest—you have $1.2 trillion in new spending included in the stimulus bill. I say that because I think it is important to point out that is not the end; it is, frankly, the beginning.

We know for a fact the Omnibus appropriations bill—the sort of catchall appropriations bill we didn't complete last year—is going to be coming before the Congress, before the House first and then before the Senate. For the first time ever, that is going to exceed $1 trillion. So we have $1 trillion in the catchall appropriations bill. We expect at least a request from the administration for additional TARP authority—emergency funding to provide stabilization to the financial markets—to the tune of several hundred billion dollars. We don't know exactly what it will be, but we know it will be in the multiples with respect to hundreds of billions of dollars. We also have a supplemental appropriations bill that will be coming shortly after that to fund the ongoing conflicts in Iraq and Afghanistan.

My point simply is this: This is trillions of dollars of spending. This is a spending spree that is unprecedented even in this city, which is known for spending lots of money on lots of programs. What this amendment attempts to do is to put a little bit of restraint on some of that spending in the stimulus bill. Granted, many of us believe there are some things we should be doing, some steps we should be taking that would help the economy to recover, that would stimulate the economy and create jobs. Regrettably, the stimulus bill that is in front of us goes way beyond that.

The President's top economic adviser suggested when this whole debate began that whatever we do in terms of stimulus, it should be temporary, it should be targeted, and it should be timely. Much of what is included in this bill is none of the above. In fact, it is slow and unfocused and unending. So I am attempting, with this amendment, to say that new programs that are created in this bill have to have been authorized by February 1 of this year. In other words, earlier this week. So if there is not an authorization for this new program—and we would ask OMB to make that determination—that spending would be knocked out of the bill, essentially.

The whole purpose of the amendment is, again, to say that if we are going to do something that is meaningful in terms of stimulating the economy, it should be temporary and it should be targeted and it should be focused. Much of the spending that is in this bill is anything but that. History has shown, time and again, when you put new programs on the books, you almost always take a long time to get those programs off the ground. In fact, the Congressional Budget Office has examined this issue and they offered this insight:

> Brand new programs pose additional challenges. Developing procedures and criteria, issuing the necessary regulations, and reviewing plans and proposals would make distributing money quickly even more difficult—as can be seen, for example, in the lack of any disbursements to date under loan programs established for automakers last summer to invest in producing energy-efficient vehicles. Throughout the Federal Government, spending for new programs has frequently been slower than expected and rarely been faster.

Again, that is the Congressional Budget Office. Given the current state

of the economy, we simply can't afford to enact costly new programs that have little hope of making any real meaningful impact now, when the American people need it the most.

There may be programs in this proposed legislation that are worthy of support—I am not arguing that point—but surely not under the guise of economic stimulus. There are new programs that are created that will add to the size of this, and many of us have reacted to the size of it. As I have said already, we know for a fact there is going to be a lot of additional spending coming down the pike that we are going to be asked to consider. But adding to that $1 trillion for something that arguably does not create economic stimulus, does not create jobs, seems to me to be the wrong direction in which to head.

My amendment would simply prevent any new funding under the economic stimulus plan from going toward new programs that were not authorized before February 1 of this year—2009. As I said before, the amendment calls on the Office of Management and Budget to determine if a program was authorized before February of 2009. If the program fails to meet that standard, the program will not receive funding from the economic stimulus proposal.

Now, I would argue that this is a very commonsense proposal that protects the taxpayer and ensures funds are spent in a timely and effective manner. That isn't to say—and I will repeat myself—as I said earlier, that many of these programs are not worthwhile and, frankly, we ought to consider them. But we ought to do it under the regular order and procedures that we have in the Senate. We ought to have committee action, we ought to have hearings, we ought to have the necessary oversight, and we ought to be able to put these things on the floor where they can be debated. We have a process for doing that.

There are lots of programs that are included in the stimulus bill which, I would argue, don't meet that criteria. They aren't stimulus because they are not targeted, they are not timely, and they are not temporary. They are, in fact, creating new programs which, as I said earlier, the Congressional Budget Office has told us sometimes take a very long time to roll out. I think any of us can speak from experience on that point; that whenever we create any sort of a new Federal program, we have agencies that have to interpret it, regulations have to be promulgated, in many cases we are setting up new bureaucracies and people have to be hired and it makes no sense to me whatsoever for us to, in the context of an economic stimulus bill, start talking about new programs.

I would also say the whole purpose of this exercise, in my opinion at least, is job creation. It is to get the economy back on track and recovering and creating jobs. We have been losing jobs. The economy is hemorrhaging and a lot of people are hurting throughout the country. What they don't need is more spending on Government programs in Washington, DC. What we ought to be doing, on the other hand, is getting more money into the hands of the American people so they can spend it—more incentives for small businesses to begin to invest and create jobs because that is what they do best. In fact, two-thirds to three-fourths of all the jobs created in our economy are created by small businesses.

Now, $900 billion, the principal amount—and with interest it is over $1 trillion in new spending—is proposed in the stimulus legislation. If you divide that by the number of jobs that are proposed to be created—somewhere around 3 million—that comes out to $300,000 per job. The average annual wage in my State of South Dakota is under $30,000 a year. It is very difficult to explain to a constituent of mine in South Dakota how the Federal Government proposes to spend $300,000 of their tax dollars to create one job at a time when we are handing the largest burden of debt to the next generation in American history.

Many of these jobs that are proposed are Government jobs. The Government can create Government jobs, and many of the spending programs in this bill do put money into Federal agencies which create Government jobs but at an enormous cost. I will use the example of the State Department, where it is over $1 million—I think $1.3 million, something to that effect—per job created. That doesn't seem to be a very good use of taxpayer dollars, and it doesn't get us the bang for the buck everybody has been coming to the floor and talking about.

As I said, it is a straightforward amendment. All it simply says is: No new Government programs created in the stimulus. If that program was not authorized by February 1 of this year, then any funding for it in the economic stimulus proposal would be denied. It is a commonsense proposal that does protect the taxpayers, ensures the funds will be spent in a timely and effective way, and that we focus on keeping jobs out there in the economy, putting people back to work. It is not spending on new Government programs in Washington DC which, however well intended, needs to go through a normal regular order process where Members of the Senate have an opportunity to evaluate those at the committee level and go through all the appropriate oversight that we normally include when it comes to create a new Government program.

Frankly, I do not think creating new Government programs, in the first place, is the way to do this, but at least this amendment brings some semblance of sanity to a bill which, as I said, is sort of a shotgun approach. It throws money at all kinds of different programs in hopes it will do something to stimulate the economy—knowing full well, I believe, that many of these are not going to be stimulative but on the other hand are creating new programs that people have wanted for a long time but have never had the opportunity.

That is not what this is about. This economic stimulus debate ought to be focused on creating jobs and getting the economy on the pathway to recovery.

That is the amendment. I encourage my colleagues to support it. I think it is very straightforward, very commonsensical, and, hopefully, it will meet with the approval of the majority of the Members of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNS. Madam President, let me start out and indicate I am aware of the fact that Senator BAUCUS has deferred so I can speak now. I appreciate that professional courtesy.

I rise today to address the decision that is before us and to maybe share some insight that I hope is relevant. I believe it is relevant to the legislation we are debating, the stimulus package. Maybe I can offer some insight that is a bit unique from the perspective of a former mayor and a former Governor.

The so-called stimulus would send a financial windfall to cities and States. The hope is that somehow that will filter into the economy. I will readily acknowledge that I have been on the receiving end of those kinds of windfalls—nothing this large—as both a mayor and as the Governor of Nebraska. In my home State, fiscal responsibility is not just a worthy goal that we aspire to achieve. It is demanded of our elected officials by Nebraska taxpayers. So when the Federal Government sent an infusion of money for education or social programs, whatever it was, the first place I looked as Governor or as a mayor was to the bottom line in my budget. I examined how much the State was budgeting for these programs, and I examined whether the State should save those State dollars.

Today's Governors, mayors, and school boards have many budget options also. They might allow this Federal money to pass on through. In the alternative, they might decide taxpayers are best served by allowing Federal funds to replace the State or local dollars. This would maintain existing funding levels and allow them to tuck away their State dollars in anticipation of tougher times ahead. Perhaps they would choose to pay down debt.

Keep in mind, choosing to turn on the Federal funding faucet means facing the challenges that will occur when

the funding faucet is later turned off. Just imagine the tremendous difficulty of that. It would cause yet a new crisis.

If Governors choose to hold on to their cash, or some of them, it is true it may provide them some security as they work through very difficult budget issues. But to be very candid about this—and, again, I was in this position—it would do absolutely nothing to stimulate the economy. The money simply would never reach the economy.

The first tranche of the TARP funds does illustrate the point I am trying to make today. The Federal Government sent hundreds of billions of dollars to banks to get credit flowing. The expectation was that this money would translate very quickly into car loans, student loans and operating loans for businesses. What happened? Lending has declined—for a variety of reasons, many legitimate, and some banks that have received Government money have actually reduced lending more sharply than banks that chose not to take the money.

If we truly want to maximize our chances of boosting the economy, then we must minimize the filters through which we send that money. In my career I have had an opportunity to manage enormous bureaucracies. I have watched as they devoured resources in the name of delivering resources to others. It seemed that no matter how forcefully and sternly I demanded effective operations, those filters oftentimes became very narrow funnels.

Tax relief, I would suggest, puts dollars directly in the hands of taxpayers and businesses. That is not necessarily a guarantee it will flow to the economy, but it is very clearly the most direct route to the people who are most in need.

I must also admit that I am deeply troubled by the rush to approve the largest spending bill in history with no plan to pay for it. There really is, literally, no plan—no plan at all. There is not even an attempt at a plan. It seems these days in Washington something can be deemed an emergency and suddenly all fiscal restraint is checked at the door and everything in the bill becomes a piece of solving the emergency. I cannot imagine how we justify passing the cost of this to our children. It is as if some believe we can use a credit card and history will somehow forgive the debt.

Just last year when the deficit reached a half trillion dollars it sent a shockwave across this country. Yet the spending machine just rolled on. For this year, that number doubled to more than $1 trillion, and there was a collective outcry to rein in spending. Now we are faced with legislation that would double the deficit in the blink of an eye. How many times can it be doubled before the debt becomes insurmountable and, tragically, the dollar becomes worthless?

A group of Nebraskans came to see me recently. They brought me a beautiful picture. I have it on display in my office. It was drawn by a 2-year-old girl. We talked about the stimulus package, and I certainly reached the conclusion that they were advocating that somehow, if we passed this, it would deliver a benefit to this child. But I wondered out loud how our young people would feel about being asked to pay the $1.2 trillion pricetag. I wondered how they would manage a national debt that now grows at a rate of $3 billion a day. I contemplated how this little 2-year-old's quality of life would be so different from what we enjoy. If we do not take responsibility for spending, her quality of life will never match ours. She might never dream of going to college or owning a home, and here is why. As tough as the economy is today—and I do not debate anyone about how tough it is—there is a day of reckoning, when the burden of debt is crushing. If investors finally lose confidence in our ability to manage our debt, who then bails us out? It is even more remarkable to me that we are contemplating the largest spending bill in history at a time when every one of us is aware that the current level of spending is not sustainable. It is not an abstract problem. It is real and it is growing with the passage of time. We cannot keep passing the buck with a promise to make tough decisions in the year to come. It does begin with the decisions we make today.

Like every single Member of this body, I am proud of the State I represent. I want Nebraskans to know every day that I support them. But that does not mean I support this bill. Some might be disappointed when I vote against this spending bill, but I believe Nebraskans understand what it means to take responsibility. They expect that of me today, just as they expected it when I served as their Governor.

The Nebraska State Constitution requires a balanced budget. That is not unusual. But the constitution of the State also basically bans any borrowing of money. So when the economy collapsed post-9/11, we made difficult decisions while other States issued debt. I not only had to balance the budget, I had to do it without borrowing a dime. It was not easy, but we did it and the tough choices were worthwhile. When I came to the Cabinet, I did not have to turn to the Lieutenant Governor and tell him that I had left a pile of debt behind. The State has steadfastly adhered to the principle of fiscal responsibility, and because of that it is better positioned to face the challenges of today.

I want to wrap up with this: I understand the significance of trying to do all we can to boost this economy. Of course I want people to have jobs. I want them to be able to pay the bills. But this is not a stimulus plan; it is a spending plan. It will not create the promised jobs, and it will not activate our economy. What it will do is place a punishing debt on our children and grandchildren.

I could not vote for this bill and still claim that I represent the principles and values of the State I come from, the State of Nebraska. I do want to say I will meet with my colleagues, any colleagues, across the aisle, to roll up our sleeves to set a fiscally responsible course, not only today but for the future. While we cannot solve all of our financial problems or balance the budget overnight—and no one is expecting that we can—we must begin this important work today. I want to be a partner in that.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I just had the opportunity to hear the initial—what we used to call the maiden speech around here—of the new Senator from Nebraska. I want to congratulate him on an extraordinarily insightful presentation that melded his own personal history in government with his thoughts about this massive bill that we will be considering this week, and his feelings about it, which he expressed to his constituents today. On behalf of all of us, I welcome the Senator to the Senate. I would say he just made a great start, and I know he is going to have an incredibly effective career representing the people of Nebraska and America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I first want to congratulate the Senator from Nebraska. I have known him as Agriculture Secretary. He served the people of his State as Governor and also as mayor. I compliment Senator JOHANNS for his service to his State and to his country. I very much look forward to working with him in the Senate. Again, I extend my congratulations.

AMENDMENT NO. 200 TO AMENDMENT NO. 98

On behalf of Senator DORGAN I ask unanimous consent the pending amendments be temporarily laid aside so we can call up Senator DORGAN's amendment No. 200 on runaway plants.

The PRESIDING OFFICER. Without objection, it is so ordered. If the Senator will suspend, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. DORGAN, proposes an amendment numbered 200.

Mr. BAUCUS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property)

On page 570, between lines 8 and 9, insert the following:

SEC. _____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and (L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes) is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

Mr. BAUCUS. Madam President, for the benefit of Senators, I would like to take a moment to talk about where we are in consideration of the bill. Today is the third day of Senate consideration. Yesterday was quite productive. We had a full debate and very little downtime, which I especially appreciate.

The Senate considered nine amendments and had rollcall votes on four. One was adopted by voice vote. The Senate adopted a Republican amendment by Senator COBURN to strike a tax amendment related to film production.

And with an overwhelming bipartisan 71-to-26 vote, the Senate adopted a Mikulski-Brownback amendment to allow a deduction for interest on the purchase of motor vehicles.

By voice vote, the Senate adopted a Harkin amendment on which Senator SPECTER played a very important role, who worked very hard, Senator SPECTER did, on the Harkin amendment, to provide additional funding for the National Institutes of Health.

So where are we now? Pending are a Murray amendment to strengthen infrastructure investments—these are all pending—a Vitter amendment to strike several spending items; an Isakson-Lieberman amendment to provide a tax credit for home purchases; a Feingold-McCain amendment to provide greater accountability of congressional earmarks; a Cardin small business bonds amendment; a DeMint amendment making a series of tax cuts in lieu of the pending substitute; a Thune amendment in the nature of a substitute; a Thune amendment on new programs in the bill; and a Dorgan amendment on runaway plants.

I might add that the Democratic caucus is conducting an issues conference today, but the floor is open for business. We expect a number of Republican amendments and also Democratic amendments. We hope to have several votes on amendments this afternoon and evening after the Democratic issues conference concludes, perhaps starting about 5:30 today, although I cannot say that that is going to be an exact time. That is for the leaders to determine.

For the information of Senators, let me say I expect that we hope to have as many as 12 amendments pending today, and we hope to stack votes on these at the end of the afternoon and into the evening. In addition to the Republican amendments that we expect to be offered, we also expect Senator BINGAMAN, who has expressed an interest in offering an amendment, as well as I mentioned Senator DORGAN's runaway plants. Senator WYDEN also spoke to me about his amendment on bonuses that he intends to offer with Senator SNOWE.

Once again, I urge Senators, let the managers know of their intentions to offer amendments. We want to give Senators as much notice as possible. I reemphasize notice is efficient. It helps us get our amendments passed here.

I thank all Senators for their cooperation.

AMENDMENT NO. 168

I wish to say a word or two on the DeMint amendment. I remind Senators that the DeMint amendment strikes the whole underlying bill and replaces that language with his amendment, which reduces the corporate rate to 25 percent, and it makes permanent the 2001 and 2003 tax cuts, including capital gains. That is a big item, as we all know.

It further repeals, permanently repeals the alternative minimum tax provisions in the Code today. It changes the estate tax treatments by creating an exception up to $5 million per person. I do not know what he does with the rates, but it is an estate tax reduction below what estate taxes are today.

I remind all Senators that next year, in the year 2010, the Federal estate tax is zero. If Congress does nothing, it reverts to quite a higher level. The DeMint amendment takes the current 2009 level and lowers it even further. I do not know this, but I suspect it also is permanent.

The DeMint amendment further makes the child tax permanent. It repeals all itemized deductions currently in the Code which itemizers often take, except for the mortgage interest deduction and the charitable deduction; otherwise, all other deductions, if you itemize, are repealed; for example, State and local taxes, everything else in the bill before us.

What is the effect of that? There are several effects. First, we are trying to begin to address our health care system, and the DeMint amendment strikes all the health information technology provisions in the bill. We are trying to get health information technology up and running. I think it is a bad idea to strike health information technology. We have to get that started if we are going to begin to lower health care costs in this country.

It strikes the Medicaid provisions through aid to the States. It does not take a rocket scientist to know what effect that would have on the States. The States are in a recession. I think it was the Government Accountability Office that estimated about $230 billion is being cut by States because they are in recession, and that basically comes out of Medicaid and other low-income programs.

The DeMint amendment says, oh, sorry, States, you do not get any assistance, which means all of those people getting cut are not going to have health care.

It strikes the changes to TANF. That is the program we put in place years ago to reform the welfare program. It is a great program. It works very well. It gets people off of welfare in a very solid way.

It also strikes provisions that extend unemployment insurance to people who have lost their jobs. I cannot believe it would do something like that, but that is what the DeMint amendment does.

It also strikes the COBRA provisions. That is very important. I can't believe that is what he wants to do. In current law, when somebody works for a company and is laid off for reasons not of his or her own making, they are laid off and there are more than 20 people in that firm, that person is entitled to keep health insurance offered by that firm if that firm does offer health insurance, I think it is for 18 months.

But that person who is laid off can keep that health insurance only if the person laid off pays 102 percent of premiums, that is, the person laid off has to pay for all of that health insurance, plus 2 percent administrative costs.

Now, clearly not many people who are laid off, not working, can afford to pay 102 percent of the health insurance premiums, especially when the premiums these days are going up at such a rapid rate.

We, in the underlying bill, say a person laid off in that situation gets a 65-percent subsidy so that person can keep health insurance for 18 months. I think that is the right thing to do, given the current circumstances. But, no, the DeMint amendment says you have to pay 102 percent, because we are not going to help you in these dire times.

I also say, these are permanent tax cuts in the DeMint amendment. The 1-year deficit effects of this amendment are staggering. They are ugly, because basically this is a huge, big tax cut amendment is what it is.

Last night, Senator COBURN spoke eloquently about growing deficits in the future, how fast they are growing. It begins to maybe put our currency in danger. Other countries might be not as interested in holding dollars, might not be interested in buying Treasuries. Countries such as China come to mind, other countries come to mind.

Obviously the DeMint amendment would make the concerns of Senator COBURN balloon. I mean, if Senator COBURN is concerned about the deficits today, Senator COBURN, I am sure, would be dramatically concerned about the effects of this amendment, which would balloon the deficits to an even greater amount.

So I think the underlying bill is important, it is crucial. The estimates are, between either passing the underlying amendments or not passing them, a difference of about 3 to 4 million jobs, 3 to 4 million jobs in this country. We could choose not to pass this underlying bill. That would mean no economic stimulus recovery package. That would also mean about 3 to 4 million further jobs lost. If we pass this legislation, it would begin to create and bring some jobs back into this economy.

Let's face it, banks are not lending for lots of reasons today. But one reason is because they are having a hard time finding creditworthy borrowers. It is hard to get creditworthy borrowers, when the borrower is having a hard time finding demand, because people are not buying the borrower's products.

There are many parts to the overall solution. But one of them is helping create some demand, and this underlying bill does create demand. If, on the other hand, we do not pass the bill and pass these big tax cuts, it further balloons the deficit to a staggering amount. It is not going to have nearly the stimulative effect that the proponents might say. It will not.

Our goal here, in representing our constituents in our State, is to take this kind of bad situation we find ourselves in—we kind of inherited this. This is where we are, these are the cards that were played, that is the hand we have right now. So let's do the best we can with what we have got. My judgment is, and I think it is the judgment of most Members of this body, this economic stimulus package may not be perfect, but it is pretty good. It will help create some jobs. It is certainly better than the alternative, which is nothing. Let's get on with it and keep improving upon it as we proceed.

I strongly urge my colleagues not to adopt the DeMint amendment, which is a full repeal of the program and replaces it with a massive increase in debt.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MARTINEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

AMENDMENT NO. 159 TO AMENDMENT NO. 98

(Purpose: To reduce home foreclosures, compensate servicers who modify mortgages, and remove the legal constraints that inhibit modification, and for other purposes)

Mr. MARTINEZ. Madam President, I ask unanimous consent to call up amendment No. 159.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MARTINEZ] proposes an amendment numbered 159 to amendment No. 98.

Mr. MARTINEZ. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, February 3, 2009, under "Text of Amendments.")

Mr. MARTINEZ. Madam President, Members on both sides of the aisle

agree that any stimulus we pass must be timely, targeted, and temporary. We need to put our economy back on track. The key to putting the economy back on track is that the spending we do through this stimulus be targeted, temporary, and timely.

Each of these principles is important and they each are loaded with meaning. It needs to be timely because it needs to be directed as soon as possible. As the President as early as this morning said, it is essential we get it out there.

It also has to be targeted because it cannot just go to all the wonderful things upon which the Congress might spend money. It has to be targeted to that which the economy needs in order to create jobs at this moment in time.

It must be also temporary because we well know at some point this economy is going to recover, and as it recovers, it would not be a good idea for Government spending to be out of control and be the beast that feeds inflation. We do not want to come out of this economic crisis only to be creating the next one, which would be an inflationary problem for our economy.

Americans want and deserve solutions that will create jobs and support the American worker. I have joined a number of my colleagues in offering an alternative with the right incentives to foster job creation.

While creating jobs is essential if we want to achieve economic recovery, it will not fix the problem with that alone. Our Nation is still in the midst of the worst housing slump in decades, and many American families face the frightening reality of foreclosure.

To date, Congress and the White House and the private sector have put forth a number of programs to help struggling homeowners, but we have yet to see significant results from any of these various programs that have been out there. This is because at the core of the problem are privately securitized mortgages, which were originated without a guarantee from the government-sponsored enterprises. These are the privately securitized mortgages that are not Fannie Mae, Freddie Mac or GSE sponsored. These mortgages account for only 15 percent of all outstanding mortgages, but they represent more than one-half of all the foreclosures that are taking place today.

If left alone, the crisis will only continue to worsen. According to one expert, we can expect to see 1.7 million more foreclosures in the year of 2009 alone. It is a downward spiral that seems to find no bottom.

Today I am proposing a plan that would provide troubled homeowners with options and incentivize participation from the private sector from these private securitizers who are out there in the private sector. Included in the plan is a loan modification program which will encourage mortgage servicers to help stem the tide of foreclosures.

Currently, there are two primary factors hindering mortgage servicers from modifying loans: a lack of proper compensation, and second and equally important is the threat of litigation.

The plan has a two-pronged approach that aims to address these concerns by the properly compensating mortgage servicers and removing the legal restraints that prevent modifications.

Under the plan, the Federal Government would temporarily provide a monthly incentive fee to servicers who modify privately securitized mortgages. It also includes a safe harbor provision that removes the legal constraints currently inhibiting modifications. This plan also recognizes the integrity of contracts.

There is always the potential that a relatively small number of junior investors could be harmed by the modifications permitted by the program. With this in mind, the proposed legislation eliminates the need for these junior investors to file suit by creating a small claims fund that the Treasury may use to resolve potential disputes. This will go a long way in protecting investors acting in good faith for the greater good—an incentive that is greatly needed if we want investors to be on board in helping to resolve this current crisis.

The plan has been supported by a number of economists, including Columbia Business School Dean Glenn Hubbard and Vice Dean Christopher Mayer. According to a Columbia report, the plan could reduce up to 1 million foreclosures at a cost of about $11 billion—roughly 10 percent of the $100 billion required by other plans.

I have been supportive of similar concepts, including the plan put forth by FDIC Chairman Sheila Bair, which is based on the model used to modify the loans the FDIC took over from IndyMac. I believe this plan is even more taxpayer friendly because future potential losses are shouldered by private investors, not the Government.

As we continue talking about the stimulus, I urge my colleagues to consider the need to address the root cause of this crisis, which is the housing market. Americans are struggling, and unless we provide them with realistic alternatives to foreclosure, we will fail to fix the larger problem at hand.

A lot of colleagues of mine have expressed support for this plan. I encourage Members on both sides of the aisle to please look at this plan carefully. Because as a result of what we are doing on stimulus, we need to also deal with the housing problem. The housing problem is what brought us into this problem. We will not get out of this economic mess until we once again resolve the housing problem.

We need to tackle it in two ways, in my view. We need to tackle it in keeping families in their homes, avoiding foreclosure where possible. A huge number of today's inventory of unsold homes are homes that have been or are coming out of foreclosure. Those homes in and of themselves obviously tend to be sold at much lower prices. So it continues to drive the market down. It depresses values. It depresses the market.

The second problem, obviously, is still the old law of economics of supply and demand. We have a huge inventory of unsold homes. This inventory of unsold homes also impacts price. So I support not only my proposal but the proposal my colleague from Georgia, the Senator from Georgia, JOHNNY ISAKSON, has proposed, which is to incentivize the purchase of homes by providing a $15,000 tax credit, over a year or 2 years, to anyone in America who purchases a home.

The bottom line is, if we can get the market back again and people buying homes again and we draw down that inventory of unsold homes, if we slow down or can bring foreclosures to a halt, those two elements, working together, will be a greater way in which we can now begin to see the housing market stabilize in prices, which will also stabilize the foreclosures of the future.

You see, families who are in trouble today were not the same families who were in trouble 2 years ago when this crisis began. Families who are in trouble today are people who increasingly find themselves upside down on their mortgage because of the continuing decline in home values.

I hope my colleagues will carefully analyze these proposals—not only mine, amendment No. 159, but also Senator ISAKSON's proposal. I think these two proposals, hand in hand, will help us to make a difference in the current housing crisis. Many other things we can talk about in the stimulus, but fixing housing is at the core of what we must do.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask unanimous consent that consideration of the present amendment be set aside, and I send to the desk an amendment and ask for it to be considered at the appropriate sequence of amendments.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I object.

Mr. MCCAIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 278 AND 279 TO AMENDMENT NO. 98

Mr. McCAIN. Madam President, I ask unanimous consent for the consideration of that amendment in keeping with the order of consideration as decided by the majority leader and the minority leader.

The PRESIDING OFFICER. Is there an objection to setting aside the pending amendment and calling up the amendment of the Senator from Arizona?

Without objection, it is so ordered.

Mr. McCAIN. Madam President, I send another amendment to the desk and ask unanimous consent for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes amendments numbered 278 and 279.

The amendments are as follows:

AMENDMENT NO. 278

(Purpose: To reimplement Gramm-Rudman-Hollings to require deficit reduction and spending cuts upon 2 consecutive quarters of positive GDP growth)

On page 431, after line 8, insert the following:

SEC. ___. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

"(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

"(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

"(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

"(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

"(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

"(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

"(2) MAXIMUM DEFICIT AMOUNTS.—

"(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

"(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105-33.

"(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99-177.".

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 252 of this Act and any procedure with respect to such sections in this Act shall be effective beginning on the date of enactment of this subsection.".

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

AMENDMENT NO. 279

(Purpose: To prohibit the applicability of Buy American requirements in the Act to the utilization of funds provided by the Act)

On page 429, strike line 6 and all that follows through page 430, line 12, and insert the following:

SEC. 1604. (a) INAPPLICABILITY OF BUY AMERICAN REQUIREMENTS.—Notwithstanding any other provision of this Act, the utilization of funds appropriated or otherwise made available by this Act shall not be subject to any Buy American requirement in a provision of this Act.

(b) BUY AMERICAN REQUIREMENT DEFINED.—In this section, the term "Buy American requirement" means a requirement in a provision of this Act that an item may be procured only if the item is grown, processed, reused, or produced in the United States.

Mr. McCAIN. Madam President, I rise to offer an amendment that would strike the protectionist "Buy American" provision from the pending economic recovery package. While the supporters of this provision state that they intend it to save American jobs, it would have exactly the opposite effect, causing great harm to the American worker and global economy.

In 1930, as the United States and the world was entering what would be known to history as the Great Depression, this body considered issues similar to those we are discussing on the Senate floor today. Two men—Mr. Smoot and Mr. Hawley—led the effort to enact protectionist legislation in the face of economic crisis. Their bill, the Smoot-Hawley Tariff Act, raised duties on thousands of imported goods in a futile attempt to keep jobs at home. In the face of this legislation, 1,028 economists issued a statement to President Herbert Hoover. This statement, subsequently printed in the New York Times, is as relevant today as it was nearly 80 years ago. "America is now facing the problem of unemployment," these economists wrote. "The proponents of higher tariffs would claim that an increase in rates will give work to the idle. This is not true. We cannot increase employment by restricting trade." Mr. Smoot, Mr. Hawley, and their colleagues paid no heed to this wise admonishment, and the Congress went ahead with protectionist legislation. In doing so, they sparked an international trade war as countries around the world retaliated, raising their own duties and restricting trade, and they helped turn a severe recession into the greatest depression in modern history.

We know the lessons of history, and we cannot fall prey to the failed policies of the past. We should not sit idly by while some seek to pursue a path of economic isolation, a course that could lead to disaster. It didn't work in the 1930s, and it certainly won't work today. That is why I so strongly oppose the protectionist "Buy American" provision in the pending bill and believe we must strike it.

The Senate version of the stimulus bill goes beyond the stark protectionism of its House counterpart in a way that risks serious damage to America's economic well-being. The bill currently on the Senate floor prohibits the use of funds in this bill for projects unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. These antitrade measures may sound welcome to Americans who are hurting in the midst of our economic troubles and faced with the specter .of layoffs. Yet shortsighted protectionist measures like "Buy American" risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the "Buy American" provisions in this bill will actually cost the United States more jobs than it will generate. Some of our largest trading partners, including Canada and the European Union, have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth. And it seems clear that this provision violates our obligations under more than one international agreement.

The purpose of this stimulus legislation is to create jobs and generate economic growth. I am very concerned about the potential impact these "Buy American" policies will have on trade relations with our partners, an impact that will directly affect the number of jobs we are able to create at home. For example, in a few days, President Obama will embark on his first trip abroad to Canada. I applaud his decision to visit our neighbors to the

north, as they are one of our closest allies and strongest trading partners. Our two nations share an increasingly integrated trade relationship, resulting in nearly $1 million of trade and commerce crossing our border every minute, a level of trade that sustains approximately 7 million jobs here in the United States.

Should we adopt protectionist legislation, however, President Obama is likely to visit our ally with a dubious gift indeed: legislation that attempts to choke off Canada's access to the U.S. market. Prime Minister Stephen Harper said yesterday that the provisions "are measures that are of concern to all trading partners of the United States." In a recent letter, Canada's ambassador to the U.S. Michael Wilson wrote, "If Buy American becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930's." He writes further that this provision would "decrease North American competitiveness, thereby killing jobs rather than creating them." It is beyond my comprehension why we would seek to hamper such an important relationship by passing legislation with provisions that have been proven counterproductive time and time again.

The reaction of our Canadian friends is just the beginning of what we can expect to occur should this provision become law. American trade with the European Union currently stands at over $200 billion per year. John Bruton, the European Commission's ambassador to Washington, has raised serious objections to the "Buy American" provisions in a letter to Congress and the administration, saying that the provision "risks entering into a spiral of protectionist measures around the globe that can only hurt our economies further." A European Commission spokesman noted, "We are particularly concerned about the signal that these measures could send to the world at a time when all countries are facing difficulties. Where America leads, many others tend to follow."

Should we enact such a provision, it will only be a matter of time before we face an array of similar protectionism from other countries—from "Buy European" to "Buy Japanese" and more. In fact, in the 1980s we saw Japanese provisions that attempted to take the kinds of steps we are contemplating now, and barred American goods in Japanese government procurement. The U.S. Congress responded just as we can expect others to do now—by threatening retaliation and considering legislation that would restrict Japanese imports.

We took these steps in order to persuade our Japanese friends to abandon these protectionist moves, and in the end we succeeded. The United States has spent decades pushing toward a globalized world of open trade and investment, governed by rules applicable to all. The "Buy American" provision contained in this legislation would undermine this longstanding tenet of American trade policy and would violate our international obligations and commitments. Just last November in Washington, the U.S. signed a joint declaration with members of the G–20 pledging that "within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services." Yet here we are, barely 2 months later, contemplating whether or not to go back on a commitment to some of our closest allies and trading partners, potentially damaging our credibility to uphold future agreements. Canadian Prime Minister Harper pointed out the irony here when he noted that "we all agreed that we had to have a global response to recession, which would include stimulus packages in all major countries and the avoidance of protectionism, and certainly not protectionism in a stimulus package."

In addition, it appears that the "Buy American" provision would violate our obligations under the WTO Agreement on Government Procurement and, in fact, reports indicate that the European Union is already considering a legal WTO complaint—and the procurement chapter of the North American Free Trade Agreement. Such action is not only potentially disastrous for our economic interests, it is also a terrible way to conduct foreign policy. Pascal Lamy, head of the World Trade Organization, said recently, "I hope the senators will be wise enough . . . to make sure the U.S. complies with its international obligations." Will we?

In addition to the growing chorus of international opposition, there is also. opposition from the very American companies that would generate badly needed jobs at home. In a recent Washington Post article, Bill Lane, government affairs director for Caterpillar, is quoted as saying that "by embracing Buy American, you are undermining our ability to export U.S.-produced products overseas." Karan Bhatia, GE's senior counsel for international law, said that adoption of the "Buy American" provision would "be creating an ample basis for countries to close their markets to U.S. products." Why then should this body approve a bill that would potentially devastate the ability of American companies to tap into foreign markets and, in turn, continue to employ thousands of hardworking Americans? The short answer is that we should not. President Obama himself spoke out against the Buy American provision. "I think that would be a mistake right now," he said yesterday. "That is a potential source of trade wars that we can't afford at a time when trade is sinking all across the globe."

I hope all senators will support this amendment, which would strike the existing "Buy American" provision and replace it with a limitation on "Buy American" clauses in this bill. To adopt anticompetitive, protectionist policies is to risk economic disaster, and it is the last thing we should consider at a time of economic difficulty.

I urge my colleagues to support this amendment.

Madam President, I ask unanimous consent that the RECORD be held open for my second statement concerning the other amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, there are other Senators who are waiting to speak and propose amendments, so I will come back at the appropriate time to speak at some length on both amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 161 TO AMENDMENT NO. 98

Mr. BOND. Madam President, today I wish to talk about a number of concerns I have about the underlying bill as well as some amendments I have filed and propose to call up. I have offered the distinguished chairman of the Appropriations Committee one amendment I wish to call up, and I will check with him before actually calling it up.

I think it is important to put this in context. Our Nation is in the midst of a serious economic crisis. Workers in my home State of Missouri and across the Nation are facing job losses, small businesses are failing, and families are struggling to pay their bills and put food on the table. It is clear we have to act quickly and boldly to protect and create jobs and put people back to work immediately. However, it is not nearly as important to act quickly as it is to do it right. I don't believe this bill is right. Let me tell my colleagues why.

For any economic recovery package to work, there are three critical components. First, we must invest in ready-to-go priority infrastructure projects. America's decades-long lack of improvement and investment in infrastructure—in roads, bridges, river navigation, housing, and all types of public improvements—is taking a huge toll on our economy. By investing now in shovel-ready projects, we will make significant long-term improvements to our aching infrastructure. Good roads and highways connect people to communities, attract and sustain business,

and are necessary to spur economic development in our communities. Also, investing in shovel-ready projects will create jobs in our communities now. New jobs and putting people back to work is the best way to help struggling families now and start turning our economy around.

The second necessary component of any successful recovery package is real tax relief for working families and small businesses. Working families need real and significant tax relief—more than just a few extra dollars in their paycheck. They need to keep more money in their pockets and send less to Uncle Sam. Tax relief for working families will help folks weather this economic crisis.

Small businesses are the backbone of our economy, as I hope all of us here recognize. Right now, small businesses across the Nation are struggling to meet payroll, struggling to pay rent, struggling to keep their books in balance. Tax relief for small businesses would give them the money they need to keep the workers they have now. Tax relief for small businesses would allow them to invest in new equipment. Most importantly, tax relief for small businesses would give them the money to create new jobs and hire new employees.

The third and most important component of any economic recovery plan is attacking the root cause of the problem. Without help, our economy cannot recover from the breakdown in our financial and credit markets.

Bad debt is weighing down the banking system. Bad debt is creating fear and uncertainty about the solvency of our financial system. We cannot ignore this problem or wait until later to tackle it head-on.

Let me be clear. Without addressing the root cause of our economic crisis, no economic recovery package, no stimulus bill can succeed. Just ask the Japanese, who ''lost'' a decade of economic growth, providing money for more spending but without dealing with the bad assets that were on the financial books in the country. We cannot just throw money at the problem. We already tried that last year, and it hasn't worked. It hasn't turned the economy around. There are a number of alternatives to fix the root of our economic crisis. It is imperative that we select and act on one now.

One option that makes a lot of sense to me is creating a new Federal entity that will take on the toxic assets that are weighing down the banks. Acquiring these toxic assets would also address the housing crisis by allowing the Government to modify home mortgages that will likely default, be able to reduce the payments and allow those people in the homes with the bad mortgages to keep them.

During the savings and loan crisis in the 1980s and 1990s, the Government created the Resolution Trust Corporation to dispose of bad debt. We know this method can work. It was paid for. I was on the Banking Committee. We worked through it. But the RTC was the key component in helping our economy recover after almost 800 savings and loans failed. The good news is that a good deal of the money—not all of it—was brought back as the Federal Government disposed of those assets acquired.

Whether it is through an RTC or another alternative, such as a bad bank or guarantee program, or some other combination, addressing the root cause of the economic crisis is the key component to economic recovery.

Together, those three components—infrastructure investment, tax relief, and attacking the root cause of the crisis—are critical to any timely, targeted, and temporary economic recovery package. Unfortunately, I must say that the Democratic spending bill before us today fails on all three counts.

I have to say I was very disappointed that after many years where we worked together on appropriations matters and tax matters, these measures did not go through hearings, did not go through bipartisan creation. We had a brief hearing, a brief markup session, and essentially the Democratic bill was reported out—without any Republican fingerprints on it.

The bill that has come out stimulates the national debt, stimulates the growth of Government, but will do very little to stimulate the economy or job creation. First, the Democrats' spending bill shortchanges infrastructure. Next, the Democrats' spending bill fails to give working families and small businesses real tax relief. Third, the Democrats' spending bill fails to address the root cause of the economic crisis. The bill fails on all three counts.

Also, no one can ignore the massive price tag of this bill. The Democrats' trillion-dollar spending bill is a huge debt to saddle on our children and grandchildren. The cost is too high—especially when many economists agree it will do little to create jobs and stimulate the economy today, when we really need it.

In other words, the Democrats' trillion-dollar spending bill won't work for what we need it to do. The wasteful spending in this bill is running rampant. It seems this is a massive downpayment on the Democrats' policy priorities masquerading as a stimulus bill.

I was glad that we were able to strike the $246 million tax break for Hollywood movie producers from the bill yesterday. But I am disappointed that even after the outpouring of calls from the American people—we certainly heard a lot in our office—45 Democrats still voted for that special interest tax break. I think it is insulting to struggling families in Missouri and across the Nation that the Democrats would try to sneak in an almost $250 million tax break for Hollywood movie producers. Calling such a tax break for Hollywood movies an energy stimulus is outrageous.

There are many more examples of this in the trillion-dollar spending bill that will have zero stimulative effect on our economy. How about the $75 million for smoking cessation or the $34 million to redecorate the Department of Commerce? This bill is loaded with many spending items that have nothing to do with stimulus or creating jobs. Maybe some of these items have merit on their own, but they won't create jobs or grow our economy, and they don't belong in an emergency stimulus bill.

The figures I have seen from CBO say less than 10 percent of this will be spent in the current year. Most of the spending is going to occur in 2011, 2012, and beyond. Only about 6 percent of it is on vitally needed infrastructure. We need a bill that meets the goals of creating jobs and solving the credit problem and helping American families now, not years down the road, if ever.

It is no surprise, Madam President, that the more Americans learn about this bill, the more they oppose it. You can see the results from the national polls. A recent Gallup poll shows that support is declining. A Rasmussen poll that came out today shows only 37 percent of Americans support this massive spending bill. In Missouri, our calls are running 9 to 1 against it. I think probably that 1 will even be reduced and the opposing figure will be greater as people learn more about it. My offices in Washington and in cities across my State have received overwhelming phone calls saying stop this trillion-dollar spending bill.

I think it is critical that we pass legislation that will help our economy recover, help create jobs, and help people get back to work now. But I cannot support this spending bill that fails to stimulate the economy or create jobs. I cannot support the bill that will saddle our grandchildren with even more debt. I cannot support this spending bill that would create a massive growth in Government programs, some of which may continue for years.

A critical ingredient to economic recovery is confidence that there be discipline in Government. There must be some confidence that we will not go hog-wild on a spending binge that saddles our kids with debt and sets off an inflationary cycle.

We must not repeat the mistakes of the Great Depression by throwing up trade barriers. We are living in a global economy, and we are in a global economic crisis. This demands more free trade, not less. I am heartened that just yesterday President Obama acknowledged the dangers of protectionism. I hope my colleagues don't follow the path of Smoot-Hawley and

cause further damage to our economy and jobs. Cutting off trade not only threatens our export jobs, but many more jobs in my State depend upon exports and depend upon the one or two industries that might be affected. Farmers in my State have been absolutely wiped out in the past when their exports to Southeast Asia, for example, a decade ago were cut off. This retaliation that the European Union and others have threatened could cut off the markets for our farmers.

Finally, the enormity of this spending bill sends the wrong signal about creating jobs.

I hope this body will agree to a complete substitute to get a bill that will work and work now. I think there are some improvements that can be made in it. I have several of these I intend to offer at the appropriate time with several of my distinguished colleagues, including the ranking member of the Environment and Public Works Committee. He and I, along with Senators BOXER, BAUCUS, COCHRAN, CRAPO, BAYH, BROWNBACK, and VOINOVICH, will be offering an amendment for better roads, bridges, and highways. That amendment would take $5.5 billion provided in the new surface transportation investment program and put it into the highway and bridge formula, making the total for highways and bridges $32.5 billion instead of $27 billion. Every State wins, and it is offset. According to the American Association of State Highway and Transportation Officials, there are currently 5,148 ready-to-go projects, with a total price tag of $64.3 billion.

In addition, I will introduce, with Senators BAUCUS, VOINOVICH, and SPECTER, an amendment that eliminates the $8.7 billion rescission of contract authority found in SAFETEA–LU for September 30, 2009. What we had to do when we passed SAFETEA was put in a ‘‘gimme’’ at the end. Unfortunately, that ‘‘gimme’’ would cut off money that has already been authorized and ready to go to the States to spend on the Nation's highways and bridges. If this rescission is not revoked, we would see the cancellation of hundreds of major projects and the loss of jobs in every State. I think that for a stimulus it is appropriate to undo that artificial limit on spending on highways. For Missouri, the Department of Transportation estimates that this rescission would cost the State $205 million in lost projects and 9,600 jobs. This is not the year to be losing those jobs. Our amendment would strike that destructive rescission.

On a totally different subject, I will join Senator COBURN in offering an amendment that will address a national health epidemic and empower families to make healthy food choices. The amendment is simple. It would require the U.S. Department of Agriculture to establish guidelines to ensure that Federal dollars are used to purchase food that is nutritious and consistent with the food pyramid. These guidelines would be developed by the USDA, and they would give all of our important health and community advocates the opportunity to give the Government their input about how to make the Food Stamp Program a healthier program. According to the Centers for Disease Control and Prevention, poor nutrition leading to obesity can result in 1 out of 8 deaths in America today, which is caused by illnesses linked to being overweight or obese.

Another program that I intend to offer, in addition to investing in our transportation infrastructure, is investment in early childhood facilities. The shortage of these facilities is a chronic problem facing prekindergarten programs. I will offer an amendment that takes $400 million out of the HUD Neighborhood Stabilization Program to fund capital investments for new construction, rehabilitation, and retrofitting of early childhood development centers. There is almost $150 million in stalled capital projects in five States, which would serve 10,000 children. Projections on this survey suggest an immediate need that exceeds a billion dollars over the next 2 years and would serve 30,000 children and generate at least 4,000 jobs.

Finally, this is the amendment I am going to call up. It deals with low-income housing. Some of the folks who have been hit hardest by the economic crisis are needy families. They have been hit doubly hard by the reduction in available and affordable housing.

Today I intend to offer a bipartisan amendment with Senators MURRAY, DODD, REED, and KOHL to address this problem by providing $2 billion in direct equity grants to States through the low-income housing tax credit program.

Much of these funds would be directed toward tax credit deals that have already been approved by State credit agencies and have financing in place to proceed into construction, except for a recent equity gap created by the credit crisis. In other words, these funds are ready to go. They are truly shovel ready, and they deal with a great problem.

The problem is, this crisis in the financial markets has made it impossible for the normal low-income housing credit deals to go forward. This money would fill in that gap. In my State of Missouri, there are about 703 affordable housing units approved by the Missouri Housing Development Commission that have been stalled. They are ready to go. For 2009, the States anticipate another 2,000 units would be stalled.

If the equity gap funding is provided, it not only will save these units, but also create some 3,000 new jobs.

It is estimated the low-income housing tax credit will nationally build 120,000 homes annually, while supporting 180,000 jobs. These are good to go, and when the President talks about shovel-ready projects, what better thing to do than to make sure we have affordable housing for those who most need it.

I believe this amendment provides that affordable housing for families displaced by home foreclosures.

Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I call up amendment No. 161.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. DODD, Mr. KOHL, Mrs. MURRAY, and Mr. REED, proposes an amendment numbered 161 to amendment No. 98.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide $2,000,000,000 from the HOME program for investment in the low income housing tax credit projects)

GAP FUNDING FOR LOW INCOME TAX CREDIT PROJECT

On page 253, line 1, strike ‘‘$2,250,000,000’’ and insert in lieu thereof ‘‘$250,000,000’’, and insert the following account after line 13 on page 257:

‘‘For an additional amount for capital investments in low income housing tax credit projects, $2,000,000,000, to remain available until September 30, 2011: *Provided*, That the funds shall be allocated to States under the HOME program under this Heading shall be made available to State housing finance agencies in an amount totaling $2,000,000,000, subject to any changes made to a State allocation for the benefit of a State by the Secretary of Housing and Urban Development for areas that have suffered from disproportionate job loss and foreclosure: *Provided further*, That the Secretary, in consultation with the States, shall determine the amount of funds each State shall have available under HOME: *Provided further*, That the State housing finance agencies (including for purposes throughout this heading any entity that is responsible for distributing low income housing tax credits) or as appropriate as an entity as a gap financier, shall distribute these funds competitively under this heading to housing developers for projects eligible for funding (such terms including those who may have received funding) under the low income housing tax credit program as provided under section 42 of the I.R.C. of 1986, with a review of both the decision-making and process for the award by the Secretary of Housing and Urban Development: *Provided further*, That funds under this heading must be awarded by State housing finance agencies within 120 days of enactment of the Act and obligated by the developer of the low income housing tax credit project within one year of the date of enactment of this Act, shall expend 75 percent of the funds within two years of the date on

which the funds become available, and shall expend 100 percent of the funds within 3 years of such date: *Provided further*, That failure by a developer to expend funds within the parameters required within the previous proviso shall result in a redistribution of these funds by a State housing finance agency or by the Secretary if there is a more deserving project in another jurisdiction: *Provided further*, That projects awarded tax credits within 3 years prior to the date of enactment of this Act shall be eligible for funding under this heading: *Provided further*, That, as part of the review, the Secretary shall ensure equitable distribution of funds and an appropriate balance in addressing the needs of urban and rural communities with a special priority on areas that have suffered from excessive job loss and foreclosures: *Provided further*, That State housing finance agencies shall give priority to projects that require an additional share of Federal funds in order to complete an overall funding package, and to projects that are expected to be completed within 3 years of enactment: *Provided further*, That any assistance provided to an eligible low income housing tax credit project under this heading shall be made in the same manner and be subject to the same limitations (including rent, income, and use restrictions) as an allocation of the housing credit amount allocated by the State housing finance agency under section 42 of the I.R.C. of 1986, except that such assistance shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing finance agency applicable to such agency: *Provided further*, That the State housing finance agency shall perform asset management functions to ensure compliance with section 42 of the I.R.C. of 1986, and the long term viability of buildings funded by assistance under this heading: *Provided further*, That the term basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: *Provided further*, That the Secretary shall collect all information related to the award of Federal funds from state housing finance agencies and establish an internet site that shall identify all projects selected for an award, including the amount of the award as well as the process and all information that was used to make the award decision.''.

Mr. BOND. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first, I wish to make a comment on the remarks of the Senator from Missouri.

One of the most disturbing things, other than the cost of this stimulus bill, is the fact there is nothing in there to stimulate. There are two things that can be done that would be of great benefit to the United States of America.

One is, as he talked about, infrastructure. I was somewhat shocked that in the bill, on the other side, there was only $30 billion, in the Senate bill $27 billion that would go toward highways, bridges, and that type of construction. I am very much in support of his amendment No. 161 that will raise that amount by $5.5 billion. I have to say, it is not enough. That would still be less than 5 percent of the total amount that would go to those items that would provide immediate jobs.

In my State of Oklahoma, we can identify over $1.1 billion, just in Oklahoma, of projects that are spade ready, with environmental impact statements, everything has been done. We are ready to go on them. That is what will produce jobs tomorrow and the next day and the next day.

The other area is in the military. While those two amendments have to do with the infrastructure of which I am in strong support, the Boxer-Inhofe amendment has yet to be filed. It will be filed. We are talking there about some $50 billion that would go toward construction and infrastructure.

AMENDMENT NO. 262 TO AMENDMENT NO. 98

I want to mention, though, there is one other amendment I do want to bring up for consideration. That is amendment No. 262. This is a recognition of investing in our Nation's defense. It provides thousands of sustainable American jobs and provides for our Nation's security at the same time.

Major defense procurement programs are all manufactured in the United States, with our aerospace industry alone employing more than 655,000 workers spread across the United States. At the end of last month, conservative economist Martin Feldstein wrote in the Washington Post about the $800 billion mistake. He was referring, of course, to the stimulus bill.

In that article, he pointed out the value of infrastructure spending on domestic military bases is the most significant we could do to try to stimulate the economy. In fact, it is clear that infrastructure investment alone with defense spending and tax cuts has a greater stimulative impact on the economy than anything else the government can do.

If our infrastructure needs repair, we equally need the tools to reconstruct our military readiness. That is what I am trying to do with this amendment. This is amendment No. 262.

I agree with everything that was said by the Senator from Missouri, that we need to do a lot of this with infrastructure. But, equally, my amendment increases defense procurement spending to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units.

We are accomplishing two things: We are providing the jobs; we are also rebuilding our military. The one thing we hear on the floor over and over, with the activity that is now subsiding in Iraq but, of course, escalating in Afghanistan, is that we are overworking everyone. The term we use in the military is the OPTEMPO is too high. We all recognize that fact.

We know we went through the decade of the nineties reducing spending on both end strength and modernization. What we need to do, if we are going to be having some kind of stimulative effect, if you can do it and rebuild our military, drop down the OPTEMPO for our people serving and at the same time do something about some of our FCS systems, for example, the Future Combat System, so we will become superior to our prospective enemies on the field in terms of equipment we give our kids.

Right now, we all recognize that with the exception of the F–22 and the Joint Strike Fighter, the Russians are making the SU series that is superior to our best strike vehicles, the F–15 and F–16. This is a procurement problem. We already have the lines going on C–17s and other vehicles, and it is going to be necessary to augment that.

This is fully offset. It does have $5.3 billion that would increase procurement.

I ask unanimous consent to set aside the pending amendment for the purpose of bringing up Inhofe amendment No. 262.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 262 to amendment No. 98.

The amendment is as follows:

(Purpose: To appropriate, with an offset, $5,232,000,000 for procurement for the Department of Defense to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material)

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR U.S. FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

Mr. INHOFE. Madam President, I am hoping to be able to consider this amendment in the near future. Let me mention one other point of equal significance, and it is somewhat controversial.

I just got back a couple days ago from Guantanamo Bay. I have been down there several times. As a matter of fact, I was one of the first Members—I think the first Member of Congress, of either House, to be there after 9/11. I have watched it as the years have gone by, the criticism of things happening at Guantanamo Bay that have never happened at Guantanamo Bay. People are talking about torturing and all these things. This is not the truth.

What really bothers me is, all you have to do, if you want to know the truth about it, is pull up on your computer the Red Cross Web site. They are down there with regularity talking about what is happening.

There are no human rights abuses. In fact, 3 days ago when I was there, some of the detainees were kind of laughing about the fact they actually had better medical treatment than they ever had before. As far as the food is concerned, it is the best. There are six camps in conjunction with the severity of the problem with a particular detainee, what level of terrorist activities he was involved in. The first three are the ones ready to go back, and the last ones are the more severe.

In camp 5 and camp 6, we are talking about really bad guys up there. They still have recreational activities, health care, dental care, food. So things there are good.

I hope any preconceived notions by any Member of this Senate could be satisfied by going and seeing for yourself or pulling up the Web site. We even had al-Jazeera in there to evaluate how people are treated at Guantanamo Bay. It is an asset we have had since 1903. It is something we cannot do without.

I have submitted an amendment, which I will not call up at this time, amendment No. 198. People such as Senator MARTINEZ, who is from Cuba, recognize the fact that we have to keep that facility open.

Right now, even though it has a capacity of 11,000, we only have about 425 detainees there. Of that, there are 170 who cannot be returned to their home country, cannot be repatriated because they will not let them back in. Of the 170, 110 are the real serious, most severe of the terrorists. What do we do with those? If something should happen—and, of course, the President came out with two edicts. One was to suspend legal proceedings at this time, which the judge down there has rejected, so they are continuing. The other is to close Guantanamo Bay within 12 months.

The reason the second one is not workable is because you have to figure out what to do with all these detainees. I don't know of one Senator on the floor who would like them sent to his or her State. I know they have come up with some 17 institutions, one of which is in my State of Oklahoma, where they could relocate these detainees. That becomes a terrorist target. It is something that is not acceptable.

All the amendment does, which I am hoping we get cleared before too long, is to prohibit the use of funds in this stimulus bill to transfer detainees from Guantanamo Bay to any facility in the United States or to construct any facility for such detainees in the United States.

When I say that, it will be necessary to do it. The courtroom down in Guantanamo Bay cost $12 million to build. It took a year to get it built. Because of the sensitive nature of the information, they cannot be tried in a normal court facility. This would preclude funds from being allocated toward the relocation of those detainees from Guantanamo Bay to any of the Continental United States areas.

With that, I serve notice I would like to get others to look at this amendment very carefully. This may be the only opportunity they have to ensure their State is not flooded with detainees, with terrorists, and create the problems we all know would come from that transfer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I understand there are roughly 10 amendments pending. There is understandable concern about calling up additional amendments at this time. If I am mistaken, I am more than happy to call up my amendment. Failing that, for the time being, I would like to talk a little bit about it.

I believe it is important we pass a true stimulus package quickly. Across the Nation, we know millions of families and small businesses are suffering from the economic crisis in which we find ourselves. Many of these small businesses feel like families, and they are faced, of course, with tough choices.

Yesterday the New York Times featured a story about a small direct mail firm in Bellaire, TX, just outside Houston. Fewer orders combined with rising health care costs will force this firm to cut staff or cut benefits unless the economy turns around soon. So we must act quickly, but we must act wisely.

I don't believe the pending bill on the floor today meets that latter part of my criteria, a wise bill. The most recent Gallup poll I have seen said only 37 percent of the people in the polling sample believe the current bill would actually help stimulate the economy in a positive way. In the meantime, we would see in excess of $1 trillion of additional new deficit spending passed on to our children and grandchildren.

We have to not only act quickly, but we have to act wisely. We have to deliver a stimulus plan that will immediately benefit America's families and small businesses. We have to avoid, as well, repeating mistakes of the past that failed to stimulate the economy—and I will talk about that more in just a moment—and we have to resist the temptation, which is all too common in Washington, DC, of trying to fund everybody's wish list. We know that wish list goes on and on without end, and we need to set the right priorities, the same thing families have to do every day.

I believe one of the best ways we can stimulate our economy is to provide true tax relief to everybody who pays taxes. Rather than reprocessing those tax dollars by having Washington redistribute them to the winners and losers in the political process, why not let the people who earn the money keep more of it. We know that is a lot more efficient.

As we have seen, the new chairwoman of President Obama's Council of Economic Advisers, Christina Romer, along with her husband, did a study—she is a real, live economist. We hear economist for this, economist for that. Many are nameless and faceless. I thought how interesting it would be, instead of citing unnamed economists, if you just plugged in the word ''lawyer'' or let's say ''veterinarians.'' Veterinarians believe this, lawyers believe that. We wouldn't accept that at face value. We would want to know what it was and whether it was credible and what they are talking about. Because we know there are economists who disagree with each other, and it is plain silly to suggest that among economists there is any consensus on these unprecedented times we find ourselves in.

But there are two economists—Christina Romer and her husband, she being the most recent chairwoman of President Obama's Council of Economic Advisers—who found in a study they published in 2007 that a tax cut of 1 percent of GDP generates real output by about 3 percent over the following 3 years, a 1-to-3 ratio. Now, that strikes me as a lot better than some of what I have seen in terms of the stimulative effect in spending, which is roughly for every $1 spent, you may get a 1.5-percent increase in growth.

AMENDMENT NO. 277 TO AMENDMENT NO. 98

Mr. President, I just received a note from staff that indicates it is all right to go ahead and call up my amendment.

Let me pause, Mr. President, and call up my amendment No. 277 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BURRIS). Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A Senator from Texas [Mr. CORNYN] proposes an amendment numbered 277 to amendment No. 98.

Mr. CORNYN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce income taxes for all working taxpayers)

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

Mr. CORNYN. Mr. President, simply stated, the amendment I offer today is based on the experience of what works. We have been presented all sorts of economic theories, some of which I have even bought into because I thought the smartest people on the planet knew more than I did, and perhaps I had to have faith in some of these smart people. But we know based on experience, not just based on faith, that this amendment will work to stimulate the economy.

This amendment cuts the income tax rate in the lowest tax bracket from 10 percent to 5 percent, so it will immediately help some of the people who earn the least amount of money in our society, and it will in fact help all working Americans immediately. Currently, married couples pay a 10-percent tax on income up to $16,050, which is roughly $8,000 for a single tax return. They pay a 10-percent tax on that now, and my amendment would cut it to 5 percent. That would put about $500 per year back into the family budget, or roughly the same amount as the provisions in the current bill known as the ''Making Work Pay'' refundable tax credit. And I will talk about that in a minute. But this amendment would provide meaningful tax relief to more than 105 million Americans—to everyone who must file a tax return by April 15.

This amendment would provide an immediate economic stimulus and jolt to our economy and would show the American people and the global financial community that we are serious about delivering an economic stimulus that will actually work. Isn't that the first question we ought to ask: Will it work? This one will work, because experience proves it. This amendment will cut the size of this $1 trillion bill by about $25 billion because it replaces the so-called ''Making Work Pay'' refundable tax credit.

Now, the refundable tax credit, so everybody understands, is not like the usual credit against income. This is cash money paid by the Federal Government to a person whether they pay income taxes or not. In fact, what it amounts to is taking money from people who do pay taxes and giving it to people who don't necessarily pay taxes. It represents a huge transfer of wealth. But even worse, in this bill it represents a repetition of the failed stimulus bill that we voted on roughly 1 year ago.

I am sorry to say now I was one of those votes in favor of that stimulus bill. That is in the category of what I described earlier, where I believed the smartest people on the planet were telling us we had to spend this $150 billion-plus. And we had bipartisan support for the bill. We borrowed $150 billion or so from our children and grandchildren. In other words, we added it to the Federal deficit. You know what kind of impact it had? It had zero, zip, nada, no impact on the economy, other than to rack up another $150 billion in debt for our children.

So this refundable tax credit, if passed in its current form, represents a repetition of what we know will not work and which will in fact make our economic situation worse. It will represent a $46 billion transfer of wealth to folks who don't pay income taxes in the first place. We should provide tax relief in a straightforward and transparent way to all taxpayers who owe income taxes. In other words, this amendment is about providing tax relief for taxpayers which, according to Ms. Romer, is the most efficient way to get our economy moving again, and one that will not pick winners and losers here in Washington, DC, after Congress takes its cut, but allows it to be kept by the people who earned it in the first place.

I ask my colleagues to support this amendment when we have an opportunity to vote on it later on. This is, once again, amendment No. 277, and I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUNNING. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 242 TO AMENDMENT NO. 98

Mr. BUNNING. Mr. President, I call up my amendment No. 242.

The PRESIDING OFFICER. Is there any objection to setting aside the pending amendment? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 242 to amendment No. 98.

Mr. BUNNING. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to suspend for 2009 the 1993 income tax increase on Social Security benefits, and for other purposes)

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 86(a) (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new flush sentence:

''This paragraph shall not apply to any taxable year beginning in 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the amendment made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(d) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by a percentage necessary to offset the aggregate amount appropriated under subsection (c).

Mr. BUNNING. Mr. President, I have three amendments. Since there are so many amendments, I am going to only offer one at this time. It is an amendment I have offered on the floor numerous times on major bills. It has something to do with a serious problem that 12 million American seniors face every year. My amendment puts more dollars in seniors' wallets, which will hopefully stimulate the economy by giving them more expendable income.

My amendment would suspend for just 1 year, the year 2009, the increased tax on Social Security benefits that Congress passed in 1993. I have been a strong advocate for eliminating this tax entirely for many years. My amendment would give seniors a 1-year break from this unfair and punitive tax.

Let me start with a little background. Historically, Social Security benefits were not taxed by the Federal Government at all. However, in 1983, the Nation was facing an immediate shortfall in the Social Security Program, with the trust funds possibly running out of money in the next couple years. Acting on the recommendations of the Greenspan commission, Congress passed a law in 1983 that began taxing Social Security benefits for the first time. The new law required that 50 percent of a senior's Social Security benefit or Railroad Retirement benefit be taxed if his or her income was above $25,000 or $32,000 for married couples. This tax, over the past 26 years, has been dedicated to shoring up the Social Security system or the Railroad Retirement system.

In 1993, when I was a member of the Ways and Means Committee in the House, Congress was faced with a similar problem. This time it was the Medicare trust fund that was going broke. Once again, Congress called on American seniors to help fix this program by instituting another additional tax on Social Security benefits. In 1993, Congress passed a law that required 85 percent of a senior's Social Security benefit be taxed if their income was $34,000 for a single person or $44,000 for a couple.

As a Member of the House in 1993, I thought this tax increase was grossly unfair to our senior citizens. On one hand we tell seniors to plan for retirement and on the other hand we tax them for doing that. CRS estimates that there are 12 million seniors paying this tax on 85 percent of their Social Security benefits.

Also, since the income levels are not indexed to inflation, many more seniors become burdened each year as we go forward and inflation rises.

My amendment is very simple. It gives seniors a break for 1 year from paying this tax. While I would love to see this tax permanently repealed, suspending it for 1 year is a start and a stimulus to get money into the pockets of our senior citizens so they can help stimulate the economy. It would help do it immediately, by allowing millions of seniors to keep more of their Social Security benefits. With wild fluctuations in gas prices and increases in health care and food costs, this tax relief could make a difference to millions of seniors across this country.

The amendment holds the Medicare trust fund harmless so the solvency of Medicare is not jeopardized. The amendment is paid for by reducing discretionary spending in the bill, except spending for veterans.

In the past, many of my Senate colleagues have supported sense-of-the-Senate amendments to remove this unfair tax. Today, Senators will have an opportunity to vote on actually giving seniors relief and removing this unfair tax for just 1 year, 2009. It is the fair thing to do. I hope my colleagues can support this amendment and support over 12 million seniors who are forced to pay this unfair tax.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Kentucky for offering his amendment. There are 14, I believe, maybe 15, pending amendments to this bill. I think it is healthy. It means we are actively debating this issue and getting suggestions from Democrats and Republicans about ways to change it.

But let's remember why we are here. This is H.R. 1, the first bill of the session. It is the bill, in terms of priority, that has the highest priority for the President of the United States and for the Nation. It is the American Recovery and Reinvestment Act of 2009.

It has been only 2 weeks now since we swore in a new President, the 44th President of the United States. He comes to this office, I believe, with extraordinary talents and potential. But he also comes facing some of the most serious challenges any President has faced in 75 years. You have to go back to Franklin Roosevelt, in 1933, and the Great Depression to find another time in American history that was any more challenging than what we face today. I think most Americans know what we are talking about.

We found, for the gross domestic product; that is, the production of goods and services in America, our growth in that area has started to decline for the first time in 25 years. We have found that unemployment rates are higher than they have been in 15 or 20 years—in some places even worse. Ask the average person or family member: Does this affect you? And they will say, of course, it does. My savings for my retirement are not what they used to be. I have lost a lot. I had planned on a life of comfort and security and now I am not sure.

How about your home? For most people it is the most important asset in their life. Even if you are paying your mortgage payment, your home value has been going down in most communities across America. People understand, too, that many of their neighbors are losing their homes to foreclosure. Some of these are hard-working families who have played by the rules and all of a sudden the world is upside-down. The principal they owe on their mortgage is more than the value of their home.

Ask people about jobs, about all the jobs we have lost across America—half

a million jobs in December, even more in the month of January. As we lose more and more jobs, of course, people face hardships. Part of our effort is to try to find a way to help them, provide a safety net, to give them a helping hand—as we should.

Let me tell you what President Obama's proposal means to America. First, we are going to try to help those people who are suffering. For those on unemployment right now, many of these people have been stretched to the absolute limit. Imagine losing your job and trying to keep your family together and make the utility bill payments and not lose the house—in the hopes that this is going to turn around and you will find another job. We provide an additional help to them. It is not a lot. I would like to give more, but it means more money in unemployment relief for these families.

The second thing we find is that as soon as you lose your job, guess what happens next. You lose your health insurance. There is a program called COBRA where you can turn around and buy health insurance, but take a look at the price. The price is dramatically larger than you paid as an employee, if you had coverage at your workplace. So we try to extend health insurance for these families. Shouldn't we, for the millions of Americans who are out of work, give them a little more to live on and a little helping hand when it comes to the paying of their health insurance? That is not just humane; if you are looking at the pure economics of it, trust me, those unemployed families with an extra few dollars a week are going to spend this money back into this economy, keeping their families together.

Then we take a look at what we need to do to get this economy moving forward. President Obama said the first thing we need to do is to give working families, middle-income families, a helping hand. Tax policy over the last 8 years has been geared primarily, most of the breaks, to the wealthiest people in America. But the folks who have been falling behind are those whose wages didn't keep up. The cost of living kept up, but their wages didn't keep up. President Obama says, as part of our recovery plan, let's give a helping hand, $500 to an individual, $1,000 to a family, at least so that these working families can pay their bills and maybe try to get ahead a little bit. That, to me, is a sensible economic recovery.

Wouldn't we start at the base of America, the strength of America, the families of America, and make sure they get the first helping hand, after we have taken care of those who lost their jobs, through unemployment? That is part of it.

He also has asked us, in the Obama plan: Help businesses, small businesses in particular, because they are the bedrock of the American economy. They create most of the jobs. They are the most vulnerable. We have seen it happen. We get the announcements of the big companies that are laying off thousands of workers: 20,000 at Caterpillar, thousands at Starbucks and INTEL and the list goes on and on. But it is the small job in the mall or downtown that lays off a worker or goes out of business—then we start losing jobs that way. The President has proposed in his tax package, let's allow these businesses to write off their losses and apply them to previous years' tax liability. Give them a helping hand. If they want to buy things that might expand their businesses, let's encourage them, give them more of a tax writeoff. So we build this into the program here as well. I think these are all solid investments in people who are struggling with unemployment and middle-income families finding it hard to pay their bills and small businesses that are vulnerable to a weak economy.

Then the President goes a step further and the President says: Let's now create jobs, let's invest in America in a way that is going to build America's economy for decades to come. He has identified several areas of importance that I think will meet the test of time and I hope will meet the approval of my colleagues.

The first thing he says is energy. We know, as long as we are captives of foreign oil producers who can run the price of gasoline up to $4.50 next week and back down again to $2.50 a month later, it is tough to build an economy.

So President Obama has told us, as part of this, build into this energy-related investments, the kinds of things that make sense, research in areas that will give us energy capability.

We can't build an American economy without energy. Let's build it with homegrown energy, energy that uses our creativity and our resources and builds on them.

He also said: Let's take a look at our schools, let's take a look at our Government buildings, and if the energy is going out through cracks in the windows and the doors, let's do something about it—more energy efficiency.

That is a good investment. That is going to pay itself back over a period of time.

Secondly, there is this whole element of health care. We know that one of the crucial elements in our daily lives is the protection of health insurance, and we know the cost of that insurance and the cost of medical care continue to rise.

What President Obama has made part of this is something that is the most important single downpayment to health care reform. He believes we should start moving as a nation to put our medical records on computers so that we have technology that has my medical records, the records of my family, so that when you go to the hospital, the doctors who are there and the nurses who are there have access to solid available information. They are not going through pages hoping they don't miss one. It is going to mean that there will be more affordable health care, and it will be safer health care. That makes sense. That is a good investment.

The third element is education. What the President has said as part of his proposal here is that we need to start building—by building, putting people to work—we need to start building the laboratories, the libraries, and the classrooms of the 21st century.

Let's be honest about this. America is as ingenious, innovative, and creative as any nation on earth. But the reason we are is because our schools prepare our children to meet that challenge and to lead. That is part of the investment of this bill.

Overall, what the President is asking us to do is to do our very best today to invest about $900 billion—a huge sum of money, I do not doubt that—so at the end of the day we will have saved or created 3 to 4 million jobs.

My friends, some of them on the other side of the aisle, say that is way too much money, $900 billion. This $900 billion represents about 6.5 percent of the gross domestic product of America. So you say: Is that enough? Is that enough of a catalyst? Most of the economists say: Err on the side of providing enough water to put out the fire. Don't put so little on it that you will have to revisit that conflagration tomorrow. And if you follow the lead of some who want to cut back the size of this program substantially, every time they cut back the size of it, they will cut back the number of jobs we will be creating in America at a time when we desperately need more jobs.

We expect to lose in economic activity in America $1 trillion a year because of this recession. What we are putting back over 2 years, this $900 billion, means we are about at half of what we are going to lose. We are going to put some $450 billion of economic spending into an economy that is losing $1 trillion in activity. So we are not even keeping up with what the recession is doing to us. So those who want to cut this back dramatically, I can tell you, sadly, if they have their way, we will be back here again.

You remember last year, President Bush said to us: I think the economy is weak, and I know how to solve the problem. Tax cuts will do it. And he asked us, the Democratic Congress, to give the Republican President $150 billion in tax cuts. And we did. Senator BAUCUS, the chairman of the Finance Committee, worked to deliver a bill, a bipartisan bill, focusing on tax cuts.

If you listen to my friends on the other side of the aisle, they believe this is the answer to every ill. If the economy is flourishing, more tax cuts; if

the economy is struggling, more tax cuts. Well, tax cuts have their place, and they are a part of this, but they are not the complete answer. We learned that when we put $150 billion into the economy in tax cuts last April, I believe it was, and it did not have the kind of positive impact we expected on our economy.

The point I want to get to is this: We have to act, and we have to act now. Sure, we should have this debate on the amendments. Some will prevail, some will not. But at the end of the day, the American people will not accept as a final verdict that the Senate did nothing. They will find it absolutely unacceptable that one of the worst economic crises in America was met with political resistance. They want us to work together. And we should.

I am open—I believe most Democrats are—to good ideas and good suggestions, and a lot of our colleagues are, in good faith, working toward that end. But there is one basic thing we should remember: When we get down to the bottom line, most of the critics of this program, this $900 billion program, when you add up the total amount of their criticism, it is less than 1 percent—less than 1 percent.

Well, let's try to cure that 1 percent. Let's do our best to make sure we do. But let's not walk away from this challenge. Let's not walk away from this crisis because we find in some paragraph in here something to which we object.

If there were ever a time when the American people expect us to rise to the occasion, to stand with President Obama and try to turn this economy around, this is the time. I would say to my colleagues, let's get it done this week. We need to tell America first—and the world—that we are not going to stand back and be victimized by this economy. We are going to use every talent, every tool we can to get this American economy moving again for the workers and families and businesses that count on us so much.

In the Senate, it is easy to get something lost in the debate and end up doing nothing. That is the one thing that is prevalent in the Senate too many times. But this is different. This is a historic challenge.

I hope Senators from both sides of the aisle will work in good faith to find a way to put together a product that will ultimately serve this country and serve it well. Two-thirds of the American people now say they support this plan. They do not believe it is the last thing we are going to do, and they sure do not believe the economy is going to be cured in weeks or months; it may take us longer. But we need to start working together and give this our best effort. We need to follow on from this doing something about the housing market, mortgage foreclosures, people who are underwater with their own home mortgages, folks who will not consider buying a home because of the uncertainty of the economy. That is absolutely a priority. It may not be included in this bill. Perhaps it will be. But that is a priority we should turn to next.

Then we need to look at these financial institutions.

Make no mistake about it, when this Bernard Madoff is found guilty of a Ponzi scheme, people are wondering whether he will go to jail. I am not going to say whether he should or should not. He needs to be held accountable for what he did. A lot of innocent people lost a lot of money because of what he did. He needs to be held accountable.

What about the financial institutions that brought us to this moment in American economic history? I think we need accountability there too. We need to make sure these executives do not run off with millions of dollars in bonuses, capitalizing on the taxpayers' money, ignoring the fact that they failed in their business missions. We need to have a good, strong law in that regard too.

We need to have proper oversight and regulation of financial institutions so America never goes down this road again. That is our responsibility on our watch.

I sincerely hope both sides of the aisle will make it their business to get it done this week so the American people understand that we get it, we understand the severity of the crisis we face.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the——

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. FEINGOLD. Mr. President, if there was an arrangement that I am unaware of, I would defer.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we try to be evenhanded and fair and balanced here. We have had a gentleman's agreement that we alternate sides on speakers. Since the Senator from Illinois last spoke, I think it is only fair and appropriate that we rotate.

Mr. FEINGOLD. Mr. President, I was unaware of that, and I defer to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I will not take too long because I know there are other Senators waiting to speak.

I send an amendment to the desk and ask for its immediate consideration.

Mr. BAUCUS. Mr. President, reserving the right to object, I think the pending amendments would have to be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. We already have 16 amendments lined up in the queue. It is going to be a very late night tonight because of that great number of amendments.

I was wondering, I would be more than willing to work out an arrangement where the Senator's amendment can be the next one available after our votes tonight, the first Republican amendment tomorrow. I have to draw the line somewhere here; otherwise, we would keep going. I renew my offer to make it the first amendment tomorrow.

Mr. McCAIN. I would be pleased to accommodate the manager, who has been very accommodating to this side of the aisle, and he just demonstrated that. So I would be glad, if it is agreeable to the manager to allow me to propose the amendment now. Then I would be glad to ask for a vote on it at the convenience of the managers of the bill so that it is most convenient for them.

Mr. BAUCUS. Mr. President, I would prefer that you offer the amendment after we dispose of the 16 tonight.

Then we can agree by unanimous consent that it would be the first one up.

Mr. McCAIN. If I could ask unanimous consent that I would be the first amendment considered tomorrow.

Mr. BAUCUS. That would be fine.

Mr. McCAIN. Mr. President, I will withhold proposing the amendment. I ask unanimous consent that my amendment be allowed to be filed and considered at the beginning of legislative work tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. So far, I have to object, and I have to figure out why. I might say to my good friend, in order to get order here, they are telling me we are coming in at 9:30 tomorrow morning. I know the Senator, a former military man, is used to early hours.

Mr. McCAIN. Whatever the floor staff wishes, as well as the manager. By the way, I say that with great respect to the staff on the floor who are making this machine, this unwieldy machine, run in the most efficient fashion.

Mr. BAUCUS. Thank you very much.

Mr. McCAIN. Mr. President, I will withhold until tomorrow morning, according to the unanimous consent agreement, and file the amendment and ask for its consideration at 9:30 a.m.

Mr. BAUCUS. Or whenever we come into session tomorrow morning. We expect to be in about 9:30. There may be some leader time.

Mr. McCAIN. Sure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I would like to keep the floor, if I can, for a couple of minutes.

Basically, tomorrow morning we will be considering this amendment. I would like to say a few words because this is a proposal that I think should be considered, along with the legislation that is pending. It is a compilation of what we believe is the most effective way to address the stimulus and job creation. It has tax provisions, such as elimination of the 3.1-percent payroll tax for all employees for 1 year. It lowers the 10-percent tax bracket to 5 percent; lowers the 15-percent tax bracket to 10 percent; lowers the corporate tax bracket from 35 to 25 percent and has accelerated depreciation for capital investments for small business; the extension of unemployment insurance benefits; extension of food stamps, unemployment insurance benefits, tax-free training and employment services, as well as keeping families in their homes through a loan modification program. It has tax incentives for home purchases and GSE–FHA conforming loan limits; national infrastructure and defense, which is very badly needed; transportation infrastructure; and also contains the trigger that is also the subject of a separate amendment I have proposed, with a total of about $420 billion.

Now, I know my friend from Wisconsin is waiting patiently, but I would like to point out where I think we are at this moment; that is, we basically have legislation which is too big, which is not stimulative, and which does not create jobs. The American people are beginning to figure it out. In fact, polling numbers in the last couple of days have shown a significant shift in American public opinion because they are beginning to examine this proposal.

I argue that it is time we sit down, Republicans and Democrats, and begin good-faith negotiations to create a real job creation and stimulus package. I think it would be unfortunate if this body passed, on a party-line basis or largely party-line basis, this package in similar fashion as it did in the other body.

I think we have a proposal here that deserves consideration, but I also think it is time that we had serious negotiations to try to reach some kind of consensus on a package and legislation that truly stimulates and truly creates jobs.

My colleague from Arizona will be pointing out, as many others have, that there are many programs here, moneys in the hundreds of millions and billions, that simply do not meet any criteria for job creation: $75 million for smoking cessation; $150 million for honeybee insurance. The list goes on and on. We also have an obligation to future generations to understand that $1.2 trillion, followed by another TARP, followed by an omnibus appropriations bill, requires us to put this country, once the economy recovers, back on the path to a balanced budget and reduce spending across the board once our economy has recovered.

I thank the Senator from Montana, the distinguished manager of the bill, for his consideration on my amendment. I thank my colleague from Wisconsin, as always.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that following the remarks by the Senator from Wisconsin, the Senator from Arizona, Mr. KYL, be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 140

Mr. FEINGOLD. Mr. President, I would like to respond to some comments that were made about the amendment I am offering with Senator McCAIN and others. Just to remind my colleagues, our amendment creates a point of order against unauthorized earmarks in appropriations bills. Again, it applies to unauthorized earmarks. If a provision is not both an earmark, as defined by the Senate Rule 44, and unauthorized, this point of order does not apply.

For the purposes of this amendment, we consider a program to have been authorized even if that authorization has only passed the Senate during the same Congress as the proposed spending item.

Moreover, as a safeguard we have taken care to also exempt programs that may have had their authorization lapse, but which are clearly needed and are included in the President's budget request.

The Senator from Hawaii noted, for example, that we haven't considered an Intelligence authorization bill for some time, or a Foreign Operations and State Department authorization bill. He argued that the programs covered by those lapsed authorizations, or programs that have never been authorized, would be subject to this point of order.

They would not be subject to the point of order established by this amendment.

First, to my knowledge, few if any of the programs under those measures would be considered ''congressionally directed spending,'' and thus they could be funded without this point of order applying. Second, programs covered by those authorizing measures are typically included in the President's budget request whether or not the authorization has lapsed and, as such, are fully exempt from this point of order.

Let me reiterate, in order to be subject to our point of order, the program must be an earmark; that is, ''congressionally directed spending'' as defined in Senate rules, and it must not be authorized or included in the President's budget request.

The Senator from Hawaii used the specter of an authorization bill being filibustered to stop the ability of Congress to use its power of the purse as an argument against this amendment. Once again, if a program is not considered to be ''congressionally directed spending'' it will never be subject to this point of order, and Congress is free to fund it or not as it sees fit.

The Senator from Hawaii also raised the concern that this amendment creates a point of order against unauthorized earmarks added to conference reports. Darn right it does. We shouldn't be adding earmarks to conference reports. Under the amendment, if a point of order is sustained against a provision in a conference report, that provision would be stricken, but the legislative process would continue with no more potential roadblocks than exist currently. The conference report would revert to a nonamendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House. It won't tie the two Houses up in knots, as the Senator from Hawaii suggested. The House will accept the Senate amendment or it won't. If the House makes a further change, the Senate can consider it. That is the regular order of business around here. The best way to avoid this issue is not to slip earmarks into conference reports.

The argument was also made that if our amendment was adopted, then authorizers would have the power to earmark, but no one else. This amendment doesn't give the power to earmark to anyone. All it does is return the Senate to what should be the proper way to consider special interest spending. If you want some special project for your State or district, the authorizing committee of jurisdiction should review it, and legislation authorizing it should pass both Houses and be signed into law. That is the regular scrutiny we should require of special interest spending. Then the Appropriations Committee can decide whether and at what level to fund the authorized program. That is the way the system is supposed to work. Unfortunately, we now have an alternative, short-cut process, whereby Members stick spending provisions into appropriations bills without any scrutiny whatsoever. That is a recipe for waste, fraud and abuse.

I have great respect for the Senator from Hawaii, and I appreciate his willingness to debate my proposal on the merits. I wish more of my colleagues were willing to have this kind of public discussion about earmarks. But I disagree with his arguments. This is a sensible amendment. It will put some teeth into the earmark rules we adopted in the last Congress. As we consider

a bill that proposes to increase our debt to the tune of $800 billion, we should be doing all we can to assure our constituents that their money is not being wasted on pork-barrel spending. One way we can do that is to pass the Feingold-McCain-McCaskill amendment, and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that an editorial in the February 4 edition of the Arizona Republic be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. I will refer to that editorial, because it sets the stage for what we need to do to fix this bill. The Gallup poll yesterday said that 56 percent of Americans believe that either this bill should not be passed or that it should require major changes before it is passed. That is not only what most American people believe but also what most of the people on the Republican side of the aisle believe and I know some Members on the other side as well.

This editorial is titled ''Senators should just start over in fixing fiscal mess.''

They say:

> Far too much of the stimulus bill is simply unserious as ''economic stimulus.'' The Senate would do us all a great favor if it started again from scratch.

In a different part they write:

> When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.
>
> A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

They conclude:

> Make the measure look like a stimulus package rather than a pork package.

That is what most of us believe we should do. You build the bill from the bottom up. What actually stimulates the economy, what actually creates jobs, you put that in the program. There may be a place for extending unemployment benefits, though that probably should be in a separate bill, because it is clearly not stimulative even though it helps people who are hurting. I doubt that there would be any objection to doing it. But we ought to focus the stimulus on exactly that; Otherwise the American people are going to be cynical when they look at a bill that is $1.3 trillion in size, and the experts are saying a very small percentage of that actually does anything to create jobs or stimulate the economy.

Let's go back to last December. In the Washington Post, Lawrence Summers, head of the President's National Economic Council, said:

> Investments will be chosen strategically based on what yields the highest rate of return for the economy.

The Congressional Budget Office, the CBO, projects that in fiscal year 2009, the deficit is going to total $1.2 trillion, and that doesn't include any of this stimulus bill which is about $1.3 trillion. Add those two together, we are talking about $2.5 trillion. So we need to take Lawrence Summers' advice and only spend money that will yield the highest rate of return for the economy. If we do that in building this bill from the bottom, we can actually do something that is great for the American people and still not be wasting taxpayer money. It might take 2 or 3 more days, but this is the most important economic bill this Congress will have considered in decades. It is the biggest bill in the history of the United States. We spent yesterday, Tuesday, on it, today, tomorrow, probably Friday, perhaps Saturday. We spent 5 weeks on an energy bill a couple years ago. Surely on a bill of this magnitude and with the emergency facing the country, if it takes us 3 or 4 more days to do it right, we ought to do it right. That means constructed from the bottom up with things we know will stimulate the economy and create jobs, not just fulfill campaign promises, not just make good on 8 years of things we wanted to spend money on but have not been able to find any other bill to stick it in until we got to this bill. Let's try to do this in a bipartisan way that will achieve the objective.

The President himself, on Super Bowl Sunday, in a nationally televised interview on NBC, said:

> There will be no earmarks in the bill.

He said he is going to be trimming out things that are not relevant to putting people back to work right now. My guess is he is fairly embarrassed with a lot of the earmarks that are in the bill. Most of my Democratic colleagues are meeting now. I hope they are talking about what can be eliminated from this bill, what kind of earmarks or wasteful spending can be eliminated from the bill. It has become an embarrassment. We would be very happy to have them join in some of our amendments which will eliminate that spending.

Senator CONRAD, chairman of the Budget Committee, knows what he is talking about in these matters. He told Fox News:

> There are other areas of the package that are really very questionable in terms of whether they would stimulate the economy. Some of the programs that are given money only have 10 percent spend out in the next two years.

He is correct on that. On the same day Senator DORGAN also commented to Fox News that ''major chunks of the package do not spend out for years which is problematic.''

We all agree. We ought to start over and start by eliminating these programs. If we do that, then we can meet an objective which is far higher than either 12 percent or 25 percent in terms of the money we spend that will actually provide new jobs.

The Congressional Budget Office, nonpartisan, says only 12 percent of the discretionary spending in the bill will be spent by the end of this year and that less than half of the total of the discretionary money will be spent by the end of the following year. So more than half of the bill starts spending in the year 2011. I hope the recession is over by 2011. If it is not, obviously, we can look at that time to see whether we need more stimulus. But having stimulus for 2 years, that is a pretty long time to be stimulating. Let's adopt the McCain idea that after 2 years we take a pause and see what else we might need to do. We could probably save a lot of money. We would make wiser decisions, and we would be stimulating in the short term which is what we want to do.

The President's Chief of Staff said last year: You never want to waste a crisis. He was referring to the use of a crisis such as this to accomplish certain good. He was talking about reform ideas and so on. But we have to be careful that others aren't using this as an excuse to put spending in a bill that has been pent up for 8 years, that some of our colleagues wish to have done but haven't found a vehicle to carry it and, thus, stick it in this bill. That is what the American people are so upset about.

If we will solve this problem, the American people will be a lot more generous in their support for the other things we want to do. I have talked about some examples. I don't want to go through a laundry list. A lot of this is oriented to Washington, DC: $9 billion for a Federal buildings fund; more money to help the auto companies, $600 million to buy more cars for Government employees; $248 million for USDA facilities modernization; $34 million to spruce up the Commerce Department headquarters; $125 million for the DC sewer system. All of these may well be important things to do. You can't argue that they are directly stimulative, though some people will have to do the work associated with them. But we have no idea whether these things are ready to go, whether they can be done in the first 2 years, or whether these are things that actually will be spent, as will the majority of the money, in the 2 years after 2010.

In any event, we have a process, as Senator COCHRAN, the ranking member on the Appropriations Committee, has said, that enables us to vet all of this spending and prioritize it so we put the most helpful spending first, and those things that are not as justified then fall out of the spending for this year

and maybe come back next year. But it is our way of determining what we really want to do as a country that, obviously, cannot just have everything we want, and we cannot pay for simply everything. So, as Senator COCHRAN said, we have the responsibility to be deliberate and consider these items carefully in the context of the President's formal budget request. It is a matter of making tough decisions, and I would hope we could do that.

Now, let's assume—because I am sure our Democratic colleagues will agree to eliminate some of these wasteful programs—we still have the problem that if the money is not reduced, then the money is still in the bill to be spent by somebody somewhere. So it is not just a matter of taking earmarks out, but it is a matter of eliminating the funding categories those earmarks are in, or as soon as we authorize the money, it will come right back in and we will have the same projects.

In this regard, I am very troubled by programs that would fund directly States and local governments because we have seen the lists they have sent to us—their wish list of things they would like to get. If we simply strike the exact delineation of where they want some of this money to go but leave the pot of money there, I ask you, where is it going to be spent? It will not take 5 minutes for them to get that list back out, put it on the table, and start going to town.

Just some general categories here:

There is $16 billion to repair and build schools. That has always been a local school function. It is not a Federal function.

There is $5.5 billion for a brand new discretionary program on transportation.

There is $2.25 billion for a neighborhood stabilization program. That is the same kind of program that would have made funding available for groups such as ACORN that we took out of the housing bill in June of last year. I do not think people want this kind of money going to ACORN or groups like that.

There is $500 million to upgrade fire stations. I know all our local fire departments would love to have money to upgrade their fire stations. Is that a Federal responsibility?

There is $9 billion to the National Telecommunications and Information Administration for grants to provide access to broadband.

There are huge chunks that would go to local projects specifically delineated by the Conference of Mayors. On January 17, they issued their fourth update of a report that details much of the spending they would like to accomplish. It is a stunning list of porkbarrel projects involving swimming pools, water slides, corporate jet hangars, skateboard parks, dog parks, equestrian trails, golf courses, parking garages, museums, bike paths, and so on. Some of those things might be perfectly appropriate; all of them should be local responsibilities. If people in the community want something like that badly enough, they will find a way to get the money to support it.

Just to illustrate the degree to which this prospect of free money has motivated people to what I regard as silliness—again, some of these projects may be perfectly appropriate; if they are, local governments will find a way to fund them—there is $8.4 million—a lot of money—for a polar bear exhibit in Providence, RI. There is $6.1 million for corporate jet hangars in Fayetteville, AK. There is—a small amount of money—$100,000 to create one cop job in Sulfur Creek, CA. I do not know what kind of community Sulfur Creek is, but surely California could come up with $100,000 to get a police officer on the force for that community, I would think. There is a lot of money here for California. There is money to rehabilitate a skateboard park in Alameda, CA; $500,000 for Sunset View Dog Park in Chula Vista, CA. There is money for an equestrian park in San Juan, Puerto Rico, and so on.

The bottom line is, these things ought to be subjected to the usual appropriations process. I guarantee you, the appropriators are pretty careful when they go through these items. Yes, some of this stuff slips in, but they try to prioritize these projects, and it is not just a giveaway to local communities.

I think it is worthwhile noting what some of the money is specifically spent for in categories. Golf courses seem to be a big item. Golf courses. There are several million dollars for golf course renovations and construction in Shreveport, LA; Brockton, MA; Roseville, MN; Florissant, MO; St. Louis, MO; Lincoln, NE. There is an environmentally friendly golf course in Dayton, OH. That one might win the approval of the appropriators. There is the renovation of a golf course maintenance building in Kauai County, HI.

Not to leave out my own State—there are a lot of museums that are apparently in need of some renovation or construction here—there is one in Scottsdale, $35 million for a museum of the West. I guarantee you that will be a great museum, but I would hope we could help the folks in Arizona generate the money for this museum. There are museums in Miami, FL; Meridian, MS; a Minor League Baseball museum in Durham, NC; a museum of contemporary science—there are several museums of contemporary science; that must be a new trend—in Trenton, NJ. There is a music museum in Puerto Rico; a music hall of fame in Florissant, MO.

I may be mispronouncing the names of some of these communities, in which case I apologize.

There is a local history museum at Imperial Centre in Rocky Mount, NC. I bet that would be fun to go to. In Trenton, NJ, there is another contemporary science museum—again, in Trenton, NJ. There is the Las Vegas Historic Post Office Museum in Las Vegas, NV, and the Las Vegas Performing Arts Center in Las Vegas. There is the Art Walk at the Rochester Museum and Science Center in Rochester, NY; Lima, OH; Puerto Rico—well, there are three more in Puerto Rico—four more; one in Green Bay, WI. You get the drift.

Parking garages are a pretty big item, and I will not list them all here, but there are a lot of them in California, Colorado, Connecticut. There is a maintenance garage recycling and sanitation truck wash—let me say that again—a maintenance garage recycling and sanitation truck wash in Bridgeport, CT—I am sure that is necessary, actually—$27 million. I gather all other communities in the country find a way to pay for theirs, but Bridgeport needs some help on that. Structural repairs to Yankee Doodle Garage in Norwalk, CT. And that list goes on and on. In fact, the list goes on and on. I will refrain from reading about another 30 of these.

Bicycles are a big item. Bike paths in Long Beach, CA; Miami, FL; Lewiston, ME; St. Louis, MO; Austin and Arlington, TX; Salt Lake City.

Water slides are a pretty good item. There is one in Carmel, IN. There is one in Shreveport, LA.

Pools—as I said, that is a big item. There is lots of swimming pool rebuilding and refurbishing and so on: California: San Leandro, CA; Sulfur Creek, CA—a lot of California swimming pools. There are a couple here in Connecticut, Colorado. There is one to replace pools at city high schools in Meriden, CT; one to upgrade swimming pools and school restrooms in New Haven, CT. Florida has several pools. They are going to build a fishing pier in Savannah, GA. This one I do not understand, Mr. President: millions of dollars for propane heating replacement with solar water heating systems for county swimming pools in Maui, HI. I did not think they needed heated pools in Maui, but more power to them if they can go with solar. Again, the list goes on and on and on. This is the wish list.

These are the kinds of things that when you make money free, people will line up to take part in. Even if we were to eliminate the pots of money here that these particular specific items would come from—let's assume all of the earmarks are gone but the pot of money is there—there are still other pots of money in the bill worth billions of dollars that represent wasteful Washington spending, money that will not go to create jobs.

I urge my colleagues here, as we talk about bipartisanship, as every one of us

is struck by the absolute seriousness of the crisis that faces our country, we want to do something that works. And to ask somebody to support this is to say, in 6 months or a year or a year and a half, did it work? For those who support something that does not work, not only is that not in the best interests of the United States, but I think there will be a very high price to pay for wasting perhaps a trillion dollars. It is money we do not have, and we cannot afford to waste it.

So what I would urge my colleagues to do: We have several amendments today and tomorrow that will be offered to try to end the wasteful Washington spending and relegate those kinds of bills to the Appropriations Committee, where they can make the tough choices, and then focus on the things which can actually create jobs and stimulate the economy. Our colleagues on our side of the aisle will have several important suggestions in that regard. We probably need to start with housing, which is where the problem started. Experts, as I read this morning, agree that until you solve that, you are probably not going to solve the rest of the problem.

So if we can approach the bill from a commonsense standpoint, which is what the American people want us to do, we can create a very good piece of legislation. But as it stands right now, there are going to have to be fundamental changes in this bill, starting basically from scratch, in order for it to do the work we want it to do and to be supported by the American people. We can afford the extra time, if it is 2 or 3 days, to get it done right.

I urge my colleagues, let's put the partisanship aside, the victory dances and all of that, and roll up our sleeves and try to see if we can follow the admonitions of the President when he laid out the original concept of this bill—timely, targeted, and temporary—and try to focus on those things which will do the job rather than simply to fulfill our spending wishes or those of many of our well-meaning constituents.

EXHIBIT 1

[From the Arizona Republic, Feb. 4, 2009]

SENATORS SHOULD JUST START OVER IN FIXING FISCAL MESS

In opposing President Barack Obama's economic-stimulus package—now ballooned to more than $900 billion—congressional Republicans risk letting Democrats earn all the credit as stewards of a national economic revival.

Unfortunately, their strategy looks to be a safe bet.

Far too much of the stimulus bill is simply unserious as ''economic stimulus.''

The Senate would do us all a great favor if it started again from scratch.

Congress now enjoys a public mandate to spend like the drunken sailor of its dreams . . . on one condition. That it allocate spending not to its beloved ''pork,'' but to spending projects that offer some promise, however slight, of sparking the economy.

And just what constitutes an economy-igniting spending project?

We know what doesn't. Smoking-cessation programs may be helpful, but they are not ''stimulus.''

Spending $870 million to combat bird flu may be a worthwhile investment in public health. But its prospects for kick-starting the 2009 U.S. economy are pretty much nil.

When the Congressional Budget Office analyzed the stimulus bill in its original configuration, it found that just 25 percent of its content might have any effect on the economy this year.

A similar analysis by the Wall Street Journal concluded that just 12 cents of every dollar spent would have a chance to create immediate stimulus.

And there are outright dangerous provisions to the bill.

The ''Buy American'' clause in the legislation, ensuring that only American-made steel and manufactured goods are purchased with stimulus money, is an open invitation to an economy-wrecking trade war. Europeans are rightfully infuriated by it.

So are serious Democratic-leaning economists like Lawrence Summers.

Make the measure look like a stimulus package rather than a pork package.

Then, Democrats might manage to peel off some of the GOP support that the president deems so valuable.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Carolina.

Mr. DEMINT. Thank you, Mr. President.

I would like to speak for a few moments on a couple of amendments. But before I do, I ask unanimous consent that following my talk that Senator SAXBY CHAMBLISS be allowed to speak.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, we have been going back and forth, so if someone from this side of the aisle does appear by the time the Senator finishes his remarks, we could either have a gentlemen's agreement or I could ask unanimous consent that the next speaker be a Democrat. Everyone is an honorable Senator here, so if a Democrat is here, after you finish, I say to the Senator—

Mr. DEMINT. I revise my request, Mr. President, to fit that request.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request as revised?

Mr. BAUCUS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Thank you, Mr. President.

AMENDMENT NO. 168

Mr. President, I would like to speak for a few minutes about Amendment No. 168. It is the DeMint amendment we are calling the American Option to the spending plan that has been proposed by the majority. This is a complete substitute for the spending plan. We call it the American Option because it helps to develop a free market American economy by leaving money in the hands of people and businesses rather than taking it and then having the Government direct where the money goes. So it basically puts our faith in the American people, in our free market economic system, instead of political decisions here in Washington.

Americans are very concerned about the direction of our country. In fact, I have never seen people more anxious about where we are. They are worried about the economy but even more worried about the reckless spending and Government intrusion into our culture and into our free markets.

Our economy is in trouble. That is obvious. The national unemployment rate is now over 7 percent and climbing. Stock markets have plunged, jeopardizing the retirement security of millions of seniors. Nearly a million homes were repossessed last year, and in the last week, thousands of Americans have lost their jobs at some of our Nation's strongest companies, including Home Depot, Microsoft, Caterpillar, and Boeing. In the midst of these difficult and uncertain times, Americans understandably voted for change. Frustrated with runaway spending, Wall Street bailouts, and soaring energy prices, they voted for President Obama who, as a candidate, promised to lower taxes, cut spending, increase domestic energy, and create millions of new jobs.

I like President Obama very much. We were elected to the Senate together, and we have worked together on several common goals. I truly believe he wants to do what is best for our country, but our economy needs more than slogans and empty promises.

As I have said before, I believe the stimulus bill that is being championed by President Obama and the Democratic majority is the worst piece of economic legislation Congress has considered in 100 years. Not since the passage in 1909 of the 16th amendment which cleared the way for Federal income tax has the United States seriously entertained a policy so comprehensively hostile to economic freedom, nor so arrogantly indifferent to economic reality. The bill, if it were a country, would have the 15th largest economy in the world—right in between Australia and Mexico and greater than the gross domestic product of Saudi Arabia and Iran put together. The American people will be forced to borrow 100 percent of the unprecedented $1.2 trillion pricetag when you include interest. The stimulus bill will cost well over $1 billion for every page it is printed on and $400,000 for every job it hopes to create or save.

Proponents argue that we are facing a once-in-a-lifetime economic crisis and only an immediate and overwhelming stimulus bill can ignite the economy, create jobs, and spur growth. That may very well be true, but the spending bill before us today is just

that: a spending bill, not an economic stimulus bill. The Democratic bill takes money—it actually borrows money—and decides where it should go. It does virtually nothing to stimulate the economy while it wastes billions of taxpayer dollars. It is a hodgepodge of long-supported pet projects that should be considered in the normal budget process but not an economic stimulus bill. Using the troubled economy as their motive, Democrats have opened the floodgates for all sorts of outrageous wasteful spending.

Here are just a few of the examples from the Senate substitute: $400 million for researching sexually transmitted diseases. They are telling us now that they took that out, but then we find they left the money in there, which could be used for the same purposes once we pass the bill. There is $200 million for bike and pedestrian trails and off-road vehicle routes; $200 million to force the military to buy electric cars; $34 million to renovate the Department of Commerce headquarters; $75 million for a program to end smoking, which, if successful, will bankrupt the children's health program Democrats just passed last week.

Of the more than $800 billion in the bill that is being sold as infrastructure investment, only $30 billion will actually go to build highways, about $40 billion for upgrades in our telecommunications and electricity infrastructure, and about $20 billion in business tax cuts. These are the only three components of the bill that might arguably stimulate the economy and create jobs and, even then, only temporarily. Altogether, only 11 percent of this so-called ''American Recovery and Reinvestment Act of 2009'' will have anything to do with either recovery or reinvestment. And rest assured, the elevated spending levels in this bill will never recede.

The tax side of the bill is not much better. We can think of it this way: If nearly every Democrat in Congress supports a tax cut, it is probably not a tax cut. Indeed, the text of the Democratic plan reveals that $212 billion of smoke-and-mirror gimmicks—temporary cuts and rebates exactly like those that failed to stimulate the economy last year. Half of the tax changes in this bill are for people who don't even pay taxes, and all of them are temporary, which will undermine their impact. This bill is not an economic stimulus bill at all, but really a political stimulus—a stimulus to grow Government in Washington.

Any doubters of the bare-knuckled partisanship at the heart of the Democrats' trillion-dollar catastrophe will do well to ask a simple question: Who benefits from this legislation? Who, indeed? Alternative energy companies, public employee unions, teachers unions, university faculty and administrators, welfare recipients, ACORN-style community organizers, politicians who spend the money, Federal bureaucrats who allocate it, and the limousine liberal lawyers and lobbyists who will influence every dime behind the scenes. In other words, this bill is a massive transfer of wealth not from the rich to the poor, but from middle-class families and small businesses to favored Democratic constituencies who are not the poor and middle class we promised to help.

This bill is not a stimulus; it is a mugging. It is a fraud. Conservatives who fear proponents of this bill want to inch our economy closer to a European style of socialism are kidding themselves. The proponents of this bill want to strap a big rocket on the back of our economy and launch it all the way to Brussels. This massive spending bill is fatally flawed. It will not rescue our economy; it will strangle it.

That is why this bill must be stopped dead in its tracks. It cannot be fixed by tweaking it here or tweaking it there. It must be scrapped entirely so the leadership in Congress will be forced to consider real alternatives.

Fortunately, there is another way, a better way, a way that will actually stimulate the economy, spur investment, and create jobs, a way that will permanently and immediately save billions of dollars in the private sector and in the hands of Americans who buy goods, provide services, start businesses, and hire employees. We call it the American Option because it relies on the American people to generate jobs and growth, not the Federal Government.

The plan I am offering is not new or clever. It is only 11 pages long. It comes with no bells or whistles, no smoke and mirrors, but it will work, and it is based on proven American principles of freedom, equality, and opportunity.

The plan—developed by scholars J.D. Foster and William Beach at the Heritage Foundation—is the best anyone has proposed since the recession first took hold. The idea is simple. First, make the temporary tax cuts of 2001 and 2003 that are currently set to expire in 2011 permanent. Make our current rates permanent. This would create the certainty for citizens and businesses they need to plan their spending and to grow their businesses. The short-term, temporary tax relief of the sort envisioned by the Democratic plan does not stimulate economic growth; it is temporary and it creates economic uncertainty. It is the difference between a $1,000 gift one month, which you might put away or use to pay off some credit card, and a $1,000-a-month raise which might get you thinking about buying a house, a new car, or taking a summer vacation or starting a new business. To encourage people to take risks and create new jobs, we must make tax relief for families and small businesses permanent. Recessions are caused by uncertainty that keeps investors on the sidelines. Permanent low taxes allow for plans and decisions to be made with an eye toward the future.

With the 2011 tax bomb diffused, part 2 of our plan will cut income tax rates across the board. The top marginal rate—the one paid by most of the small businesses that create new jobs—will fall from 35 percent to 25 percent. It simplifies the code to include only two other brackets: 15 and 10. These marginal rate reductions would be permanent and give the private sector maximum predictability as it decides how to best spend its recovered income. This is a matter of fairness. No American family should be forced to pay the Federal Government more than 25 percent of the fruits of their labor.

Just as we cut taxes for families and small businesses, we need to cut them for corporations as well, from 35 to 25 percent, and we shouldn't be afraid to say so. Our corporate tax rate is one of the highest in the world, driving investment and jobs overseas. Lowering this key rate will unlock trillions of dollars to be invested in America instead of abroad. Rather than giving large companies loopholes and targeted tax benefits which only encourage them to spend money on lobbyists who secure such goodies, Congress should get out of the business of picking winners and losers in the market and simply cut everyone's taxes and let's let the best companies win. This plan will make businesses compete for consumers, not Congressmen and Senators.

To further simplify and improve the code, our plan would also permanently repeal the alternative minimum tax, permanently maintain the capital gains and dividend taxes at 15 percent, permanently kill the death tax for estates under $5 million, and cut the tax rate to 15 percent; permanently extend the $1,000-per-child tax credit, permanently repeal the marriage penalty, and permanently limit itemized deductions to home mortgage interest and charitable contributions.

The Heritage Foundation's Center for Data Analysis' widely respected economic forecasting model projects this plan would result in nearly 500,000 more jobs this year, almost 3 million new jobs by 2011, 7.5 million new jobs by 2013, and a total of nearly 18 million jobs over the next decade. That is an average of nearly 2 million jobs every year. Instead of taking $1 trillion out of the economy so politicians can spread it around to special interests, the American Option will keep a trillion more dollars in the hands of American families and businesses. Instead of growing Government where waste and corruption run rampant, we grow the private sector where innovation flourishes. Instead of giving the power and control of our economy to politicians

and bureaucrats, we give Americans and small businesses the freedom to spend and invest their own money. The positive effects of letting more money stay in the private economy immediately and permanently will quickly become apparent.

Beyond the job creation, I know we are all also interested in seeing our housing and real estate markets, as well as the automobile sector, emerge from the doldrums. Within 5 years, the American Option would produce $175 billion in residential investment and $362 billion in nonresidential investment. That is more than a half trillion dollars left to private citizens with the motivation to care for their families, invest in a new business, or expand their current productive activities.

The auto industry will also experience a dramatic increase in sales activity. Between 2009 and 2011, total sales of new cars and light trucks would rise $24.5 billion more than they would otherwise. Again, allowing private citizens and businesses to use their own capital instead of sending it off to Washington benefits all sectors of the economy.

The evidence in support of this legislation is not theoretical but historical, unlike the Keynesian arguments behind the Democratic spending and debt plan. In 1964 John F. Kennedy's tax reductions led to 9 million private sector jobs in 5 years. Ronald Reagan's 1981 tax cuts led to 7 million in the same timeframe. Five years on, the 2001 and 2003 tax cuts led to the creation of 4 million and 6 million jobs, respectively. Every time the United States has cut marginal tax rates, millions of jobs have been created—jobs that lifted the unemployment into the workplace, the working poor into the middle class, and the middle class into long-term economic security.

Similar stories can be told of Great Britain's rescue under Margaret Thatcher in the 1980s. More recently, Israel's economic reforms under their Finance Minister changed their whole economic platform.

President Obama's own chief economist has shown that tax cuts do truly stimulate economic activity to the tune of $3 of increased output for every dollar of tax relief.

On the other hand, the world's greatest experiments in spending our way out of a recession have three textbook examples. The first is Franklin Roosevelt's response to the Great Depression. The New Deal began in 1933 with unemployment around 25 percent and effectively ended with the establishments of F.D.R.'s ''war economy'' in 1940 with unemployment still hovering around 20 percent. The second example is from the 1970s when huge deficits in the United States neither spurred economic growth nor curtailed inflation. The third example is Japan, their so-called Lost Decade, in which the Japanese Government tried in vain for 10 years to spend its way out of a national real estate and investment collapse.

Every discredited idea from these three monuments to economic mismanagement can be found in the fine print of the Democrats' $1 trillion socialist experiment we are considering this week: massive spending, skyrocketing deficits, inevitable tax increases, and the disastrous unintended consequences of hurried and arbitrary meddling in our economy.

Finally, there is another issue I want to address. I have recently heard some of my colleagues say that this recession is the fault of the free market, that President Obama has inherited the problems of a conservative ideology.

Mr. President, the charge is flatly, demonstrably false. In fact, it is incredible that anyone would say it.

Let me be clear: conservatism has nothing to apologize for.

It was not conservatism that foisted Fannie Mae and Freddie Mac onto the national credit market.

It was not conservatism that that shook-down the Nation's banking system with the Community Reinvestment Act.

It was not conservatism that asked for, lied about, and then wasted $350 billion for the Troubled Asset Relief Program.

Nor did conservatism sign on to the second tranche of the TARP funds now in the hands of our esteemed new Treasury Secretary.

It was not conservatism that used taxpayer funds to bail out the perpetrators of the Wall Street meltdown.

It wasn't conservatism that led our financial industry to make these reckless loans, and it certainly wasn't conservatism that made that industry ask for the taxpayers to foot the bill for their idiocy.

It wasn't conservatism that bailed out an auto industry bankrupted by its inability to manage costs and strangled by the tentacles of unionism.

Every problem now plaguing our economy can be directly traced to some Government policy that was passed over the vehement objections and warnings of principled conservatives.

The same scenario is playing out with this spending bill, but the result is not preordained.

The Democrat plan will fail, it will hurt our economy, it will kill jobs, it will lengthen and deepen the recession, and it will delay any hope of recovery.

But it is not enough to merely stop this, the wrong bill—we must pass the right one.

It is not simply a viable alternative—it is the American option to rescue our economy from an inexorable slide toward European social-democracy.

With a troubled economy, mounting national debt, and an entitlement crisis ready to explode, conservatives must offer bold and proven solutions to secure America's future.

We cannot simply derail the ''liberal express''; we must show our fellow countrymen a better path.

There is nothing wrong with our economy that a free people cannot solve. All we need is the freedom to take back from Washington control of our economic destiny.

The policy approach I have outlined can work, and if implemented, will work. How do I know?

Because liberating people to pursue their own happiness and fortune is the only thing that ever does.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to discuss the economic stimulus package. First of all, my friend from South Carolina has raised so many valid points in his discussion. I know he has an amendment that is primarily focused on reduction of taxes to stimulate this economy, create jobs, and put more money into people's pockets. I concur with him 100 percent that this is the direction in which we need to go. I look forward to further debate on his amendment and seeing his amendment reach the floor.

This stimulus package we are now debating gets more expensive and, frankly, less stimulating with every passing day. The Democrat's plan is not a job creating bill. Plain and simple, in its current form it is a spending bill.

We have been going through a number of amendments over the last several days and I am pleased to see that some of those amendments have had success. I think the bill looks somewhat better, but we still have a long way to go. This bill should not be about pet projects. Instead of wasting $600 million, for example, of hard-earned taxpayer money for new cars for the Federal Government or $650 million for a failed digital TV transition program or even $120 million for the Census Bureau to hire personnel who specialize in ''partnerships,'' we should be spending Americans' money on creating jobs for Americans. These jobs should allow Americans to go out and buy new cars themselves and thereby stimulate and energize a very struggling automobile industry. This bill should put money in the pockets of individuals who can buy new TVs instead of having to worry about the digital transmission issue covered in this particular proposal.

I have been in discussions with Senators MCCAIN, MARTINEZ, and others. We are in the process of finalizing an amendment that will be a substitute for the base bill that does exactly that—focus on creating jobs and stimulating the economy.

Any package that is intended to focus on strengthening our economy

should focus on three things and three things only:

First of all, job creation. Despite an injection of hundreds of billions of dollars into our banking system, the credit markets remain frozen.

A lack of both confidence in the market and credible borrowers are precluding our credit markets from thawing and freeing much needed capital. Along with the current dual track of the TARP program, we can loosen this tight grip on capital is through job creation.

We must incentivize the creation of new jobs through favorable tax treatment of businesses and individuals. My friend from South Carolina mentioned an issue we are going to have in our amendment that is very critical, I think, to the long-term corporate structure in America. A solution that really will provide for the creation of jobs is the reduction of the corporate tax rate from 35 percent to 25 percent. We have the second highest corporate tax rate in the world. What are we doing about charging corporations that amount of money? What we are doing is exporting jobs out of America.

I talked to one of the leading economists in the country this morning who happens to be a resident of my State and is somebody whom I look to for guidance from time to time. I asked him, ''If you could point to anything that would create jobs in America, what would the first thing be?'' He immediately said, ''Cutting the corporate tax rate.'' He said it is ridiculous what we do and that what we are going to hear from folks on the other side is that what we are doing by cutting the corporate tax rate is looking after the big corporations. The fact is, according to this renowned economist, the big corporations don't pay that 35 percent anyway. It is the guys on Main Street, the insurance agencies in my home State, the veterinary hospitals down the street, and all the other small businesses that are, in fact, paying that 35 percent. It is our small manufacturers that depend on export markets to be competitive that are having to pay that 35 percent. If we reduce the corporate tax on those entities, then we are going to have the potential and the reality of creating jobs in this country. We also need to put more money in the pockets of individuals. One way we can do that, which we are going to have in our amendment, is by the reduction of payroll taxes. That will put a bigger paycheck into the pockets of every hard-working American every single week; make no mistake about it.

We have to look at spending measures that will have an immediate stimulative effect on our economy. Military and highway construction can provide jobs in the immediate future and put stability and confidence back in the marketplace and start people spending their paychecks again. There is no better way to put money into the manufacturing sector tomorrow than by putting money into defense contracting if it's done in the right and responsible way. We need to increase defense spending and make sure America remains safe and secure. Yet there is nothing in the base bill that the Democrats have offered that will increase pure defense spending.

In addition to job creation, second, we have to focus on housing. The housing crisis is what got us into this real financial mess that we are in today. I don't care what we do with respect to trying to spend or tax our way out of this; unless we fix the housing sector in this country, we are never going to recover from the economic crisis we are seeing today.

How do we do that? Again, you will see measures that have already been discussed in the form of amendments over the next couple of days—amendments such as that from my colleague and friend, Senator ISAKSON, to provide a $15,000 tax credit to anyone who buys a house between January 1 and December 31. Measures that are outside-the-box thinking such as the one by the Senator from Nevada that proposes to provide long-term, low-interest loans for individuals seeking to either purchase a home or to refinance a home, where if they are not able to do this, they will be subject to foreclosure. So it is these types of housing measures and provisions that will allow us to stimulate the housing sector and try to get that portion of our economy back on track.

Third, in addition to the job creation and housing, we have to focus on compassion for folks who have lost jobs during these tough times, through no fault of their own. In my State, we have had 2 weeks of major announcements of job losses. It is simply due to the fact that these corporations are having to develop cost-cutting measures that will improve their bottom line because their sales are down significantly. Their workers are quality workers and they would like to keep them on, but they simply cannot afford it. They have to find cost-cutting measures.

So when you find folks such as that who are in need of assistance, we have an obligation, I think, to provide some relief to them. It is important that we prevent the bottom from getting deeper. We need to work to assist those who have fallen as a result of this spiraling economy and not from irresponsible fiscal decisions.

We must act to expand protections to serve as a compassionate step toward regrowth of our economy, a restrengthening in our markets, and a return to fiscal security.

All these provisions are going to be included, along with others, in the substitute amendment that will be forthcoming either tonight or tomorrow. We must be clear—job creation doesn't mean ''Buy American.'' In tough economic times, it is all too easy to turn inward, to want to build protectionist walls around America. Nobody believes in buying American more than I do, but it is not the time to pretend our economy knows only the bounds of our borders.

I say this as someone who represents a State with a strong manufacturing sector. We live in an interconnected, global economy, where most manufactured products have at least one component not made in America. ''Buy American'' is the quickest way to export American jobs.

The biggest problem I see with the current proposal that is under debate, which came out of the Finance Committee from the Democratic side, is that we are now having to approach that bill in a top-down way. In other words, we are having to take the bill as it is and have amendments forthcoming that seek to strip out provisions in there that are not stimulating. These are the pet projects for individuals in this body, projects that will do nothing but take money out of taxpayers' pockets.

What we should do is develop a system directed toward this crisis that is a bottom-up review and a bottom-up attack on this financial crisis. We can do that basically by scrapping the current bill and starting over again. It is not that complicated to do.

I hope, at the end of the day, that this is the approach we will ultimately take. It is not just this trillion dollar spending package we are looking at in the Senate; we have to be responsible as we move forward because there are other bills that are coming right behind this one. There is a TARP III, which we understand will be laid on the table within the next few days. We have heard numbers as high as another half trillion dollars that may be asked for in TARP III, and that may not be the end of the road there.

There is also an Omnibus bill that I understand has already been put together that spends $1 trillion of taxpayers' money. One of my constituents said to me the other day, ''We used to talk in terms of a million. Then we got to where we talk in terms of a billion. Now you folks are talking in terms of a trillion. What comes after a trillion?''

That is a pretty tough question to answer, but we are fast getting there. We as policymakers in the Senate have to be responsible with the taxpayers' money. Sure, we want to do everything we can from a policy standpoint to stimulate America out of this economic crisis. But spending our way out of this situation is not the answer. That is why I hope we can review where we are with this current proposal, and instead of having a top-down review of it, look at it in more positive

terms and have a bottom-up review. Let's start over again with the basics. We should start with the housing sector and figure out how to fix it. If there are other ideas out there than what has already been talked about, let's put them on the table and figure it out.

Secondly, let's look at how we are going to create jobs. We simply know by spending money that we are not going to create or maintain jobs. There are a lot of smart people in this body. Let's figure out the best solution.

Lastly, let's be compassionate. We need to make sure Americans are taken care of when they have lost their jobs through no fault of their own.

Mr. President, I yield the floor. I see the Senator from Rhode Island is here. I assume going back and forth he would be next.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise today to discuss a feature of the economic recovery legislation that will both create jobs in the short term and help us confront the long-term economic challenges that are facing us.

Clearly, creating jobs is a paramount goal of this legislation. In this time of deepening recession, one in ten Rhode Islanders is looking for a job. At 10 percent, our unemployment rate is second in New England and the second highest across this entire Nation. As I have traveled around my State, I have heard from countless Rhode Islanders struggling to hold on to their retirement savings, their homes, and their livelihoods.

Against this dark background, jobs mean security. Steady employment helps families pay the bills and plan for the future. Jobs mean confidence in an unsettled time. In this weakening economy, job creation should be our highest economic priority.

But at the end of the day, the best jobs this legislation can create are jobs that produce lasting infrastructure, assets that will help our economy function smoothly for years to come, such as highways, bridges, weatherized homes and schools, and water treatment plants. These are win-wins for the American people.

Fortunately, this bill goes beyond a definition of infrastructure as just the things the Romans could build. The last few decades have seen enormous innovation in this country—new communications platforms, the Internet and mobile phones, new sources of energy. This technological revolution is transforming the way we live and work, as the rail system did and the highway system did in decades and centuries past. And as the Federal Government helped build the railways and highways, the bricks and mortar infrastructure of the 20th century, today this recovery bill will support the digital infrastructure of the 21st century. It is a dual benefit: jobs today and a platform for growth tomorrow.

To me, one of the most vital parts of our Nation's infrastructure in this 21st century will be the development of a national health information network to improve the quality and efficiency of health care, to save money, and to save lives. But today this network is growing at the speed of mud. Health care is frighteningly behind the rest of American industry in its development and implementation of information technology. Why? Because of economics, the strange, bizarre, twisted economics of our health care system that fails to reward doctors and hospitals when they invest in health information infrastructure.

If we can solve the health information network problem, private industry will develop technology to allow doctors to prescribe drugs electronically and help remind you to take them. Technology will help doctors update your vital information in real time and cross-reference your health issues with the best illness prevention and treatment strategies. And technology promises decision support programs implementing best medical practices which will help health care providers avoid costly, life-threatening, and completely unnecessary medical errors that now bedevil our health care system.

Look at what private technology and innovation have already done with the Internet—Google, e-Bay, Amazon, YouTube, Facebook. Whose life has not been changed?

Imagine what can happen in health care. Wonderful opportunities beckon, both in the near term, because funding this infrastructure will create jobs in the information technology sector, and in the long term to help us bring down the spiraling health care costs that threaten to engulf our economy.

But the broken economics of the health care system mean that those opportunities will not arise without help. Unless the Federal Government gets involved to set standards for this technology on which everyone can agree, the resolution of a digital x-ray image, for instance, or requirements protecting a patient's privacy or leveling economic obstacles, we will never get to a national system.

The Romans could not build an electronic health information infrastructure, but we can and we must, and this legislation will.

There are rumors that an amendment will shortly be adopted that would, among other things, strip out this investment in health information technology. Of all the dumb mistakes we could make in this bill, that would be the very dumbest of all. It would harm the immediate element of job creation that is important to this infrastructure. It would slow down the development of a national health information infrastructure, and it would compromise our ability to deal with the health care crisis that is looming behind the economic crisis we are dealing with now.

As I see it, we have three waves stacked up. We have an economic crisis that is upon us that we need to address. Immediately behind that is a bigger and worse health care crisis, bigger and worse than the crisis we are facing now. And behind that is an environmental, global warming, and climate change crisis that is bigger still.

Now is the time to prepare for that next health care crisis, the one we will have to address as soon as we begin to get our arms around the economic crisis.

I have been a champion of health information technology since I was attorney general of Rhode Island years ago, and the snail's pace of adoption has both perplexed and disappointed me. I frequently ask doctors from all across the country why they insist on using paper, and I always get the same three answers. One: I can't afford in my practice to put all this machinery in. Two: I tried using health information technology, but it was too complicated. Or three: I don't want to invest in this and then get it wrong. I don't want to invest until I know what the standards are. I don't want to take what I call the Betamax risk of investing in the wrong technology.

There is an additional problem, at least for electronic prescribing. The Federal Government insists on doctors maintaining a paper system for controlled prescriptions. If you tried to move to an electronic system, you have to maintain two. It does not make any sense.

The doctors' concerns about health information technology are answered in this recovery package.

First, the bill addresses the cost issue in a number of ways. If you are a doctor who cannot afford to purchase a health information system so that your patients can have an electronic health record of their own that is private and securely theirs, this bill has grant money to help you. If you are a doctor doing well enough not to need a grant but could certainly use a loan to make this happen, the bill has loan money for you. Or maybe you are a doctor who can afford the upfront investment but have not been able to make the business case for the ongoing use of the technology and the change it will require in the day-to-day administration of your practice. This bill reverses the backwards incentives that discouraged the use of health information technology and that discouraged quality improvement efforts.

For the first time, Medicare and Medicaid are going to pay for meaningful use of health information technology in doctors' offices. Starting with this recovery bill, keeping people healthy will keep the business of medicine healthy.

Second is the challenge of technology. Health information technology is about much more than digitizing data, more than going from illegible handwriting to clear electronic type. Health IT is about coordinating care between multiple providers. Anybody who has a serious illness is aware of the confusion that surrounds having to deal with multiple doctors. Health IT is about helping patients and their loved ones manage those complex, chronic conditions. Health IT is about using best practice protocols so the wide variation—the wide and unexplained variation—in American medicine can be narrowed down to the best practices we know of and Americans can be assured they are getting the best quality of care. Health IT is about better care for patients who are ill, and it is also about preventive care for patients so they do not become ill.

The recovery bill recognizes that the goal is not health IT in every pot, but higher quality, more efficient care for every single American who interacts with our health care system. The economic recovery bill also recognizes that for some doctors, this is a lofty goal and that they will need more than money to get there.

Everyone knows that new technologies are hard to learn, hard to adapt to, and hard to incorporate into an existing system. You can be a brilliant doctor, a master at the healing arts, and still have trouble coping with the demands of a new information technology. It often seems easier to keep doing things as they have always been done. So this bill does not just hand out grants to buy big fancy new boxes of equipment to sit in office closets. This bill includes implementation assistance so the doctors have a little help opening that box, installing that technology, and putting it to work on behalf of their patients.

That assistance will be offered through regional extension centers, not unlike our agricultural extension service that has been helping farmers all over this great Nation for decades. Every Senator in this body from a rural State knows how helpful and effective the agricultural extension model is. And for those of us from urban areas, think of it as a ''geek squad'' for American doctors.

Third, the standards issue. Our esteemed colleague Dr. COBURN has often noted that the greatest challenge he sees in building up our national health information infrastructure is the lack of national standards. Doctors are often afraid to adopt new technology before they are sure their health information system will be able to talk to other doctors' health information systems. Fortunately, significant progress has been made in creating a broad set of standards for health information technology products, thanks in large part to the leadership of outgoing HHS Secretary Mike Leavitt. The recovery bill acknowledges that progress and builds upon it, establishing a new health information technology standards committee and establishing a process for the adoption of future standards, implementation specifications, and certification criteria so you know what you are buying meets the standards.

All that said, we all know that health information technology is ultimately about patients. Patients must trust and participate in the health information technology revolution if it is going to reach its full potential. Therefore, the recovery bill includes a number of vital privacy protections to ensure the security and the confidentiality of electronic patient records. These protections include changes in notification policy if there is an unauthorized acquisition or disclosure of health information. It includes the establishment of privacy officers in HHS regional offices, new restrictions on the sale of health information, improved enforcement of violations to privacy law, and other strong provisions.

I am well aware that privacy is a controversial and highly charged area of debate. I think it is important we all view the privacy provisions in this bill as the beginning and not the end of our national discussion about health care privacy.

These provisions will require oversight and, perhaps over time, adjustment. I look forward to this ongoing challenge and remain committed to being engaged in it. But for now, this is a good, strong privacy package. It has, I think, solid agreement in this building.

Last, but certainly not least, I wish to acknowledge the extraordinary work of the man who has been committed to health care in the Senate longer than anyone else—the incomparable Senator from Massachusetts, EDWARD KENNEDY. He has been a tremendous supporter of advancing health information technology for years, and was the primary architect of this language in the Senate. As always, we are in his debt for the expertise and the leadership, the passion and the compassion he provides, and we look forward to his speedy return to the floor.

I will conclude, Mr. President, by saying I know there is an enormous amount of politics now surrounding this economic recovery plan. But in order to try to make the politics look good, let us not hit what is probably the smartest and the best investment in this whole plan, one that not only works to provide jobs in a key American industry today but that lays the foundation for addressing what is probably the next biggest, most dangerous problem that is facing Americans behind this immediate economic crisis. Let us not be fools here in the service of political expedience. Let us stick with these health information technology elements of the bill, support them energetically, and I hope every colleague will see the wisdom of them and support their inclusion in this bill.

I thank the Presiding Officer very much for his courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 140

Mr. COCHRAN. Mr. President, I am bringing to the attention of the Senate my opposition to an amendment that has been offered on this bill. Earlier today, the Senator from Wisconsin, Mr. FEINGOLD, offered amendment No. 140 to create a so-called ''earmark point of order'' that would lie against appropriations provisions before the Senate. This amendment, if it should be adopted, serves no desirable purpose. In my opinion, on the contrary, it would only serve to weaken the Congress as an institution, and in relationship in particular to the administration, and would yield more authority to the unelected bureaucracy of the Federal Government to make decisions that all of our constituents in all of our States sent us here to make. It is, in effect, a restriction of the power of Congress and the direct representatives of the people and the States.

Individual appropriations bills should be brought to the floor subject to amendment by any Senator, whether a member of the Appropriations Committee or not, without any restrictions. This makes the Senate different from the House of Representatives, as all Senators know. The House has a Rules Committee. When legislation is brought to the floor of the House of Representatives, the originating committee has to go before the Rules Committee and basically get permission to call up the bill and present it to the body. The Rules Committee decides whether amendments will be in order and, if so, which amendments, and how much time for debate on the amendments. Here, we don't have a rules committee; it is not necessary. Each Senator is, in effect, the member of the rules committee. The Senate decides under its rules as a body, with each individual Senator having equal power and equal say as to what amendments can be offered. Any Senator should have the right to offer an amendment to any bill, and it doesn't have to be germane, unless cloture has been invoked.

So what this amendment seeks to do, intentionally or not, is to limit the power of this body to be involved in the process of deciding how taxpayer funds are going to be spent by the Federal Government and for what purposes. So this is an unnecessary abrogation of a constitutionally vested responsibility in the Senate. It subrogates the Senate to the power of the executive, and this amendment should be defeated.

The bill that contains the legislation offered by the Senator would not do anything about $100 billion in new programs that are being funded in this stimulus bill to which the amendment is being offered. There are 128 pages of legislation in the bill before the Senate dealing with health information technology, and $23 billion of funding is associated with that language—$23 billion. It is a new program that has not been authorized by the relevant committee. Is that subject to a point of order, I ask the Senate? I don't think so. But under the language of this amendment by the Senator from Wisconsin, I suppose it would be subject to a point of order, but nobody is demanding a point of order against the bill containing that provision.

Since I have been in the Senate, I have served on authorizing committees and the Appropriations Committee. The authorization process is an important function of our Senate. The Appropriations Committee works closely with authorizing committees. If any Senator opposes authorizing language that is contained in an appropriations bill, the Senator can offer an amendment to strike it. The Senate can strike the language if it determines that is the appropriate thing to do.

Now, all the committees produce earmarks, not just the Appropriations Committee. When I served on the Agriculture Committee, the farm bill customarily contained specific authorizations for expenditures of funds—entitlement to Federal dollars by certain classes of producers of agriculture products. If any Senator had an objection to any portion of that authorizing bill, he or she could offer an amendment to strike it or amend it. Individual Senators are free and have the power to modify any bill before the Senate, and appropriations bills are no different. But to give a Senator a point of order to raise over some provision with which they disagree is not an appropriate change in the rules of the Senate and should not be tolerated in this legislation. It should be stricken. My experience has shown that because a program is authorized doesn't necessarily mean it is a good idea or that it will be funded. And that is another point.

Supporters of the amendment have made it clear their goal is to get rid of all earmarks—however earmarks may be defined by them—regardless of what committee may produce them, regardless of whether they have been specifically authorized. This amendment is a step toward that goal, in my opinion. So I suggest that the Senate should look carefully and consider seriously the impact that this amendment may have, and when it is called up, if it is, I hope the Senate will vote it down.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, one specific area of this cobbled-together bill is spending. The bill provides significant increases in Medicaid spending. There is $87 billion in Medicaid funds in this bill. There is a fundamental change to Medicaid that is in the House bill waiting to be put into the Senate bill when it comes to conference.

There are numerous amendments to try to fix some of the problems with the Medicaid provisions of this bill, and I wish to discuss some of those at this point. I start with this $87 billion of FMAP money they have referred to. This is a huge payment to States. Now, some will say that $87 billion in Medicaid payments in this spending party bill is meant to help States pay for people already enrolled, but the facts tell a different story.

In January, the Urban Institute produced a report for the Kaiser Commission on Medicaid and uninsured titled ''Rising Unemployment, Medicaid and the Uninsured.'' The Urban Institute's research asserts that for every 1 percent increase in nationwide unemployment, Medicaid and Children's Health Insurance Programs will see an increase of 1 million additional beneficiaries nationwide.

I want to make clear that for the unemployed who qualify, we ought to provide enough money in Medicaid to take care of it, but we are raising questions about money beyond that. So we have this formula that is kind of a benchmark—this Urban Institute research. Using that formula and the unemployment baseline that is in the bill, I had the Congressional Budget Office prepare a cost estimate for an amendment giving States additional funding based on the Urban Institute's published research. This amendment would provide for an additional per capita Federal payment to States for every new enrollee—every new enrollee—that the Urban Institute research assumes will go on Medicaid or SCHIP during the 27 months contemplated in this bill.

Everyone watching probably knows that the Urban Institute is not exactly a conservative think tank, so their research should be credible to my friends on the other side of the aisle. Now, remember, the cost of the additional Medicaid funds for States in this bill is a whopping $87 billion. The cost of my amendment to take care of the unemployed going on SCHIP or on Medicaid—$10.8 billion. That is $10.8 billion for what the Urban Institute suggests are enrollment-driven increases in Medicaid spending due to the recession.

So the question is: Why does this bill provide almost eight times what the States actually need for new enrollments resulting from this economic downturn? The Senate is considering $87 billion in funding because States are facing deficits of as much as $312 billion in the aggregate over the next 2 years. So let us not kid ourselves. What this is all about is a bill giving States money to help them fill their deficits. This outlandish sum of money is not needed for Medicaid. It might be needed for something else—and we ought to discuss it in terms of the something else—but not for Medicaid.

So you may want to ask: What commitment is Congress getting from the States in exchange for $87 billion, of which only $10.8 billion might be used for the need for which is supposedly in this legislation? Congress is giving States $87 billion and hoping that States don't take actions contrary to Medicaid actually providing the care that people need. I use the word ''hope'' because the underlying bill doesn't do enough to make sure the States do what is best for Medicaid. Does the bill prevent States from cutting their Medicaid Programs? It does not. The bill only prevents States from cutting Medicaid income eligibility. But if Congress is giving States $87 billion and telling them not to cut Medicaid eligibility, I think it is very important we in Congress also tell the States that they can't cut benefits. But this bill doesn't do that. If Congress is giving States $87 billion and telling them not to cut Medicaid eligibility, shouldn't Congress also tell States they can't cut payments to providers? So you have eligibility, you have providers, you have benefits—and we are only dealing with eligibility in this bill—and, yet, giving out $87 billion of which almost $11 billion is needed for the purpose of unemployed going on Medicaid.

States cannot change income eligibility, but under this bill as written they can cut provider payments to doctors, pharmacists, dentists, and benefits to providers.

Will there be Medicaid beneficiaries who are elderly or disabled, able to receive home- and community-based services? If we want to keep seniors and the disabled in their homes rather than in institutions, paying direct care workers to provide home- and community-based services is very critical to that goal.

Will there be enough pharmacists taking Medicaid? Will there be enough rural hospitals and public hospitals taking Medicaid?

I had one member of the Senate Finance Committee on my side of the aisle tell me in that State, their State legislature owes $400 million to hospitals. Shouldn't we be taking care of problems like that?

Will there be enough community health centers taking Medicaid? Will Medicaid beneficiaries who are elderly or disabled get into nursing homes if they need to do that?

Will States cut mental health services because Congress didn't prevent them from doing so in this bill, even at the same time giving them $87 billion, which is about $76 billion more than

the demands of Medicaid because of unemployment?

Will there be pediatricians or children's hospitals there for children on Medicaid?

If the Senate does nothing to protect access to these vital providers, nobody will be able to assure the people who count on Medicaid that the care they need will be there for them. I have filed an amendment that prevents States from generally cutting eligibility and benefits and provider payment rates while they are receiving the $87 billion in additional aid. In other words, I go beyond just a requirement in the underlying bill that eligibility can't be changed. We go to benefits and we go to protecting providers.

If we want to protect Medicaid, then we ought to really protect Medicaid. I hope we will do that by adopting this amendment.

As written, the bill gives States $87 billion, also in the hopes that States do not take action that is contrary to economic growth. Here again, I use the word ''hope'' because the bill doesn't do enough to make sure States do what is best for the economy either. We should ask for more guarantees that States will spend the money appropriately and not make decisions that work against economic recovery. If Congress gives States $87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise taxes because, if States react to their deficit by increasing taxes—even in view of getting this $87 billion—they will defeat the goal of economic recovery that we in Congress are trying to make happen through this legislation. For sure you do not increase taxes at a time of economic distress because it is going to make that distress worse. It makes no sense for us to leave the door wide open then for States to raise taxes while getting a $87 billion windfall from the Federal Government.

I have an amendment that prevents States from raising income, personal property, or sales taxes as a condition of the receipt of $87 billion in Federal assistance. If Congress gives States $87 billion and tells them not to cut Medicaid, should Congress also tell States not to raise tuition at State universities? There is a report out just today that I heard about on the news about how unaffordable college is becoming, particularly to middle-income Americans. People are not going to go to college even though a college degree is very essential for success in our society, and we are here giving $87 billion to States without any direction to the States whether or not they increase tuition once again, as they tend to do every year.

If States can price young people out of an education, that does nothing for preparing our workforce for the 21st century. So I also have an amendment that prevents States from raising tuition rates at State colleges and universities as a condition of the receipt of the $87 billion of Federal assistance.

For $87 billion—we are talking about $87 billion, just to give to the States—shouldn't Congress expect States to modernize their Medicaid Program? We have heard my friend and colleague, Dr. COBURN, having an amendment requiring States to improve chronic care in Medicaid and develop medical homes as a condition of the receipt of $87 billion in Federal assistance—because these things are some of the best advancements you can make in the practice of medicine that are going to improve the quality of life, but more important they save taxpayer dollars or even private dollars. For $87 billion, what does this bill do to ensure that all those Federal taxpayers' dollars are being spent appropriately? Almost nothing.

During the markup we were able to get funding for the Department of Health and Human Services Office of Inspector General increased by $3.25 million. For those of you doing the math back home, $3,250,000 is just under four one hundredths of 1 percent of the $87 billion Medicaid spending on the bill. Senator CORNYN and I have an amendment that requires States to do something to improve their waste, fraud, and abuse rates in exchange for the $87 billion in Federal taxpayers' money. That is what that money for the inspector general is all about. It provides a list of eight options to combat waste, fraud, and abuse, and the Secretary can provide more options at his or her discretion as well.

States are given time to plan and implement options. States can choose to make their payments transparent. States can choose to implement recovery audit contractors—as is used very successfully in Medicare. States can choose the Medicare/Medicaid data matching program. States can implement third party liability programs that find other insurers who should pay before Medicaid pays out of the public fisc. States can implement electronic verification systems to limit fraud and abuse. States can implement the recently passed Paris system to protect the integrity of the program. States can comply with the recently implemented disproportionate share hospital audit requirement. States can choose to increase their budget for Medicare fraud control units. These are all very reasonable steps that States could and should take, if Congress is going to send them $87 billion in additional Medicaid dollars, when only $10.8 billion of that is necessary to take care of the people who will go on Medicaid because they are unemployed.

They do not have to do all these options I just gave. They only have to do four of these many options; just show the American people that States can take four simple steps to reduce fraud, waste, and abuse. Shouldn't Congress at least ask that much of the State, for $87 billion? If Congress is going to give States $87 billion in Medicaid funds, shouldn't the formula be fair?

While I admire the hard work devoted to the exceedingly complex formula in this bill, it simply is not fair to certain States. States with low unemployment rates, States that have not seen the recession hit in full yet—those States will see less of the $87 billion than other States.

Senator BINGAMAN started down this road to correct this in our Finance Committee markup. You have an amendment that picks up the baton and drives it the rest of the way home. Each State gets a flat 9.5-percent increase in their FMAP payment and States can choose which 9 consecutive quarters in an 11-quarter period best fits the economic needs of their specific State. This is a better, this is a fairer way to spend $87 billion.

If Congress passes all of this Medicaid spending, what guarantee do we have that the fiscal challenges facing Medicaid in the future will be solved? Sooner rather than later, we all must recognize our entitlements are unsustainable as currently constructed.

President Obama has acknowledged this himself on numerous occasions recently. One of my concerns about the additional Medicaid funding that is in this bill is that it places too much emphasis on Medicaid in the here and now, the short term, and ignores future fiscal challenges down the road, the next two or three decades.

Just last year the Center for Medicare Services Office of Actuary reported that Medicaid costs will double over the next decade. That is simply unsustainable, and I think every Senator knows that. It is critical that both the Federal Government and States recognize the fiscal challenges we face and the need to take action right now. Senators CORNYN and HATCH and I have an amendment that requires States to submit a report to the Secretary detailing how they plan to address Medicaid sustainability. It is critical that we look at the future of Medicaid if Congress is to give States $87 billion in additional Medicaid funding when it is only going to take about $10.8 billion to take care of the uninsured because of the economic recession we are in.

The House bill has a provision that fundamentally changes Medicaid. Medicaid is a program that is generally, as we know, for low-income pregnant women, children, and low-income seniors. Under the House bill, the Federal taxpayer would step in to pay the full cost to provide Medicaid coverage to people who lose their jobs and are not eligible for continuing coverage from their employer. Normally, Medicaid is supposed to be a shared State/Federal responsibility, with the States and the

Federal Government sharing the costs on a national average—57 percent to 43 percent. In my particular State, the Federal Government pays 62 percent—but not in this new Medicaid Program the House would create because under the House bill—get this—the Federal Government, for the first time ever, would pick up 100 percent of the costs. The House bill transforms Medicaid into a coverage for anyone who loses their job if they do not have access to COBRA coverage from their former employer, and the House bill would offer this taxpayer-paid Medicaid coverage regardless of how wealthy they might be.

Now Medicaid is for low-income people, but it is being expanded in the House to, no matter how wealthy you might be, but being unemployed, you could qualify for Medicaid. Tell me if that is not a waste of taxpayers' money. It is taxing low-income people to help wealthy people, just the opposite of what we normally do in this country.

With all the fiscal challenges this country faces, and with entitlement spending already out of control, this ought to be seen by every Member of the Senate as an outrage. Obviously, it was not an outrage to the 244 people who voted for it in the other body. I hope folks on the other side of the aisle will come to the floor and defend a policy that, if you are unemployed—I suppose if you are an unemployed CEO who previously made $5 million, you can walk into the State office and get Medicaid. I don't understand it.

My bigger concern is what happens in 2 years when the money goes away. On December 31, 2010, what happens to all the people who have been covered by this massive expansion of Medicaid entitlement? What happens to all of the people who have been added to the rolls in States that expand coverage with the $87 billion influx in this bill, when only $10.8 billion is needed, according to CBO, based on the Urban Institute program, for those who are going to be unemployed? Mr. President, $76 billion more is going to be spent someplace.

Someone on the other side needs to convince me that this policy we are putting in place is truly temporary. I do not buy that it is temporary. Every one of us knows the States will be coming back in the middle of next year to beg for an extension so they don't have to cut Medicaid rolls. There are too many former Governors in this Chamber for anyone to argue that it is not going to happen.

I know a lot of people have worked very hard putting this bill together. I respect that they have worked hard. I wish they would have worked smarter. Giving States $87 billion even though that is about eight times what they need to stay ahead of enrollment-driven Medicaid increases is not well thought out. Giving States $87 billion while still allowing them to cut their Medicaid Program is not well thought out. Giving States $87 billion while still allowing them to raise taxes or tuition is not well thought out. Giving States $87 billion without requiring them to do a better job of addressing fraud, waste, and abuse is not well thought out. Giving States $87 billion without making them address the fiscal sustainability of their Medicaid Program is not well thought out. A massive expansion of the entitlements under the guise of the word ''temporary'' is not well thought out.

This bill is cobbled together—a spending party. It is not well thought out. It is out of control. The Senate should support numerous amendments, as I have discussed this afternoon, to address the shortcomings that occur when partisan bills are moved too quickly.

I filed what is referred to as a Grassley-Schumer amendment to amend the American Opportunity Tax Credit work. In my opinion, the amendment makes the American Opportunity Tax Credit better. Senator SCHUMER agrees with the me, or obviously he would not be cosponsoring this with me, because he is joining me.

I thank Senator SCHUMER for his support and look forward to working with him on simplifying the education tax credit Congress has put into the Tax Code. I have long been an advocate for helping Americans afford college through the Tax Code. So when I was chairman of the Finance Committee, I successfully included a number of education measures in that tax bill of 2001. These measures were enacted into law as part of a bipartisan agreement—I want to emphasize, bipartisan agreement. Now Americans can take an above-the-line deduction for the cost of higher education expenses because of that bill. In addition, people with student loans have greater flexibility when deducting student loan interest. I have also promoted section 529 qualified tuition programs by repealing the sunset provisions Congress imposed back in 2001.

The other education tax provisions we included in the 2001 bipartisan tax legislation should also be made permanent. Several provisions would fall into that category, but that debate will be left to another day. We are not pursuing that on this bill.

Today, Senator SCHUMER and I are here to build on the American Opportunity Tax Credit included in the legislation we are debating today. This is how we do it. The amendment Senator SCHUMER and I are offering would increase the tax credit while maintaining a refundable portion of the tax credit, which will help low-income individuals with college expenses. The amendment would also spread out the way the tax credit is calculated. Under this amendment, more Americans will receive a more robust and uniform tax credit regardless of income. In addition, taxpayers currently claiming the HOPE scholarship credit will get a bigger tax benefit. Again, low-income individuals will continue to benefit from the credit's refundability feature, which I will note has never been done in the area of education tax until now.

If my Senate colleagues argue that the Grassley-Schumer amendment adds to the cost of the stimulus package—which, in full disclosure, the amendment adds $3 billion to the existing $10 billion price tag on the American Opportunity Tax Credit—I will tell them to cut wasteful spending that is included in the bill.

The Grassley-Schumer amendment is stimulative. The same cannot be said for the spending provisions in the bill, including millions upon millions of dollars for parking garages or millions upon millions of dollars for swimming pools, water slides. This spending does not pass the stimulative test.

The Joint Committee on Taxation has even said that under the Grassley-Schumer amendment, we will ''lower the cost of higher education, which will induce more individuals to enroll in higher education programs.''

So I hope everybody agrees that this is a very good thing, particularly considering the fact that there was this report on the news today where there is, particularly because of the recession we are in, not enough middle-income people going to college because of the problems we have. So we need to make more help available for people going to college, especially for displaced workers who would like to go back to school for training in another career. That is more essential during an economic downturn like we now have. An education means jobs, and that is what a large part of this stimulus package is all about.

I urge my colleagues to support the Grassley-Schumer amendment.

Lastly, and then I will yield the floor, I have a statement I wish to read entitled ''CBO Analysis'' that shows stimulus bill jobs to cost as much as $300,000 each. A preliminary analysis by the Congressional Budget Office shows that the jobs created by the economic stimulus legislation being debated in the Senate will cost taxpayers between $100,000 and $300,000 apiece. These numbers should be contrasted to those under the January baseline of the Congressional Budget Office in which there is no stimulus. That shows the gross domestic product per worker is about $100,000. The new analysis indicates the cost of each stimulus job to be as much as three times more than jobs created without the stimulus bill.

There has been a lot of talk about bang for the buck, but there is no talk about actually making sure it happens so that Americans get the help they need. Before Congress spends another

$1 trillion, we ought to make sure we are getting our money's worth. Congressional leaders should postpone a final vote on a stimulus bill until the Senate has had the opportunity to carefully review a full analysis of the Congressional Budget Office.

Mr. President, I ask unanimous consent to have the February 4, 2009, CBO report printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 4, 2009.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office (CBO) has conducted an analysis of the macroeconomic impact of the Inouye-Baucus amendment in the nature of a substitute to H.R. 1. CBO estimates that this Senate legislation would raise output and lower unemployment for several years, with effects broadly similar to those of H.R. 1 as introduced. In the longer run, the legislation would result in a slight decrease in gross domestic product (GDP) compared with CBO's baseline economic forecast.

EFFECTS ON OUTPUT AND EMPLOYMENT

The macroeconomic impacts of any economic stimulus program are very uncertain. Economic theories differ in their predictions about the effectiveness of stimulus. Furthermore, large fiscal stimulus is rarely attempted, so it is difficult to distinguish among alternative estimates of how large the macroeconomic effects would be. For those reasons, some economists remain skeptical that there would be any significant effects, while others expect very large ones.

CBO has developed a range of estimates of the effects of the Senate legislation on GDP and employment that encompasses a majority of economists' views. According to these estimates, implementing the Senate legislation would increase GDP relative to the agency's baseline forecast by between 1.2 percent and 3.6 percent by the fourth quarter of 2010. It would also increase employment at that point in time by 1.3 million to 3.9 million jobs, as shown in Table 1. In that quarter, the unemployment rate would be 0.7 percentage points to 2.1 percentage points lower than the baseline forecast of 8.7 percent. The effects of the legislation would diminish rapidly after 2010. By the end of 2011, the Senate legislation would increase GDP by 0.4 percent to 1.2 percent, would raise employment by 0.6 million to 1.9 million jobs, and would lower the unemployment rate by 0.3 percentage points to 1.0 percentage point.

Those estimated effects differ modestly from CBO's estimates for H.R. 1 as introduced. In particular, the effects on output and employment are slightly higher in 2009 and 2010, but slightly lower in 2011. The differences stem from three main sources. First, the Senate legislation's provisions regarding the alternative minimum tax (AMT), which do not appear in the House bill, would add stimulus to the economy, especially in 2010. Second, the Senate legislation would allow faster spending from the State Fiscal Stabilization Fund, increasing such spending by about $20 billion over the 2009–2010 period compared with that under the House bill (and decreasing spending correspondingly in the following years). And last, the estimated decrease in withholding (and thus the reduction in revenues) associated with the Making Work Pay Credit would be greater in 2009 under the Senate legislation than under H.R. 1.

EFFECTS OF VARIOUS TYPES OF LEGISLATIVE PROVISIONS ON OUTPUT

Although the Senate legislation has numerous detailed provisions, the macroeconomic effects can be illustrated by considering the provisions in seven categories. Table 2 shows the range of estimated effects on the economy—the multiplier effects—of a one-time increase of a dollar of additional spending or a dollar reduction in taxes. For all of the categories that would be affected by the Senate legislation, the resulting budgetary changes are estimated to raise output in the short run, albeit by different amounts.

The numbers in Table 2 indicate the cumulative impact on GDP over several quarters. For example, a one-time increase in federal purchases of goods and services of $1.00 in the second quarter of this year would raise GDP by $1.00 to $2.50 in total over several quarters, with most of that effect in the first two quarters and little effect beyond a year.

As shown in the first two categories in the table, direct purchases of goods and services by governments, including investment in infrastructure, tend to have relatively large effects on GDP. Because infrastructure spending takes time to occur, increased funding for that purpose would not boost outlays or GDP much this year, but it would probably provide significant stimulus from 2010 through 2012.

Grants to state and local governments (such as increased assistance for education) might not increase state spending for the programs designated in the grants but, instead, might free up funds that the states would otherwise spend on those programs. States could use those extra funds in a variety of ways: direct purchases of goods and services (or smaller cuts in such purchases), tax cuts (or smaller tax increases), transfer payments, or reduced borrowing. The impact of grants therefore would depend on how states used them.

Transfers to persons (for example, unemployment insurance and nutrition assistance) would also have a significant impact on GDP. Transfers have a relatively strong effect on consumption because they tend to go to people, such as the poor or unemployed, who are likely to spend much of any additional income. For that reason and because transfers can be increased quickly, they are estimated to have a significant impact on GDP by early 2010. Transfers also include refundable tax credits, which have an impact similar to that of a temporary tax cut.

A dollar's worth of a temporary tax cut would have a smaller effect on GDP than a dollar's worth of direct purchases or transfers, because a significant share of the tax cut would probably be saved. The amount saved, and therefore the size of the effect on GDP, would depend on who received the tax cut and how temporary it would be. Most households probably save most of a temporary tax cut, to keep their purchases relatively smooth over time. However, the predominantly lower-income households that spend all of their income and would like to borrow funds to spend more if they could (that is, households that are "liquidity constrained") probably spend a large share of temporary boosts to income. In addition, the longer a tax cut is expected to last, the greater the impact on total after-tax income, and the larger the likely effect on consumption.

CBO's analysis divides the temporary tax cuts in the Senate legislation into those that would go primarily to higher-income households and last for only one year (mostly the provisions affecting the AMT) and those that would go primarily to lower- and middle-income households and last for two years (predominantly the Making Work Pay Credit), with the former having a considerably lower range of multipliers than the latter. Taken together, the temporary nonbusiness tax cuts in the Senate legislation would reduce revenues much more in 2010 than in 2009 because much of the reduction in taxes would be realized by households when they filed their returns in 2010.

The provision for greater tax-loss carrybacks would result in a large up-front cost to the government, but the effect of that provision on business spending would probably be small because it primarily would affect firms' after-tax income rather than their marginal incentives for new investment. Therefore, the effect of the provision on revenues would be significantly greater than its effect on the economy.

THE RELATIONSHIP BETWEEN OUTPUT AND EMPLOYMENT

CBO derived its estimates of the effect of the Senate legislation on employment from the estimated effect on GDP. Historical evidence suggests that GDP growth that is 1 percentage point faster over a year (relative to a baseline forecast) will cause the unemployment rate to decline by a little more than half a percentage point (relative to a corresponding baseline forecast). The fall in the unemployment rate leads more people to enter the labor force and seek jobs and fewer to drop out. Therefore, employment rises both from a decline in the number of unemployed workers and a decline in the number of people out of the labor force. In addition, some workers otherwise working part time move to full-time status.

The change in employment relative to the change in GDP in CBO's estimates is small compared with that in most industry-based studies of stimulus. By the end of 2010, CBO estimates, about $140,000 of additional GDP would lead to one additional person employed. That relationship is similar to those indicated by other macroeconomic studies of stimulus proposals. However, a number of other sorts of studies imply more employment per dollar of additional GDP. Because the macroeconomic studies use the historical relationship between changes in economic growth and changes in jobs, they incorporate a number of broad economic effects. For example, output per employee tends to fall in a recession because employers try not to fire their best workers even as they cut production in response to decreased demand. Therefore, as fiscal stimulus increases demand, firms can ramp up production without increasing employment proportionally. Historical evidence thus suggests that fiscal stimulus boosts both productivity and hours of work as well as employment. Studies that ignore those effects are likely to overstate the impact of fiscal stimulus on employment.

LONG-RUN EFFECTS ON OUTPUT

Most of the budgetary effects of the Senate legislation occur over the next few years. Even if the fiscal stimulus persisted, however, the short-run effects on output that operate by increasing demand for goods and services would eventually fade away. In the long run, the economy produces close to its

potential output on average, and that potential level is determined by the stock of productive capital, the supply of labor, and productivity. Short-run stimulative policies can affect long-run output by influencing those three factors, although such effects would generally be smaller than the short-run impact of those policies on demand.

In contrast to its positive near-term macroeconomic effects, the Senate legislation would reduce output slightly in the long run, CBO estimates, as would other similar proposals. The principal channel for this effect is that the legislation would result in an increase in government debt. To the extent that people hold their wealth as government bonds rather than in a form that can be used to finance private investment, the increased debt would tend to reduce the stock of productive capital. In economic parlance, the debt would ''crowd out'' private investment. (Crowding out is unlikely to occur in the short run under current conditions, because most firms are lowering investment in response to reduced demand, which stimulus can offset in part.) CBO's basic assumption is that, in the long run, each dollar of additional debt crowds out about a third of a dollar's worth of private domestic capital (with the remainder of the rise in debt offset by increases in private saving and inflows of foreign capital). Because of uncertainty about the degree of crowding out, however, CBO has incorporated both more and less crowding out into its range of estimates of the long-run effects of the Senate legislation.

The crowding-out effect would be offset somewhat by other factors. Some of the Senate legislation's provisions, such as funding for improvements to roads and highways, might add to the economy's potential output in much the same way that private capital investment does. Other provisions, such as funding for grants to increase access to college education, could raise long-term productivity by enhancing people's skills. And some provisions would create incentives for increased private investment. According to CBO's estimates, provisions that could add to long-term output account for roughly one-quarter of the legislation's budgetary cost.

The effect of individual provisions could vary greatly. For example, increased spending for basic research and education might affect output only after a number of years, but once those investments began to boost GDP, they might pay off over more years than would the average investment in physical capital (in economic terms, they have a low rate of depreciation). Therefore, in any one year, their contribution to output might be less than that of the average private investment, even if their overall contribution to productivity over their lifetime was just as high. Moreover, while some carefully chosen government investments might be as productive as private investment, other government projects would probably fall well short of that benchmark, particularly in an environment in which rapid spending is a significant goal. The response of state and local governments that received federal stimulus grants would also affect their long-run impact; those governments might apply some of that money to investments they would have carried out anyway, thus freeing funds for noninvestment purposes and lowering the long-run economic return to those grants. In order to encompass a wide range of potential effects, CBO used two assumptions in developing its estimates: first, that all of the relevant investments together would, on average, add as much to output as would a comparable amount of private investment, and, second, that they would, on average, not add to output at all.

In principle, the legislation's long-run impact on output also would depend on whether it permanently changed incentives to work or save. However, according to CBO's estimates, the legislation would not have any significant permanent effects on those incentives.

Including the effects of both crowding out of private investment (which would reduce output in the long run) and possibly productive government investment (which could increase output), CBO estimates that by 2019 the Senate legislation would reduce GDP by 0.1 percent to 0.3 percent on net. H.R. 1, as passed by the House, would have similar long-run effects. CBO has not estimated the macroeconomic effects of the stimulus proposals year by year beyond 2011.

OTHER EFFECTS OF STIMULUS PROPOSALS

It is important to note that effects on GDP, the aggregate domestic output of the economy, do not necessarily translate into effects on people's well-being. First, the part of GDP that contributes directly to people's welfare is consumption. However, changes in GDP do not necessarily imply corresponding changes in consumption. For example, if GDP rises because foreigners finance greater investment, much of the additional income generated by the investment will flow overseas as payments to foreigners and will not be available to support higher consumption.

More fundamentally, many things that make people better off do not appear in GDP at all. For example, healthier children or shorter commute times can improve people's welfare without necessarily increasing the nation's measured output in the long run (though spending in those areas would still provide short-run stimulus). Even legislation explicitly intended to affect output may also seek to accomplish other goals and can be evaluated accordingly.

I hope this information is helpful to you. If you have any further questions, I would be glad to answer them. The staff contacts for the analysis are Ben Page and Robert Arnold.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

TABLE 1.—ESTIMATED MACROECONOMIC IMPACTS OF THE INOUYE-BAUCUS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1, FOURTH QUARTERS OF 2009, 2010, AND 2011

	2009	2010	2011
GDP (Percentage from baseline):			
Low estimate of effect of plan	1.4	1.2	0.4
High estimate of effect of plan	4.1	3.6	1.2
GDP Gap[a] (Percent):			
Baseline	−7.4	−6.3	−4.1
Low estimate of effect of plan	−6.1	−5.2	−3.7
High estimate of effect of plan	−3.7	−3.0	−2.9
Unemployment Rate (Percent):			
Baseline	9.0	8.7	7.5
Low estimate of effect of plan	8.5	8.1	7.2
High estimate of effect of plan	7.7	6.7	6.5
Employment[b] (Millions of jobs):			
Baseline	141.6	143.3	146.2
Low estimate of effect of plan	142.5	144.6	146.8
High estimate of effect of plan	144.0	147.2	148.1

Source: Congressional Budget Office.
[a] The GDP gap is the percentage difference between gross domestic product and CBO's estimate of potential GDP. Potential GDP is the estimated level of output that corresponds to a high level of resource—labor and capital—use. A negative gap indicates a high unemployment rate and low utilization rates for plant and equipment.
[b] Figures for employment are based on surveys of households.

TABLE 2.—POLICY MULTIPLIERS: THE CUMULATIVE IMPACT ON GDP OVER SEVERAL QUARTERS OF VARIOUS POLICY OPTION

	High–	Low
Purchases of Goods and Services by the Federal Government–	2.5–	1.0
Transfers to State and Local Governments for Infrastructure–	2.5–	1.0
Transfers to State and Local Governments Not for Infrastructure–	1.9–	0.7
Transfers to Persons–	2.2–	0.8
Two-Year Tax Cuts for Lower- and Middle-Income People–	1.7–	0.5
One-Year Tax Cuts for Higher-Income People–	0.5–	0.1
Tax-Loss Carryback–	0.4–	0—

Note: For each option, the figures shown are a range of ″multipliers,″ that is, the cumulative change in gross domestic product over several quarters, measured in dollars, per dollar of additional spending or reduction in taxes.
Source: Congressional Budget Office.

Mr. LIEBERMAN. Mr. President, I rise to address comments made by my colleagues regarding several measures for the Department of Homeland Security in the American Recovery and Reinvestment Act: the $248 million provided for the construction of a consolidated headquarters, and the $500 million provided to fund construction and renovation of fire stations. These are both projects that will save lives, save

money, and most importantly for this bill, create jobs.

The Senator from South Carolina has included funding for the DHS headquarters project among a list of what he refers to as ''cats and dogs'' which he is intent on stripping from the bill. But the DHS consolidation project is far more important to our Nation than those comments might suggest.

DHS is responsible for leading a unified, national effort to secure the United States, yet the Department does not have all the necessary tools to do so, including an adequate headquarters. DHS is currently spread throughout more than 70 buildings located on 40 sites across the national capital region making communication, coordination, and cooperation among DHS components a significant challenge. Moreover, the existing space housing the Office of the Secretary, Intelligence, and other key functions is grossly inadequate, contributes to recruitment and morale problems, and is simply not befitting a cabinet agency critical to Americans' security.

Some of my colleagues have argued that funding this important homeland security project is not appropriate in the stimulus bill. I respectfully disagree.

The DHS headquarters project will create jobs. The final environmental impact statement for the headquarters plan found that the overall project would create direct employment opportunities for over 32,000 people in the national capital region. Put another way, the economy would gain payroll earnings of approximately $1.2 billion during construction and renovation of the St. Elizabeths West Campus plus approximately $3.8 billion in additional expenditures during the construction phases.

Funding this project through the stimulus will also expedite the creation of these jobs. DHS estimates that the funding included in this bill will allow the headquarters project to be completed 12 months earlier than previously planned. This means funding will be spent into the local economy earlier creating real jobs and stimulating economic growth in DC, Maryland, and Virginia when it is most needed.

This bill will also save money. Accelerating the project will reduce the cost of the overall headquarters project by $18 million. Moreover, the Federal Government will be able to negotiate better prices with contractors because they can sign larger contracts up front which will result in additional cost savings.

In short, this project creates a win-win situation by creating jobs today and saving money for the taxpayer in the long run. And, most importantly, by fostering a more efficient and effective Department of Homeland Security, it will make our country safer.

I would also like to take a moment to address the mischaracterization by some of my colleagues and members of the media that this money will only be spent on furniture. The $248 million allocated to DHS will fund construction, IT infrastructure, security, and a host of other activities associated with constructing a building. Furniture is one allowable use of the funding, however less than 7 percent of the total funding proposed for the headquarters in this bill would be allocated towards furniture.

And I would also like to address the comments of my colleague from Oklahoma regarding the value and the appropriateness of providing funds for the construction of fire stations. I would argue that as an issue of security, safety, and of job creation, there is nothing more valuable or appropriate.

The Nation's fire houses are in dire need of attention. In cities and towns across America, they are too few in number, aging, and crumbling, and as a result, they are inadequate to provide the necessary protection to families and communities. The U.S. Fire Administration—a part of the Department of Homeland Security—has provided a grim picture in its second needs assessment of the U.S. Fire Services. Consider the following: 60 to 75 percent of fire departments have too few stations to provide an optimal response; 36 percent of fire stations in the United States are over 40 years old; 54 percent of fire stations lack backup power; and 72 percent of fire stations are not equipped for exhaust emission control.

These figures show that our country's fire stations are just not able to ensure that firefighters can serve the needs of their communities with the adequate safety and effectiveness. These infrastructure problems are spread across the country, in communities large and small. Permit me to address the need for building more fire stations, from the ground up, to ensure that there are enough to protect the public.

Without an adequate number of fire stations, the response time of firefighters may increase significantly in incidents where every moment counts. A fire doubles in size every 60 seconds. A heart attack victim suffers irreversible brain damage after four minutes. So imagine the impact on a neighborhood where the fire houses are spread too far apart—imagine the increase in risk of death, injury, and property damage. This is a risk we cannot afford to take.

This funding, which would be distributed by the Department of Homeland Security to the communities with the greatest need, could be applied immediately to projects in need of attention right now. The U.S. Conference of Mayors has identified over 100 fire station construction or renovation projects that are ''Ready to Go,'' so thousands of jobs would be created immediately with this $500 million. This is funding that we cannot afford to trim from this bill—both for the jobs it creates, and the safety and security it will provide for our communities.

I encourage my colleagues to look at the facts. These projects, which are essential to the security of our Nation and our communities, will also create jobs and stimulate the economy. It is not wasteful spending and belongs in the stimulus bill we are considering today.

Mr. INOUYE. Mr. President, earlier today Senator MCCONNELL singled out for criticism funding in this bill for upgrades of outdated information technology at the State Department and U.S. Agency for International Development.

He said: ''$524 million for a program at the State Department that promises to create 388 jobs . . . that comes to $1.35 million per job.'' He went on to say: ''$100 million for 300 jobs at the U.S. Agency for International Development, $333,333 per job.''

With all due respect to my friend, the minority leader and former chairman of the State and Foreign Operations Subcommittee who was a strong supporter of these programs in the past, that is a simplistic statement which does not tell the whole story.

First, it undercounts the number of jobs these funds will generate, as I will explain. And second, it implies that the only value of a stimulus project is the jobs created, as if the resulting product is of no value. If we adopt that standard, I hate to think what the minority leader would say about other Federal projects, whether the cost of building the Washington Monument or a project in his State.

Computer systems are inherently not personnel intensive, but they do have a significant impact on the supply chain economy.

The State Department's and USAID's estimate of the number of jobs related to information technology upgrades is approximately 688 jobs. I doubt the unemployed citizens of Kentucky, any more than the citizens of Hawaii, would scoff at that number.

But this does not take into account the jobs created across the country when a Federal agency has a major investment in computer technology and systems. Much of the hardware would be manufactured by workers here in the U.S. Other components are made overseas and shipped to our ports, like Long Beach, CA.

U.S. workers unload the container ships and load the computer parts onto trucks or rail cars. Those trucks or trains travel across the country, and their drivers purchase fuel and food. The components are then unloaded and delivered to their final destination.

The 688 jobs cited by the Senate Appropriations Committee were merely

those jobs directly identified with installing these computer systems and providing services to these Federal agencies. It does not take into account the impact of manufacturing, purchasing, and transporting new equipment.

But this funding will do more than create jobs.

The information technology upgrades proposed in this bill would improve the worldwide technology capabilities of two Federal agencies which are out of warranty and not up to current user demands. These technology systems form the core of communications between Washington and posts overseas.

Some of these funds would be used to upgrade secure phones as the current secret level phones are no longer supported by the available technology.

The Department has identified serious weaknesses in cybersecurity which these funds will address. Recent legislation mandating the Comprehensive National Cybersecurity Initiative requires all Federal agencies to become compliant with new standards to prevent cybercrime.

Federal agencies working overseas are particularly vulnerable to attack from foreign agents attempting to hack into the State Department's computer system. Sometimes this is to gain intelligence, but recently entire government computer systems have been taken down by malicious actors.

We cannot take this risk, which is why the Congress supported legislation last year to improve cybersecurity measures. Funds in this bill would address that need. Without these funds the State Department would not likely be able to make these critical investments for some years.

Funds will also be used to construct a back-up site for the worldwide information technology system, to prevent a single-point failure in communications. This need was identified after the 9/11 attacks by many independent reviews, but there have not been sufficient funds in the budget. This investment would ensure that the State Department's technology system, which supports 265 embassies and consulates in 154 countries, would not shut down if there is a major incident on the east coast of the U.S., like a power failure.

No. 1, the bill includes funding for many Federal agencies and departments to upgrade facilities or technology, and the State Department funding is in line with these same types of projects.

No. 2, this funding included for the State Department and USAID is for existing construction projects and upgrades that have been under-funded or deferred for years.

No. 3, these will support only domestic facilities which will improve the efficiency of the State Department's operations and create jobs in the U.S.

No. 4, in several instances, like the diplomatic security training facility and cybersecurity upgrades, the funds will strengthen security for U.S. diplomats posted overseas.

No. 5, all of the funds will be spent domestically at facilities in the U.S.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that at 5:45 today, the Senate proceed to vote in relation to the amendments specified in this agreement in the order listed; that no amendment be in order to any of the amendments prior to the vote; that there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote; and that after the first vote, the succeeding votes be limited to 10 minutes each: Vitter amendment No. 179; Isakson amendment No. 106, as modified; Cardin amendment No. 237; DeMint amendment No. 168; Thune amendment No. 238; Martinez amendment No. 159, that the amendment be modified with the changes at the desk; McCain amendment No. 278, that the amendment be modified with the changes at the desk; Bond amendment No. 161; Inhofe amendment No. 262; Cornyn amendment No. 277; Bunning amendment No. 242; Dorgan amendment No. 300; and McCain amendment No. 279.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 159 and 278), as modified, are as follows:

AMENDMENT NO. 159

At the end of division B, add the following:

TITLE VI—FORECLOSURE MITIGATION

SEC. 6001. SHORT TITLE.

This title may be cited as the "Keep Families in Their Homes Act of 2009".

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) the term "securitized mortgages" means residential mortgages that have been pooled by a securitization vehicle;

(2) the term "securitization vehicle" means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term "servicer" means a servicer of securitized mortgages;

(4) the term "eligible servicer" means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term "eligible mortgage" means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term "Secretary" means the Secretary of the Treasury;

(7) the term "effective term of the Act" means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term "incentive fee" means the monthly payment to eligible servicers, as determined under section 6003;

(9) the term "Office" means the Office of Aggrieved Investor Claims established under section 6004(a); and

(10) the term "prepayment fee" means the payment to eligible servicers, as determined under section 6003(b).

SEC. 6003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the Act, to make payments to eligible servicers in an amount not to exceed an aggregate of $10,000,000,000, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the Act, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed $60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in

a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

SEC. 6004. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this title; and

(B) damages described in subsection (d)(3), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this title;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this title for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this title by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this title that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Secretary under this section may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of Columbia, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Secretary.

(3) STANDARD.—The decision of the Secretary incorporating the findings of the Secretary shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection with a claim submitted under this section, fees in excess of 10 percent of the amount of any payment on the claim.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than $10,000.

(k) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3716 of title 31, United States Code, shall not apply to any payment under this section.

(l) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f), and annually thereafter, the Secretary shall submit to Congress a report that describes the claims submitted under this section during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this section.

(m) GAO AUDIT.—The Comptroller General of the United States shall conduct an annual audit on the payment of all claims made under this section and shall report to the Congress on the results of this audit beginning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to $1,700,000,000, to remain available until expended.

SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

SEC. 6006. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

AMENDMENT NO. 278

On page 431, after line 8, insert the following:

SEC. ___. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

''(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

''(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

''(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

''(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

''(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

''(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

''(2) MAXIMUM DEFICIT AMOUNTS.—

''(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

''(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105-33.

''(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99-177..''.

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 253 of this Act and any procedure with respect to such sections in this Act shall be effective beginning on the date of enactment of this subsection.''.

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. McCASKILL. I would like to talk about a few of the amendments I will be offering to this very important piece of legislation. Let me say this again: This is a very important piece of legislation. I think everyone needs to take a moment, take a deep breath, and consider what the alternatives are. Either we come together in the Senate over the next few days and pass this bill or we do nothing—or we do nothing. I will tell you, where I live in Missouri, ''nothing'' is not an option. If people think we can do nothing and this problem will begin to take care of itself, they do not understand the economic situation we are facing. So I have no problem with a full debate. I have no problem with us looking at every line and figuring out whether there is money we can take out that is wasteful or not stimulative. But at the end of the day, this notion that we are going to put this on the shelf—are you kidding me? Put it on a shelf.

We have a crisis in this country. We are in a dramatic recession. The Government must act to stimulate job creation. If we do not, then we are going to have some explaining to do. Being brave and bold enough to do something is always harder than finding something wrong with something. And we will always be able to find something wrong in everything we do around here. So buck up. Be strong. Move forward for the American people because that is what they said to us last November. That is what they want. They wanted it to be a new day.

I am glad we are talking with each other. I am glad we are debating amendments. I am glad we are working in a bipartisan fashion to try to pull some of the things out of this bill that have distracted the conversation about the Economic Recovery Act. They have distracted us. They put us on defense. Excuse me, we are on offense. We are trying to help our economy. Sitting back and shooting that thing is not going to get us there.

There are some things I think we can do to make it better, and several of the amendments I have offered have to do with our ability to make this process transparent and to make sure we are accountable for the money.

First, I have submitted an amendment to strengthen the whistleblower protection. We have to make sure our whistleblowers are well taken care of. Some of the best information we get in cleaning up Government comes from inside the companies that work for the Federal Government. We gave these protections to defense contractors in last year's Defense Authorization Act. We need to give it to every Federal contractor so that we can get the best information possible about what is

going on internally in these companies as they spend public money.

Another amendment improves the transparency requirements for the public database Web site.

We need this public database to work, because it is a new tool to allow us to track all the money to make sure the money is going where it was intended to go, to make sure we don't have fraud, waste, and abuse in these contracts and programs, as we fund the various infrastructure needs of the country, whether it is building a school, a bridge, or an electric grid.

Another amendment I have will boost the resources for the inspectors general. Those are our cops in terms of accountability. We cannot do this kind of government spending without giving the same kind of increase to the inspector general community for them to do their jobs.

Also additional funding for acquisition personnel is included. Acquisition personnel are going to be called to this cause in a dramatic fashion. As we spend this money, we have to make sure we have enough folks that we can monitor the contracts, make sure the contracts are drafted in a way that protects taxpayer money. So we need to increase both acquisition personnel and inspector general resources.

There is also another technical amendment I will be offering that has to do with a vagary in Missouri law and another State's laws as it relates to the ability of my State and another State to use water and sewer funding.

Let me say this before yielding the floor. I compliment the President today on the dramatic steps he took on curbing executive pay in the various companies that have received Federal money. The proposal he laid out today is aggressive. It is broad in scope. It is just what the doctor ordered. I am so pleased that not only the President but Senator WYDEN and Senator SNOWE offered another amendment in the area of taxing some of the excessive bonuses that have occurred. We are watching Wall Street. We are paying attention. Please behave as you should, if you have taken this kind of public money. Please understand it is not business as usual. It is not luxury retreats and fancy parties and big-time bonuses. It is a new day. Please start behaving as if you get it. Because if we cannot convince the American people that we are looking after them, we will never get the recovery we must have so that everyone has the opportunity to succeed. That is all it is about, that opportunity that is unique to America—that everyone can have a chance to succeed.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 179

Mr. VITTER. Before we start voting in a little less than an hour, I encourage all colleagues to look seriously at and to support the Vitter amendment which will be voted on tonight. The Vitter amendment is an attempt to start the important work of cutting out some of the clearly nonstimulative parts of this bill. Fundamentally, it does two things. First, it cuts out $35 billion of spending, which is not stimulative, which is not focused on quick job creation and economic stimulus. It takes that out of the bill. Secondly, it takes out the Davis-Bacon language, which is not part of any reasonable stimulus program and which will, in fact, cost the Government more money by significantly increasing labor costs on many projects. That has been estimated to cost about $17 billion. The American people get it. This is a big debate, an important matter they have been watching carefully. Every day that goes by, they understand ever more clearly that this is a big spending bill with the whole spectrum of traditional big government Washington spending items, a laundry list, and that is not the same animal at all as real focused job creation, economic stimulus.

There is now a plurality of all Americans who think this is a bad bill, not stimulative, and it should be either dramatically changed—not at the margin but at the core—or defeated. Quite frankly, that plurality is growing every hour of every day. They are staggered, the Louisianians I have talked to, by two things. First, the enormous size and cost of the bill. This is a direct cost. There is no argument that we can recoup this as possibly we can recoup some of the TARP money. This is a direct cost. It adds on to the debt and the deficit penny by penny. A trillion dollars is a lot of money. As one of my colleagues said: A trillion dollars or nearly that surely is a terrible thing to waste. This current stimulus bill of almost a trillion dollars is the largest spending bill ever enacted by Congress. It makes the entire New Deal, even adjusted for inflation, look small. If it would be divvied up equally, the $825 billion, it would be like every family in America borrowing $10,520. That is not an analogy drawn from the air. In fact, we are collectively borrowing every cent of this money. Every dollar is another dollar of deficit and debt. We are borrowing that, $10,520 for every American family. If all of our families were asked to equally shoulder that burden, this would be the equivalent of what each average family roughly spends on food, clothing, and health care in a year.

The bill, if it were a country with a GDP, would be the fifteenth largest GDP in the world, right between Australia and Mexico, greater than the gross domestic products of Saudi Arabia and Iran put together. It does cost well over $1 billion for every page it is printed on, $400,000 for every job it hopes or even claims to save or create.

This is about job creation. A lot of us have questions, if any of these goals are going to be met. But let's assume the stated goals are met of saving and creating jobs, $400,000 per job. Of course, I don't think it will ever meet those goals. Altogether, by the analysis of many expert analysis, only 11 percent of this bill has anything to do with recovery or reinvestment. Fact one is the enormous size and cost of this bill which is staggering and frightening to so many Americans. Part two is that Americans get it. It is common sense, and they can tell the difference between a laundry list of spending items, traditional Washington, big government items. Virtually every major item we find in the Federal Government's budget every year, they can tell the difference between that, which this bill is, which the House bill is, and true focused job creation, economic stimulus. They know the difference. They know this is a laundry list of spending.

The Vitter amendment would begin to try to change that. It would not be enough, but it would begin to make a dent in that by cutting $35 billion of spending that is line item spending, nothing particularly focused on job creation, economic development. That spending is in a number of different categories. I invite Members to look at all details of the amendment. It starts with the truly inane. For instance, $20 million for the removal of fish barriers. Let me clarify, small and medium-size fish barriers, in case one was wondering. What the heck is that, to begin with? I would venture to say 95 percent of the Senate has no idea, but we are going to throw $20 million at that issue. How many jobs will that save or create?

That is similar to some of the items in the bill as originally introduced: An enormous amount of money for honeybee insurance; $400 million for the prevention of sexually transmitted diseases; $70 million still in the bill for supercomputing related to global climate change models. I am starting with what is the truly ridiculous and inane. From there we go to a lot of other items we can debate, which we may have to do, we may have to consider, but it is not stimulus. It is traditional Washington spending. How about $1 billion for the 2010 census. We just threw $210 million at the new census a few months ago. We are going to throw a billion dollars more. I don't know if that is needed. I don't know if that is a good idea. But I know with absolute certainty, as does everyone in this body, that that is normal spending. That is a normal appropriations matter, not job creation, economic recovery, economic stimulus.

There are so many examples like that. FBI construction. I am a big supporter of the FBI. They may have capital needs. It is not economic stimulus. NIST construction. Most Americans don't know what NIST is, the National Institute of Standards and Technology. Maybe they have capital needs. It is not significant job creation and economic stimulus. The Commerce headquarters, we are going to spend $34 million there under this bill. DHS, Department of Homeland Security, consolidation, reorganization, streamlining, saving. That is going to save money; right? Not exactly, $248 million to streamline and consolidate. USDA modernization, let's modernize that Department for $300 million.

Some of these may be good ideas. Some of this spending may be worthy. I don't know, as I stand here today. But I absolutely know—and I daresay everybody in this body knows—it is not job creation. It is not economic stimulus. It is pent-up Washington demand for government spending. Most of what I am talking about right here in our Nation's capital, in the heart of the megabureaucracies. State Department training facility, that is another $75 million; State Department capital investment fund, $524 million. That is almost a billion dollars. How many jobs in the heartland of America will that create? How much impact in terms of real people in the real world in mainstream America will that have in stimulating the economy? My answer is zero. That is the obvious answer on the minds of Americans. The District of Columbia sewer system, $125 million. Are communities around the country getting the same treatment? No. The Economic Development Assistance Program, and another biggie, Amtrak, almost a billion dollars. Again, we deal with Amtrak in the normal appropriations process every year. We have an important debate about whether to continue to subsidize Amtrak. We need to have that debate. We need to get it right. I don't know what the precisely right answer is, but I know it is a normal spending item. It is not job creation. It is not economic stimulus. It is just turning this bill into a whole other year of appropriations inserted somehow magically between 2009 and 2010.

NASA climate change studies, a cool half a billion dollars. It is nice to use round figures like half a billion—neighborhood stabilization, historic preservation, fish and wildlife resource construction, comparative research, the pandemic flu, the smart grid.

People might say: You are not worried about a pandemic flu and the threat that causes to our Nation? I am. That is a serious subject. We need to address it. We have debated it and begun to address it in the normal appropriations process. Maybe we need to do more; I do not know. But I do know one thing. That is average spending and typical spending that is nothing to do with job creation and economic stimulus. Yet this bill is littered line after line after line with all of those items. Many are ridiculous. Some are obscene. Others are debatable as spending items, but they are clearly not job creation and economic stimulus.

So I hope this vote tonight on the Vitter amendment will be the beginning of fundamentally changing this bill so it is no longer simply a laundry list of traditional Washington, big government spending items.

Again, the American people get it. No. 1, they know a trillion dollars is a terrible thing to waste. And, No. 2, they know this bill, as it stands now, just like the House bill, is simply a laundry list of spending items, traditional Washington, big government spending, pent-up demand for spending here in the Nation's Capital. It has been pent up and building for several years. It is not focused, disciplined, economic stimulus, or job creation.

There is a big difference between the two, and the American people, with their common sense, can spot that difference a mile away; and they have because they have been making their voices heard. Scientific polls, several polls—not one here, not one there—several across the board say that a plurality of the American people now say this is a bad idea. This bill should be changed at its core, not at the margins but at its core, or it should be stopped, and we should start over. That is what we need to do.

The speaker immediately before me, the distinguished junior Senator from Missouri, said that not acting, doing nothing, is not an option. She said that with great passion and great focus. I agree. I am a little puzzled about how animated she was about that because I do not know anyone, at least in this body, who thinks or says that inaction is an option. The choice being laid out that it is this bill even after the amendments or nothing is a superficial, false choice. Nobody thinks it is this bill even after amendments or nothing.

We have to act. But this is not the universe of possibilities. We need to change this bill at its core or, if we cannot, we need to say no. We will stay on the subject. We will focus on the economy. We will start over. We will act with real focus and speed. But it is not worth saying yes to a bad bill, particularly at the cost of nearly a trillion dollars.

So I urge all of my colleagues, Republicans and Democrats, to begin that bipartisan path forward toward making this a fundamentally different and worthy bill, and beginning that by adopting the Vitter amendment tonight.

With that, Mr. President, I yield back my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TESTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 179 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I would urge all of my colleagues to support this amendment. This would be an important start—not a finish but a start—to trimming down this bill and trimming down pure spending items out of the bill which are not job creation and economic stimulus. The whole savings would be about $35 billion of spending in the bill. That is obviously outlined and delineated in the amendment. In addition, it would omit the Davis-Bacon language which would cost the Government in terms of increased costs of projects another $17 billion.

The American people know the difference between a long laundry list of traditional Washington big government spending items and true, focused job creation and economic development. They know this bill right now is the former, not the latter. Let's begin to change that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, if there are no other speakers, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 179.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—32

Alexander	Cornyn	Kyl
Barrasso	Crapo	Martinez
Bennett	DeMint	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Risch
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Chambliss	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Wicker
Corker	Johanns	

NAYS—65

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Hutchison	Pryor
Begich	Inouye	Reed
Bennet	Johnson	Reid
Bingaman	Kaufman	Rockefeller
Boxer	Kerry	Sanders
Brown	Klobuchar	Schumer
Burris	Kohl	Shaheen
Byrd	Landrieu	Shelby
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Collins	Lincoln	Udall (CO)
Conrad	Lugar	Udall (NM)
Dodd	McCaskill	Voinovich
Dorgan	Menendez	Warner
Durbin	Merkley	Webb
Feingold	Mikulski	Whitehouse
Feinstein	Murkowski	Wyden
Gillibrand	Murray	

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 179) was rejected.

AMENDMENT NO. 106

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No.—the Senator from Montana is recognized.

Mr. BAUCUS. We are now going to vote on the Isakson-Lieberman amendment, No. 106, the housing tax credit. I am prepared to accept the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I want to add my voice to that of our colleague from Georgia, Senator ISAKSON, in support of his amendment. This is an idea that is not inexpensive to do, but I think it may be the kind of confidence-building measure that is necessary to free our credit markets and begin to get the housing issue moving again. It is not the only answer. I think it is a critical component and element in achieving the results we all desire.

I think our colleague from Georgia came up with an idea worth our support. Therefore, I am going to be a cosponsor as chairman of the Banking Committee, and I urge my colleagues to support it.

Mr. REID. Mr. President, although the housing crisis has devastated cities and towns across America, nowhere has been hit harder than Nevada.

Nearly 1 in 20 households has been affected by foreclosure, and that number goes up every single day.

Every time a home is lost, a family loses not just a place to live but a sense of security, financial stability and the promise of a brighter future.

Last evening, the Senate passed an amendment to the American recovery and reinvestment plan that doubles the tax credit for home buyers to $15,000. This legislation will also expand the credit to all purchasers, not just first-time buyers.

In Nevada, this incentive will help encourage those who continue to sit on the fence, hoping for further price declines, to jump into the market and buy a home. Despite the current uncertainty, many experts agree that for the long term, now is an excellent time to become a homeowner.

Nevadans know that this amendment will not solve our housing crisis, but it will help. If Democrats and Republicans keep working together with President Obama, putting partisanship aside to find commonsense solutions, we can stabilize our housing market and begin the long road to economic recovery.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I thank the chairman of the Banking Committee and other Members on both sides of the aisle who worked on this amendment. I am happy to accept his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 106) was agreed to.

AMENDMENT NO. 237

Mr. BAUCUS. Mr. President, next is the Cardin amendment, No. 237. I understand the chairman and ranking member of the Small Business Committee agree to this. I don't see the chairman. I see Senator CARDIN on the Senate floor. I urge him to speak to the amendment. Otherwise, I am prepared to accept the amendment.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I thank the chairman. This amendment will make it easier for small businesses to be able to get surety bonds in order to participate in these contracts with Government. It has the support of the chairman and ranking member of the Small Business Committee. I am prepared to accept a voice vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 237) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Montana.

AMENDMENT NO. 168

Mr. BAUCUS. Madam President, I understand the next amendment is DeMint amendment No. 168, the tax cut substitute.

This amendment is very simple. It strikes the entire bill. Then it replaces the entire bill with a $2.5 trillion increase in the national debt, according to the Joint Committee on Tax. With debt service and added tax provisions, it increases the national debt over 10 years by $3 trillion because it is a massive tax cut.

Again, it replaces the underlying bill, which means no aid to States, no energy provisions, no infrastructure provisions, nothing that is in the bill, replaced by a tax cut which takes effect in 2011. Joint Tax scores this, adding interest on the debt, about a $3 trillion increase in the national debt over 3 years.

I strongly urge this amendment not be adopted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, how long do I have?

The PRESIDING OFFICER. One minute.

Mr. DEMINT. Madam President, what this bill does is probably one of the most important things we need to do in this economic debate, and it is stop the planned tax increases that are going to happen in 2011 for every American.

The large score that is being thrown around here assumes we are going to let those taxes go up, but we are not. This is a misrepresentation of the cost of this bill. This bill stops the current tax increases that are planned in 2011, keeps the current tax rate the same. The only change it makes is it lowers the top marginal rate from 35 to 25 percent for businesses, for investors, and for individual Americans.

We call it the American option because it leaves money in the hands of the American people and businesses, rather than bringing it to Washington and distributing it our way.

I encourage everyone to stop the planned tax increases with the American option.

Mr. GRASSLEY. Madam President, I will vote for DeMint Amendment No. 168 because it provides long-term tax relief. However, I do not agree that State and local tax deductions and other itemized deductions should be eliminated. If the amendment passes, I would work in conference to restore the State and local tax deductions, as well as other itemized deductions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. DEMINT. Madam President, I move to waive the applicable portion of the budget.

Mr. BAUCUS. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—36

Alexander	Crapo	Lugar
Barrasso	DeMint	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

NAYS—61

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Pryor
Bayh	Harkin	Reed
Begich	Inouye	Reid
Bennet	Johnson	Rockefeller
Bingaman	Kaufman	Sanders
Boxer	Kerry	Schumer
Brown	Klobuchar	Shaheen
Burris	Kohl	Snowe
Byrd	Landrieu	Specter
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	Lincoln	Voinovich
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	
Feinstein	Nelson (FL)	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote the yeas are 36, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

AMENDMENT NO. 238

The PRESIDING OFFICER. There will now be 2 minutes of debate evenly divided on the Thune amendment. The Senate will be in order.

Mr. THUNE. Madam President, what my amendment very simply says is that any of the funding in this bill that was not authorized as of February 1 of this year could not be funded under the bill. The point very simply is that, in order for a stimulus to be effective, it has to be timely, it has to be targeted, it has to be temporary. Funding in this or programs in this that are created that are new programs are going to be none of the above. It is going to take a long time, as we all know, to get regulations in place and create the bureaucracies. All these programs that are new programs included in this legislation are going to take a very long time to implement and, therefore, I do not believe ought to be considered stimulus and they ought not be funded as a part of this stimulus bill.

My amendment simply says any program that was not authorized as of February 1 of this year will not be funded under the stimulus bill. It is a way of trimming the cost of this bill back and doing something that actually I think eliminates a lot of the extraneous spending that is included in the bill. I urge my colleagues to support it.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, I rise in opposition to this amendment. This amendment says any item, unless the project was authorized prior to February 1 of this year, would be thrown out. No authorization bills have passed this Senate so far this year, so many worthwhile items might not meet the terms. In addition, there are new programs which were authorized but not before February 1, such as the $9.5 billion for energy loan guarantees, $3.2 billion for western area power, $5.5 billion for competitive grants. These are dead.

I urge all of you, keep in mind that this is not an easy amendment. This is a tricky one. I vote no.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. THUNE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 62, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—35

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Thune
Coburn	Inhofe	Vitter
Cochran	Isakson	Voinovich
Corker	Johanns	Wicker
Cornyn	Kyl	

NAYS—62

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Begich	Inouye	Pryor
Bennet	Johnson	Reed
Bingaman	Kaufman	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Sanders
Burris	Kohl	Schumer
Byrd	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Collins	Lincoln	Udall (CO)
Conrad	Lugar	Udall (NM)
Dodd	Martinez	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The amendment (No. 238) was rejected.

AMENDMENT NO. 159

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on amendment No. 159 offered by the Senator from Florida, Mr. MARTINEZ.

Mr. MARTINEZ. Madam President, the housing crisis got us into this problem we are in today which necessitates the need for a stimulus bill. Until we deal with housing problems, we are not going to be out of this problem.

My proposal creates a situation where, for 3 years, it compensates private servicers of mortgages so they can be incentivized to work out mortgages for families who are in trouble, so that they might be able to stay in their homes and not be foreclosed.

This is a way to utilize the private sector, with some incentives from government money, to make sure we do not foreclose on more families. Two things will be accomplished. It also provides a safe harbor for the servicers, so that they are beyond legal liability for anything they might do in those workouts.

At the end of the day, what we will do is stabilize home prices by freezing foreclosures. Not only will we be helping families, but we will also be trying to put a floor on the housing economy, on housing prices, which continue to decline. This will stabilize housing prices, it will avoid future foreclosures, and it will begin to turn us around and create the kind of housing economy we need in order for the American economy to come back.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, first, I want to commend my colleague from Florida. This is a well-intended proposal. Here is the one problem with it that I tell my colleague: It breaks contracts. There is a constitutional issue here, where servicers could sue.

What we are doing with this amendment, if I understand it correctly, is that the compensation due to a

servicer would now fall on the taxpayer. So we would have to set up a bureaucracy to pay the servicer where the legal liability was determined. That poses some real problems.

The other part of the amendment I totally agree with. In fact, we try to cover it. In fact, we established a safe harbor, my colleague will recall, in the bill we did together, and also trying to figure out a way to deal with this.

But I am nervous. There is $1.7 billion dollars in the amendment. No one can say with any certainty whether that would be an adequate amount to cover the government costs were these determined to be liabilities of the government. So I am uneasy about establishing a new bureaucracy here, and also the constitutional question of breaking these contracts which raises some very serious issues.

But what I recommend to my colleague is, we have got an amendment coming up in a little while, maybe tomorrow, where we can work together to try to accommodate this to deal with exactly what he is talking about. But I have a very difficult time accepting this for the reasons I have described.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KYL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this moment there is not a sufficient second.

AMENDMENT NO. 159 WITHDRAWN

Mr. MARTINEZ. Madam President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 278

Under the previous order, there will now be 2 minutes of debate equally divided on the McCain amendment No. 278.

The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, every dollar of the $1.2 trillion we are contemplating spending with this legislation would add to the national debt. The national debt has already climbed to more than $10.2 trillion. This amount does not include any of the funding provided in the legislation we are considering. After achieving economic growth for two quarters, then, according to this legislation, the President shall submit in his first budget, after the restoration of economic growth, fixed deficit targets that would achieve a balanced budget not later than 5 years from that date.

The discretionary spending caps are restored in the first fiscal year after the restoration of economic growth for 5 fiscal years at a level equal to the budget baseline, excluding any and all portions of the Economic Recovery and Reinvestment Act.

Basically, this legislation calls for, as soon as there are two quarters of GDP growth after inflation, that we embark on an effort to balance the budget. We are mortgaging our children's future.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I strongly share the desire of the Senator from Arizona to put the budget back on track, and put it on a path to balance. But I do not think this proposal has received the consideration it deserves. It has not had a hearing before the Budget Committee, yet includes a proposal to create deficit targets that were badly gamed during the Gramm-Rudman era, and turned out to actually cover for additional deficits. So I think that would be a profound mistake. We need a process that works. It deserves the consideration of the President and the Budget Committee.

I strongly urge my colleagues to oppose this amendment at this time.

I raise a point of order that this amendment violates section 306 of the Congressional Budget Act.

Mr. MCCAIN. Madam President, I move to waive the applicable portions of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—44

Alexander	DeMint	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Hatch	Roberts
Bunning	Hutchison	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Coburn	Johanns	Specter
Cochran	Kyl	Thune
Collins	Lieberman	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Wicker
Crapo	McCain	

NAYS—53

Akaka	Byrd	Durbin
Baucus	Cantwell	Feingold
Begich	Cardin	Feinstein
Bennet	Carper	Gillibrand
Bingaman	Casey	Hagan
Boxer	Conrad	Harkin
Brown	Dodd	Inouye
Burris	Dorgan	Johnson
Kaufman	Merkley	Shaheen
Kerry	Mikulski	Stabenow
Klobuchar	Murray	Tester
Kohl	Nelson (FL)	Udall (CO)
Landrieu	Pryor	Udall (NM)
Lautenberg	Reed	Warner
Leahy	Reid	Webb
Levin	Rockefeller	Whitehouse
Lincoln	Sanders	Wyden
Menendez	Schumer	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is sustained, and the amendment fails.

The Senator from Montana.

AMENDMENT NO. 161

Mr. BAUCUS. Mr. President, it is my understanding the next amendment is Bond amendment No. 161. I have checked with our side. Our side is willing to accept this amendment. I understand it is also acceptable by the other side, but I will let Senator BOND speak to that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have to do a couple things, and I just want to tell you, thanks so much for agreeing to support this bipartisan amendment cosponsored by my partner on the Transportation and Housing and Urban Development Subcommittee, Senator MURRAY, and Senator DODD, Senator REED of Rhode Island, and Senator KOHL.

Mr. President, I ask unanimous consent that Senators VOINOVICH and BROWNBACK be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Some people are a little confused. In 30 seconds—50 seconds maybe—let me tell you, this is $2 billion in direct equity that goes to State housing finance programs to produce affordable housing. The funds come from the home moneys in the bill. The funds go to shovel-ready projects that have already been approved by State credit agencies. Why can't they go forward? Because of the credit crisis and the crunch, the tax credits are no longer worth what they used to be worth. This amendment allows to fill in the hole. It makes the projects viable. There will be tens of thousands of new units and tens of thousands of new jobs.

I appreciate very much my colleagues on the other side.

I yield to my colleague from Washington.

Mr. BAUCUS. Mr. President, we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment.

The amendment (No. 161) was agreed to.

AMENDMENT NO. 262

The PRESIDING OFFICER. Under the previous order, there will be now 2 minutes of debate equally divided prior to a vote on amendment No. 262, offered by the Senator from Oklahoma.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that Senators MARTINEZ, CHAMBLISS, ROBERTS, BROWNBACK, and BUNNING be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, there has been a lot of discussion and complaints about there not being enough funds in terms of infrastructure—roads and buildings and all that. Actually, it is under 4 percent in this bill. We have talked about that. What we have not talked about is the need for military procurement.

In a Washington Post article, Martin Feldstein talked about the fact that infrastructure spending on domestic military bases and procurement is one of the things we could do that would be very helpful, citing there are 655,000 employees in the aerospace industry alone.

Now, what I am trying to do with this amendment is to increase procurement by $5.3 billion. It is offset. So you have a decision: Do you want to spend $20 million for fish passage barrier removal, $34 million to renovate the Department of Commerce, or have a strong national defense? Do you want to spend $13 million to research volunteer activities or have a strong national defense?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I urge adoption of my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment adds $5.2 billion for defense. It pays for it by cutting a long list of programs out of the bill: energy-efficient motor vehicle fleet—that is one I see right here—grants for the National Passenger Rail Corporation, among others.

On behalf of Senator INOUYE, I make a point of order that the pending amendment violates section 302(f) of the Budget Act.

Mr. INHOFE. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 38, nays 59, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—38

Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Crapo	Lugar	Wicker
DeMint	Martinez	

NAYS—59

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	Lincoln	Warner
Corker	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. REID. Mr. President, we have four more votes tonight, and then we will have no more votes tonight after those four.

What I wanted to talk about a little bit is tomorrow. We started on this bill Monday evening. Everyone who has stood to give a speech on this—Democrat or Republican—has talked about the financial crisis our country is in. There are different ways of addressing it, and we understand that. I wanted to do everything I could to make sure there is an open process, and there has been. There have been no restrictions on amendments. There have been no complaints from us as to subject matter of amendments. However, the stark reality is we need to complete this bill. We have stated and the Speaker has stated that we need to finish this bill before the Presidents Day recess. To do that, to jump through all the hurdles, is very difficult.

In my last conversation with the Republican leader, he indicated that he would like to go to conference. I am not holding him to that. Something could go wrong the next couple of days or today or tomorrow, but that is our intention. If we don't go to conference, then we will do what we have done in the past: send something back over here. I would rather we did a conference. I think it would set a good tone. But conferences are sometimes slow and a little bit tedious. We have to get two different committees and maybe as many as three different committees represented in that conference. We have to get everybody together and have a series of meetings.

To solve the financial crisis we have in our country is going to take a lot of cooperation. We know this bill is imperfect. Democrats and Republicans acknowledge it is an imperfect piece of legislation.

Without belaboring the point, we are going to have votes again tomorrow. Now, my colleagues will note that the vast majority of the votes we have had have been Republican amendments. That is fine. We are happy with that. We want to make sure that people with concerns about this bill offer those amendments, but we are now arriving at a point where we are offering amendments upon amendments.

I understand there are two big amendments I know the Republicans have tomorrow. One of them is the Ensign-McConnell amendment dealing with housing. I understand my friend—the man I have been with now going on 27 years; we came to Washington together—JOHN MCCAIN has an important amendment. There are probably other amendments everybody thinks are important. I would at least note those two.

I hope we can look to finishing this legislation tomorrow. That doesn't mean at 5 o'clock. It may be later in the evening—and that is an understatement—but I think we should work to see if we can complete this legislation.

I know we are getting toward the end of amendments being offered because I have been told by my staff that now we are getting into amendments dealing with religious liberty and other things that don't have a lot to do, in my opinion, with this legislation, but we are setting no restriction or parameters on what amendments can be offered.

We all do acknowledge we have a crisis facing the American people. If someone isn't absolutely happy about this legislation, let's vote and move it on to the next program. If we do something in conference that is revolting to the minority, they can stop the conference report. So let's move on. Let's finish this. For us to finish this bill tomorrow or Friday is going to still take a lot of our work so that the President has a piece of legislation on his desk and so we can leave and do our Presidents Day recess.

Now, we don't have to take our recess, but we have responsibilities that

are more than in Washington, DC. We have a constituency at home to whom we also have responsibilities. I doubt there is one of us who doesn't have a lot to do during the Presidents Day recess at home. We aren't often able to go home during the week, so there are things I know that I schedule during the breaks that I can't do any other time. Weekends don't do the trick.

So in light of the crisis facing the American people, there is no reason the American people shouldn't expect us to complete action on this bill tomorrow. If people need more time, I am a patient man. Now, we understand—we will take a 60-vote margin. We are happy to have this legislation require 60 votes. I hope we don't have to go through filing cloture and a cloture vote on Saturday or Sunday and 30 hours and all that stuff.

I just think the picture the people have here of the Senate is one where we have really tried these first few weeks, including the time during this legislation, to have the Senate work as it used to. I hope everyone feels—as we start getting the extraneous amendments dealing with matters I don't think conform with what the intention of this bill is, which is economic recovery—that we should be worried about people not having the opportunity to offer amendments. I think we have offered a number of amendments on housing. You name the subject, we have done multiple amendments. I am a patient person, as I have indicated, willing to work with everyone, but my goal is to get this legislation over to the House as soon as we can.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me just say I think the amendment process has been well handled. We had a lot of amendments to offer today, and they are in the process of being voted on. We have a lot more amendments to offer tomorrow, and then I think we can discuss sometime during the day tomorrow exactly what the endgame might be on this legislation.

I am pleased and my Members are pleased, I would say to the majority leader, with the way it has been handled to this point, and sometime tomorrow we will discuss how we might move toward a conclusion.

I yield the floor.

AMENDMENT NO. 277

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 277 offered by the Senator from Texas, Mr. CORNYN.

The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, my amendment reduces the 10-percent marginal income tax bracket to 5 percent—10 percent to 5 percent—in 2009 and 2010. Currently, the 10-percent tax bracket that was created in 2001 by the Economic Growth and Tax Relief Reconciliation Act applies to the first roughly $8,000 that a single taxpayer earns and $16,000 for a joint tax return. My amendment provides broad-based relief to more than 105 million taxpayers, including every hard-working American with an income tax liability.

My amendment does not add to the bill's total. Instead, my amendment is paid for by striking the refundable making work pay credit which picks winners and losers by providing relief to only a select group of taxpayers. It also, I might say, repeats a mistake we made last year, or earlier—I guess last year, last January—when we spent $150 billion of our children's and grandchildren's money to try to stimulate the economy, and everybody agrees it did not work.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the amendment is very simple. Let me explain the consequence of the amendment.

Those who pay income taxes will get a tax reduction. Those who work but do not pay income taxes—they pay payroll taxes—will not get any benefit from this amendment. That is the portion that is cut out. That is about 50 million Americans. So this amendment would give a tax cut to those who pay income taxes—a modest amount—and to pay for it, it disenfranchises those 49 million, 50 million Americans who will get a tax break under this bill because they work; that is, they pay payroll tax. Those who work but who are not wealthy will spend the money more than people who are wealthier and get a tax cut. So I suggest very strongly that we do not support this amendment.

I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21.

Mr. CORNYN. Mr. President, I move to waive the applicable portion of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—37

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Specter
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—60

Akaka	Feinstein	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Voinovich
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden

NOT VOTING—2

Gregg	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

AMENDMENT NO. 242

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on amendment No. 242 offered by the Senator from Kentucky, Mr. BUNNING.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, my amendment is simple. It suspends for the year 2009 the tax increase on Social Security benefits that Congress passed in 1993. This increase taxes seniors above certain income levels on 85 percent of their Social Security taxable income. We should not be in the business of taxing Social Security benefits. It is unfair, and it is punitive.

CRS estimates that at least 12 million seniors pay this tax. This amendment holds the Medicare trust funds harmless. Joint Tax says the amendment scores at $14.4 billion, so I reduce discretionary spending in the bill, except spending for veterans, by the necessary amount.

Now is the time to fix this problem at least for 1 year. I urge support of the amendment.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment effectively undoes part of the budget agreement that was agreed

to in 1993. We effectively balanced the budget and ended up with a $10 billion, $11 trillion surplus. The fact is, the amendment reduces taxes only on the top 24 percent, the highest income-earning seniors. Twenty-four percent of the most wealthy seniors—that is highest income—will get a break in taxes. Other seniors will not. The other 76 percent will get no break.

The Senator from Kentucky pays for it by reducing parts of the bill which create jobs. This is highways, this is roads, this is energy, and so forth. Frankly, I don't think that is a wise course of action to take.

Accordingly, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I move to waive the applicable portion of the Budget Act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there ary other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 39, nays 57, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—39

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Specter
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Wicker

NAYS—57

Akaka	Feingold	Menendez
Baucus	Feinstein	Merkley
Begich	Gillibrand	Mikulski
Bennet	Hagan	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Pryor
Brown	Johnson	Reed
Burris	Kaufman	Reid
Byrd	Kerry	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Shaheen
Casey	Lautenberg	Snowe
Collins	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lieberman	
Dorgan	Lincoln	
Durbin	McCaskill	
Udall (CO)	Warner	Whitehouse
Udall (NM)	Webb	Wyden

NOT VOTING—3

Gregg	Kennedy	Voinovich

The PRESIDING OFFICER. On this vote the yeas are 39, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Montana is recognized.

AMENDMENT NO. 300 TO AMENDMENT NO. 98

Mr. BAUCUS. The next amendment is the Dorgan amendment, No. 300, which we are prepared to take.

Mr. DORGAN. Mr. President, I ask we consider amendment No. 300.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. BAUCUS and Mr. BROWN, proposes an amendment numbered 300 to amendment No. 98.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that the Buy American provisions shall be applied in a manner consistent with United States obligations under international agreements)

On page 430, strike lines 7 through 12 and insert the following:

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

Mr. DORGAN. I offer this amendment on behalf of myself, Mr. BAUCUS, Mr. INOUYE, and Mr. BROWN. It simply says the ''Buy American'' section shall be ''applied in a manner consistent with United States obligations under international agreements.''

I yield the remainder of my time to Senator BROWN.

Mr. BROWN. I thank the Senator from North Dakota and thank Senators BAUCUS and INOUYE for their support.

Americans are willing to reach into their pockets and spend billions of dollars for infrastructure to build bridges and highways and water and sewer and put people back to work. All that Americans want is that we provide jobs in this country—jobs, construction jobs—and that what they use for this construction, the materials, are made in America. This is WTO compliant. It follows U.S. and international global trade rules. It is a commonsense amendment.

Some people say ''protectionism,'' but how can you have an $800 billion trade deficit and call us protectionist? How can you have a $200-billion-a-day net outflow and say we are closing our borders? It makes sense to vote for the Dorgan amendment.

Mr. MCCAIN. Mr. President, I ask for 1 minute to speak in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, what this amendment does is basically stand in direct contradiction to the amendment itself. It is impossible to say the section would be applied in a manner consistent with the U.S. obligations under international agreements and then say that anything that is manufactured in the United States, whether iron, steel, or manufactured goods will have to be subject to ''Buy American.''

The reaction to this amendment has been strong and widespread, including the President of the United States, who said, ''I think this would be a mistake right now.'' The President said, ''It is a potential source of trade wars that we cannot afford at a time when trade is sinking all over the globe.''

I yield the remainder of my time.

Mr. GRASSLEY. Mr. President, I am pleased to express my support for the Dorgan amendment that would clarify that the Buy American provisions of this bill shall be applied in a manner that is consistent with our international trade obligations.

The original Buy American language in the bill doesn't specifically provide an exemption for countries that provide reciprocal access for the United States in the area of government procurement. But we are obligated under international agreements to provide such a carveout. This amendment will fix this problem.

The United States has obligations to its trading partners. If we don't live up to our commitments to other countries under trade agreements, we can't expect them to live up to their commitments to us. The last thing that we should do in this time of economic uncertainty is fail to comply with our international obligations.

I would like to thank Senator DORGAN and Senator BAUCUS for working together to craft this amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to be listed as a cosponsor on the Dorgan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 300) was agreed to.

AMENDMENT NO. 279

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote in relation to the amendment offered by the Senator from Arizona.

Mr. MCCAIN. Mr. President, nearly 80 years ago, two men—Mr. Smoot and Mr. Hawley—led an effort to enact protectionist legislation in hopes of curing the woes of the American worker. Despite the strong objection of over a thousand leading economists of the time, the Smoot-Hawley legislation was enacted. This bill helped spark an international trade war that turned a severe recession into the greatest economic depression in modern history.

The Buy American provision in the current bill has echoes of the disastrous Smoot-Hawley tariff act. It prohibits the use of funds in this bill for projects unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. These anti-trade measures may sound welcome to Americans who are hurting in the midst of our economic troubles and faced with the specter of layoffs. Yet shortsighted protectionist measures like Buy American risk greatly exacerbating our current economic woes. Already, one economist at the Peterson Institute for International Economics has calculated that the Buy American provisions in this bill will actually cost the United States more jobs than it will generate.

Some of our largest trading partners, including Canada and the European Union—who account for hundreds of billions of dollars in annual trade—have warned that such a move could invite protectionist retaliation, further harming our ability to generate jobs and economic growth. And it seems clear that this provision violates our obligations under more than one international agreement, including the WTO Agreement on Government Procurement and the procurement chapter of the North American Free Trade Agreement.

Just last November in Washington, the U.S. signed a joint declaration with members of the G–20 pledging that ''within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services.'' Yet barely 2 months later, we are contemplating whether or not to go back on a commitment to some of our closest allies and trading partners, potentially damaging our credibility to uphold future agreements.

Even President Obama himself spoke out against the Buy American provision. ''I think that would be a mistake right now,'' he said yesterday. ''That is a potential source of trade wars that we can't afford at a time when trade is sinking all across the globe.''

We know the lessons of history, and we cannot fall prey to the failed policies of the past. We should not sit idly by while some seek to pursue a path of economic isolation, a course that could lead to disaster. It didn't work in the 1930s, and it certainly won't work today. I hope all senators will support this amendment, which would strike the existing Buy American provision and replace it with a limitation on Buy American clauses in this bill.

As I said, the President of the United States said it would be a mistake right now. It sends a message to the world that the United States is going back to protectionism.

I ask unanimous consent the comments of literally every leader in the world, including the Canadian leader, the European leader, and over 100 major industries in the United States of America in opposition to this amendment and an op-ed article by Douglas Irwin be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS FROM WORLD LEADERS

CANADA

Ambassador Michael Wilson: ''We are concerned about contagion, that is, other countries also following protectionist policies. If Buy America becomes part of the stimulus legislation, the United States will lose the moral authority to pressure others not to introduce protectionist policies. A rush of protectionist actions could create a downward spiral like the world experienced in the 1930s.''

EUROPEAN UNION

Ambassador John Bruton: ''The United States and the European Union should take the lead in keeping the commitments not to introduce protectionist measures taken by the G20 in November 2008. Failing this risks entering into a spiral of protectionist measures around the globe that can only hurt our economies further.''

U.S. INDUSTRY

Over 100 signatories: ''Enacting expansive new Buy American restrictions would invite our international partners to exclude American goods and services from hundreds of billions of dollars of opportunities in their stimulus packages and perhaps to adopt Buy-Local rules or raise other barriers to American goods more broadly across their economies. The resulting damage to our export markets and the millions of high-paying American jobs they support would be enormous.''

QUOTES FROM WORLD LEADERS

U.K.

Prime Minister Gordon Brown: ''The biggest danger the world faces is a retreat into protectionism''.

U.S.

President Barack Obama: It would be a mistake when worldwide trade is declining for the United States ''to start sending a message that somehow we're just looking after ourselves and not concerned with world trade.''

QUOTES FROM REPORTS AND NEWS SOURCES

PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS

Report on 'Buy American': EU spokesman Peter Power stated that ''if a bill is passed which prohibits the sale or purchase of European goods on American territory, [the European Union] will not stand idly by and ignore.'' Buy American provisions would particularly damage US reputation abroad since they would come just a few months after the United States pledged to reject protectionism at the G–20 summit on November 15, 2008.

In a country of 140 million workers, with millions of new jobs to be created by the stimulus package, the number of employees affected by the Buy American provision is a rounding error.

General Electric (GE) Senior Counsel Karan Bhatia: ''You would be creating an ample basis for countries to close their markets to U.S. products.''

Bill Lane—Caterpillar, Inc. Director of Governmental Affairs: . . . ''The so-called Buy America amendment is really an anti-export provision,'' . . . ''At Caterpillar we are doing everything we can to export American-made products to the numerous infrastructure projects being proposed around the world, particularly those in China. Embracing new Buy American restrictions would totally undermine those efforts to increase U.S. exports.''

Fred Smith—Chairman of FedEx: . . . ''If the Congress passes this buy-American provision, I can assure you—and we operate in 220-some-odd countries around the world and are a huge part of the import-export infrastructure of the United States—we will get retaliation, and it will be American jobs at risk.''

LIST OF COMPANIES AND ORGANIZATIONS IN OPPOSITION TO BUY AMERICAN

(Signatories of attached industry letter)

ABB; The ACE Group of Insurance and Reinsurance Companies; AT&T; Alticor, Inc.; AgustaWestland North America Inc.; Avaya Inc.; BAE Systems, Inc.; BASF Corporation; Boston Scientific Corp.; Case New Holland Inc.; Caterpillar Inc.; Cisco Systems, Inc.; Citibank N.A.; Cummins Inc.; Dassault Falcon Jet; The Dow Chemical Company; Eastman Kodak Company; Forsberg International Logistics, LLC; Fujitsu.

General Electric Company; IBM Corporation; Intel Corporation; International Bancshares Corporation; International Bank of Commerce; ITT Corporation; John Deere; Lockheed Martin Corporation; Manitowoc Company Inc.; The McGraw-Hill Companies, Inc.; McKesson Corporation; Michelin North America, Inc.; Microsoft Corporation; NEC Corporation of America; Oracle Corporation; Panasonic Corporation of North America; PCS VacDry USA LLC; Philips Electronics North America; The Procter & Gamble Company; SAP America.

Siemens Corporation; TEREX; Texas Instruments Incorporated; Transact Technologies; Trimble Navigation Limited; Unilever United States; United Technologies Corporation; US Trading & Investment Company; Volvo Group North America; XOCECO USA; Xerox Corporation; The Advanced Medical Technology Association; Aerospace Industries Association; American Business Conference; American Chemistry Council; American Council of Engineering Companies; Associated Builders & Contractors; Associated Equipment Distributors.

Association of International Automobile Manufacturers, Inc.; Business Roundtable; The Associated General Contractors of America; The Association of Equipment Manufacturers; Brazil-U.S. Business Council; Business Software Alliance; California Chamber of Commerce; Canadian American Business Council; Consuming Industries Trade Action Coalition; The Coalition for Government Procurement; Coalition of Service Industries; Computer & Communications Industry Association; Computing Technology Industry Association; Consumer Electronics Association; Emergency Committee for American Trade.

European-American Business Council; Grocery Manufacturers Association; Hong Kong-U.S. Business Council; Information Technology Industry Council; International Wood Product Association; National Association of Foreign-Trade Zones; National Association of Manufacturers; National Defense Industrial Association; National Electronic Distributors Association; National Foreign Trade Council; Ohio Alliance for International Trade; Organization for International Investment; Retail Industry Leaders Association; Securities Industry and Financial Markets Association; Semiconductor

Industry Association; Software & Information Industry Association.

Technology Association of America (formerly AeA and ITAA); Technology CEO Council; Telecommunications Industry Association; United States Council for International Business; US–ASEAN Business Council; U.S.-Bahrain Business Council; U.S. Chamber of Commerce; U.S.-India Business Council; U.S.-Korea Business Council; U.S.-Pakistan Business Council; U.S.-UAE Business Council; Washington Council on International Trade.

[From the New York Times, Jan. 31, 2009]

IF WE BUY AMERICAN, NO ONE ELSE WILL

(By Douglas A. Irwin)

HANOVER, NH.—World trade is collapsing. The United States trade deficit dropped sharply in November as imports from the rest of the world plummeted in response to the financial crisis and global recession. United States imports from China, Japan and elsewhere declined at double digit rates. The last thing the world economy needs is for governments to give a further downward shove to trade. Unfortunately, we may be doing just that.

Steel industry lobbyists seem to have persuaded the House to insert a ''Buy American'' provision in the stimulus bill it passed last week. This provision requires that preference be given to domestic steel producers in building contracts and other spending. The House bill also requires that the uniforms and other textiles used by the Transportation Security Administration be produced in the United States, and the Senate may broaden such provisions to include many other products.

That might sound reasonable, but history has shown that Buy American provisions can raise the cost and diminish the effect of a spending package. In rebuilding the San Francisco-Oakland Bay Bridge in the 1990s, the California transit authority complied with state rules mandating the use of domestic steel unless it was at least 25 percent more expensive than imported steel. A domestic bid came in at 23 percent above the foreign bid, and so the more expensive American steel had to be used. Because of the large amount of steel used in the project, California taxpayers had to pay a whopping $400 million more for the bridge. While this is a windfall for a lucky steel company, steel production is capital intensive, and the rule makes less money available for other construction projects that can employ many more workers.

American manufacturers have ample capacity to fill the new orders that will come as a result of the fiscal stimulus. In addition, other countries are watching closely to see if the crisis becomes a general excuse for the United States to block imports and favor domestic firms. General Electric and Caterpillar have opposed the Buy American provision because they fear it will hurt their ability to win contracts abroad.

They're right to be concerned. Once we get through the current economic mess, China, India and other countries are likely to continue their large investments in building projects. If such countries also adopt our preferences for domestic producers, then America will be at a competitive disadvantage in bidding for those contracts.

Remember the golden rule, or the consequences could be severe. When the United States imposed the Smoot-Hawley Tariff in 1930, it helped set off a worldwide movement toward higher tariffs. When everyone tried to restrict imports, the combined effect was a deeper global economic slump. It took decades to undo the accumulated trade restrictions of that period. Let's not make the same mistake again.

Mr. MCCAIN. Mr. President, this amendment may lose. We are making a very dangerous move tonight.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, both Mr. Smoot and Mr. Hawley are dead, but this amendment is a part of a very significant debate that is on the floor of the Senate and across the country. Mr. President, 20,000 people a day are losing their jobs—20,000 people a day. We are going to shove a lot of money out the door of this Congress in support of economic recovery. The question is, Are we going to try to put people back to work? Will we put people back to work on America's factory floors making iron and steel and manufactured products?

We already have a ''Buy American'' provision under current law. That is not violative of our trade agreements. We just added an amendment that says this section, the ''Buy American'' section, ''shall be applied in a manner consistent with United States obligations under international agreements.''

I don't think anyone can credibly argue that somehow this undermines our international agreements. But we do have a $700-billion-a-year trade deficit, and my hope would be that as we push this money out the door, we do it in support of American jobs.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment.

Mr. MCCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 65, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—31

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Hatch	Risch
Bunning	Inhofe	Roberts
Chambliss	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Kyl	Thune
Corker	Lieberman	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—65

Akaka	Feinstein	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Graham	Nelson (NE)
Begich	Grassley	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Hutchison	Rockefeller
Brown	Inouye	Sanders
Brownback	Johnson	Schumer
Burr	Kaufman	Shaheen
Burris	Kerry	Snowe
Byrd	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carper	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Collins	Levin	Vitter
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feingold	Mikulski	

NOT VOTING—3

Gregg	Kennedy	Voinovich

The amendment (No. 279) was rejected.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, on behalf of Senator LANDRIEU, I ask unanimous consent that the pending amendments be temporarily set aside, and Senator LANDRIEU's amendment No. 102 be called up and agreed to, and that the motion to reconsider be temporarily laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I have checked with Senator COCHRAN.

Mr. ENSIGN. Mr. President, reserving the right to object, while we are waiting, may I lay down my amendment?

Mr. BAUCUS. Mr. President, on the Landrieu amendment, I withdraw my request.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 353 TO AMENDMENT NO. 98

(Purpose: In the nature of a substitute)

Mr. ENSIGN. I ask unanimous consent that the pending amendments be set aside. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. MCCONNELL, and Mr. ALEXANDER, proposes an amendment numbered 353 to Amendment No. 98.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BAUCUS. Mr. President, it is my understanding that with the amendment just offered by the Senator from Nevada, tomorrow morning the first amendment to be considered will be the amendment offered by Senator MCCAIN from Arizona. The second

amendment will be the amendment offered by the Senator from Nevada, Mr. ENSIGN. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

AMENDMENT NO. 354 TO AMENDMENT NO. 98

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 354 to Amendment No. 98.

The amendment is as follows:

(Purpose: To impose executive compensation limitations with respect to entities assisted under the Troubled Asset Relief Program)

At the end of division B, add the following:

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term ''TARP recipient'' means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(c) SPECIFIC REQUIREMENTS.—The standards established under subsection (b) shall include—

(1) limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period that any obligation arising from TARP assistance is outstanding;

(2) a provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;

(3) a prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period that any obligation arising from TARP assistance is outstanding;

(4) a prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period that the obligation is outstanding to at least the 25 most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

SEC. 6003. BOARD COMPENSATION COMMITTEE.

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(b) NONBINDING VOTE.—A shareholder vote described in subsection (a) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(c) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue any final rules and regulations required by this section.

SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.

(a) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to employees of each entity receiving TARP assistance before the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

Mr. DODD. Mr. President, I will be very brief. I know others want to be heard. I appreciate the consideration of the manager of this part of the bill, Senator BAUCUS.

This amendment would apply to recipients of TARP assistance, stronger restrictions on executive compensation. I will make some comments this evening and invite my colleagues to look at the language of the amendment.

It is the one that I hope all Members will be able to support. It does not directly apply to the stimulus package, but it is an opportunity for us to speak on the executive compensation issues which are critically important.

The amendment bans bonuses for most highly paid executives of TARP-recipient firms: Prohibits TARP recipients from paying a bonus, retention award, or other similar incentive compensation to the 25 most highly-paid employees ''or such higher number as the Secretary of the Treasury may determine is in the public interest with respect to any TARP recipient.''

It requires a retroactive review: The Secretary of the Treasury must review

bonus awards paid to executives of TARP recipients to determine whether any payments were excessive, inconsistent with the purposes of the act or the TARP or otherwise contrary to public interest and, if so, seek to negotiate with the recipient and the subject employee for appropriate reimbursement to the Government.

It requires each TARP recipient to include on annual proxy statement a ''say on pay'' proposal or advisory shareholder vote on the company's executive cash compensation program.

It allows for the Government to clawback any bonus or incentive compensation paid to an executive based on reported earnings or other criteria later found to be materially inaccurate.

It prohibits compensation plans that would encourage manipulation of reported earnings.

The Board Compensation Committee of each TARP recipient must be composed entirely of independent directors; and requires the committee to evaluate compensation plans and their potential risk to the financial health of the company.

It prohibits golden parachutes to top senior executives.

It prohibits a compensation plan that has incentives for employees to take unnecessary and excessive risks that threaten the value of the company.

This will encourage the companies to use the TARP funds for the purposes they were intended and assure the American taxpayers that their funds are being used properly. ÷

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 326.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAUCUS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. BARRASSO. Mr. President, the bill we are looking at today represents a massive Federal investment. It will provide Federal funds for a host of activities at State and local levels. This would be a new experience for many of our States.

The requirements set forth for Federal involvement have caused some State and local officials to take pause. But in the West, we have already learned the lessons of Federal involvement. In my State of Wyoming, we deal with the Federal Government in the day-to-day operations of our land, of our businesses and of our communities. More than 45 percent of the land in Wyoming is federally owned. The Federal Government has introduced major predators into our landscape. The Federal Government controls most of our dams, lakes, and reservoirs. The Federal Government manages the irrigation and grazing for agriculture production. We depend on Federal managers to access Federal lands for hunting and fishing. Living with this heavy Federal involvement in Wyoming, we struggle every day to cut red tape and to get work done. I urge the Members of the Senate to seriously consider the experience of the people of Wyoming.

We in Congress need to face the realities of our Federal system. Bureaucratic delays impact everyday life in Wyoming. Unless we seriously consider legislative alternatives, delays will affect many of the projects proposed for funding through this piece of legislation we are considering. The vast majority of the projects proposed for this funding are subject to environmental laws. These laws provide for measured, thoughtful decisionmaking. They allow public involvement in our Government, but they are not built for speed. Virtually every school to be built, every road, and every bridge in this legislation would require documentation under the National Environmental Policy Act, called NEPA. From my Wyoming experience, NEPA reviews can take years—not weeks, not months but years. Even after NEPA documentation is finalized, activist groups can file appeals and litigation and hold up projects for many years to come.

To address this pressing need, I am proposing an amendment today numbered 326, along with several colleagues, to provide for a streamlined process of approval. The amendment would require that NEPA be completed in 9 months. We require that administrative appeals be combined for expedient consideration. Once the administrative remedies are exhausted, judicial review is available in the Federal Court of Appeals right here in Washington, DC. This provides a single, clear system to review decisions and provide a fair ruling.

A host of experts have called for Congress to face the reality of NEPA during this stimulus package debate. The nonpartisan Congressional Budget Office, in their January 28 letter to the Senate, gave recommendations for ''actions that could accelerate spending.'' NEPA is the very first point they offered. CBO wrote that Congress should consider ''waiving requirements for environmental and judicial reviews.'' CBO is not alone. Governor Schwarzenegger of California, a very moderate Governor, listed waiving NEPA as a priority for his State to succeed with stimulus funding. He wrote that Congress should ''waive or greatly streamline NEPA requirements,'' in order to speed delivery of the projects. The U.S. Chamber of Commerce, the largest group of businesses in the Nation, called for NEPA reform. These are exactly the people we expect to lift us out of the recession. The U.S. Chamber of Commerce feels that this amendment is necessary for the stimulus package to succeed. The knowledgeable, moderate, hard working people of America are calling on Congress to make this improvement to the stimulus legislation. In fact, some of them are calling for us to go further than this amendment would go.

This amendment is not a waiver of NEPA responsibility. Rather, it requires that NEPA documentation be timely and effective. If bureaucratic delays stand in the way of project completion, it provides for the project to go forward. This amendment is a practical middle ground. I urge Members of the Senate to support it.

This amendment will make the aims of this legislation possible. The Federal Government should not stand in the way of people trying to help out and to help us out of the recession. Community projects should be reviewed quickly and allowed to go forward after a reasonable time. This amendment would prevent bureaucratic delays. Approval of the amendment will allow our transportation, our public land management, and construction goals to be met on time. If the aim of H.R. 1 is to provide quick, efficient funding for projects that will stimulate our economy, we must approve this amendment. If projects are truly shovel ready, if our partners in the agencies, States and local governments have done their homework, they won't depend on this amendment. But by approving this amendment, we will guarantee that no Federal bureaucrat sitting in Washington can waste time and money on endless paperwork. Frankly, I believe this kind of requirement should be available to all of us who struggle with bureaucratic delays in the Federal Government.

I will explain a few of the difficulties we face in Wyoming with Federal delays and bureaucratic red tape. I am sure my fellow cosponsors of the amendment have similar stories. I hope my colleagues will heed our cautionary tales.

In the Medicine Bow National Forest, we have watched millions of acres of forest die year after year. Bark beetles have infested our pine trees. They spread quickly and leave behind stands of dense, dry timber waiting to burn. We see entire mountain ranges of standing dead timber. This is a health problem, a safety problem for our communities in and around the forest. The

Forest Service recognizes the importance of moving quickly to reduce wildfire risk and remove the hazardous fuels. Yet it takes nearly 2 years to plan and review a single project, 2 years before we can even begin work on the projects. Most of that time is consumed by analysis and review in order to reach NEPA compliance. This is a clear example where red tape and bureaucratic requirements are failing the people of Wyoming. These same policies will fail the people of America if we do not include a process of expedited NEPA regulations in this legislation.

The Eastern Shoshone and Northern Arapaho tribes also face delays due to red tape that the Federal Government imposes on transactions involving Indian lands. Almost every proposal to lease or develop the surface minerals, timber, water, and other resources located on Indian land is subject to approval by a Federal official. However, that official's decision cannot be made until the NEPA review and documentation requirements have been fulfilled. The lengthy paperwork must be completed regardless of what the Indian tribe or the landowner wants and regardless of the tribe or the landowner's participation in negotiating the transaction. Those review and documentation requirements take time, even when the process goes smoothly. If there is a court challenge to the NEPA review, the process can be dragged on for many months or even years. The challenge of complying with NEPA has its own impacts on the human environment in the case of Indian lands. It makes Indian lands less attractive to prospective investors and developers, and it can lead to substantial delays and considerable uncertainty.

I am not saying that NEPA has no benefits and that it is all bad. But as we consider this stimulus bill, we in Congress must be honest with ourselves. We must face the fact that NEPA compliance may create significant delays in the spending contemplated by this bill. That should not happen. We should make it clear that NEPA will not be available as a mechanism to block or substantially delay a project authorized by this legislation.

With that in mind, I hope Members of the Senate will support this amendment. We know in Wyoming that delay and red tape are part of every Federal project. If Washington is serious about implementing massive Federal investment in local communities, we must ask ourselves the same questions being asked by our constituents: How do we make the process effective? How do we harness the most resources in the least amount of time? How can we best serve the people?

If you consider the on-the-ground realities of Federal projects, you see the necessity of this amendment. We need to put an end to bureaucratic delays. We must allow our communities to move forward with projects in a reasonable timeframe. We should allow the public to dispute Federal decisions, but we should limit unending lawsuits and delays. These are improvements that will vastly improve the effectiveness of Federal funding and allow truly shovel-ready projects to proceed without delay.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, at this point, I appreciate that the Senator from Wyoming has an amendment. I wondered if perhaps he could hold off and offer his amendment tomorrow and work out with Senator BOXER the appropriate accommodations for both Senators. That would be my hope. In the meantime, Senator HARKIN has an amendment he would like to offer.

Mr. BARRASSO. Mr. President, I will work on that with Senator BOXER.

Mr. BAUCUS. I thank the Senator for his accommodation.

Mrs. BOXER. Mr. President, I thank Senator BARRASSO. I didn't know about the Senator. As he knows, he is waiving the National Environment Act as it pertains to these projects. I will be glad to work with him to figure out a way to do a side-by-side, however he wants to deal with it, a second degree.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 338 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BARRASSO. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wish to talk about the amendment I will be calling up at some point. There is no doubt that the automobile industry is the heart and soul of America's manufacturing sector. It is absolutely critical to a healthy and diversified, vibrant U.S. economy. Right now this essential industry is on life support, hemorrhaging jobs, slashing production, closing dealerships, and, in the case of GM and Chrysler, dependent on Federal loans to avoid bankruptcy. Chrysler announced a 50-percent decline in January sales compared to a year ago. GM had a 49-percent decline in sales. Ford had a 39-percent decline. Toyota, with major plants in America, suffered a 32-percent decline in U.S. sales. These numbers are shocking, and people who think this is only an automakers' problem just don't get it.

The auto industry is not just a few assembly plants in Detroit. The Big Three and foreign automakers have plants in Alabama, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

There are car dealerships and auto parts manufacturers in thousands of communities all across America. Directly or indirectly, the auto industry supports one 1 of every 10 jobs in this country.

So let's be very clear, we are not going to have a strong economic recovery in the United States without a strong recovery in the automobile industry. That is why it is important this economic stimulus bill provide a major boost to automakers. The real question is, What is the best way to give a boost to the automakers? Is it giving them money at the top and letting them deal with it as they will? Well, that is like old trickle-down economics; all we have to do is give it to the top and somehow it will all trickle down.

Some of us have a better idea, and I think a better approach. It is to put it in at the bottom and let it percolate up. Here is what I mean by that.

The auto workers want nothing more than to be back on the job producing full time, producing high-quality cars, providing for their families, paying their taxes.

Now, I am offering this amendment which will give low- and modest-income consumers a $10,000 subsidy for the purchase of a new car that is assembled in America—a car or pickup truck assembled in America.

Now, here are the conditions that apply to this. First of all, the car you are bringing in has to be at least 10 years old. You have to have title for the car in your own possession prior to the date of the enactment of this bill. The new car you are purchasing has to get at least 5 miles per gallon more than the car you are bringing in. The new car must have a fuel economy rating of 25 miles per gallon or better or, in the case of a pickup, 20 miles per gallon or better. And the old car you are bringing in must be relinquished to the Government and be destroyed. This offer, this $10,000 subsidy, would be available only to individuals with incomes of $50,000 a year or less or couples with an income of $75,000 or less.

So let me run through that again. Here is the way it would work. If you have an income of less than $50,000—or for a couple less than $75,000—if you have a car that is at least 10 years old, and you have had title to that car since before the enactment of this bill—actually before January of this year—you could take your W–2 form to show your income, take the title of the old car to show you have owned it, show how old the car is, and you can go to any auto dealer anywhere you want and buy a new car and the subsidy will be $10,000. You will get $10,000. All you have to do

is relinquish your old car, and that car has to be destroyed.

Well, what would this amendment accomplish? First of all, it will bring a lot of customers back into the auto showrooms, and they will not just be looking, they will be buying. This will be a shot of adrenaline right into the bloodstream of the domestic auto industry. Secondly, it will accelerate the shift from older gas-guzzling vehicles to new high mileage cars. Third, and very important in these tough economic times, it will make it affordable for ordinary working Americans to buy a new car.

Think about it. Think about people who make less than $50,000 or a couple who makes less than $75,000 a year. Chances are, they are the ones who have the old clunkers. They need it to go back and forth to work. If you live in a rural area, it is absolutely essential. These are the people who have these old cars, and they put repairs in them—a couple hundred here, a couple hundred there—because they can afford to do that, but they cannot afford to buy a new car. But it is a much different story if the Federal Government is going to give you $10,000 to buy that new car.

For example, let's take this example: A basic 2009 Chevrolet Cobalt gets 34 miles per gallon on the highway. It has a manufacturer's suggested retail price starting at $16,330. After the Federal subsidy—assuming you are under the income limits, and you have this 10-year-old car—you will be able to buy that car for $6,330.

Now, what is also important is that you will be able to get financing under this program. Because the lender, with a $10,000 reduction in price, will be offering a car loan for far less than the car's worth after it leaves the lot.

We had a session today, and we heard Mr. Larry Summers. We all know who he is down at the White House. He said there are a lot of willing lenders out there, but they do not have worthy borrowers.

Well, now, if you are a person—a low-income, moderate-income person—and you are making $50,000 a year, and you need a new car—you have an old clunker, and you keep paying for repairs on it, but you wish to buy a new car—let's say it costs you $20,000 to buy a new car—you can go to your local bank and try to get a loan for $15,000 or $18,000 for a $20,000 car, and you will not get it. You will not get it. But if you go to that bank to try to get a loan for a $20,000 car and $10,000 of it is a subsidy from the Government, and you are only borrowing $10,000 for that car, you will get the financing.

So that is another important thing this amendment will do. It will start opening channels of credit. Money will start to begin to flow through banks and other lending organizations—savings and loans, credit unions, institutions such as that—for people to buy a car.

This amendment will make it affordable for a modest-income American to buy a new car. Make no mistake about it, it would stimulate a surge in auto sales—not just the automakers, but a broad swath of the economy impacted by the auto industry. Think about all of the other things that go into these cars in almost every community in America.

The Federal Government has given General Motors and Chrysler a few months to come up with a plan to ensure their long-term viability as businesses while producing a greener mix of vehicles. But we have failed to address two big questions.

In the midst of a severe recession, how do you boost demand for cars assembled in America? How do we get rid of that surplus we have out there? Go to any auto lot in your State. There are new cars all over the place, and there is no one buying them. So we failed to address that. How do we boost demand? Secondly, how do we give consumers compelling incentives to purchase fuel-efficient cars, especially at a time when gas prices have fallen dramatically? I was in my home State of Iowa this week, and gas is $1.77 a gallon. I have not seen it that low for a long time.

So this amendment provides a realistic answer to both questions. It would boost demand incredibly. We estimate that for the $16 billion this amendment would provide, it would cover more than 1.5 million purchases of new fuel-efficient, domestically assembled cars. It would accelerate the transition of our U.S. vehicle fleet toward more fuel-efficient cars, and this would be a gain for our whole country, reducing the demand for gasoline, reducing the dependence on foreign oil, lowering the operating costs of these new cars.

It will do little good to extend loans to GM and Chrysler if consumer demand for new cars remains dead. Now, we had the Mikulski amendment earlier today—today or yesterday—and that will help a little bit. But it is a tax deduction for modest-income Americans. It probably will not mean that much, maybe $1,000, $1,500. It is better than nothing. But if you want to sell those cars, give them $10,000, give $10,000 to modest-income Americans. Say: Go buy a car with these conditions.

We are very good around here at passing billions of dollars. What are we up to, $900 billion now on this bill? There is a lot of good stuff in this stimulus bill, and I support it. We are good at giving a lot of money to Wall Street and banks and GM and Chrysler at the top. We seem to be very good at giving a lot of money at the top. How about giving some money down at the bottom?

You want to talk about rebuilding confidence in America? Think what would happen to all these modest-income Americans who could now go out and get a new car. Think of all the old clunkers we would take off the road and destroy. That would rebuild confidence. As I mentioned, we would get our lending channels going. There would be a lot of loans made out there for these cars. With lending institutions, my gosh, loaning $6,000 on a $16,000 car, that is not everyone breaking a sweat.

So it is going to do little good for us to demand that automakers shift production to fuel-efficient cars if consumers are unwilling to buy them or they cannot buy them because of the recession.

This amendment is designed to address these challenges, to stimulate demand for new fuel-efficient cars, accelerate the shift toward a more fuel-efficient fleet, and help working-class Americans. As I said, you only qualify as an individual if you make $50,000 a year or less, or for a couple making $75,000 or less. Let's help working-class Americans. Now, people might say: Gee, that is a lot of money, $16 billion. But aren't we trying to stimulate the economy?

Again, in closing, I say, you are not going to get economic recovery until we address the automobile sector. That is the big driver in this country, no pun intended, of course. But that is what we have to address. We are not doing it. We keep punting the ball down the field: loans to GM, loans to Chrysler; they come up with a plan. But with all those new automobiles sitting out there, no one is buying them. Well, let's give them a subsidy. Let's give a subsidy to working-class Americans for a change, and give them a little hand up—not a handout, but a hand up. I will tell you, it will reverberate all through our economy if we are to do something like this.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I understand there has been an objection. I am not going to offer an amendment at this point until after this is resolved.

I wish to take a couple of minutes, if I may, on an amendment I will call up either this evening or tomorrow once this has been resolved, this process matter has been resolved. I intend to offer an amendment that would statutorily require a dedication of $50 billion from the second tranche of the so-called TARP funding to be dedicated to foreclosure mitigation.

As chairman of the Senate Banking Committee—and I am pleased to recognize that the distinguished Presiding Officer is a new member of that committee—for the last 2 years—in fact, 2 years ago this very week, we had our very first hearing, and I became chairman of the committee on the foreclosure problems in this country and the problems with the residential mortgage market generally. We had witnesses at that time who warned that we might face as many as 2 million foreclosures in the country. I recall when the witness testified to that effect, there were those who scoffed at that prediction, that nothing such as that could possibly happen in the United States. Now it seems like a modest prediction in light of what has occurred over the last 2 years regarding our economy, in this country, all of which began with the residential mortgage market in this Nation.

More so than anything else, it was the predatory lending that drew people into mortgages they were ill-prepared to meet, did not require documentation; they were actually called liar loans, in a sense. Of course, the brokers and the servicers and lenders were all passing on the responsibility with little or no accountability, were being compensated for their efforts, and no longer had any underwriting standards or requirements that would have required that the borrowers meet certain requirements in order to protect that mortgage and that homeowner.

I won't dwell on that this evening except to say that now we have 8 million homes underwater in effect, where the mortgages exceed the value of the homes. It is predicted that several millions more could lose their homes. Mr. President, 10,000 people a day in this country are losing their homes, along with the 20,000 losing their jobs, and there is an increase in the likelihood of further deterioration in the housing market.

I had hoped earlier on, with the first tranche of $350 billion, that more would be done in foreclosure mitigation. Regretfully, despite promises to the contrary, that never occurred. I am hopeful—in fact, beyond hopeful—because this amendment would require that $50 billion of that remaining $350 billion be dedicated to this purpose. I am confident that the new administration is committed to that. They certainly indicated as much in their comments. While not specifically identifying a number, they certainly indicated they intend to dedicate serious resources toward foreclosure mitigation. This amendment would secure, beyond any doubt—that those resources I have identified would be allocated for foreclosure mitigation. There are some other points in the amendment, but that is the major thrust.

Most economists, regardless of ideology or political perspective, have agreed that until we deal with the foreclosure crisis, the economic situation will continue to deteriorate until we get to the bottom of that. There are a variety of different proposals that have been suggested on how we might achieve that. This amendment I am offering does not insist upon any particular formulation. There are a number of ideas out there. I think Sheila Bair, who is the chairperson of the Federal Deposit Insurance Corporation, has one of the more creative ideas, an idea that has been warmly embraced by the Obama administration. That is not to say they agree with every dotted ''I'' and crossed ''t,'' but they certainly indicated they think it is more than just a reasonable idea but may very well contribute to putting a tourniquet on this hemorrhaging that is occurring in the residential mortgage market. That is one idea. There are others as well. Several of my colleagues on both sides of this political divide have offered ideas that I think would contribute to the reduction of foreclosures in the country, many of which are very solid ideas. Some may need further work than others, but I think all of us are now aiming in the right direction.

It has been a journey of some length. It was only in the spring of last year that we faced some six filibusters in this Chamber when we tried to fashion a housing program that would reduce some of the problems we saw a year ago. Obviously, the mood has changed dramatically. We now have virtually everyone talking about how to deal with the foreclosure problem. I only regret that same consensus had not developed earlier. Had it done so, in my view, we would not be where we are today. This is not a natural disaster that has occurred; this was an avoidable problem. That is the great tragedy of it. This was an avoidable economic problem that has at its roots the mortgage crisis. Unfortunately, it went unattended for so long despite repeated warnings by many of us.

But here we are at the outset of 2009 with the worst economic crisis since the Great Depression and a problem that has now spread throughout the globe. So it is incumbent upon us to take various steps to try to address this issue. I think the money that was allocated back last fall minimized the problem in a sense that it would have been far worse than it is today without those resources. Unfortunately, the management of those resources has not been as well executed as it could have been. My hope is that this next tranche will be far better managed with far greater accountability, far greater transparency, and far greater controls on such things as executive compensation.

Obviously, the stimulus package is also important. I wish to commend President Obama because he has said this well; that is, these steps we are taking are not in and of themselves going to resolve the economic crisis. What I think they do is minimize further deterioration of our economy. The President said the other day that he wishes these actions would turn the corner for us. What he hopes it will achieve is to stop the deterioration or the flow of this economy moving in the wrong direction.

So I think it is important as we talk about the stimulus package that we talk about these TARP funds. These are all steps that are needed to get us moving in the right direction, to create jobs in the country and stop the tremendous increase in unemployment—as I mentioned, 20,000 jobs a day—and begin to repair our credit market and the financial system in this country.

Far more will need to be done. Anyone who stands on this floor or elsewhere and predicts that because of the steps we are taking we are going to miraculously or immediately cure our economic ills is misspeaking. It will not. But it will get us pointed in the right direction. That is what is important about these steps we are about to take. It will move us in a direction of improving our economy.

I see my colleague from Missouri.

Mrs. McCASKILL. Mr. President, will the Senator yield for a question?

Mr. DODD. I am pleased to yield.

Mrs. McCASKILL. Mr. President, through the Presiding Officer, I wish to ask my colleague from Connecticut whether, when we were trying to deal with the foreclosure crisis last year, there were many people in the Chamber who said: Well, let's just shelve that for awhile. Let's forget about that problem right now. We don't need to do anything right now.

My recollection is that is what a lot of the response was from some of our friends.

Mr. DODD. Mr. President, I would say to my colleague from Missouri that she has an excellent memory. I had 82 hearings in the Banking Committee, over a third of them on this subject matter alone. We came to the floor of the Senate at the behest of the majority leader, Senator REID, who was a champion of these issues. We had these hearings prior to the Passover, Easter break in committee, over a third of them on this subject matter alone. We faced six filibusters—almost a record number—on a single piece of legislation. It was after that break that things began to open up and move.

My colleague from Missouri has this exactly right. There were those who were vehemently opposed. There were all sorts of amendments, all sorts of efforts made to obstruct any effort for us to come up with ideas to allow us to mitigate the rising foreclosures in the country. Had we dealt with it then, a year ago, I think it is safe to say to my colleagues that we would not be in the situation we are in today.

Mrs. MCCASKILL. Mr. President, I would ask my colleague, it is almost like what a famous baseball player once said: ''It is deja vu all over again.'' Because what I am hearing, if I am correct—and I would certainly ask him this question—I am hearing the same thing now on the economic recovery bill, that we need to shelve it.

I heard one of our colleagues, who I believe is the ranking member on Senator DODD's committee, actually today on TV and the last couple of days saying: We need to shelve this thing.

I would ask the Senator from Connecticut, through the Presiding Officer, I have this feeling that if we shelve it, we will be back here next year and, as with the housing crisis, the economic crisis in this country will do nothing but get demonstrably worse and more painful for the American people.

Mr. DODD. Mr. President, responding to my colleague and friend from Missouri, she is absolutely correct. I think there is a tendency to look at these issues as if they were somehow stovepiped, separate from each other, this dealing with the TARP legislation and dealing with the financial crisis and now dealing with the stimulus package is unrelated. It has been pointed out that there is a likelihood we will lose as much as $2 trillion out of our economy over the next 2 years. Making up that gap is going to require some effort.

This bill will ultimately, I hope, result in an appropriation of something between $800 billion and $900 billion—no small amount but far short of what will be lost in our economy over the next 2 years. If we defeat this or shelve this, as has been suggested, we exacerbate the economic problems of this Nation to a significant degree, which would require this body coming back at a later date with something that none of us even wants to contemplate at this point.

So this is not an unrelated matter. You shelve this, you walk away from this responsibility, and you burden the American taxpayer to the likes none of us could even begin to calculate.

So I thank my colleague from Missouri for pointing that fact out. This is related. If our economy does not begin to improve or at least not get worse, as the President has accurately pointed out, the problems only become more pronounced, more difficult to resolve in the coming weeks and months. So our economic future depends upon each of these pieces in place that will allow us to begin to turn that corner, see credit begin to move, borrowing occur, lenders lending, and activity economically in this country begin to move in the direction we need for recovery. So I thank her immensely for her comments. She identified exactly what needs to be done and explained it to our citizens.

This is not an idle effort just to secure some spending. It is absolutely essential if we are going to produce the kinds of jobs that are necessary, contribute to economic growth, and make a difference for our country. That is the reason I thought on this bill—it is a stimulus bill—of requiring to be set aside $50 billion of the TARP money in the next tranche to be dedicated to the rising number of foreclosures of residential properties in our Nation. If you are losing 20,000 jobs a day, you don't need to be a degreed economist to know that with every one of those people who loses a job, the greater the likelihood they will lose their home.

We need to do everything we can to try to stop that erosion in the job market and simultaneously do what we can to make it possible for people to stay in their homes. There is a direct correlation between the stimulus effort and TARP regarding mitigation of foreclosures. That is why I will ask my colleagues to be supportive of that effort tomorrow.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendment be set aside and the following Senators be permitted to call up amendments at the desk as follows: DeMint, No. 189; Boxer, an amendment regarding environmental laws; Barrasso, an amendment regarding environmental laws; Harkin, amendment No. 338; Dodd, amendment No. 145; McCaskill, amendments Nos. 125 and 236, with a modification; that the Landrieu amendment No. 102 be called up, and once that is reported this evening, it be considered and agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 326 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendments be set aside and I be allowed to call up amendment No. 326.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT, proposes an amendment numbered 326 to amendment No. 98.

Mr. BARRASSO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expedite reviews required to be carried out under the National Environmental Policy Act of 1969)

On page 431, between lines 8 and 9, insert the following:

SEC. 16___. (a)(1) Notwithstanding any other provision of law, all reviews carried out pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed by the date that is 270 days after the date of enactment of this Act.

(2) If a review described in paragraph (1) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in paragraph (1)—

(A) the action shall be considered to have no significant impact to the human environment for the purpose of that Act; and

(B) that classification shall be considered to be a final agency action.

(b) The lead agency for a review of an action carried out pursuant to this section shall be the Federal agency to which funds are made available for the action.

(c)(1) There shall be a single administrative appeal for all reviews carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court described in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to a review carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court described in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

AMENDMENT NO. 189 TO AMENDMENT NO. 98

Mr. BARRASSO. Mr. President, I ask unanimous consent that the pending amendment be set aside and I be allowed to call up amendment No. 189 on behalf of Senator DEMINT.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO], for Mr. DEMINT, proposes an amendment numbered 189 to amendment No. 98.

Mr. BARRASSO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the free exercise of religion at institutions of higher education that receive funding under section 803 of division A)

On page 192, after line 21 insert the following:

SEC. 807. ELIMINATION OF FUNDING PROHIBITION. Notwithstanding section 803(d)(2)(C), section 803(d)(2)(C) shall have no effect.

Mr. BARRASSO. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

AMENDMENTS NOS. 145, 338, 125, AND 236, AS MODIFIED TO AMENDMENT NO. 98

Mr. BAUCUS. Mr. President, on behalf of Senators DODD and HARKIN, I call up amendments, one for each Senator, and on behalf of Senator MCCASKILL, I call up two amendments as under the previous order.

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the amendments will be considered pending.

The amendments are as follows:

AMENDMENT NO. 145

(Purpose: To improve the efforts of the Federal Government in mitigating home foreclosures and to require the Secretary of the Treasury to develop and implement a foreclosure prevention loan modification plan)

On page 263, between lines 10 and 11, insert the following:

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1201. Section 257 of the National Housing Act (12 U.S.C. 1715z-23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), is amended—

(1) in subsection (e)(1)(B), by inserting after ''being reset,'' the following: ''or has, due to a decrease in income,'';

(2) in subsection (k)(2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''shall, upon any sale or disposition of the property to which the mortgage relates, be entitled to 25 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the eligible mortgage refinanced under this section.'';

(3) in subsection (i)—

(A) by inserting '', after weighing maximization of participation with consideration for the solvency of the program,'' after ''Secretary shall'';

(B) in paragraph (1), by striking ''equal to 3 percent'' and inserting ''not more than 2 percent''; and

(C) in paragraph (2), by striking ''equal to 1.5 percent'' and inserting ''not more than 1 percent''; and

(4) by adding at the end the following:

''(x) AUCTIONS.—The Board shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

''(y) COMPENSATION OF SERVICERS.—To provide incentive for participation in the program under this section, each servicer of an eligible mortgage insured under this section shall be paid $1,000 for performing services associated with refinancing such mortgage, or such other amount as the Board determines is warranted. Funding for such compensation shall be provided by funds realized through the HOPE bond under subsection (w).''.

At the end of division B, add the following:

TITLE VI—FORECLOSURE PREVENTION

SEC. 6001. MANDATORY LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended—

(1) by striking the last sentence;

(2) by striking ''To the extent'' and inserting the following:

''(1) IN GENERAL.—To the extent''; and

(3) by adding at the end the following:

''(2) LOAN MODIFICATIONS REQUIRED.—

''(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

''(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than $50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

''(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

''(i) loan guarantees and credit enhancements;

''(ii) the reduction of loan principal amounts and interest rates;

''(iii) extension of mortgage loan terms; and

''(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

''(D) DESIGNATION AUTHORITY.—

''(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

''(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

''(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

''(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

''(i) upon development of the plan required by this paragraph, a report describing such plan; and

''(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.''.

AMENDMENT NO. 338

(Purpose: To require the Secretary of the Treasury to carry out a program to enable certain individuals to trade certain old automobiles for certain new automobiles)

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. AUTOMOBILE TRADE-IN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AUTOMOBILE, FUEL, MANUFACTURER, MODEL YEAR.—The terms ''automobile'', ''fuel'', ''manufacturer'', and ''model year'' have the meaning given such terms in section 32901 of title 49, United States Code.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual—

(A) who does not have more than 3 automobiles registered under his or her name;

(B) who filed a return of Federal income tax for a taxable year beginning in 2007 or in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

(C) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins;

(D) whose adjusted gross income reported in the most recent return described in subparagraph (B) was not more than $50,000 ($75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986));

(E) who has not acquired an automobile under the Program; and

(F) who did not file such return jointly with another individual who has acquired an automobile under the Program.

(3) ELIGIBLE NEW AUTOMOBILE.—The term ''eligible new automobile'', with respect to a trade of an eligible old automobile by an eligible individual under the Program, means an automobile that—

(A) has never been registered in any jurisdiction;

(B) was assembled in the United States; and

(C) has a fuel economy that—

(i) is not less than 25 miles per gallon (20 miles per gallon in the case of a pick up truck), as determined by the Administrator of the Environmental Protection Agency using the 5-cycle fuel economy measurement methodology of such Agency; and

(ii) has a fuel economy that is more than 4.9 miles per gallon greater than the fuel economy of such eligible old automobile, as determined by the Administrator using the 2-cycle fuel economy measurement methodology of such Agency for both automobiles.

(4) ELIGIBLE OLD AUTOMOBILE.—The term ''eligible old automobile'', with respect to a trade for an eligible new automobile by an eligible individual under the Program, means an automobile that—

(A) is operable;

(B) was first registered in any jurisdiction by any person not less than 10 years before the date on which such trade is initiated;

(C) is registered under such eligible individual's name on the date on which such trade is initiated; and

(D) was registered under such eligible individual's name before January 16, 2009.

(5) PICK UP TRUCK.—The term ''pick up truck'' means an automobile with an open bed as determined by the Secretary in consultation with the Secretary of Transportation.

(6) PROGRAM.—The term ''Program'' means the Automobile Trade-In Program established under subsection (b).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Treasury, or the Secretary's designee.

(b) PROGRAM ESTABLISHED.—The Secretary shall establish the Automobile Trade-In Program to provide eligible individuals with subsidies to purchase eligible new automobiles in exchange for eligible old automobiles.

(c) DURATION OF PROGRAM.—The Program shall commence on the date on which the Secretary prescribes regulations under subsection (h) and shall terminate on the earlier of—

(1) September 30, 2010; and

(2) the date on which all of the funds appropriated or otherwise made available under subsection (j) have been expended.

(d) TRADES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an eligible individual and a seller of an eligible new automobile initiate a trade as described in subsection (e) for such new automobile with an eligible old automobile of the eligible individual before the termination of the Program under subsection (c), the Secretary shall provide to the seller of such new automobile $10,000.

(2) LIMITATION ON PURCHASE PRICE OF ELIGIBLE NEW AUTOMOBILES.—The Secretary may not make any payment under this subsection for a trade for an eligible new automobile under the Program if—

(A) the purchase price of such new automobile exceeds the manufacturer's suggested retail price for such new automobile; or

(B) the price of the non-safety related accessories, as determined by the Secretary in consultation with the Administrator of the National Highway Traffic Safety Administration, of such new automobile exceeds—

(i) the average price of the non-safety related accessories for the prior model year of such new automobile; or

(ii) in the case that there is no prior model year for such new automobile, the average price of non-safety related accessories for similar new automobiles (as determined by the Secretary), with consideration of the types of non-safety related accessories that are typically provided with such automobiles.

(3) COMPENSATION FOR DELAYED PAYMENTS.—In the case that a payment under this subsection to a seller for a trade under the Program is delayed, the Secretary shall provide to such seller the amount otherwise determined under this subsection plus interest at the overpayment rate established under section 6621 of the Internal Revenue Code of 1986.

(e) INITIATION OF TRADE.—An eligible individual and the seller of an eligible new automobile initiate a trade under the Program for such eligible new automobile with an eligible old automobile of such individual if—

(1) the eligible individual, or the eligible individual's designee, drives such old automobile to the location of such seller;

(2) the eligible individual provides to the seller—

(A) such old automobile; and

(B) an amount (if any) equal to the difference between—

(i) the purchase price of such new automobile; and

(ii) the amount the Secretary is required to provide to the seller under subsection (d); and

(3) the eligible individual and the seller notify the Secretary of such trade at such time and in such manner as the Secretary considers appropriate.

(f) LIMITATION ON RESALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who purchases an automobile under the Program may not sell or lease the automobile before the date that is 1 year after the date on which the individual purchased the automobile under the Program.

(2) EXCEPTION FOR HARDSHIP.—The limitation in paragraph (1) shall not apply to an individual if compliance with such limitation would constitute a hardship, as determined by the Secretary.

(g) DISPOSAL OF ELIGIBLE OLD AUTOMOBILES.—

(1) IN GENERAL.—A seller who receives an eligible old automobile in exchange for an eligible new automobile under the Program shall deliver such old automobile to an appropriate location for proper destruction and disposal as determined by the Secretary in accordance with paragraph (2).

(2) DISPOSAL AND SALVAGE.—The Secretary may permit a seller under paragraph (1) to salvage portions of an automobile to be destroyed and disposed of under such paragraph, except that the Secretary shall require the destruction of the engine block and the frame of the automobile.

(3) COMPENSATION.—The Secretary shall compensate a seller described in paragraph (1) for costs incurred by such seller under such paragraph in such amounts or at such rates as the Secretary considers appropriate.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall prescribe rules to carry out the Program.

(2) EXPEDITED PROCEDURES FOR RULEMAKING.—The provisions of chapter 5 of title 5, United States Code, shall not apply to regulations prescribed under paragraph (1).

(i) MONITORING.—The Secretary shall establish a mechanism to monitor the expenditure of funds appropriated under subsection (j).

(j) DIRECT SPENDING AUTHORITY.—

(1) IN GENERAL.—There is authorized to be appropriated and is appropriated to the Secretary $16,000,000,000, including administrative expenses, to carry out the Program.

(2) AVAILABILITY.—The amount appropriated under paragraph (1) shall be available for the purpose described in such paragraph until September 30, 2010.

(3) EMERGENCY DESIGNATION.—Amounts appropriated pursuant to paragraph (1) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AMENDMENT NO. 125

(Purpose: To limit compensation to officers and directors of entities receiving emergency economic assistance from the Government)

On page 428, between lines 11 and 12, insert the following:

Subtitle D—Limits on Executive Compensation

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Cap Executive Officer Pay Act of 2009".

SEC. 1552. LIMIT ON EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no person who is an officer, director, executive, or other employee of a financial institution or other entity that receives or has received funds under the Troubled Asset Relief Program (or "TARP"), established under section 101 of the Emergency Economic Stabilization Act of 2008, may receive annual compensation in excess of the amount of compensation paid to the President of the United States.

(b) DURATION.—The limitation in subsection (a) shall be a condition of the receipt of assistance under the TARP, and of any modification to such assistance that was received on or before the date of enactment of this Act, and shall remain in effect with respect to each financial institution or other entity that receives such assistance or modification for the duration of the assistance or obligation provided under the TARP.

SEC. 1553. RULEMAKING AUTHORITY.

The Secretary shall expeditiously issue such rules as are necessary to carry out this subtitle, including with respect to reimbursement of compensation amounts, as appropriate.

SEC. 1554. COMPENSATION.

As used in this subtitle, the term "compensation" includes wages, salary, deferred compensation, retirement contributions, options, bonuses, property, and any other form of compensation or bonus that the Secretary of the Treasury determines is appropriate.

AMENDMENT NO. 236, AS MODIFIED

(Purpose: To establish funding levels for various offices of inspectors general and to set a date until which such funds shall remain available)

On page 3, line 22, strike "2010" and insert "2011".

On page 3, line 23, insert before the period "and an additional $17,500,000 for such purposes, to remain available until September 30, 2011".

On page 41, line 4, strike "2010." and insert "2011, and an additional $4,000,000 for such purposes, to remain available until September 30, 2011.".

On page 41, line 21, strike "2010" and insert "2011".

On page 47, line 8, strike "2010" and insert "2011".

On page 47, line 26, strike "2010" and insert "2011".

On page 60, line 4, strike "2010." and insert "2011, and an additional $3,000,000 for such purposes, to remain available until September 30, 2011.".

On page 77, line 19, strike "expended." and insert "September 30, 2012, and an additional $10,000,000 for such purposes, to remain available until September 30, 2012.".

On page 95, line 12, insert before the period "and an additional $13,000,000 for such purposes, to remain available until September 30, 2011".

On page 105, line 24, strike "2010" and insert "2011".

On page 116, line 21, strike "2010." and insert "2011, and an additional $7,400,000 for such purposes, to remain available until September 30, 2011.".

On page 127, line 14, strike "2010" and insert "2011".

On page 137, line 8, strike "2011." and insert "2012, and an additional $15,000,000 for such purposes, to remain available until September 30, 2011.".

On page 146, line 12, insert before the period "and an additional $10,000,000 for such purposes, to remain available until September 30, 2012".

On page 149, between lines 5 and 6, insert the following:

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $1,000,000, which shall remain available until September 30, 2011.

On page 214, line 19, strike "2010" and insert "2011".

On page 225, line 6, strike "2010" and insert "2011".

On page 226, line 23, strike "2010" and insert "2011".

On page 243, line 6 insert ", and an additional $12,250,000 for such purposes, to remain available until September 30, 2011" before the colon.

On page 263, line 7, insert ", and an additional $12,250,000 for such purposes, to remain available until September 30, 2011" before the colon.

On page 733, line 2, strike "expended" and insert "September 30, 2012,".

Mr. BAUCUS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 363 TO AMENDMENT NO. 98

Mrs. BOXER. Mr. President, I am just waiting to take the Senate out tonight. But I did want to say there was a little bit of a surprise that happened tonight when one of my colleagues offered an amendment to essentially repeal environmental laws as they relate to this bill. All activities of this bill, if this Barrasso amendment were to pass, all the activities would no longer be covered by the National Environmental Policy Act.

That is a very disturbing amendment and I was very surprised by it as chair of the Environment and Public Works Committee here. Thanks to the diligent staff—and I do appreciate them letting me know—I was able to craft another amendment that I hope will precede the amendment of Senator BARRASSO and allow the Senate to express itself, saying that we do not intend to waive environmental laws that will protect the public health of our communities and, if there are projects that are such a harm to our community, they should be replaced by the many shovel-ready projects that our mayors are telling us are out there, that our Governors are telling us are out there.

We will have that debate tomorrow but I wanted to mention why I was still here at 10 after 10, here protecting our communities across America.

I have sent an amendment to the desk. I hope that amendment will be queued up as per the suggested list of Senator BAUCUS.

The ACTING PRESIDENT pro tempore. The amendment is now pending among the amendments that have been sent up.

The amendment is as follows:

(Purpose: To ensure that any action taken under this act or any funds made available under this act that are subject to the National Environmental Policy Act (NEPA) protect the public health of communities across the country)

At the appropriate place, insert the following:

FINDINGS

The Senate finds that:

According to leading national and state organizations, there are many more NEPA compliant, ready-to-go activities, than are funded in this bill, and

If there is an action or funds made available for an action that triggers NEPA, and that activity could cause harm to public health, and that harm has not been evaluated under NEPA, the project would not meet the requirements of NEPA and should not be funded.

SECTION 1

Any action or funds made available for an action that triggers NEPA, that have not complied with NEPA, and therefore pose a potential danger to our communities across the country, must either come into compliance with NEPA or be replaced by other eligible activities.

AMENDMENT NO. 102 TO AMENDMENT NO. 98

The ACTING PRESIDENT pro tempore. The Chair notes for the record that amendment No. 102, sponsored by Senator LANDRIEU, is considered offered and adopted.

The amendment (No. 102) was agreed to, as follows:

(Purpose: To ensure that assistance for the redevelopment of foreclosed and abandoned homes to States or units of local government impacted by catastrophic natural disasters may be used to support the redevelopment of homes damaged or destroyed as a result of the 2005 hurricanes, the severe flooding in the Midwest in 2008, and other natural disasters)

On page 251, lines 13 and 14, strike ''housing:'' and insert the following: ''housing: *Provided further*, That funding used for section 2301(c)(3)(E) of the Act shall also be available to redevelop demolished, blighted, or vacant properties, including those damaged or destroyed in areas subject to a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.):''

MORNING BUSINESS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We consider ourselves very fortunate that we can still do the things we want. However, we certainly feel the bite at the pump. We are retired (but still working) and were hoping to travel, but the cost is going to get in the way of that. We have cut out unnecessary trips, have a small, efficient car that we use now more often than our pickups and look for ways to conserve. We live in a rural area and no matter how we try to stay close to home, we still have to travel some distance to get supplies and groceries. We still need to drive our pickups and cannot always take the car. Our tractors and other machinery need fuel. Rural Americans are going to feel this more than others. We have longer distances to drive, we have more need for fuel and we do not have public transportation, etc. There is only so much cutting back we can do and still earn a living or make ends meet.

High gas prices cannot help but have a negative effect on other businesses. In an area that used to have a thriving economy based on natural resources (timber), we were told to become dependent on tourism to replace that. This is what happens when tourism is the basis of your economy—people stay home, businesses go belly up, the local economy suffers.

The solution is to begin stepping up the pace to develop our own energy and accompanying infrastructure so that we do not need to be so dependent on countries who certainly do not have our best interests at heart. We cannot afford to place our natural resources off limits and expect the world to meet our needs. It is morally wrong to exploit other countries' resources while our own are locked away.

Thanks for the opportunity to comment.

WAYNE and JULIE BURKHARDT,
Indian Valley.

I most likely will never meet anyone of you. I believe that you must be great, because you were voted to your place where you are seated today, by others just like me, barely keeping my head above water. I believe in this great nation, I believe that your jobs are to be the voice of the great people of this nation. We believed that you could that why we voted for you. So fight for us, our voices are lifted and we are screaming for help. There is no reason we should be here; as a young set of thirteen colonies we broke away for taxes and tyranny. Please tell me why we are at the mercy of tyranny again, and paying those very high taxes.

If we can create a nuclear bomb that kills people, we can spend a trillion dollars a year on a war that kills people and brings this country to its knees. By god we can do something other than this dependence on oil.

Let us be leaders again. Let us be a great people again.

ANNA REED, *Idaho Falls.*

First of all I thank God that I live in Idaho and for the most part my representatives represent me. Secondly, I feel that the rest of the U.S. Congress is absolutely out of touch with average American citizens. I feel that MY beautiful state of Idaho where I live with like-minded people will not be able to make its voice heard in the U.S. Congress. I could tell you how my family is being hit hard by sky-high gasoline, and energy prices, and how I have cut back on driving. I could tell that if gas prices and the cost of energy

continues to rise I will be forced to take drastic measures just to keep food on the table and get to work. However, I am truly worried that the elitists in the U.S. Congress will just rub their hands together and say, our plan is working we are saving the globe from warming. Somewhere along the way the majority of our representatives in Congress have forgotten they are just that—representatives. They have taken it upon themselves to be gods thinking they have the moral high ground and who cares how the everyday average American is effected by their decisions. Yes, the United States is too dependent on petroleum for our energy and we are far too dependent on foreign sources of that petroleum. But are we willing to let the economy continue to be crushed because our Congress has bought into the fallacy of Climate Alarmism? Yes! We should be passing legislation to fully utilize proven American oil and natural gas reserves in a way that preserves the environment for future generations. That is why I strongly support policies that will take further and full advantage of nuclear energy technologies, wind and solar power, and effective renewable and alternative fuels. The Congress must take serious action that will result in reduced energy dependence of fossil fuels or provide financial relief for those hit by the recently-sky-rocketing prices. If the moral elitists in Congress don't act quickly there will not be any tax payers left to save the world. The oil companies make four cents a gallon; the government collects 18 cents a gallon—I think we should be investigating Congress.

TOBY ANDERSON.

My family has very much felt the painful effects of high oil prices as I have seven children (four of them teenagers). Even with planning our trips into town we spend an average of $570 just on fuel, not mention the increased burden of escalated costs of all other commodities that we purchase! I am a believer in taking care of our environment and being responsible caretakers of the earth, but our government and our economy being held hostage by ''save the planet'' extreme leftist special interest groups has got to end!!! We need to wean off of oil as a major source of energy but that will take time as I understand it. Therefore, as a temporary measure we need to tap into our resources. That will buy us enough time to establish new technologies such as hydrogen (which I believe is a great method of powering vehicles). The best and one of the safest methods of producing electricity is nuclear, utilizing the ability to reuse the fuel. Drilling for oil, harvesting coal, nuclear, and production of hydrogen can all be done in an environmentally sound way, freeing us from bonds of other countries that would like to kill us and the environmental wackos that believe that the world would be a perfect place without humans and they would like to see us revert back to the 1700s or go away completely! To me, energy is a national security issue that must be dealt with immediately. Please help us out of this mess that we have allowed ourselves to get in through bad government policies.

Thanks for letting me vent.

PAUL PETERSEN.

Sen Crapo, let us see, I can't drive my diesel truck and I do not use my boat, I go to work and back. I think you need to take the oil off the stock market and start drilling. What the hell is wrong with everyone in D.C.? You are making so much money off of oil you cannot take care of this.

Thanks.

DON.

In response to the story we saw on KTVB 10 p.m. last night, and again this morning, I would like to submit the following:

It is amazing how God knows what is coming and has a way of preparing us for it.

Seven years ago, before gas prices started their initial climb, I stumbled upon a deal on a '79 Honda CB650. I had not ridden a motorcycle for eleven years (same length of time it had been sitting in a warehouse). Initially, I did not think I should spend the $800. But a few weeks later decided I could not pass up the deal. Right after I bought it, gas prices started inching upward.

Last year, my wife, who has never even expressed interest in motorcycles and even asked me what I needed one for when I bought the CB650, began asking questions about riding. And about a month later (May), she decided to go ahead and do it. We got her a little 150 scooter and signed her up for Idaho STARS, but the first opening was not until Sept 7th. So we did a lot of practice in parking lots before the course began.

My elder daughter (31 at the time) had been asking me to teach her to ride for a couple years. But I had to tell her I did not have a bike that was suitable for beginners. It was a high-revving machine that was easy to stall, besides being a rather heavy machine for her to pick up if she dropped it. So when she heard about her mom and found out they provide the bikes for the STARS course, she signed up for the same class, and so did her husband. All three were trained the same weekend.

In short, our solution for high gas prices (at least until Congress acts to provide more permanent relief) is to ride two wheels as much as the weather will allow. We prefer not to ride in the rain, and fortunately for us, summertime is very dry here in the Treasure Valley. However, we do have to face the fact that such tactics will not do us much good when fall and winter come along.

For the moment, we marvel how God prepared us well in advance, and now gas prices are $1.00/gallon higher than last year.

Here is a sample of our present savings. Nancy's present, freeway-capable 400 scooter gets 52 mpg. She can go 135 miles on 2.6 gallons. We are presently paying $4.289/gal for premium at Shell. Those 135 miles cost us $11.15, or little over 8 cents a mile.

If she drives the same 135 miles in our '02 Pontiac Bonneville that gets 22 mpg, she will burn 6.1 gallons of regular unleaded at 4.099/gallon for $25.01 (18.5 cents a mile.) So every time she fills the scooter, she saves $14.14 in fuel cost at present prices. Savings numbers on my ''bike'' are slightly less, but comparable since it gets 46 mpg. My fill up for 135 miles is 2.9 gallons (same grade) for $12.59, about half of what it costs to drive. And a little publicized fact is that motorcycles contribute a lot less to air pollution, besides being fun to ride, and easier to park.

Like a lot of other comments I have seen on the subject, I also think we should be drilling oil in ANWR as well as our own oil fields in Texas (where production numbers are managed by the Texas Railroad Commission), Oklahoma, California and off-shore to reduce our dependence on foreign oil from countries that do not have our best interests at heart.

We definitely need to build more nuclear power plants, more refineries to balance supply with demand, and proceed with coal conversion, wind energy, and solar power. I know that hydrogen powered cars only emit water, but hydrogen is so highly explosive, I think it will be a tough sell and will take decades to develop an infrastructure for those daring souls willing to participate. A scary thought is what effect the presence of such cars will have on the safety of other travelers.

Respectfully,

GENE HEIKKOLA, *Meridian*.

Today's energy prices and the rate of incline are far exceeding the rate of pay for many jobs in our area (Idaho Falls). As young adults just starting a family, it is depressing to think about the future and not know if I am going to able to provide for my family.

If we are waiting for a rainy day to tap into our domestic oil sources, that time is now! With all of the advancement in technology hopefully our reliance on fossil fuel is going to diminish so why not use them now. Our economy needs it; if less money is spent on filling vehicles people could travel and spend money to boost the economy.

Thanks.

JARED.

Thank you for your concern and for taking action on our behalf on the high costs of energy and its effects on the average Idaho family. In your email you mention that the average Idaho family spends $200 per month on gasoline. I feel that that is way too conservative of an estimate. My wife and I spend are now spending $600 per month on just gasoline. I drive a Honda Accord and my wife drives a minivan, neither of which are horrible gas guzzling SUVs. This is putting a real strain on our budget and we are having to cut back in other areas to compensate for the high cost of fuel. We believe that as a nation we should become energy independent. We both support offshore drilling, drilling in the ANWR, processing oil shale in the Rocky Mountain states, nuclear energy, along with all other forms of energy production. We need to clear the way of lawsuits by declaring a national emergency, of which this is. We cannot continue to be the light of freedom to the world if we are dependent upon the countries that are trying to stomp that light out for our very existence. Thank you for concern in this matter.

FRED and KAMALA FREE, *Idaho Falls*.

The inability of our government to work together has reached a point it is killing our country. When one party tries to advance an idea the other kills it because it does not fit just right with their program. I have never seen the likes of it. I am a registered and a dyed-in-the-wool Republican but have been having these crazy thoughts that I should vote for a Democrat for President so at least there would be a majority in Congress with a President to go along with it. Crazy thoughts but I am sick of the gridlock.

We are retired and have spent a lifetime getting ready so we could travel and see the country and enjoy these last years of our life. All of the sudden we cannot even hardly drive any longer and we find ourselves not being able to make ends meet at the end of the month. As prices keep going up we will find ourselves in trouble as our income is fixed.

We should be drilling for oil everywhere it is. Why we have blocked drilling all over the country and allowed ourselves to become hostages to OPEC, I will never be able to understand. We are a free society but oil is so critical to our well being there needs to be some oversight on this business to make sure

they are refining to capacity and drilling everywhere. We should not be importing one barrel of oil. The way it is now, the oil companies hold down refining to keep the prices up.

Also we should be building nuclear power plants now for the future. Why we stopped building them I do not know.....

Good luck. Please get with your Democrat partners and work something out....anything is better than nothing.

VAL MEIKLE.

Thank you for taking enough interest in the issue of high gas prices to ask Idahoans. Personally, though it is a hit on the budget and will change the amount of time our fifth wheel spends in storage rather than on the road, the high prices are more of a nuisance than a threat. For that my wife and I are blessed. The bigger issue for me and for the many other Idahoans that I talk to is that we, the little people, understand how to fix the problem and apparently our government does not or will not. We need to immediately start drilling where we know there are oil reserves (Alaska, North Dakota/Montana, off shore) and begin construction of new refineries as the drilling progresses. Also, begin the immediate construction of nuclear power plants to eliminate natural gas fired plants so that those resources can be diverted to other uses. We should begin work on oil shale research and development. Lastly, continue to encourage the development of economically feasible alternatives for our next generation of automobiles but let's not abandon what we already have. I had two ten-year-olds staying at our house last night and as we watched the 10:00 p.m. news they made comments that made it clear to me that they understood that government was the biggest obstacle to solving our current 'energy crisis' (so called). Congress needs to shed the bonds they voluntarily accepted from the environmental crowd and do what is right for our country.

DON and GAE BURTON, *Meridian*.

I own a small landscape design and build firm in Boise. The skyrocketing fuel costs are a big hit to my little company. At the prices today, I am spending nearly $3,000 a month on fuel for four trucks and some small equipment. That is a cost to my company of $150 per day. It is hard to pass on all the higher expenses and still be competitive in the marketplace so the net effect is a hardship to my bottom line. This year my fuel costs will be more than 50 percent of my salary.

What is our energy policy? Why do we allow other nations to drill off our coast lines only to ship the oil away from our shores and sell it back to us at high prices? When are we going to free ourselves from the Middle East and other nations such as Venezuela whom have such a hatred of America? Showing the rest of the world that we are serious about our own energy independence will have an immediate impact on the current price we pay at the pump.

We need to develop a dual approach. We need to open up drilling in ANWR and other areas around our country. We need to work towards weaning ourselves off of foreign oil and gain American oil independence.

At the same time we need to work on alternative forms of energy and collectively, government and private industry will be able to solve this crisis.

How about a little focus on our own energy independence and let's start taking care of ourselves, stop all the back biting political posturing and come together as Americans for the good of the nation and our long term survival as the greatest nation on God's Green Earth.

Thanks for listening.

DAVE, *Boise*.

HONORING OUR ARMED FORCES

CHIEF WARRANT OFFICER JOSHUA M. TILLERY

Mr. MERKLEY. Mr. President, I rise today to honor a brave Oregonian who tragically lost his life last Monday in Kirkuk, Iraq. CWO Joshua M. Tillery, was a pilot with the 6th Squadron, 6th Cavalry Regiment, 10th Combat Aviation Brigade, 10th Mountain Division at Fort Drum. Chief Warrant Officer Tillery was serving his second tour of duty in Iraq at the time of his death.

Joshua Tillery was a recipient of the Bronze Star, the Air Medal, the National Defense Service Medal, the Iraq Campaign Medal for Combat Service, the Global War on Terror Service Medal, two Army Commendation Medals, six Army Achievement Medals, the Noncommissioned Officers Professional Development Ribbon, the Army Service Ribbon, the Army Overseas Service Ribbon, the Army Air Assault Badge, the Army Aviator Badge, the Combat Action Badge, and the Parachutist Badge for his courageous service to our country.

Chief Warrant Officer Tillery represents the most selfless and most honorable of men in our country. His friends and family recall how he was to serve his country and how he always wanted to do whatever he could to help people. Joshua loved to fly and was on his way to becoming a flight safety officer. Like so many Oregonians, he enjoyed oudoor activities, and particularly loved snowboarding and riding dirt bikes. He was 31 years old when he passed, a devoted husband, and father of three young boys with another baby on the way.

I offer my prayers and condolences to his family and friends. Oregon has lost one of its bravest and brightest young men, and I know I join all Oregonians in honoring the legacy of Joshua Tillery.

ADDITIONAL STATEMENTS

TRIBUTE TO SYBIL MOSES

● Mr. LAUTENBERG. Mr. President, I wish to pay tribute to Sybil Moses, a judge and pioneer who for 21 years brought to New Jersey her commitment to the rule of law and passion for the administration of justice. Sybil passed away on January 23, 2009, and is survived by her husband of 48 years, her son, her daughter, and her five beautiful grandchildren. She will be sorely missed by her family and by my home State of New Jersey.

Sybil opened up new opportunities for women by virtue of her hard work, and she created a path that many will follow in the future. After proving herself as a prosecutor and a judge, Sybil was appointed the State's first female assignment judge in 1997. Sybil understood not only the law, but also the needs of residents who came in contact with the court. While serving at the courthouse, for example, she created a free day care center, so that anyone attending a court matter could bring their child with them, rather than having to make other arrangements. Sybil served as an assignment judge until her retirement in October. Even retirement, however, could not stop Sybil, who accepted two Supreme Court committee assignments so that she could continue her work improving New Jersey's judiciary system.

Sybil attended Rutgers Law School in the early 1970s after the birth of her two children. Women were a rarity on campus, and she became part of a group of women who called themselves "The Band of Mothers." Throughout her life, Sybil exhibited an unwavering strength and commitment to succeed, no matter the circumstances.

New Jersey was blessed to have such an enthusiastic, dedicated civil servant administering the rule of law for the past 21 years. Sybil blazed a path that made it easier for women everywhere to accomplish their goals. For that, she will be missed and will serve as a role model for future generations.●

HONORING GENEST CONCRETE

● Ms. SNOWE. Mr. President, 2 weeks ago, our Nation witnessed history when Barack Obama was sworn in as President of the United States. I am proud to say that the Sanford High School marching band, from my home State of Maine, was able to participate in the remarkable parade following the inauguration. This would not have been possible without the generosity of many individuals and businesses across southern Maine. I rise today to recognize one of the companies that made a significant donation toward the band's trip, Genest Concrete.

A family-owned small business manufacturing architectural, landscaping and masonry products, Genest Concrete was founded over 70 years ago by Hermangilde Genest. The company started simple, producing hand-pressed concrete blocks with materials mined from Mr. Genest's gravel pit. Over the years, four generations of the Genest family have continually strived to make their company more innovative and cutting edge, eventually becoming one of the largest manufacturers and distributors of masonry products in New England. Headquartered in Sanford, Genest also has locations in Biddeford and Windham, with authorized dealers throughout northern New England and Massachusetts.

Genest Concrete provides landscape contractors, homeowners, masons, architects and engineers with dozens of durable and superior concrete and masonry products. From stormwater brick to a variety of paving and wall stones, Genest has all the essential tools for producing unique driveways, patios, paths, and freestanding and retaining walls.

More than just a company, Genest is like a family. In fact, it recently launched an inventive effort designed to keep its staff and their families healthy. Performed in coordination with the Worksite Stars of York County program at Goodall Hospital, Genest brings nurses to the company to perform staff health risk assessments. These assessments allow the company to target physical activity and nutritional assistance to their employees. So far, an astounding 90 percent of employees have participated. And as part of the next phase, Genest plans to hold an on-site physical activity program this spring. All employees that complete the 12-week course will be given an additional vacation day. This is on top of the partial reimbursement the firm already offers toward gym memberships. Genest also hopes to make financial wellness and other classes available to its employees later this year.

In addition to helping sponsor the Sanford marching band's trip, Genest has made many other generous contributions to the community throughout the years. In 2001, Genest provided materials for David Hopkins to build a skate park in South Berwick as his Eagle Scout project. In 2006, the company donated concrete to Habitat for Humanity in York County for its Blitz Build, when the group constructed a new house in Shapleigh. Genest Concrete also actively sponsors the Sanford Mainers, part of the New England Collegiate Baseball League, as well as teams in the Sanford-Springvale Youth Athletic Association basketball league. And among many other efforts, Genest serves as part of the Maine Children's Alliance Business Advisory Group, as well as supports Day One, an initiative aimed at reducing substance abuse by Maine youth.

While rising to the top of its field, Genest has never forgotten the community that helped it get there. Its consistent and dedicated endeavors to serve the community have not gone unnoticed. Thank you to everyone at Genest Concrete for all of your philanthropic efforts, and best wishes for your continued success.●

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 549. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes.

H.R. 553. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

H.R. 559. An act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

H.R. 748. An act to establish and operate a National Center for Campus Public Safety.

The message also announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Joint Economic Committee: Mr. HINCHEY of New York, Mr. HILL of Indiana, Ms. LORETTA SANCHEZ of California, Mr. CUMMINGS of Maryland, Mr. SNYDER of Arkansas, Mr. PAUL of Texas, Mr. BURGESS of Texas, and Mr. CAMPBELL of California.

At 1:40 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

ENROLLED BILL SIGNED

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2. An act to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 4:52 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 352. An act to postpone the DTV transition date.

The message further announced that pursuant to section 8002 of the Internal Revenue Code of 1986, the Committee on Ways and Means designated the following Members of the House of Representatives to serve on the Joint Committee on Taxation: Mr. RANGEL of New York, Mr. STARK of California, Mr. LEVIN of Michigan, Mr. CAMP of Michigan, and Mr. HERGER of California.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 549. An act to amend the Homeland Security Act of 2002 to establish the Office for Bombing Prevention, to address terrorist explosive threats, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 553. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 559. An act to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 748. An act to establish and operate a National Center for Campus Public Safety; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS):

S. 374. A bill to amend the Consumer Product Safety Act to provide regulatory relief to small and family-owned businesses; to the Committee on Commerce, Science, and Transportation.

By Mr. TESTER (for himself and Mr. BAUCUS):

S. 375. A bill to authorize the Crow Tribe of Indians water rights settlement, and for other purposes; to the Committee on Indian Affairs.

By Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY):

S. 376. A bill to provide rules for the modification or disposition of certain assets by real estate mortgage investment conduits pursuant to division A of the Emergency Economic Stabilization Act of 2008, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 377. A bill to designate the United States courthouse located at 131 East 4th Street in Davenport, Iowa, as the ''James A. Leach United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. BAYH (for himself and Mr. GRAHAM):

S. 378. A bill to correct the interpretation of the term proceeds under RICO; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. CORKER, and Mrs. BOXER):

S. 379. A bill to provide fair compensation to artists for use of their sound recordings; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 380. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary

and Underwater Preserve, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. INOUYE, and Ms. MURKOWSKI):

S. 381. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 382. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in States with more cost-effective health care delivery systems; to the Committee on Finance.

By Mrs. McCASKILL (for herself, Mr. GRASSLEY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. DODD, Mr. BUNNING, Mr. SCHUMER, Mr. NELSON of Nebraska, and Mrs. SHAHEEN):

S. 383. A bill to amend the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) to provide the Special Inspector General with additional authorities and responsibilities, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY (for himself and Mr. SPECTER):

S. Res. 27. A resolution congratulating the Pittsburgh Steelers on winning Super Bowl XLIII; considered and agreed to.

ADDITIONAL COSPONSORS

S. 261

At the request of Mr. GRAHAM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 261, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel.

S. 271

At the request of Ms. CANTWELL, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to provide incentives to accelerate the production and adoption of plug-in electric vehicles and related component parts.

S. 359

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 359, a bill to establish the Hawai'i Capital National Heritage Area, and for other purposes.

S. 371

At the request of Mr. THUNE, the names of the Senator from North Carolina (Mr. BURR), the Senator from Nevada (Mr. ENSIGN), the Senator from Iowa (Mr. GRASSLEY) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. CON. RES. 3

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary.

AMENDMENT NO. 102

At the request of Ms. LANDRIEU, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Mississippi (Mr. WICKER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of amendment No. 102 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 105

At the request of Mr. CASEY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of amendment No. 105 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 106

At the request of Mr. ISAKSON, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of amendment No. 106 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 114

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 114 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 116

At the request of Mr. CARDIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of amendment No. 116 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 138

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 138 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 139

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 139 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 140

At the request of Mr. FEINGOLD, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 140 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 145

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 145 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 161

At the request of Mr. BOND, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Alaska (Mr. BEGICH) and the Senator from Massachusetts (Mr. KENNEDY) were

added as cosponsors of amendment No. 161 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. KERRY, his name was added as a cosponsor of amendment No. 161 proposed to H.R. 1, supra.

AMENDMENT NO. 171

At the request of Mr. CARPER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 171 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 173

At the request of Mr. LEVIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 173 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 189

At the request of Mr. DEMINT, the names of the Senator from Louisiana (Mr. VITTER), the Senator from Kansas (Mr. BROWNBACK), the Senator from South Dakota (Mr. THUNE) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 189 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 197

At the request of Mr. THUNE, the names of the Senator from Arizona (Mr. KYL), the Senator from South Carolina (Mr. DEMINT) and the Senator from Nebraska (Mr. JOHANNS) were added as cosponsors of amendment No. 197 proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 204

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 204 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 206

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 206 intended to be proposed to H.R. 1, a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY):

S. 376. A bill to provide rules for the modification or disposition of certain assets by real estate mortgage investment conduits pursuant to division A of the Emergency Economic Stabilization Act of 2008, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, today I introduce, along with Senators DODD, KERRY, SCHUMER, and STABENOW, the Real Estate Mortgage Investment Conduit, REMIC, Improvement Act. This legislation could provide one of the keys to solving our national foreclosure crisis by unlocking mortgage securitization trusts so that more homeowners can stay in their homes.

In my own state of Rhode Island, 7.30 percent of all outstanding home loans are delinquent and 5.33 percent of all home loans are in the foreclosure process. This is the 10th highest foreclosure rate in the Nation, and the highest in New England. I have heard story after story of how difficult it is to get a loan modified or restructured if it is part of a mortgage securitization pool. As we have learned, part of the reason we are in the worst housing crisis since the Depression is that Wall Street firms packaged mortgages into pools and then sold different tranches of these pools to investors from all over the world. This diverse and convoluted ownership structure has made it difficult to get investor approval to modify or restructure them. Unlike in the movie ''It's a Wonderful Life,'' most families can no longer walk into their local bank to talk to George Bailey about modifying or restructuring their loan.

The Emergency Economic Stabilization Act of 2008 required the Treasury Department to use its new authorities to incentivize servicers toward more loan restructurings. However, it has become clear that additional legislation is needed to free servicers of these loan pools from conflicting requirements regarding modifications and provide them with the ability to sell mortgages to Treasury for foreclosure avoidance.

Many servicers, managing pools of loans for investors, are constrained by the trust agreements from modifying loans to a level that families can afford to pay or from selling the underlying mortgage loans. In other cases, servicers must obtain the approval of a significant number of the trust's beneficiaries or third parties in order to make changes to how loans within the pool are handled. However, the trust agreements also provide that servicers must amend the agreements if doing so would be helpful or necessary to stay in compliance with tax rules under the REMIC statute; REMIC status frees these securitization trusts from taxation at the entity level and therefore provides important benefits to its investors.

Under the REMIC Improvement Act, in order to keep their preferred tax status under the REMIC provisions of the Internal Revenue Code, servicers would need to modify their trust agreements to remove artificial restrictions that keep them from modifying loans that provide a greater return to investors as a whole than foreclosing would, and keep families in their homes to prevent entirely unnecessary foreclosures at the same time. This is a practical way for servicers to modify loans without undue fear of legal sanctions. This also would allow servicers to sell loans to Treasury for restructuring without having to obtain an affirmative response by a significant number of the beneficiaries of the trust if it was for the good of the overall trust. Participation in any Treasury program would be voluntary, but some of the key legal impediments to participation would be removed.

Additionally, the Treasury Department has not put in place a loan modification program, even after Congress gave it the authority to do so in the Emergency Economic Stabilization Act. Many experts believe such a program would be helpful in helping resolve the current housing crisis. The REMIC Improvement Act will ensure that Treasury uses its authority to set up a program to achieve broad-scale modifications and, where necessary, dispositions of foreclosed property.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Real Estate Mortgage Investment Conduit Improvement Act of 2009''.

SEC. 2. SPECIAL RULES FOR MODIFICATION OR DISPOSITION OF QUALIFIED MORTGAGES OR FORECLOSURE PROPERTY BY REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) IN GENERAL.—If a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) modifies or disposes of a troubled asset under the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 3 of this Act—

(1) such modification or disposition shall not be treated as a prohibited transaction under section 860F(a)(2) of such Code, and

(2) for purposes of part IV of subchapter M of chapter 1 of such Code—

(A) an interest in the REMIC shall not fail to be treated as a regular interest (as defined in section 860G(a)(1) of such Code) solely because of such modification or disposition, and

(B) any proceeds resulting from such modification or disposition shall be treated as amounts received under qualified mortgages.

(b) TERMINATION OF REMIC.—For purposes of the Internal Revenue Code of 1986, an entity which is a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) shall cease to be a REMIC if the instruments governing the conduct of servicers or trustees with respect to qualified mortgages (as defined in section 860G(a)(3) of such Code) or foreclosure property (as defined in section 860G(a)(8) of such Code)—

(1) prohibit or restrict (including restrictions on the type, number, percentage, or frequency of modifications or dispositions) such servicers or trustees from reasonably modifying or disposing of such qualified mortgages or such foreclosure property in order to participate in the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 3 of this Act,

(2) commit to a person other than the servicer or trustee the authority to prevent the reasonable modification or disposition of any such qualified mortgage or foreclosure property,

(3) require a servicer or trustee to purchase qualified mortgages which are in default or as to which default is reasonably foreseeable for the purposes of reasonably modifying such mortgages or as a consequence of such reasonable modification, or

(4) fail to provide that any duty a servicer or trustee owes when modifying or disposing of qualified mortgages or foreclosure property shall be to the trust in the aggregate and not to any individual or class of investors.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Subsection (a) shall apply to modification and dispositions after the date of the enactment of this Act, in taxable years ending on or after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) shall take effect on the date that is 3 months after the date of the enactment of this Act.

(B) EXCEPTION.—The Secretary of the Treasury may waive the application of subsection (b) in whole or in part for any period of time with respect to any entity if—

(i) the Secretary determines that such entity is unable to comply with the requirements of such subsection in a timely manner, or

(ii) the Secretary determines that such waiver would further the purposes of this Act.

SEC. 3. ESTABLISHMENT OF A HOME MORTGAGE LOAN RELIEF PROGRAM UNDER THE TROUBLED ASSET RELIEF PROGRAM AND RELATED AUTHORITIES.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall establish and implement a program under the Troubled Asset Relief Program and related authorities established under section 101(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a))—

(1) to achieve appropriate broad-scale modifications or dispositions of troubled home mortgage loans; and

(2) to achieve appropriate broad-scale dispositions of foreclosure property.

(b) RULES.—The Secretary of the Treasury shall promulgate rules governing the—

(1) reasonable modification of any home mortgage loan pursuant to the requirements of this Act; and

(2) disposition of any such home mortgage loan or foreclosed property pursuant to the requirements of this Act.

(c) CONSIDERATIONS.—In developing the rules required under subsection (b), the Secretary of the Treasury shall take into consideration—

(1) the debt-to-income ratio, loan-to-value ratio, or payment history of the mortgagors of such home mortgage loans; and

(2) any other factors consistent with the intent to streamline modifications of troubled home mortgage loans into sustainable home mortgage loans.

(d) USE OF BROAD AUTHORITY.—The Secretary of the Treasury shall use all available authorities to implement the home mortgage loan relief program established under this section, including, as appropriate—

(1) home mortgage loan purchases;

(2) home mortgage loan guarantees;

(3) making and funding commitments to purchase home mortgage loans or mortgage-backed securities;

(4) buying down interest rates and principal on home mortgage loans;

(5) principal forbearance; and

(6) developing standard home mortgage loan modification and disposition protocols, which shall include ratifying that servicer action taken in anticipation of any necessary changes to the instruments governing the conduct of servicers or trustees with respect to qualified mortgages or foreclosure property are consistent with the Secretary of the Treasury's standard home mortgage loan modification and disposition protocols.

(e) PAYMENTS AUTHORIZED.—The Secretary of the Treasury is authorized to pay servicers for home mortgage loan modifications or other dispositions consistent with any rules established under subsection (b).

(f) RULE OF CONSTRUCTION.—Any standard home mortgage loan modification and disposition protocols developed by the Secretary of the Treasury under this section shall be construed to constitute standard industry practice.

By Mr. LEAHY (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. CORKER, and Mrs. BOXER):

S. 379. A bill to provide fair compensation to artists for use of their sound recordings; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, Senator HATCH and I renew our bipartisan effort to improve and modernize our intellectual property laws. We are reintroducing the Performance Rights Act to ensure artists are compensated fairly when their works are used. I am pleased that performance rights legislation will be introduced in the House today, as well.

When radio stations broadcast music, listeners are enjoying the intellectual property of two creative artists—the songwriter and the performer. The success, and the artistic quality, of any recorded song depends on both. Radio stations pay songwriters for a license to broadcast the music they have composed. The songwriters' work is promoted by the air play, but no one seriously questions that the songwriter should be paid for the use of his or her work. The performing artist, however, is not paid by the radio station.

The time has come to end this inequity. Its historical justification has been overtaken by technological change. In the digital world, we enjoy music transmitted over a variety of platforms. When webcasters, satellite radio companies, or cable companies play music, and profit from its use, they compensate the performing artists. Terrestrial broadcast radio is the only platform that still does not pay for the use of sound recordings.

Radio play surely has promotional value to the artists, but there is a property right in the sound recording, and those that create the content should be compensated for their work. The United States is behind the times in this regard. Ours is the only Nation that is a member of the Organization for Economic Cooperation and Development but still does not compensate artists. An unfortunate result of the lack of a performance rights in the United States is that American artists are not compensated when their recordings are played abroad.

Artists should have the same rights regardless of the platform over which their work is used. All platforms promote artists and all platforms profit off the artists' work. Today, different rate standards and restrictions are applied to different music delivery platforms, with broadcast radio stations being uniquely and completely exempt. In the last Congress, Senator FEINSTEIN chaired a hearing in the Judiciary Committee that addressed whether the time has come to achieve platform parity by harmonizing the terms and conditions for use of the statutory copyright license. Senator FEINSTEIN has been a leader on this issue, and I am pleased to accept her offer to lead negotiations this year to develop a new standard that can be applied across platforms.

We also need to make certain that songwriters are protected in this process. Songwriters currently do receive compensation from radio stations. The changes made by this legislation, which will ensure performing artists are compensated, should not have any negative effect on songwriters. I will work closely with the songwriters and we will make sure that is the case.

In introducing the Performance Rights Act today, we are sensitive to the needs of broadcast radio stations; we are sensitive to the regulatory regime under which they operate; and we are particularly sensitive to the fact that it is not just artists, but also broadcasters that are facing a difficult economic climate. Rather than require all radio stations to pay fair market value to artists for the songs they play, the legislation includes special provisions for noncommercial and all but the largest commercial stations. In addition, every radio station can use a statutory copyright license to transmit sound recordings, instead of negotiating licenses separately in the marketplace.

Noncommercial stations have a different mission than do commercial stations and they require a different status. Our legislation, appropriately, permits noncommercial stations to take advantage of the statutory copyright license subject only to a nominal annual payment to the artists.

Similarly, we intend to nurture, not threaten, small commercial broadcasters. Smaller music stations are working hard to serve their local communities while finding the right formula to increase their audience size. We intend to foster the growth of these stations—nearly 85 percent of the radio stations in Vermont—and the legislation does that by also providing a flat fee option for use of the statutory license to the more than 75 percent of commercial music stations earning less than $1.25 million a year. This payment may only provide minimal compensation to the artists whose music is used by the vast majority of commercial music stations, particularly when viewed against the fair market value of the music, but by helping radio stations grow, artists, the stations, and the public will all benefit.

I am an avid music fan and much of the music I enjoy I first heard on the radio. There is no question that radio play promotes artists and their sound recordings; there is also no doubt that radio stations profit directly from playing the artists' recordings.

Traditional, over-the-air radio remains vital to the vibrancy of our music culture, and I want to continue to see it prosper as it transitions to digital. But I also want to ensure that the performing artist, the one whose sound recordings drive the success of broadcast radio, is compensated fairly. I will continue to work with the broadcasters—large and small, commercial and noncommercial—to strike the right balance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bil was ordered to be printed in the RECORD, as follows:

S. 379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Performance Rights Act''.

SEC. 2. EQUITABLE TREATMENT FOR TERRESTRIAL BROADCASTS.

(a) PERFORMANCE RIGHT APPLICABLE TO RADIO TRANSMISSIONS GENERALLY.—Section 106(6) of title 17, United States Code, is amended to read as follows:

''(6) in the case of sound recordings, to perform the copyrighted work publicly by means of an audio transmission.''.

(b) INCLUSION OF TERRESTRIAL BROADCASTS IN EXISTING PERFORMANCE RIGHT.—Section 114(d)(1) of title 17, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking ''a digital'' and inserting ''an''; and

(2) by striking subparagraph (A).

(c) INCLUSION OF TERRESTRIAL BROADCASTS IN EXISTING STATUTORY LICENSE SYSTEM.—Section 114(j)(6) of title 17, United States Code, is amended by striking ''digital''.

(d) ELIMINATING REGULATORY BURDENS FOR TERRESTRIAL BROADCAST STATIONS.—Section 114(d)(2) of title 17, United States Code, is amended in the matter preceding subparagraph (A) by striking ''subsection (f) if'' and inserting ''subsection (f) if, other than for a nonsubscription and noninteractive broadcast transmission,''.

SEC. 3. SPECIAL TREATMENT FOR SMALL, NONCOMMERCIAL, EDUCATIONAL, AND RELIGIOUS STATIONS AND CERTAIN USES.

(a) SMALL, NONCOMMERCIAL, EDUCATIONAL, AND RELIGIOUS RADIO STATIONS.—

(1) IN GENERAL.—Section 114(f)(2) of title 17, United States Code, is amended by adding at the end the following:

''(D) Notwithstanding the provisions of subparagraphs (A) through (C), each individual terrestrial broadcast station that has gross revenues in any calendar year of less than $1,250,000 may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of $5,000 per year, in lieu of the amount such station would otherwise be required to pay under this paragraph. Such royalty fee shall not be taken into account in determining royalty rates in a proceeding under chapter 8, or in any other administrative, judicial, or other Federal Government proceeding.

''(E) Notwithstanding the provisions of subparagraphs (A) through (C), each individual terrestrial broadcast station that is a public broadcasting entity as defined in section 118(f) may elect to pay for its over-the-air nonsubscription broadcast transmissions a royalty fee of $1,000 per year, in lieu of the amount such station would otherwise be required to pay under this paragraph. Such royalty fee shall not be taken into account in determining royalty rates in a proceeding under chapter 8, or in any other administrative, judicial, or other Federal Government proceeding.''.

(2) PAYMENT DATE.—A payment under subparagraph (D) or (E) of section 114(f)(2) of title 17, United States Code, as added by paragraph (1), shall not be due until the due date of the first royalty payments for nonsubscription broadcast transmissions that are determined, after the date of the enactment of this Act, under such section 114(f)(2) by reason of the amendment made by section 2(b)(2) of this Act.

(b) TRANSMISSION OF RELIGIOUS SERVICES; INCIDENTAL USES OF MUSIC.—Section 114(d)(1) of title 17, United States Code, as amended by section 2(b), is further amended by inserting the following before subparagraph (B):

''(A) an eligible nonsubscription transmission of—

''(i) services at a place of worship or other religious assembly; and

''(ii) an incidental use of a musical sound recording;''.

SEC. 4. AVAILABILITY OF PER PROGRAM LICENSE.

Section 114(f)(2)(B) of title 17, United States Code, is amended by inserting after the second sentence the following new sentence: ''Such rates and terms shall include a per program license option for terrestrial broadcast stations that make limited feature uses of sound recordings.''.

SEC. 5. NO HARMFUL EFFECTS ON SONGWRITERS.

(a) PRESERVATION OF ROYALTIES ON UNDERLYING WORKS.—Section 114(i) of title 17, United States Code, is amended in the second sentence by striking ''It is the intent of Congress that royalties'' and inserting ''Royalties''.

(b) PUBLIC PERFORMANCE RIGHTS AND ROYALTIES.—Nothing in this Act shall adversely affect in any respect the public performance rights of or royalties payable to songwriters or copyright owners of musical works.

Mr. HATCH. Mr. President, I rise today to express my support for the Performance Rights Act, S. 379, introduced today by Senate Judiciary Committee chairman, PATRICK LEAHY, and myself. It is time to amend copyright law to establish performance rights on sound recordings. I believe that artists should be compensated for their work. This is an issue of fairness and equity.

I agree with the position of the Department of Commerce Working Group on Intellectual Property Rights: the lack of a performance right in sound recordings is ''an historical anomaly that does not have a strong policy justification—and certainly not a legal one.''

This legislation would ensure that musical performers and songwriters receive fair compensation from all companies across the broadcast spectrum, not just from Web casters, satellite radio providers, and cable companies. The proposed legislation attempts to strike a harmonious balance between fair compensation for artists and a vibrant radio industry in the U.S.

By amending sections 106 and 114 of the Copyright Act, the Performance Rights Act would apply the performance right in a sound recording to all audio transmissions thereby removing the exemption on paying performance royalties currently in place for over-the-air broadcasters.

The legislation also provides for a blanket license of $5,000 for small commercial broadcasters whose gross revenues do not exceed $1.25 million a year.

In addition, noncommercial broadcasters as defined by section 118 of the Copyright Act, such as public, educational and religious stations, would have a blanket license of $1,000 per year. No payment would be due until the Copyright Royalty Board determines the rates for large commercial broadcasters. The proposed language provides that sound recordings used only incidentally by a broadcaster and sound recordings used in the transmission of a religious service are exempt.

Finally, the legislation strengthens the provision in section 114 that preserves the rights of songwriters and clarifies that nothing in the Performance Rights Act shall adversely affect the public performance rights of songwriters or copyright owners of musical works.

Let me repeat, this provision is to ensure that songwriters are not adversely affected by enactment of this bill. I understand the concerns of the songwriting community and the difficultly some have in recouping royalties on infringed works. We must ensure that our songwriters are not placed in situations where their property rights are ignored by infringers. Chairman LEAHY agrees that additional work to address the issue of willful infringement is necessary before enactment, and I look forward to working with him.

I want the broadcasting community to know that I am committed to working with them throughout the legislative process. I continue to have an open-door policy and welcome a productive dialogue on this issue. There is no question that radio play promotes artists and their sound recordings. There is also no question that radio stations profit directly from playing the artists' recordings. Indeed, we must strike a fair balance, one that fosters a vibrant broadcast radio community and compensates artists for their work.

By Mr. AKAKA (for himself, Mr. INOUYE, and Ms. MURKOWSKI):

S. 381. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President. Today I introduce the Native Hawaiian Government Reorganization Act of 2009. While this legislation is especially significant to Native Hawaiians, I introduce this measure for all the people of Hawaii. This bill authorizes a process to extend federal recognition to Hawaii's indigenous people for the purposes of a government-to-government relationship with the United States. This benefits all the people of Hawaii, as they will now have a structured, formal process to come together to address many unresolved issues confronting our state and our residents.

Unlike our Nation's other indigenous people, the Federal policy of self-governance and self-determination has not been extended to Native Hawaiians. The bill addresses this need and establishes parity. It provides Native Hawaiians a formal opportunity to participate in making policy decisions and empowers them to interact at the State and Federal levels through a government-to-government relationship. The legislation is consistent with federal and state law and allows Native Hawaiians to be treated the same way as our country's other indigenous people.

The United States has recognized and upheld a responsibility for the wellbeing of indigenous, native people, including Native Hawaiians. Congress has enacted more than 160 statutes to address the needs of Native Hawaiians. In 1993, I sponsored a measure commonly known as the Apology Resolution that was enacted into law. The Resolution outlined the history prior to and following the overthrow of the Kingdom of Hawaii, including involvement in the overthrow by agents of the United States. Further, in the Resolution the United States apologized for its involvement in the overthrow and committed itself to acknowledge the ramifications of the overthrow and support reconciliation efforts between the United States and the Native Hawaiian people. This was a historic declaration that has initiated a healing process. However, additional Congressional action is needed to continue this process.

The legislation allows us to take the necessary next step in the reconciliation process. The bill does three things. First, it authorizes an office in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States. Second, it forms an interagency task force chaired by the Departments of Justice and Interior, as well as composed of officials from federal agencies who currently administer programs and services impacting Native Hawaiians. Third, it authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally recognized government-to-government relationship. Once the Native Hawaiian government is recognized, the bill establishes an inclusive democratic negotiations process representing both Native Hawaiians and non-Native Hawaiians. There are many checks and balances in this process and any agreements reached will require implementing legislation at the State and Federal levels.

This legislation is needed to address issues present in my home state. It is a reality that there are longstanding and unresolved issues resulting from the overthrow. Despite good faith efforts to address these issues, the lack of a government-to-government relationship has limited progress. Building on the constitutionally sound and deliberate efforts of Congress and the State of Hawaii, it is necessary that Native Hawaiians be able to reorganize a government and enter into discussions with the Federal and State governments. My bill would ensure there is a structured process by which Native Hawaiians and the people of Hawaii can come together, resolve such complicated issues, and move forward together as a State.

The legislation I introduce today is identical to language passed by the House of Representatives in the 106th Congress. This bill is the product of five working groups the Hawaii Congressional Delegation created to assist with the drafting of this legislation. The working groups were composed of individuals from the Native Hawaiian community, elected officials from the State of Hawaii, representatives from federal agencies, Members of Congress, as well as leaders from Indian Country and experts in constitutional law. This ensured that all parties that had expertise and would work to implement the legislation had an opportunity to collectively and collaboratively participate in the drafting process.

The Hawaii Congressional delegation has carefully considered the significant public input and Congressional oversight on this bill over the last 9 years. To date, there have been a total of 9 Congressional hearings, including 6 joint hearings held by the Senate Indian Affairs Committee and House Natural Resources Committee, 5 of which were held in Hawaii. From the beginning, the National Congress of American Indians and Alaska Federation of Natives have joined Native Hawaiians in their pursuit for federal recognition. In the 110th Congress, the Senate Committee on Indian Affairs explored the legal aspects of the bill where Hawaii's State Attorney General expressed his support and spoke to the constitutionality of this measure. In addition to the bipartisan support at the Federal and State level for the bill, national organizations such as the American Bar Association, Japanese American Citizens League, and National Indian Education Association have also urged Congress to pass legislation establishing a process to provide federal recognition to Native Hawaiians.

It is clear this legislation is constitutional and provides a framework respectful of the needs of Native Hawaiians and non-Native Hawaiians. Their combined efforts will be needed as each will play an active role in reaching agreements and enacting implementing legislation at the state and federal levels. I ask my colleagues to join Senator INOUYE and I, in enacting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.

(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

(19) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that—

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4) by—

(i) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(ii) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

(22) The United States continually has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.

SEC. 2. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.

(2) ADULT MEMBERS.—The term ''adult members'' means those Native Hawaiians who have attained the age of 18 at the time the Secretary publishes the final roll, as provided in section 7(a)(3) of this Act.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a joint resolution offering an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) CEDED LANDS.—The term ''ceded lands'' means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 4).

(5) COMMISSION.—The term ''Commission'' means the commission established in section 7 of this Act to certify that the adult members of the Native Hawaiian community contained on the roll developed under that section meet the definition of Native Hawaiian, as defined in paragraph (7)(A).

(6) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) NATIVE HAWAIIAN.—

(A) Prior to the recognition by the United States of a Native Hawaiian government under the authority of section 7(d)(2) of this Act, the term ''Native Hawaiian'' means the indigenous, native people of Hawaii who are the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(B) Following the recognition by the United States of the Native Hawaiian government under section 7(d)(2) of this Act, the term ''Native Hawaiian'' shall have the meaning given to such term in the organic governing documents of the Native Hawaiian government.

(8) NATIVE HAWAIIAN GOVERNMENT.—The term ''Native Hawaiian government'' means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(d)(2) of this Act.

(9) NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—The term ''Native Hawaiian Interim Governing Council'' means the interim governing council that is organized under section 7(c) of this Act.

(10) ROLL.—The term ''roll'' means the roll that is developed under the authority of section 7(a) of this Act.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(12) TASK FORCE.—The term ''Task Force'' means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) IN GENERAL.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) DUTIES OF THE OFFICE.—The United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by providing timely notice to, and consulting with the Native Hawaiian people prior to taking any actions that may affect traditional or current Native Hawaiian practices and matters that may have the potential to significantly or uniquely affect Native Hawaiian resources, rights, or lands, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian government by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian people and the Native Hawaiian government and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) assist the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance in the development of the roll under section 7(a) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the ''Native Hawaiian Interagency Task Force''.

(b) COMPOSITION.—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs established under the authority of section 4 of this Act and the Attorney General's designee under the authority of section 5 of this Act shall serve as co-chairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the—

(A) adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—

(i) the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago; or

(ii) Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or their lineal descendants; and

(B) the children of the adult members listed on the roll prepared under this subsection.

(2) CERTIFICATION AND SUBMISSION.—

(A) COMMISSION.—

(i) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purpose of certifying that the adult members of the Native Hawaiian community on the roll meet the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act.

(ii) MEMBERSHIP.—

(I) APPOINTMENT.—The Secretary shall appoint the members of the Commission in accordance with subclause (II). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(II) REQUIREMENTS.—The members of the Commission shall be Native Hawaiian, as defined in section 2(7)(A) of this Act, and shall have expertise in the certification of Native Hawaiian ancestry.

(III) CONGRESSIONAL SUBMISSION OF SUGGESTED CANDIDATES.—In appointing members of the Commission, the Secretary may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) CERTIFICATION.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(3) SECRETARY.—

(A) CERTIFICATION.—The Secretary shall review the Commission's certification of the membership roll and determine whether it is consistent with applicable Federal law, including the special trust relationship between the United States and the indigenous, native people of the United States.

(B) PUBLICATION.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(C) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission's determination as it concerns—

(I) the exclusion of the name of a person who meets the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act, from the roll; or

(II) a challenge to the inclusion of the name of a person on the roll on the grounds that the person does not meet the definition of Native Hawaiian, as so defined.

(ii) PUBLICATION; UPDATE.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) FAILURE TO ACT.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Commission submits the membership roll to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) EFFECT OF PUBLICATION.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections associated with the organization of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) RECOGNITION OF RIGHTS.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(1) ORGANIZATION.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to—

(A) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(B) determine the structure of the Native Hawaiian Interim Governing Council; and

(C) elect members to the Native Hawaiian Interim Governing Council.

(2) ELECTION.—Upon the request of the adult members listed on the roll developed under the authority of subsection (a), the United States Office for Native Hawaiian Affairs may assist the Native Hawaiian community in holding an election by secret ballot (absentee and mail balloting permitted), to elect the membership of the Native Hawaiian Interim Governing Council.

(3) POWERS.—

(A) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to represent those on the roll in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(B) FUNDING.—The Native Hawaiian Interim Governing Council is authorized to enter into a contract or grant with any Federal agency, including but not limited to, the United States Office for Native Hawaiian Affairs within the Department of the Interior and the Administration for Native Americans within the Department of Health and Human Services, to carry out the activities set forth in subparagraph (C).

(C) ACTIVITIES.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to conduct a referendum of the adult members listed on the roll developed under the authority of subsection (a) for the purpose of determining (but not limited to) the following:

(I) The proposed elements of the organic governing documents of a Native Hawaiian government.

(II) The proposed powers and authorities to be exercised by a Native Hawaiian government, as well as the proposed privileges and immunities of a Native Hawaiian government.

(III) The proposed civil rights and protection of such rights of the citizens of a Native Hawaiian government and all persons subject to the authority of a Native Hawaiian government.

(ii) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based upon the referendum, the Native Hawaiian Interim Governing Council is authorized to develop proposed organic governing documents for a Native Hawaiian government.

(iii) DISTRIBUTION.—The Native Hawaiian Interim Governing Council is authorized to distribute to all adult members of those listed on the roll, a copy of the proposed organic governing documents, as drafted by the Native Hawaiian Interim Governing Council, along with a brief impartial description of the proposed organic governing documents.

(iv) CONSULTATION.—The Native Hawaiian Interim Governing Council is authorized to freely consult with those members listed on the roll concerning the text and description of the proposed organic governing documents.

(D) ELECTIONS.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) ASSISTANCE.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) TERMINATION.—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.—

(1) PROCESS FOR RECOGNITION.—

(A) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—The duly elected officers of the Native Hawaiian government shall submit the organic governing documents of the Native Hawaiian government to the Secretary.

(B) CERTIFICATIONS.—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a);

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States;

(iii) provide for the exercise of those governmental authorities that are recognized by the United States as the powers and authorities that are exercised by other governments representing the indigenous, native people of the United States;

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government, and to assure that the Native Hawaiian government exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302);

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian government without the consent of the Native Hawaiian government;

(vi) establish the criteria for citizenship in the Native Hawaiian government; and

(vii) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) FAILURE TO ACT.—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government to the Secretary, the certifications authorized in subparagraph (B) shall be deemed to have been made.

(D) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH FEDERAL LAW.—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part thereof, are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) AMENDMENT AND RESUBMISSION BY THE NATIVE HAWAIIAN GOVERNMENT.—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government by the Secretary under clause (i), the duly elected officers of the Native Hawaiian government shall—

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law; and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with subparagraphs (B) and (C).

(2) FEDERAL RECOGNITION.—

(A) RECOGNITION.—Notwithstanding any other provision of law, upon the election of the officers of the Native Hawaiian government and the certifications (or deemed certifications) by the Secretary authorized in paragraph (1), Federal recognition is hereby extended to the Native Hawaiian government as the representative governing body of the Native Hawaiian people.

(B) NO DIMINISHMENT OF RIGHTS OR PRIVILEGES.—Nothing contained in this Act shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people which are not inconsistent with the provisions of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of Native Hawaiians contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3; 73 Stat. 5) is hereby reaffirmed.

(b) NEGOTIATIONS.—Upon the Federal recognition of the Native Hawaiian government pursuant to section 7(d)(2) of this Act, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian government regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use under existing law as in effect on the date of enactment of this Act to the Native Hawaiian government.

SEC. 10. DISCLAIMER.

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

SEC. 11. REGULATIONS.

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

SEC. 12. SEVERABILITY.

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the amendments made by this Act, shall continue in full force and effect.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 27—CONGRATULATING THE PITTSBURGH STEELERS ON WINNING SUPER BOWL XLIII

Mr. CASEY (for himself and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 27

Whereas on February 1, 2009, the Pittsburgh Steelers defeated the Arizona Cardinals to win Super Bowl XLIII;

Whereas the Steelers' 27–23 victory over the Cardinals was the Steelers' sixth Super Bowl win, the most Super Bowl wins in National Football League (NFL) history;

Whereas the Rooney family has exhibited a strong commitment to the Steelers organization, has led the Steelers to win 6 Super Bowl titles, and has created a legacy of dedication to, and integrity in, the NFL;

Whereas Coach Mike Tomlin is to be congratulated for being the youngest coach in the NFL to win a Super Bowl, in only his second season as the head coach of the Steelers;

Whereas ''Steeler Nation'', which encompasses fans from all over the world, is to be honored for proudly waving ''Terrible Towels'' in support of the Pittsburgh Steelers;

Whereas the Pittsburgh Steelers are an iconic symbol for hardworking Pittsburghers, exhibiting the same strong work ethic and ability to fight to the bitter end to achieve success as Pittsburghers;

Whereas the leadership of Steelers quarterback Ben Roethlisberger led the team to wins in the final plays of games throughout the season, and especially during the last 2 minutes and 30 seconds of Super Bowl XLIII;

Whereas Steelers wide receiver Santonio Holmes was named the Most Valuable Player in Super Bowl XLIII for his 6-yard touchdown reception with 35 seconds remaining, which is being called one of the most historic plays in Super Bowl history;

Whereas Steelers linebacker James Harrison, NFL Defensive Player of the Year, intercepted Kurt Warner at the goal line and returned the ball for a 100-yard touchdown, which has been recorded as the longest play in Super Bowl history;

Whereas the Steelers defense, under the leadership of 50-year NFL veteran and Steelers defensive coordinator Dick LeBeau, ranked number 1 in defense in the NFL throughout the 2008 season and carried the Pittsburgh Steelers to a winning season and a Super Bowl victory;

Whereas the Pittsburgh Steelers faced one of the toughest schedules during the 2008 NFL season and persevered to a winning season and a Super Bowl victory; and

Whereas approximately 400,000 Steelers fans packed the streets of Pittsburgh on February 3, 2009 to honor the Steelers in a parade along Grant Street and the Boulevard of the Allies: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Pittsburgh Steelers for winning Super Bowl XLIII;

(B) the Rooney family and the Steelers coaching and support staff, whose commitment to the Steelers organization has sustained this proud organization and allowed the team to reach its sixth Super Bowl victory;

(C) all Steelers fans, from around the world, whose enthusiasm for the team earns them recognition as one of the most loyal fan-bases in all sports; and

(D) the Arizona Cardinals on an outstanding season; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Steelers Chairman, Dan Rooney;

(B) Steelers President, Art Rooney II; and

(C) Steelers Head Coach Mike Tomlin.

AMENDMENTS SUBMITTED AND PROPOSED

SA 207. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 208. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 209. Mr. GRASSLEY (for himself, Mr. SCHUMER, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 210. Mr. CORNYN (for himself, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr.

INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 211. Mr. CORNYN (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 212. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 213. Mr. REID (for Mr. KENNEDY (for himself, Mr. KERRY, Mrs. SHAHEEN, and Mr. VOINOVICH)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 214. Mr. KOHL (for himself, Ms. SNOWE, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mr. LEVIN, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 215. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 216. Mr. SANDERS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 217. Mr. BROWN (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 218. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. BROWN, Ms. STABENOW, Mr. SANDERS, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 220. Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. DODD, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 221. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 222. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 224. Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. CARDIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 225. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 226. Mr. ENSIGN (for himself, Mr. SCHUMER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 227. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 228. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 229. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 230. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 232. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 233. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 234. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 235. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 236. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 237. Mr. CARDIN (for himself, Ms. LANDRIEU, and Ms. SNOWE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 238. Mr. GRASSLEY (for Mr. THUNE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 239. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 240. Mr. CRAPO (for himself, Ms. LANDRIEU, Mr. GRAHAM, Mr. RISCH, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 241. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 242. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 243. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 244. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 89 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 245. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 246. Mrs. SHAHEEN (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 247. Mr. UDALL, of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 248. Mr. UDALL, of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 249. Mrs. LINCOLN (for herself, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 250. Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. WYDEN, Mr. ROBERTS, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to

the bill H.R. 1, supra; which was ordered to lie on the table.

SA 251. Mrs. LINCOLN (for herself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 252. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 253. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 254. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 255. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 256. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 257. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 258. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 259. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 261. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 262. Mr. INHOFE (for himself, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. ROBERTS, Mr. BROWNBACK, and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 263. Ms. STABENOW (for herself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 264. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, Mr. BROWN, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 265. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 266. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 267. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 268. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 269. Mrs. HUTCHISON (for herself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 270. Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 271. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 272. Mr. ROCKEFELLER (for Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 273. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 274. Ms. CANTWELL (for herself, Mr. HATCH, Ms. STABENOW, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 275. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. KERRY, Mr. MENENDEZ, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 276. Ms. CANTWELL (for herself, Mr. KERRY, Ms. SNOWE, Mr. SCHUMER, Ms. STABENOW, Mr. BINGAMAN, Mr. ENSIGN, Mr. CARPER, Mr. HATCH, Mr. WYDEN, Mr. CARDIN, Mr. NELSON, of Florida, Mr. REED, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 277. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 278. Mr. MCCAIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 279. Mr. MCCAIN (for himself and Mr. SHELBY) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 280. Mr. BAYH (for himself, Mr. BINGAMAN, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 281. Mr. BAYH (for himself, Ms. STABENOW, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 282. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 283. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 284. Mr. VITTER (for himself, Mr. COCHRAN, Mr. SHELBY, Mrs. HUTCHISON, Mr. WICKER, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 285. Mr. BAUCUS (for himself, Mr. LEAHY, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 286. Ms. LANDRIEU (for herself, Mr. KOHL, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 287. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 289. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 290. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 291. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 292. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 293. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 294. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 295. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 296. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 297. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 298. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 299. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 300. Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BROWN, Mr. INOUYE, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 301. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 302. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 303. Mrs. LINCOLN (for herself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 304. Mr. WYDEN (for himself, Mr. REED, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 305. Mr. COBURN (for himself, Mr. BURR, Mr. DEMINT, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 306. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 307. Mr. BURR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 308. Mr. BOND (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 309. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 310. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 311. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 312. Mr. UDALL, of Colorado (for himself, Mr. BENNET, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 313. Mr. LEAHY (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 314. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 315. Mr. LEAHY (for himself, Mr. CARPER, Mr. SANDERS, Mrs. LINCOLN, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 316. Mr. LEAHY (for himself, Mr. KERRY, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 317. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 318. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 319. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 320. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 321. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 322. Mr. MENENDEZ (for himself and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 323. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 324. Mr. KOHL (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 325. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 326. Mr. BARRASSO (for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 327. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table .

SA 328. Mr. VITTER (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 329. Mr. REED (for himself, Mr. BROWN, Mr. LEAHY, Mr. KERRY, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. MERKLEY, Mr. ROCKEFELLER, Mr. SANDERS, Ms. STABENOW, Mr. WYDEN, Mr. KENNEDY, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 330. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 331. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 332. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 333. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 334. Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HARKIN, Mr. WYDEN, Ms. STABENOW, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 335. Mr. SCHUMER (for himself, Mrs. LINCOLN, Ms. STABENOW, Mr. KERRY, Mr. BINGAMAN, and Mr. WYDEN) submitted an

amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 336. Mr. CARDIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 337. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 338. Mr. HARKIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 339. Mr. HARKIN (for himself, Mr. THUNE, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 340. Mr. ROCKEFELLER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 341. Mr. ROCKEFELLER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 342. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 343. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 344. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 345. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 346. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 347. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 348. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 349. Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 350. Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 351. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 352. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 353. Mr. ENSIGN (for himself, Mr. MCCONNELL, and Mr. ALEXANDER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 354. Mr. DODD proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

SA 355. Ms. CANTWELL (for herself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 356. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 357. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 358. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 359. Mr. UDALL, of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 360. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 361. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 362. Mr. REID (for Mr. KENNEDY (for himself and Mr. SANDERS)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra; which was ordered to lie on the table.

SA 363. Mrs. BOXER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, supra.

TEXT OF AMENDMENTS

SA 207. Mr. KYL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 450, after line 22, add the following:

SEC. _____. CREDIT FOR DONATIONS FOR SCHOLARSHIPS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. DONATIONS FOR SCHOLARSHIPS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary school student scholarship donations made by the taxpayer during such taxable year.

"(b) LIMITATION.—The amount of the credit allowed under this section for any taxable year shall not exceed $500.

"(c) QUALIFIED ELEMENTARY AND SECONDARY SCHOOL STUDENT SCHOLARSHIP DONATIONS.—For purposes of this section, the term 'qualified elementary and secondary school student scholarship donation' means any donation to a an organization which—

"(1) is described in section 170(b)(1)(A)(ii) or 170(c)(2), and

"(2) provides scholarships to elementary or secondary school students for tuition incurred in connection with the enrollment or attendance of such student at public, private or religious school (within the meaning of section 530(b)(3)).

"(d) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 170 or any other provision of this chapter with respect to any expense which is taken into account under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item related to section 25D the following new item:

"Sec. 25E. Donations for scholarships for elementary and secondary school students.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 208. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, strike lines 2 through 15 and insert the following:

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK ACQUIRED IN 2009 AND 2010.

(a) IN GENERAL.—Section 1202 is amended by redesignating subsection (k) as subsection

(l) and by inserting after subsection (j) the following new subsection:

''(k) SPECIAL RULES FOR STOCK ACQUIRED IN 2009 AND 2010.—In the case of qualified small business stock acquired after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009 and before January 1, 2011, the following rules shall apply:

''(1) INCREASE EXCLUSION.—Subsection (a)(1) shall be applied by substituting '100 percent' for '50 percent'.

''(2) INCREASE AGGREGATE ASSET LIMITATION FOR QUALIFIED SMALL BUSINESSES.—Subsection (d) shall be applied by substituting '$75,000,000' for '$50,000,000' each place it appears.

''(3) EXCLUSION NOT TREATED AS A TAX PREFERENCE.—Paragraph (7) of section 57(a) shall not apply and section 53(d)(1)(B)(ii)(II) shall be applied by disregarding any item of tax preference described in paragraph (7) of section 57(a).

''(4) INCOME NOT SUBJECT TO 28 PERCENT CAPITAL GAINS RATE.—Section 1(h)(4) shall be applied without regard to subparagraph (A)(ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

SA 209. Mr. GRASSLEY (for himself, Mr. SCHUMER, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (a) of section 1004 of division B and insert the following:

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) INCREASE IN CREDIT.—The Hope Scholarship Credit shall be an amount equal to the sum of—

''(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $1,500,

''(B) 50 percent of such expenses so paid as exceeds $1,500 but does not exceed $3,000, plus

''(C) 25 percent of such expenses so paid as exceeds $3,000 but does not exceed $6,000.

''(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION.—Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'.

''(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS.—Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

''(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT.—In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

''(ii) $80,000 ($160,000 in the case of a joint return), bears to

''(B) $10,000 ($20,000 in the case of a joint return).

''(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

''(6) PORTION OF CREDIT MADE REFUNDABLE.—25 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

''(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS.—In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.''.

SA 210. Mr. CORNYN (for himself, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) ANTI-FRAUD IMPLEMENTATION PLAN; GAO REPORTS.—

(A) REQUIREMENT TO SUBMIT PLAN FOR APPROVAL.—

(i) IN GENERAL.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, unless, not later than 6 months after the first date on which the State receives additional Federal funds under this section, the State submits a report to the Secretary that contains a plan for implementation of at least 4 of the anti-fraud measures described in subparagraph (B) with respect to the State Medicaid program under title XIX of the Social Security Act.

(ii) APPROVAL AND IMPLEMENTATION.—The Secretary shall approve or disapprove a plan submitted by a State under clause (i) not later than 30 days after the date on which the Secretary receives the plan. A State shall implement an approved plan not later than 180 days after the date on which the plan is approved.

(B) ANTI-FRAUD MEASURES DESCRIBED.—The anti-fraud measures described in this subparagraph are the following:

(i) Implementation, in consultation with the Secretary and in coordination and consistent with activities carried out under contracts entered into under section 1893(h) of the Social Security Act (42 U.S.C. 1395ddd), of a recovery audit program under Medicaid.

(ii) Implementation of a Medicare-Medicaid data match program under section 1893(g) of the Social Security Act (42 U.S.C. 1395ddd).

(iii) Implementation of enhanced third party liability identification programs under section 1902(a)(25) of the Social Security Act to carry out the amendments made by section 6035 of the Deficit Reduction Act of 2005.

(iv) An increase in the amount of State expenditures attributable to the operation of the State medicaid fraud control unit described in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q)) by at least 50 percent more than the amount of such expenditures for the most recent fiscal year.

(v) Operation, beginning on October 1, 2009, of an eligibility determination system which provides for data matching through the Public Assistance Reporting Information System (PARIS), in accordance with the requirements of section 1903(r)(3) of the Social Security Act (42 U.S.C. 1396b(r)(3)).

(vi) Full implementation of the requirements of section 1923(j) of the Social Security Act (42 U.S.C. 1396r–4(j)), including the requirement for an annual, independent certified audit of DSH payment adjustments made to hospitals.

(vii) Full implementation, beginning on October 1, 2009, of an asset verification program that satisfies the requirements of section 1940 of the Social Security Act (42 U.S.C. 1396w).

(viii) Online, public access, posting of all Medicaid claims and patient encounter data (with such data patient de-identified and otherwise made available in a manner that protects the privacy of patients).

(ix) Electronic eligibility verification of Medicaid beneficiaries to confirm client identification, eligibility, and to reduce administrative costs.

(x) Any other policy proposed by a State that the Secretary certifies is likely to reduce fraud in the State's Medicaid program.

(C) GAO REPORTS.—The Comptroller General of the United States shall submit the following reports to Congress on the plans submitted by States under subparagraph (A)(i):

(i) INITIAL REPORT.—Not later than March 31, 2010, a report specifying the details of the plans submitted by States under subparagraph (A).

(ii) UPDATE AND IMPLEMENTATION.—Not later than December 31, 2010, a report specifying the details of any updates made to such plans and of the implementation of such plans.

SA 211. Mr. CORNYN (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. COBURN, and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) LONG-TERM MEDICAID FISCAL OUTLOOK AND SUSTAINABILITY PLAN; ANNUAL GAO REPORT.—

(A) IN GENERAL.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date on which the State submits a report to the Secretary detailing the State's fiscal situation with respect to the State Medicaid program and the State's plan to ensure the long-term sustainability of its State Medicaid program that contains the information described in subparagraph (B). The Secretary shall make the reports submitted under this subparagraph publicly available.

(B) REQUIRED INFORMATION.—

(i) FISCAL OUTLOOK REQUIREMENTS.—The report required under subparagraph (A), shall include the following with respect to the fiscal outlook for the State:

(I) A 10 year and 25 year expenditure forecast.

(II) A 10 year and 25 year forecast as a percentage of the State's budget.

(III) Recommendations for State actions in the next 5 years to ensure adequate State funding over the 10 and 25 year periods.

(ii) LONG-TERM SUSTAINABILITY PLAN.—The report required under subparagraph (A), shall include plans for reforms specified by the State with respect to each of the following:

(I) Program integrity.

(II) Payment reform.

(III) Capacity reform.

(IV) Market reform.

(C) GAO REPORT.—Beginning with fiscal year 2012, and every third fiscal year thereafter, the Comptroller General of the United States shall submit a report to Congress regarding the fiscal situation with respect to each State Medicaid program relative to the fiscal situation of such each such program on October 1, 2009. Subsection (i) of this section shall not apply to this subparagraph.

SA 212. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 399, between lines 6 and 7, insert the following:

SEC. 1405A. SPECIAL RULES FOR STATES WITH HIGH 2006 EDUCATION SUPPORT LEVELS.

(a) DEFINITIONS.—In this section:

(1) HIGH 2006 EDUCATION SUPPORT LEVEL.—The term ''high 2006 education support level'', when used with respect to a State, means a State for which the level of State support for elementary and secondary education or State support for higher education in fiscal year 2008 is less than the level of State support for elementary and secondary education, or State support for higher education, respectively, in fiscal year 2006.

(2) STATE SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION.—The term ''State support for elementary and secondary education'' means the support provided by the State for elementary and secondary education, but not including capital projects.

(3) STATE SUPPORT FOR HIGHER EDUCATION.—The term ''State support for higher education'' means the support provided by a State for public institutions of higher education in the State, but not including support provided for capital projects or for research and development.

(b) MAINTENANCE OF EFFORT.—Notwithstanding section 1405, a State with a high 2006 education support level that meets all requirements for a grant under this title except for section 1405(d)(1) shall receive such grant if, for each of fiscal years 2009 and 2010, such State does not reduce the percentage of State general funds that are to be used for State support for elementary and secondary education, and the percentage of State general funds that are to be used for State support for higher education, by more than one percent, as compared to the percentage of State general funds that are to be used for State support for elementary and secondary education, and the percentage of State general funds that are to be used for State support for higher education, respectively, for the fiscal year preceding the fiscal year for which the determination is being made.

(c) USE OF FUNDS.—

(1) RESTORING STATE SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION.—Notwithstanding section 1402, the Governor of a State with a high 2006 education support level shall, for each of fiscal years 2009 and 2010, use at least 61 percent of the State's allocation under section 1401(d) for the support of elementary, secondary, and postsecondary education by—

(A)(i) providing the amount of funds, through such State's principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the level of such State support in fiscal year 2006 or fiscal year 2008, whichever level is greater; and

(ii) providing the amount of funds that is needed to restore State support for higher education to the level of such State support in fiscal year 2006 or fiscal year 2008, whichever level is greater; and

(B) using any remaining funds to provide subgrants described in section 1402(a)(3).

(2) SHORTFALL.—Notwithstanding section 1402, if the Governor of a State with a high 2006 education support level determines that the amount of funds available under paragraph (1) for a fiscal year is insufficient to restore State support for education to the levels described in clauses (i) and (ii) of paragraph (1)(A), the Governor shall—

(A) allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in such clauses; and

(B) after making the allocation under subparagraph (A), use the amounts remaining from the State's allocation under section 1401(d) to restore State support for each such education sector that has a high 2006 education support level, to the fiscal year 2006 level.

(3) OTHER GOVERNMENT SERVICES.—Notwithstanding section 1402, for each of fiscal years 2009 and 2010, the Governor of a State with a high 2006 education support level shall use the amount of the State's allocation under section 1401(d) that remains after the application of paragraphs (1) and (2) for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

(d) WAIVERS.—The Secretary of Education may waive, on a case-by-case basis, any requirement of this section for a State on the basis of financial hardship.

SA 213. Mr. REID (for Mr. KENNEDY (for himself, Mr. KERRY, Mrs. SHAHEEN, and Mr. VOINOVICH)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 404, add the following:

(c) SENSE OF CONGRESS.—It is the sense of Congress that to fulfill the goal of expedited issuance of loan guarantees to maximize the rapid stimulus effect of provided funds, the Secretary of Energy should immediately issue loan guarantees under section 1705 of the Energy Policy Act of 2005 (as added by subsection (a)) using funds provided to carry out that section for the subsidy cost for existing final round applicants under the loan guarantee program under section 1703 of that Act (42 U.S.C. 16513) that fall within the categories described in section 1705(b) of that Act (as added by subsection (a)).

SA 214. Mr. KOHL (for himself, Ms. SNOWE, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mr. LEVIN, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, between lines 5 and 6, insert the following:

SEC. 203. HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.

(a) APPROPRIATION OF ADDITIONAL AMOUNT.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, for an additional amount for ''Industrial Technology Services'', $30,000,000, to remain available until September 30, 2010.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available by subsection (a), $30,000,000 shall be available for the necessary expenses of the Hollings Manufacturing Partnership Program. Such amount shall be in addition to any other amounts made available for the Hollings Manufacturing Partnership Program under title II of this division.

(c) OFFSET.—The amount appropriated or otherwise made available by this title under the heading ''SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES'' is hereby decreased by $30,000,000.

(d) EXEMPTION FROM COST SHARING REQUIREMENTS.—The cost sharing requirements contained in the second sentence of paragraph (1), subparagraphs (B) and (C) of paragraph (3), and paragraph (4)(D) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)) shall not apply to a Hollings Manufacturing Extension Center with respect to receipt of financial support from funds made available under subsection (b).

SA 215. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 2 and 3, insert the following:

SEC. 12____. Amounts made available under this title for distribution by the Federal Highway Administration for surface transportation projects shall not be subject to section 133(c) of title 23, United States Code, or any other provision of law that restricts the use of those funds for projects relating to local or rural roads or bridges.

SA 216. Mr. SANDERS (for himself, Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 228, line 19, strike ''$20,000,000'' and insert ''$1,000,000''.

SA 217. Mr. BROWN (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, after line 24, add the following:

(d) EFFECTIVE USE OF FUNDS.—In providing funds made available by this Act and the amendments made by this Act for the weatherization assistance program, the Secretary of Energy may encourage States to give priority to using the funds for the most cost-effective efficiency activities, which may include insulation of attics, if the Secretary determines that the use of the funds would increase the effectiveness of the program.

SA 218. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. BROWN, Ms. STABENOW, Mr. SANDERS, and Mr. REED) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 9, insert ''(and an additional amount of $1,675,000,000)'' before '', which''.

On page 123, line 12, insert ''(and an additional amount of $300,000,000)'' before ''for adult''.

On page 123, line 19, insert ''and year-round'' after ''summer''.

On page 124, line 10, insert ''(and an additional amount of $500,000,000)'' before ''for grants''.

On page 124, line 13, insert ''(and an additional amount of $300,000,000)'' before ''for national''.

On page 124, line 15, insert ''(and an additional amount of $375,000,000)'' before ''under''.

On page 125, line 1, insert ''(and an additional amount of $200,000,000)'' before ''for YouthBuild''.

On page 126, line 8, insert ''(and an additional amount of $300,000,000)'' before '', which''.

On page 126, line 13, insert ''(and an additional amount of $150,000,000)'' before ''of such''.

On page 126, line 26, insert ''(and an additional amount of $340,000,000)'' before '', which''.

On page 127, line 2, strike ''may transfer up to 15 percent'' and insert ''may transfer up to 20 percent''.

On page 127, line 4, strike ''training for careers'' and insert ''training, and work experience to improve such Centers, to prepare participants for careers''.

SA 219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 589, after line 14, insert the following:

(c) INCREASED FUNDING.—

(1) IN GENERAL.—Section 903(f) of the Social Security Act, as added by subsection (a), is amended—

(A) in paragraph (1)(B), by striking ''$7,000,000,000'' and inserting ''$14,000,000,000''; and

(B) in paragraph (6), by striking ''$7,000,000,000'' and inserting ''$14,000,000,000''.

(2) EMERGENCY DESIGNATION.—Each amount provided as a result of the amendments made by paragraph (1) is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 220. Mr. MENENDEZ (for himself, Mr. DURBIN, Mr. DODD, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, line 14, before the period, insert the following:

'', and for an additional amount for the fire grant program under section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), $500,000,000, to remain available until expended: *Provided*, That this amount is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.''

SA 221. Mr. LEAHY (for himself and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 2 and 3, insert the following:

SEC. 12____. NON-FEDERAL SHARE OF TRANSPORTATION PROGRAMS AND ACTIVITIES.

(a) DEFINITION OF COVERED TRANSPORTATION PROGRAM OR ACTIVITY.—In this section, the term ''covered transportation program or activity'' means a program or activity for which funds are authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) or an amendment made by that Act.

(b) NON-FEDERAL SHARE.—Amounts made available by this Act may be used by States

and municipalities to pay the non-Federal share of the cost of any covered transportation program or activity.

(c) EFFECT OF SECTION.—Nothing in this section prohibits a State or local government from contributing non-Federal funds toward the cost of a covered transportation program or activity.

SA 222. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, after line 10, insert the following:

SEC. 1124. CREDIT FOR BATTERY POWERED LAWN MOWERS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR BATTERY POWERED LAWN MOWERS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to so much of the qualified battery powered lawn mower expenses for the taxable year as does not exceed $100.

''(b) QUALIFIED BATTERY POWERED LAWN MOWER EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified battery powered lawn mower expenses' means the cost of any battery powered lawn mower the original use of which commences with the taxpayer and which is placed in service by the taxpayer during the taxable year.

''(2) BATTERY POWERED LAWN MOWER.—The term 'battery powered lawn mower' means a machine primarily for cutting grass which is powered by a motor drawing current only from rechargeable or replaceable batteries.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 904(i) is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 25E''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for battery powered lawn mowers.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases made after the date of the enactment of this Act.

SA 223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 583, line 14, insert '', without regard to State restrictions on such compensation to individuals receiving stipends or other training allowances that can be used for non-training costs'' after ''1998''.

SA 224. Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. CARDIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SMALL BUSINESS PROCUREMENT.

(a) EXISTING LAW.—Part 19 of the Federal Acquisition Regulation, section 15 of the Small Business Act (15 U.S.C. 644), and any other applicable procurement laws and regulations may not be waived with respect to contracts awarded with funds made available under this Act.

(b) CONTRACTS FOR SMALL BUSINESS CONCERNS.—To the maximum extent practicable, Federal agencies and State and local governments that receive funds under this Act shall award prime contracts to small business concerns.

SEC. 506. REPORT ON SMALL BUSINESS CONTRACTING.

(a) IN GENERAL.—The Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and the President, a report on the prime contracts and subcontracts made with funds appropriated to any Federal agency under this Act and awarded to small business concerns.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) the number of prime contracts and subcontracts awarded to small business concerns by such Federal agency; and

(2) the percentage of the total number of prime contracts and subcontracts awarded by such Federal agency that are awarded to small business concerns.

(c) TIMING.—The report under subsection (a) shall be submitted not later than 180 days after the date of enactment of this Act, and once every 180 days thereafter during the 3 years following the date of enactment of this Act.

SA 225. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. EXTENSION OF WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FROM CERTAIN RETIREMENT PLANS AND ACCOUNTS.

(a) IN GENERAL.—Subparagraph (H) of section 401(a)(9), as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended—

(1) by striking ''for calendar year 2009'' in clause (i) and inserting ''in calendar years 2009 or 2010'',

(2) by striking ''2009'' in clause (ii)(I) and inserting ''2010'', and

(3) by striking ''to calendar year 2009'' in clause (ii)(II) and inserting ''to calendar years 2009 or 2010''.

(b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—The last sentence of section 402(c)(4), as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended by inserting ''or 2010'' after ''2009''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 2009.

(2) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any pension plan or contract amendment, such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii)(I).

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any pension plan or annuity contract which—

(I) is made by pursuant to the amendments made by this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2011.

In the case of a governmental plan, subclause (II) shall be applied by substituting ''2012'' for ''2011''.

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless during the period beginning on January 1, 2009, and ending on December 31, 2010 (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect.

SA 226. Mr. ENSIGN (for himself, Mr. SCHUMER, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle A of title I of division B, insert the following:

SEC. ___. REPEAL OF EXCISE TAX ON TELEPHONE AND OTHER COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Chapter 33 (relating to facilities and services) is amended by striking subchapter B.

(b) CONFORMING AMENDMENTS.—

(1) Section 4293 is amended by striking ''chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33,'' and inserting ''and chapter 32 (other than the taxes imposed by sections 4064 and 4121),''.

(2)(A) Paragraph (1) of section 6302(e) is amended by striking ''section 4251 or''.

(B) Paragraph (2) of section 6302(e) is amended—

(i) by striking ''imposed by—'' and all that follows through ''with respect to'' and inserting ''imposed by section 4261 or 4271 with respect to'', and

(ii) by striking ''bills rendered or''.

(C) The heading for subsection (e) of section 6302 is amended by striking ''COMMUNICATIONS SERVICES AND''.

(3) Section 6415 is amended by striking ''4251, 4261, or 4271'' each place it appears and inserting ''4261 or 4271''.

(4) Paragraph (2) of section 7871(a) is amended by inserting ''or'' at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(5) The table of subchapters for chapter 33 is amended by striking the item relating to subchapter B.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid pursuant to bills first rendered more than 90 days after the date of the enactment of this Act.

SA 227. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I of division B, insert the following:

PART IX—REDUCTION IN CORPORATE INCOME TAX RATES

SEC. ___. PERMANENT REDUCTION IN CORPORATE INCOME TAX RATES.

(a) GENERAL RULE.—Section 11(b) (relating to amount of tax) is amended to read as follows:

''(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be equal to 15 percent of taxable income.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1201 is amended—

(A) in subsection (a)—

(i) by striking ''35 percent'' each place it appears and inserting ''15 percent'', and

(ii) by striking ''(determined without regard to the last 2 sentences of section 11(b)(1))'', and

(B) by striking subsection (b) and redesignating subsection (c) as subsection (b).

(2) Section 1445(e) is amended by striking ''35 percent'' each place it appears and inserting ''15 percent''.

(c) CLERICAL AMENDMENTS.—

(1) Sections 280(c)(3)(B)(ii)(II), 860E(2)(B), and 860E(6)(A)(ii) are each amended by striking ''11(b)(1)'' and inserting ''11(b)''.

(2) Section 904(b)(3)(D)(ii) is amended by striking ''(determined without regard to the last sentence of section 11(b)(1))''.

(3) Section 962 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 228. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 252, line 7, after ''activities:'', insert the following: ''*Provided further*, That in the case of any foreclosure on any dwelling or residential real property acquired with any amounts made available under this heading, any successor in interest in such property pursuant to the foreclosure shall assume such interest subject to: (1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure: (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: *Provided further*, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if: (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property: *Provided further*, That the recipient of any grant or loan from amounts made available under this heading may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: *Provided further*, That in the case of any qualified foreclosed housing for which funds made available under this heading are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of acquisition or financing, the owner and any successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: *Provided further*, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: *Provided further*, That this paragraph shall not preempt any State or local law that provides more protection for tenants: *Provided further*, That amounts made available under this heading may be used for the costs of demolishing foreclosed housing that is deteriorated or unsafe: *Provided further*, That no amounts from a grant made under this paragraph may be used to demolish any public housing (as such term is defined in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a)): *Provided further*, That section 2301(d)(4) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is repealed:''

SA 229. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ______. MODIFICATION OF THE TAX RATE FOR THE EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (a) of section 4940 is amended by striking ''2 percent'' and inserting ''1.33 percent''.

(b) ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Section 4940 is amended by striking subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 230. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ______. TEMPORARY MINIMUM CREDIT RATE FOR CERTAIN FEDERALLY SUBSIDIZED NEW BUILDINGS.

(a) IN GENERAL.—Section 42(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) TEMPORARY MINIMUM CREDIT RATE FOR CERTAIN FEDERALLY SUBSIDIZED NEW BUILDINGS.—In the case of any new building—

''(A) which is placed in service by the taxpayer after the date of the enactment of this paragraph and before December 31, 2013, and

''(B) which is federally subsidized for the taxable year,

the applicable percentage shall not be less than 4 percent.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to buildings placed in service after the date of the enactment of this Act.

SA 231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY INCREASE IN TIME PERIOD FOR RECYCLING OF TAX-EXEMPT DEBT FOR RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Section 146(i)(6)(A) is amended by inserting ''(12-month period in the case of repayments made before January 1, 2011)'' after ''6-month period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to repayments of loans received before, on, or after the date of the enactment of this Act.

SA 232. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

SEC. ___. INCREASE IN TIME PERIOD FOR RECYCLING OF TAX-EXEMPT DEBT FOR RESIDENTIAL RENTAL PROJECTS.

(a) IN GENERAL.—Section 146(i)(6)(A) is amended by striking ''6-month period'' and inserting ''12-month period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to repayments of loans received before, on, or after the date of the enactment of this Act.

SA 233. Mr. SCHUMER (for himself, Mr. GRASSLEY, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. DETERMINATION OF STANDARD MILEAGE RATE FOR CHARITABLE CONTRIBUTIONS DEDUCTION.

(a) IN GENERAL.—Subsection (i) of section 170 is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

''(1) IN GENERAL.—For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 14 cents per mile.

''(2) SPECIAL RULE FOR 2009 AND 2010.—For miles traveled after the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009 and before January 1, 2011, the standard mileage rate shall be the rate determined by the Secretary, which rate shall not be less than the standard mileage rate used for purposes of section 213.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to miles traveled after the date of the enactment of this Act.

SEC. —. EXCLUSION FROM GROSS INCOME FOR CHARITABLE MILEAGE REIMBURSEMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 139C. CHARITABLE MILEAGE REIMBURSEMENT.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include amounts received from an organization described in section 170(c)(2) as reimbursement of operating expenses with respect to the use of a passenger automobile for the benefit of such organization.

''(b) LIMITATION.—The amount excluded from gross income under subsection (a) shall not exceed the product of the standard mileage rate used for purposes of section 162 multiplied by the number of miles traveled for which such reimbursement is made.

''(c) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(d) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to reimbursements excluded from income under subsection (a).

''(e) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(f) MAINTENANCE OF RECORDS.—For purposes of this section, no exclusion shall be allowed under subsection (a) for any reimbursement unless with respect to such reimbursement the taxpayer meets substantiation requirements similar to the requirements of section 274(d).

''(g) TERMINATION.—This section shall not apply to any miles traveled after December 31, 2010.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 139C. Charitable mileage reimbursement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to miles traveled after the date of the enactment of this Act.

SA 234. Mr. SCHUMER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. DETERMINATION OF STANDARD MILEAGE RATE FOR CHARITABLE CONTRIBUTIONS DEDUCTION.

(a) IN GENERAL.—Subsection (i) of section 170 is amended to read as follows:

''(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be the rate determined by the Secretary, which rate shall not be less than the standard mileage rate used for purposes of section 213.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to miles traveled after the date of the enactment of this Act.

SEC. —. EXCLUSION FROM GROSS INCOME FOR CHARITABLE MILEAGE REIMBURSEMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 139C. CHARITABLE MILEAGE REIMBURSEMENT.

''(a) IN GENERAL.—In the case of an individual, gross income shall not include amounts received from an organization described in section 170(c)(2) as reimbursement of operating expenses with respect to the use of a passenger automobile for the benefit of such organization.

''(b) LIMITATION.—The amount excluded from gross income under subsection (a) shall not exceed the product of the standard mileage rate used for purposes of section 162 multiplied by the number of miles traveled for which such reimbursement is made.

''(c) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(d) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to reimbursements excluded from income under subsection (a).

''(e) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(f) MAINTENANCE OF RECORDS.—For purposes of this section, no exclusion shall be allowed under subsection (a) for any reimbursement unless with respect to such reimbursement the taxpayer meets substantiation requirements similar to the requirements of section 274(d).''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 139C. Charitable mileage reimbursement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to miles traveled after the date of the enactment of this Act.

SA 235. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 409, strike lines 16 through 19, and insert the following:

(C) auditing or reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters the Board considers appropriate for investigation to the inspector general for the agency that disbursed the covered funds;

On page 410, line 3, insert before the period '', including coordinating and collaborating to the extent practicable with the Inspectors General Council on Integrity and Efficiency established by the Inspector General Reform Act of 2008 (Public Law 110–409)''.

On page 411, strike lines 1 through 3, and insert ''subject to disclosure under sections 552 and 552a of title 5, United States Code, (commonly referred to as the Freedom of Information Act and the Privacy Act).''

On page 411, line 20, strike all after ''conduct'' through line 22, and insert ''audits and reviews of spending of covered funds and coordinate on such activities with the inspectors general of the relevant agencies to avoid duplication of work.''.

On page 411, line 23, strike ''INVESTIGATIONS'' and insert ''REVIEWS''.

On page 412, lines 1 and 2, strike ''investigations'' and insert ''reviews''.

On page 412, line 3, strike ''investigations'' and insert ''reviews''.

On page 412, line 7, strike ''INVESTIGATIONS'' and insert ''REVIEWS''.

On page 412, line 10, insert ''Additionally, the Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees and may enforce such subpoenas in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).'' at the end.

On page 412, lines 16 and 17, strike ''investigative depositions'' and insert ''necessary inquiries''.

On page 412, strike lines 21 through 23 and insert ''are not Federal officers or employees at such public hearings. Any such subpoenas may be enforced in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).''.

On page 413, line 8, strike all after ''audits'' through line 11 and insert '', reviews, or other activities relating to oversight by the Board of covered funds to any office of inspector general (including for the purpose of a related investigation of an inspector general), the Office of Management and Budget, the General Services Administration, and the Panel.''.

On page 415, line 20, strike ''a report''.

On page 415, line 23, strike the period through line 25 and insert '', a brief statement or notification. The statement or notification shall state the reasons that the inspector general has rejected the request in whole or in part. The decision of the inspector general to reject the request shall be final.''.

SA 236. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 22, strike ''2010'' and insert ''2011''.

On page 3, line 23, insert before the period ''and an additional $17,500,000 for such purposes, to remain available until September 30, 2011''.

On page 41, line 4, strike ''2010.'' and insert ''2011, and an additional $4,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 41, line 21, strike ''2010'' and insert ''2011''.

On page 47, line 8, strike ''2010'' and insert ''2011''.

On page 47, line 26, strike ''2010'' and insert ''2011''.

On page 60, line 4, strike ''2010.'' and insert ''2011, and an additional $3,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 77, line 19, strike ''expended.'' and insert ''September 30, 2012, and an additional $10,000,000 for such purposes, to remain available until September 30, 2012.''.

On page 95, line 12, insert before the period ''and an additional $13,000,000 for such purposes, to remain available until September 30, 2011''.

On page 105, line 9, strike ''$248,000,000'' and insert ''$142,600,000''.

On page 105, line 24, strike ''2010'' and insert ''2011''.

On page 116, line 21, strike ''2010.'' and insert ''2011, and an additional $7,400,000 for such purposes, to remain available until September 30, 2011.''.

On page 127, line 14, strike ''2010'' and insert ''2011''.

On page 137, line 8, strike ''2011.'' and insert ''2012, and an additional $15,000,000 for such purposes, to remain available until September 30, 2011.''.

On page 146, line 12, insert before the period ''and an additional $10,000,000 for such purposes, to remain available until September 30, 2012''.

On page 149, between lines 5 and 6, insert the following:

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $1,000,000, which shall remain available until September 30, 2011.

On page 214, line 19, strike ''2010'' and insert ''2011''.

On page 225, line 6, strike ''2010'' and insert ''2011''.

On page 226, line 23, strike ''2010'' and insert ''2011''.

On page 243, line 6 insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 263, line 7, insert '', and an additional $12,250,000 for such purposes, to remain available until September 30, 2011'' before the colon.

On page 733, line 2, strike ''expended'' and insert ''September 30, 2012,''.

SA 237. Mr. CARDIN (for himself, Ms. LANDRIEU, and Ms. SNOWE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 105, between lines 3 and 4, insert the following:

SEC. 505. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by adding at the end the following:

''(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed $10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.''.

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by adding at the end the following:

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

(c) SUNSET.—The amendments made by this section shall remain in effect until September 30, 2010.

SA 238. Mr. GRASSLEY (for Mr. THUNE) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

IN GENERAL.—Notwithstanding any other provision of this Act, for each amount in each account as appropriated or otherwise authorized to be made available in this Act, the Office of Management and Budget shall make a determination about whether an authorization for that specific program had been enacted prior to February 1, 2009, and if no such authorization existed by that date, then the Office of Management and Budget shall reduce to zero the amount appropriated or otherwise made available for each program in each account where no authorization existed.

SA 239. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

EXTENSION OF PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 603. Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law

104–208; 8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS RELATED TO PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 604. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Appropriations, the Committee on Finance, and the Committee on the Judiciary of the Senate; and

(B) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(2) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program carried out under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) FUNDING UNDER AGREEMENT.—For each fiscal year after fiscal year 2008, the Commissioner and the Secretary shall enter into an agreement that—

(1) provides funds to the Commissioner for the full costs of carrying out the responsibilities of the Commissioner under the pilot program, including the costs of—

(A) acquiring, installing, and maintaining technological equipment and systems to carry out such responsibilities, but only the portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest tentative nonconfirmations provided by the confirmation system established pursuant to the pilot program;

(2) provides such funds to the Commissioner quarterly, in advance of the applicable quarter, based on estimating methodology agreed to by the Commissioner and the Secretary; and

(3) requires an annual accounting and reconciliation of the actual costs incurred by the Commissioner to carry out such responsibilities and the funds provided under the agreement that shall be reviewed by the Office of the Inspector General in the Social Security Administration and in the Department of Homeland Security.

(c) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) CONTINUATION OF PREVIOUS AGREEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the agreement required under subsection (b) for a fiscal year is not reached as of the first day of such fiscal year, the most recent previous agreement between the Commissioner and the Secretary to provide funds to the Commissioner for carrying out the responsibilities of the Commissioner under the pilot program shall be deemed to remain in effect until the date that the agreement required under subsection (b) for such fiscal year becomes effective.

(B) ANNUAL ADJUSTMENT.—If the most recent previous agreement is deemed to remain in effect for a fiscal year under subparagraph (A), the Director of the Office of Management and Budget is authorized to modify the amount provided under such agreement for such fiscal year to account for—

(i) inflation; or

(ii) any increase or decrease in the number of individuals who require services from the Commissioner under the pilot program.

(2) NOTIFICATION OF CONGRESS.—If the most recent previous agreement is deemed to remain in effect under paragraph (1)(A) for a fiscal year, the Commissioner and the Secretary shall—

(A) not later than the first day of such fiscal year, submit to the appropriate committees of Congress a notification of the failure to reach the agreement required under subsection (b) for such fiscal year; and

(B) once during each 90-day period until the date that the agreement required under subsection (b) has been reached for such fiscal year, submit to the appropriate committees of Congress a notification of the status of negotiations between the Commissioner and the Secretary to reach such an agreement.

STUDY AND REPORT OF ERRONEOUS RESPONSES SENT UNDER THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

SEC. 605. (a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the erroneous tentative nonconfirmations sent to individuals seeking confirmation of employment eligibility under the pilot program established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(b) MATTERS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of—

(1) the causes of erroneous tentative nonconfirmations sent to individuals under the pilot program referred to in subsection (a);

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and agencies and departments of the United States.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance and the Committee on the Judiciary of the Senate and the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives a report on the results of the study required by this section.

STUDY AND REPORT OF THE EFFECTS OF THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION ON SMALL ENTITIES

SEC. 606. (a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SMALL ENTITY.—The term ''small entity'' has the meaning given that term in section 601 of title 5, United States Code.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the effects of the pilot on small entities.

(c) MATTERS TO BE STUDIED.—

(1) IN GENERAL.—The study required by subsection (b) shall include an analysis of—

(A) the costs of complying with the pilot program incurred by small entities;

(B)(i) the description and estimated number of small entities enrolled in and participating in the pilot program; or

(ii) why no such estimated number is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of the pilot program that apply to small entities;

(D) the factors that impact enrollment and participation of small entities in the pilot program, including access to appropriate technology, geography, and entity size and class; and

(E) the actions, if any, carried out by the Secretary of Homeland Security to minimize the economic impact of participation in the pilot program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The study required by subsection (b) shall analyze, and treat separately, with respect to small entities—

(A) any direct effects of compliance with the pilot program, including effects on wages and time used and fees spent on such compliance; and

(B) any indirect effects of such compliance, including effects on cash flow, sales, and competitiveness of such compliance.

(3) DISAGGREGATION BY ENTITY SIZE.—The study required by subsection (b) shall analyze separately data with respect to—

(A) small entities with fewer than 50 employees; and

(B) small entities that operate in States that require small entities to participate in the pilot program.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by subsection (b).

RESTRICTION ON USE OF FUNDS

SEC. 607. None of the funds made available in this Act may be used to enter into a contract with a person that does not participate in the pilot program described in section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

SA 240. Mr. CRAPO (for himself, Ms. LANDRIEU, Mr. GRAHAM, Mr. RISCH, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 519, beginning on line 12, strike through line 19 and insert the following:

''(IV) designed to capture and sequester carbon dioxide emissions,

''(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies, or

''(VI) designed to manufacture components for the production of nuclear energy, and

SA 241. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. MEDICAID INTERNET-BASED TRANSPARENCY PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by adding at the end the following new section:

"SEC. 1942. INTERNET-BASED TRANSPARENCY PROGRAM.

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this section, the Secretary shall implement a program under which the Secretary shall make available through the public Internet website of the Department of Health and Human Services non-aggregated information on individuals collected under the Medicaid Statistical Information System described in section 1903(r)(1)(F) insofar as such information has been de-identified in accordance with regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996. In implementing such program, the Secretary shall ensure that—

"(1) the information made so available is in a format that is easily accessible, useable, and understandable to the public, including individuals interested in improving the quality of care provided to individuals eligible for items and services under this title, researchers, health care providers, and individuals interested in reducing the prevalence of waste and fraud under this title;

"(2) the information made so available is as current as deemed practical by the Secretary and shall be updated at least once per calendar quarter;

"(3) to the extent feasible—

"(A) all hospitals, nursing homes, clinics, and large physician practices included in such information that are identifiable by name to individuals who access the information through such program;

"(B) all individual health care providers not described in subparagraph (A), including physicians and dentists, are identifiable by unique identifier numbers that are disclosed only to appropriate officials within the Department of Health and Human Services and the State involved; and

"(C) the information made so available shall include non-aggregated information with respect to the provision of medical assistance under State plans under this title of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa; and

"(4) the Secretary periodically solicits comments from a sampling of individuals who access the information through such program on how to best improve the utility of the program.

"(b) USE OF CONTRACTOR.—For purposes of implementing the program under subsection (a) and ensuring the information made available through such program is periodically updated, the Secretary may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the Secretary determines appropriate.

"(c) ANNUAL REPORTS.—Not later than 2 years after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the progress of the program under subsection (a), including on the extent to which information made available through the program is accessed and the extent to which comments received under subsection (a)(4) were used during the year involved to improve the utility of the program.

"(d) INCENTIVES FOR COMPLIANCE WITH EXISTING STATE REQUIREMENTS.—If the Secretary determines that a State has not fully and properly complied with section 1903(r)(1)(F), including any encounter data requirements, for any period beginning after the date that is 1 year after the date of the enactment of this section, the Secretary shall reduce the amount paid to the State under section 1903(a) by $25,000 for each such day. Such reduction shall be made unless—

"(1) the State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;

"(2) not later than 60 days after the date of a finding that the State has not fully and properly complied with section 1903(r)(1)(F), the State submits to the Secretary (and the Secretary approves) a corrective action plan to implement such a program; and

"(3) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.

The Secretary shall transfer the amount of any reduction under this subsection to the fund established under subsection (e).

"(e) FUNDING.—

"(1) MEDICAID INTERNET-BASED TRANSPARENCY FUND.—The Secretary shall establish a fund to be known as the 'Medicaid Internet-based Transparency Fund', consisting of such amounts as may be transferred to such Fund under subsection (d) and such amounts as may be appropriated to such Fund under paragraph (3).

"(2) EXPENDITURES FROM FUND.—Amounts in the Medicaid Internet-based Transparency Fund shall be available to the Secretary only for purposes of carrying out this section.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Medicaid Internet-based Transparency Fund $10,000,000 for fiscal year 2009, to remain available until expended.".

(b) FEASIBILITY REPORT ON INCLUDING SCHIP INFORMATION IN INTERNET-BASED TRANSPARENCY PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representative and the Committee on Finance of the Senate a report on the feasibility, potential costs, and potential benefits of making publicly available through an Internet-based program de-identified payment and patient encounter information for items and services furnished under title XXI of the Social Security Act which would not otherwise be included in the information collected under the Medicaid Statistical Information System described in section 1903(r)(1)(F) of such Act and made available under section 1942 of such Act, as added by subsection (a).

SA 242. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes;

On page 570, between lines 8 and 9, insert the following:

SEC. ___. TEMPORARY REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 86(a) (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new flush sentence:

"This paragraph shall not apply to any taxable year beginning in 2009.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the amendment made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(d) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading "Department of Veterans Affairs" in title X of division A) shall be reduced by a percentage necessary to offset the aggregate amount appropriated under subsection (c).

SA 243. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 484, after line 24, add the following:

The preceding sentence shall not apply to any taxpayer with respect to losses attributable to the modification of any personal residence indebtedness. Notwithstanding any other provision of division A, each amount appropriated or made available in division A (other than any such amount under the heading "Department of Veterans Affairs" in title X of division A) shall be reduced by 0.05 percent.

SA 244. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 89 submitted by Ms. STABENOW (for herself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which

was ordered to lie on the table; as follows:

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

Beginning on page 554, line 6, strike all through page 565, line 3.

SA 245. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, line 11, after the period at the end, add the following: ''No State higher education agency in any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico shall receive less than ½ of 1 percent of the amount allocated under this paragraph.''.

SA 246. Mrs. SHAHEEN (for herself, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 168, between lines 12 and 13, insert the following:

SEC. 803A. ADDITIONAL FUNDS FOR HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR.

(a) IN GENERAL.—In addition to amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated, $2,500,000,000 for carrying out activities authorized under section 803 of this Act, which funds shall remain available through September 30, 2010.

(b) EMERGENCY DESIGNATION.—The amount provided in subsection (a) is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 247. Mr. UDALL of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, strike lines 3 through 5 and insert the following:

For an additional amount for ''State and Tribal Assistance Grants'', $8,400,000,000, to remain available until September 10, 2010, of which $6,000,000,000 shall

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SA 248. Mr. UDALL of Colorado submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, line 2, strike ''$1,400,000,000'' and insert ''$1,425,000,000''.

On page 70, line 9, before the period, insert the following: '': *Provided further*, That not less than $25,000,000 of the funds provided under this heading shall be used for programs, projects, and activities for and relating to the Armel Unit of the Pick-Sloan Missouri River Basin Program as authorized by section 9 of the Act of December 22, 1944 (commonly known as the 'Flood Control Act of 1944') (58 Stat. 891, chapter 665)), and other law''.

SA 249. Mrs. LINCOLN (for herself, Ms. STABENOW, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. APPLYING MEDICARE RURAL HOME HEALTH ADD-ON POLICY FOR REMAINING PORTION OF 2009 AND ALL OF 2010.

Section 421(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2283), as amended by section 5201(b) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 46), is amended—

(1) by striking '', and episodes'' and inserting '', episodes''; and

(2) by inserting ''and episodes and visits ending on or after the date of enactment of the American Recovery and Reinvestment Act of 2009 and before January 1, 2011,'' after ''January 1, 2007,''.

SA 250. Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. WYDEN, Mr. ROBERTS, and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. NO APPLICATION OF REVISED AVERAGE HOURLY WAGE COMPARISON RECLASSIFICATION CRITERIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall not apply, during the period described in subsection (b), the changes to the average hourly wage comparison reclassification criteria described in sections 412.230(d)(1)(iv), 412.232(c), and 412.234(b) of title 42, Code of Federal Regulations (as in effect on October 1, 2008), or any similar provision, to a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) seeking reclassification of its wage index for purposes of such section during such period.

(b) SUSPENSION PERIOD.—The period described in this subsection begins on October 1, 2008, and ends on the first day of the first fiscal year that begins 1 year after the Secretary has published in the Federal Register a proposal (or proposals) that considers the matters described in subparagraphs (A) through (I) of section 106(b)(2) of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432).

(c) EFFECT ON RECLASSIFICATION DECISIONS.—Notwithstanding any other provision of law, in the case of a decision made by the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)), during the period described in subsection (b), denying an application by a subsection (d) hospital (as so defined) for reclassification of its wage index for purposes of such section during such period on the basis of the changes to the average hourly wage comparison reclassification criteria described in sections 412.230(d)(1)(iv), 412.232(c) and 412.234(b) of title 42, Code of Federal Regulations (as in effect on October 1, 2008), or any similar provision, the Board shall reissue the decision as if such changes were not in effect.

(d) IMPLEMENTATION.—The Secretary shall make a proportional adjustment in the standardized amounts determined under section 1886(d)(3) of the Social Security Act (42 U.S.C. 1395ww(d)(3)) for a fiscal year to assure that the provisions of this section do not result in aggregate payments under section 1886(d) (42 U.S.C. 1395ww(d)) that are greater or less than those that would otherwise be made during the fiscal year.

SA 251. Mrs. LINCOLN (for herself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. DELAY IN APPLICATION OF NEW PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS UNDER MEDICAID.

Section 203 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1396r–8 note) is amended—

(1) in subsection (a)(1), by striking ''September 30, 2009'' and inserting ''June 30, 2010''; and

(2) in subsections (a)(2) and (b), by striking ''October 1, 2009'' each place it appears and inserting ''July 1, 2010''.

SA 252. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) PLAN TO ESTABLISH A MEDICAL HOME PROGRAM TO COORDINATE CARE FOR ELIGIBLE MEDICAID BENEFICIARIES.—

(A) IN GENERAL.—

(i) SUBMISSION.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date (not later than 6 months after the date of enactment of this Act) on which the State submits to the Secretary a plan to establish a medical home program to coordinate care for eligible Medicaid beneficiaries.

(ii) IMPLEMENTATION.—Each State that is paid additional Federal funds as a result of this section shall, not later than 18 months after such date of enactment, implement such a plan that has been approved by the Secretary.

(B) DETAILS.—Such plan shall include the following:

(i) Subject to clause (ii), provide primary care physicians and other participating providers of services a management fee that reflects the amount of time spent with an eligible Medicaid beneficiary, and the family of such eligible Medicaid beneficiary, providing primary care services, chronic care disease management services, and other services for purposes of coordinating care of the eligible Medicaid beneficiary.

(ii) Such management fee shall not be provided to a primary care physician with respect to an eligible Medicaid beneficiary unless such eligible Medicaid beneficiary has designated the primary care physician (under procedures established by the State) as the health home of the eligible Medicaid beneficiary.

(C) DEFINITION OF ELIGIBLE MEDICAID BENEFICIARY.—In this paragraph, the term ''eligible Medicaid beneficiary'' means an individual who—

(i) is enrolled in the State Medicaid plan under title XIX of the Social Security Act; and

(ii) is determined to have 1 or more chronic diseases.

SA 253. Mr. COBURN (for himself, Mr. GRASSLEY, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) PLAN TO ESTABLISH CHRONIC CARE DISEASE MANAGEMENT PROGRAMS.—

(A) IN GENERAL.—

(i) SUBMISSION.—A State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), for any fiscal year quarter occurring during the recessionary adjustment period that begins on or after October 1, 2009, and before the date (not later than 6 months after the date of enactment of this Act) on which the State submits to the Secretary a plan to establish chronic care disease management programs with respect to at least the 5 most prevalent diseases within the population of Medicaid beneficiaries in the State.

(ii) IMPLEMENTATION.—Each State that is paid additional Federal funds as a result of this section shall, not later than 18 months after such date of enactment, implement such a plan that has been approved by the Secretary.

(B) DETAILS.—Such plan shall include the following:

(i) Provide primary care physicians chronic care disease management payments for assuring that an eligible Medicaid beneficiary receives appropriate and comprehensive care, including referral of the eligible Medicaid beneficiary to specialists, and that the eligible Medicaid beneficiary receives preventive services.

(ii) The amount of such chronic care disease management payment shall reflect the amount of time spent with the eligible Medicaid beneficiary, and the family of the eligible Medicaid beneficiary, providing chronic care disease management services to the eligible Medicaid beneficiary.

(C) DEFINITION OF ELIGIBLE MEDICAID BENEFICIARY.—In this paragraph, the term ''eligible Medicaid beneficiary'' means an individual who—

(i) is enrolled in the State Medicaid plan under title XIX of the Social Security Act; and

(ii) is determined to have 1 or more of the diseases with respect to which such chronic care disease management programs are established in the State.

SA 254. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 263, strike line 11 and all that follows through line 21 on page 390, and insert the following:

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 13001. SHORT TITLE.

This title may be cited as the ''Wired for Health Care Quality Act''.

Subtitle A—Improving the Interoperability of Health Information Technology

SEC. 13101. IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3001. DEFINITIONS; REFERENCE.

''(a) IN GENERAL.—In this title:

''(1) ENTITY.—The term 'Entity' means the Health IT Standards Entity established under section 3003.

''(2) HEALTH CARE PROVIDER.—The term 'health care provider' means a hospital, skilled nursing facility, home health entity, nursing facility, licensed assisted-living facility, health care clinic, federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as defined in section 1842(b)(18)(CC) of the Social Security Act), a health facility operated by or pursuant to a contract with the Indian Health Service, a rural health clinic, and any other category of facility or clinician determined appropriate by the Secretary.

''(3) HEALTH INFORMATION.—The term 'health information' has the meaning given such term in section 1171(4) of the Social Security Act.

''(4) HEALTH INSURANCE PLAN.—

''(A) IN GENERAL.—The term 'health insurance plan' means—

''(i) a health insurance issuer (as defined in section 2791(b)(2));

''(ii) a group health plan (as defined in section 2791(a)(1)); and

''(iii) a health maintenance organization (as defined in section 2791(b)(3)); or

''(iv) a safety net health plan.

''(B) SAFETY NET HEALTH PLAN.—The term 'safety net health plan' means a managed care organization, as defined in section 1932(a)(1)(B)(i) of the Social Security Act—

''(i) that is exempt from or not subject to Federal income tax, or that is owned by an entity or entities exempt from or not subject to Federal income tax; and

''(ii) for which not less than 75 percent of the enrolled population receives benefits under a Federal health care program (as defined in section 1128B(f)(1) of the Social Security Act) or a health care plan or program which is funded, in whole or in part, by a State (other than a program for government employees).

''(C) REFERENCES.—All references in this title to 'health plan' shall be deemed to be references to 'health insurance plan'.

''(5) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171 of the Social Security Act.

''(6) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353.

''(7) NATIONAL COORDINATOR.—The term 'National Coordinator' means the National Coordinator of Health Information Technology appointed pursuant to section 3002.

''(8) POLICY COMMITTEE.—The term 'Policy Committee' means the Health Information Technology Policy Committee established under section 3004.

''(9) QUALIFIED HEALTH INFORMATION TECHNOLOGY.—The term 'qualified health information technology' means a computerized system (including hardware and software) that—

''(A) protects the privacy and security of health information;

''(B) maintains and provides permitted access to health information in an electronic format;

''(C) with respect to individually identifiable health information maintained in a designated record set, preserves an audit trail of each individual that has gained access to such record set;

''(D) incorporates decision support to reduce medical errors and enhance health care quality;

''(E) complies with the standards and implementation specifications and certification criteria adopted by the Federal Government under section 3003;

''(F) has the ability to transmit and exchange information to other health information technology systems and, to the extent feasible, public health information technology systems; and

''(G) allows for the reporting of quality measures adopted under section 3010.

''(10) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''(b) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to the Social Security Act shall be deemed to be a reference to such Act as in effect on the date of enactment of this title.

''SEC. 3002. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the office of the Secretary, the Office of the National Coordinator for Health Information Technology. The National Coordinator shall be appointed by the Secretary in consultation with the President, and shall report directly to the Secretary.

''(b) PURPOSE.—The Office of the National Coordinator shall be responsible for—

''(1) ensuring that key health information technology initiatives are coordinated across programs of the Department of Health and Human Services;

''(2) ensuring that health information technology policies and programs of the Department of Health and Human Services are coordinated with such policies and programs of other relevant Federal agencies (including Federal commissions and advisory committees) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes activities primarily within the areas of its greatest expertise and technical capability;

''(3) reviewing Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published by the Office of the National Coordinator for Health Information Technology to establish a nationwide interoperable health information technology infrastructure;

''(4) providing comments and advice regarding specific Federal health information technology programs, at the request of Office of Management and Budget; and

''(5) enhancing the use of health information technology to improve the quality of health care in the prevention and management of chronic disease and to address population health.

''(c) ROLE WITH POLICY COMMITTEE AND ENTITY.—The Office of the National Coordinator shall—

''(1) serve as an ex officio member of the Policy Committee, and act as a liaison between the Federal Government and the Policy Committee;

''(2) serve as an ex officio member of the Entity and act as a liaison between the Federal Government and the Entity; and

''(3) serve as a liaison between the Entity and the Policy Committee.

''(d) REPORTS AND WEBSITE.—The Office of the National Coordinator shall—

''(1) develop, publish, and update as necessary a strategic plan for implementing a nationwide interoperable health information technology infrastructure;

''(2) maintain and frequently update an Internet website that—

''(A) publishes the schedule for the assessment of standards and implementation specifications;

''(B) publishes the recommendations of the Policy Committee;

''(C) publishes the recommendations of the Entity;

''(D) publishes quality measures adopted pursuant to this title and the Wired for Health Care Quality Act;

''(E) identifies sources of funds that will be made available to facilitate the purchase of, or enhance the utilization of, qualified health information technology systems, either through grants or technical assistance; and

''(F) publishes a plan for a transition of any functions of the Office of the National Coordinator that should be continued after September 30, 2014;

''(3) prepare a report on the lessons learned from major public and private health care systems that have implemented health information technology systems, including an explanation of whether the systems and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers; and

''(4) assess the impact of health information technology in communities with health disparities and identify practices to increase the adoption of such technology by health care providers in such communities.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the duplication of Federal efforts with respect to the establishment of the Office of the National Coordinator for Health Information Technology, regardless of whether such efforts are carried out before or after the date of the enactment of this title.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2009 and 2010.

''(g) SUNSET.—The provisions of this section shall not apply after September 30, 2014.

''SEC. 3003. HEALTH INFORMATION TECHNOLOGY STANDARDS ENTITY.

''(a) ESTABLISHMENT.—The Secretary, through a grant, contract, or cooperative agreement, shall provide for the establishment of a public-private entity to be known as the 'Health IT Standards Entity' (referred to in this title as the 'Entity') to—

''(1) set priorities and support the development, harmonization, and recognition of standards, implementation specifications, and certification criteria for the electronic exchange of health information (including for the reporting of quality data under section 3010); and

''(2) serve as a forum for the participation of a broad range of stakeholders with specific technical expertise in the development of standards, implementation specifications, and certification criteria to provide input on the effective implementation of health information technology systems.

''(b) STRUCTURE.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(1) DIVERSE COMPOSITION.—The Entity is initially composed of members representing the Federal Government, consumers and patient organizations, organizations with expertise in privacy, organizations with expertise in security, health care providers, health plans and other third party payers, information technology vendors, purchasers and employers, health informatics and entities engaged in research and academia, health information exchanges, organizations with expertise in infrastructure and technical standards, organizations with expertise in quality improvement, and other appropriate health entities.

''(2) BROAD PARTICIPATION.—There is broad participation in the Entity by a variety of public and private stakeholders, either through membership in the Entity or through another means.

''(3) PUBLISHED BUSINESS PLAN; GOVERNANCE RULES.—The Entity has a business plan and a published set of governance rules that will enable it to be self-sustaining and to fulfill the purposes stated in this section, and the Entity publishes such plan and such rules on an Internet website that it develops and maintains.

''(4) CHAIRPERSON; VICE CHAIRPERSON.—The Entity may designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Entity.

''(5) DEPARTMENT MEMBERSHIP.—The Secretary shall be a member of the Entity, and the National Coordinator shall act as a liaison among the Entity, the Community, and the Federal Government.

''(6) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the Entity, the Entity shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the Entity.

''(c) STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—

''(1) ACTIVITIES OF THE ENTITY.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(A) PUBLICATION OF SCHEDULE.—Not later than 90 days after the date on which the Entity is established, the Entity shall develop and publish a schedule for the assessment of standards and implementation specifications under this section, and update such schedule annually.

''(B) FIRST YEAR STANDARDS ACTIVITY.—Consistent with the initial schedule published under subparagraph (A) and not later than 1 year after date on which the Entity is established, the Entity shall develop, harmonize, or recognize such standards and implementation specifications.

''(C) SUBSEQUENT STANDARDS ACTIVITY.—The Entity shall review at least annually, and modify as appropriate, standards and implementation specifications that the Entity has previously developed, harmonized, or recognized, and continue to develop, harmonize, or recognize additional standards and implementation specifications, consistent with the updated schedule published pursuant to subparagraph (A).

''(D) RECOGNITION OF ENTITY TO MAKE RECOMMENDATIONS.—The Entity, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing, harmonizing, or updating standards and implementation specifications, consistent with this section, and making recommendations on such subjects to the Entity, in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(E) STANDARD TESTING PILOT PROJECT.—The Entity may conduct, or, in consultation with the Secretary, may recognize a private entity or entities to conduct, a pilot project to test the standards and implementation specifications developed, harmonized, or recognized under this section in order to provide for the efficient implementation of such standards and implementation specifications.

''(2) REVIEW.—The Secretary shall review the standards and implementation specifications described in paragraphs (1)(A) and (1)(B).

''(3) PUBLICATION.—

''(A) SCHEDULE.—The Secretary shall publish the schedules developed under paragraph (1)(A) in the Federal Register and on the Internet website of the Department of Health and Human Services.

''(B) STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—All standards and implementation specifications developed, harmonized, or recognized by the Entity pursuant to this section shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator.

''(4) FEDERAL ACTION.—Not later than 6 months after the issuance of a standard or implementation specification by the Entity under this subsection, the Secretary, the Secretary of Veterans Affairs, and the Secretary of Defense, in collaboration with representatives of other relevant Federal agencies as determined appropriate by the President, shall jointly review such standard or implementation specification. If appropriate, the President shall provide for the adoption by the Federal Government of any such standard or implementation specification. Such determination shall be published in the Federal Register and on the Internet website of the Office of the National Coordinator within 30 days after the date on which such determination is made.

''(d) OPEN AND PUBLIC PROCESS.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure the following:

''(1) CONSENSUS APPROACH; OPEN PROCESS.—The Entity shall use a consensus approach and a fair and open process to support the development, harmonization, and recognition of standards described in subsection (a)(1).

''(2) PARTICIPATION OF OUTSIDE ADVISERS.—The Entity shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve healthcare quality and patient safety;

''(D) long-term care and aging services; and

''(E) data exchange and developing health information technology standards and new health information technology.

''(3) OPEN MEETINGS.—Plenary and other regularly scheduled formal meetings of the Entity (or established subgroups thereof) shall be open to the public.

''(4) PUBLICATION OF MEETING NOTICES AND MATERIALS PRIOR TO MEETINGS.—The Entity shall develop and maintains an Internet website on which it publishes, prior to each meeting, a meeting notice, a meeting agenda, and meeting materials.

''(5) OPPORTUNITY FOR PUBLIC COMMENT.—The Entity shall develop a process that allows for public comment during the process by which the Entity develops, harmonizes, or recognizes standards and implementation specifications.

''(6) REPORT.—Not later than 12 months after the date of enactment of this title, the Entity publishes a report on progress made in developing, harmonizing, and recognizing standards, implementation specifications, and certification criteria, and in achieving broad participation of stakeholders in its processes.

''(e) CERTIFICATION.—In providing for the establishment of the Entity pursuant to subsection (a), the Secretary shall ensure that—

''(1) the Entity, in consultation with the Secretary, may recognize a private entity or entities for the purpose of developing, updating, and recommending to the Entity criteria to certify that appropriate categories of health information technology products that claim to be in compliance with applicable standards and implementation specifications developed, harmonized, or recognized under this title have established such compliance;

''(2) the Entity, in consultation with the Secretary, reviews, and if appropriate, adopts such criteria; and

''(3) the Entity, in consultation with the Secretary, may recognize a private entity or entities to conduct the certifications described under paragraph (1) using the criteria adopted under this subsection.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the duplication of Federal efforts with respect to activities described in this section that are existing on the date of enactment of this title, including the establishment of an entity to support the development, harmonization, or recognition of standards, implementation specifications, and certification criteria, regardless of whether such efforts are carried out prior to or after such date of the enactment.

''(g) FLEXIBILITY.—The provisions of Public Law 92-463 (as amended) shall not apply to the Entity.

''(h) REQUIREMENT TO CONSIDER RECOMMENDATIONS.—In carrying out the activities described in this section, the Entity shall integrate the recommendations of the Policy Committee that are adopted by the Secretary under section 3004(c).

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for each of the fiscal years 2009 and 2010 to be available until expended.

''SEC. 3004. HEALTH INFORMATION TECHNOLOGY POLICY COMMITTEE.

''(a) ESTABLISHMENT.—There is established a committee to be known as the Health Information Technology Policy Committee to provide advice to the Secretary and the heads of any relevant Federal agencies concerning the policy considerations related to health information technology.

''(b) PURPOSE.—The Policy Committee shall—

''(1) not later than 1 year after the date of enactment of this title, and semiannually thereafter, make recommendations concerning a policy framework for the development and adoption of a nationwide interoperable health information technology infrastructure;

''(2) not later than 1 year after the date of enactment of this title, and annually thereafter, make recommendations concerning national policies for adoption by the Federal Government, and voluntary adoption by private entities, to support the widespread adoption of health information technology, including—

''(A) the protection of individually identifiable health information, including policies concerning the individual's ability to control the acquisition, uses, and disclosures of individually identifiable health information;

''(B) methods to protect individually identifiable health information from improper use and disclosures and methods to notify patients if their individually identifiable health information is wrongfully disclosed;

''(C) methods to facilitate secure access to such individual's individually identifiable health information;

''(D) methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia that prevents a patient from accessing the patient's individually identifiable health information;

''(E) the appropriate uses of a nationwide health information network including—

''(i) the collection of quality data and public reporting;

''(ii) biosurveillance and public health;

''(iii) medical and clinical research; and

''(iv) drug safety;

''(F) fostering the public understanding of health information technology;

''(G) strategies to enhance the use of health information technology in preventing and managing chronic disease;

''(H) policies to take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of health information technology systems;

''(I) other policies determined to be necessary by the Policy Committee; and

''(J) best practices in the communication of privacy protections and procedures to ensure comprehension by individuals with limited English proficiency and limited health literacy; and

''(3) serve as a forum for the participation of a broad range of stakeholders to provide input on improving the effective implementation of health information technology systems.

''(c) PUBLICATION.—All recommendations made by the Policy Committee pursuant to this section shall be published in the Federal Register and on the Internet website of the National Coordinator. The Secretary shall review all recommendations and determine which recommendations shall be adopted by the Federal Government and such determination shall be published on the Internet website of the Office of the National Coordinator within 30 days after the date of such adoption.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Policy Committee shall be composed of members to be appointed as follows:

''(A) 1 member shall be appointed by the Secretary.

''(B) 1 member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

''(C) 1 member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

''(D) 1 member shall be appointed by the majority leader of the Senate.

''(E) 1 member shall be appointed by the minority leader of the Senate.

''(F) 1 member shall be appointed by the Speaker of the House of Representatives.

''(G) 1 member shall be appointed by the minority leader of the House of Representatives.

''(H) Eleven members shall be appointed by the Comptroller General of whom—

''(i) three members shall represent patients or consumers;

''(ii) one member shall represent health care providers;

''(iii) one member shall be from a labor organization representing health care workers;

''(iv) one member shall have expertise in privacy and security;

''(v) one member shall have expertise in improving the health of vulnerable populations;

''(vi) one member shall represent health plans or other third party payers;

''(vii) one member shall represent information technology vendors;

''(viii) one member shall represent purchasers or employers; and

''(ix) one member shall have expertise in health care quality measurement and reporting.

''(2) CHAIRPERSON AND VICE CHAIRPERSON.—The Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

''(3) NATIONAL COORDINATOR.—The National Coordinator shall be a member of the Policy Committee and act as a liaison among the Policy Committee, the Entity, and the Federal Government.

''(4) PARTICIPATION.—The members of the Policy Committee appointed under paragraph (1) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(5) TERMS.—

''(A) IN GENERAL.—The terms of members of the Policy Committee shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the Policy Committee shall be filled in the manner in which the original appointment was made.

''(6) OUTSIDE INVOLVEMENT.—The Policy Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy and security;

''(B) improving the health of vulnerable populations;

''(C) health care quality and patient safety, including individuals with expertise in measurement and the use of health information technology to capture data to improve health care quality and patient safety;

''(D) long-term care and aging services;

''(E) medical and clinical research; and

''(F) data exchange and developing health information technology standards and new health information technology.

''(7) QUORUM.—Ten members of the Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(8) FAILURE OF INITIAL APPOINTMENT.—

''(A) FORFEITURE OF AUTHORITY TO APPOINT.—If, on the date that is 120 days after the date of enactment of this title, an official authorized under paragraph (1) to appoint one or more members of the Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint—

''(i) the number of members that such official is authorized to appoint shall be reduced to the number that such official has appointed as of that date; and

''(ii) the number prescribed in paragraph (7) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

''(B) TRANSITION RULE.—With respect to an official authorized under paragraph (1) to appoint one or more members of the Policy Committee and who has not appointed the full number of members that such paragraph authorizes such official to appoint within the 120-day period described in subparagraph (A), upon a change in such official (resulting from the convening of a new Congress or the swearing in of a new President), a new 120-day period shall begin to run under such subparagraph with respect to the remaining members to be appointed by such official.

''(e) FEDERAL AGENCIES.—

''(1) STAFF OF OTHER FEDERAL AGENCIES.—Upon the request of the Policy Committee, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Policy Committee to assist in carrying out the duties of the Policy Committee. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee involved.

''(2) TECHNICAL ASSISTANCE.—Upon the request of the Policy Committee, the head of a Federal agency shall provide such technical assistance to the Policy Committee as the Policy Committee determines to be necessary to carry out its duties.

''(3) OTHER RESOURCES.—The Policy Committee shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The chairperson or vice chairperson of the Policy Committee shall make requests for such access in writing when necessary.

''(f) ADMINISTRATIVE PROVISIONS.—

''(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Policy Committee, except that the term provided for under section 14(a)(2) of such Act shall be not longer than 7 years.

''(2) CHARTER.—

''(A) IN GENERAL.—The Secretary shall file the Policy Committee charter prescribed by section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.) not later than 120 days after the date of enactment of this title.

''(B) FAILURE TO FILE.—If the charter described in subparagraph (A) has not been filed by the date specified in such subparagraph, then the requirement under section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.) shall be deemed to have been met as of the day following the date specified in such subparagraph.

''(g) SUNSET.—The provisions of this section shall not apply after September 30, 2014.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $2,000,000 for each of fiscal years 2009 and 2010.

''SEC. 3005. FEDERAL PURCHASING AND DATA COLLECTION.

''(a) COORDINATION OF FEDERAL SPENDING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 2 years after the adoption by the President of a recommendation under section 3003(c)(8), a Federal agency shall not expend Federal funds for the purchase of any new health information technology or health information technology system for clinical care or for the electronic retrieval, storage, or exchange of health information if such technology or system is not consistent with applicable standards and implementation specifications adopted by the Federal Government under section 3003.

''(2) EXCEPTIONS.—The President may authorize an exception to the requirement in paragraph (1) as determined necessary by the Secretary for the efficient administration of the Federal agency involved or for economic reasons, including a case in which—

''(A) the purchasing cycles involved preclude modifying specifications without significant costs; and

''(B) a new technology or system must interact with a separate older technology or system whose replacement or modification would impose significant costs.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to restrict the purchase of minor (as determined by the Secretary) hardware or software components in order to modify, correct a deficiency in, or extend the life of existing hardware or software.

''(b) VOLUNTARY ADOPTION.—Any standards and implementation specifications adopted by the Federal Government under section 3003(c)(8) shall be voluntary with respect to private entities.

''(c) COORDINATION OF FEDERAL DATA COLLECTION.—Not later than 3 years after the adoption by the Federal Government of a recommendation as provided for in section 3003(c)(8), all Federal agencies collecting

health data in an electronic format for the purposes of quality reporting, surveillance, epidemiology, adverse event reporting, research, or for other purposes determined appropriate by the Secretary, shall comply with applicable standards and implementation specifications adopted under such subsection. The requirements of this subsection shall apply to the collection of health data pursuant to programs authorized or required by the Social Security Act only as authorized or required by such Act.

''(d) ELECTRONIC SUBMISSION.—The Secretary shall implement procedures to enable the Department of Health and Human Services to accept the electronic submission of data for activities described in this title and the Federal Food, Drug, and Cosmetic Act.

''SEC. 3006. QUALITY AND EFFICIENCY REPORTS.

''(a) PURPOSE.—The purpose of this section is to provide for the development of reports based on Federal health care data and private data that is publicly available or is provided by the entity making the request for the report in order to—

''(1) improve the quality and efficiency of health care and advance health care research;

''(2) enhance the education and awareness of consumers for evaluating health care services; and

''(3) provide the public with reports on national, regional, and provider- and supplier-specific performance, which may be in a provider- or supplier-identifiable format.

''(b) PROCEDURES FOR THE DEVELOPMENT OF REPORTS.—

''(1) IN GENERAL.—Notwithstanding section 552(b)(6) or 552a(b) of title 5, United States Code, subject to paragraph (2)(A)(ii), not later than 12 months after the date of enactment of this section, the Secretary, in accordance with the purpose described in subsection (a), shall establish and implement procedures under which an entity may submit a request to a Quality Reporting Organization for the Organization to develop a report based on—

''(A) Federal health care data disclosed to the Organization under subsection (c);

''(B) private data that is publicly available or is provided to the Organization by the entity making the request for the report; and

''(C) clinical data, when available, used to improve the quality of care, monitor chronic diseases and medical procedures, and includes the following characteristics:

''(i) Has multi-institutional data sources.

''(ii) Is national in scope.

''(iii) Has publicly available protocols that encompass common definitions, data collection, sampling size, methodology, and standardized reporting format.

''(iv) Has an external audit process to ensure adequacy and quality of data.

''(v) Is risk-adjusted to ensure appropriate data comparison.

''(2) DEFINITIONS.—In this section:

''(A) FEDERAL HEALTH CARE DATA.—

''(i) IN GENERAL.—Subject to clause (ii), the term 'Federal health care data' means—

''(I) deidentified enrollment data and deidentified claims data maintained by the Secretary or entities under programs, contracts, grants, or memoranda of understanding administered by the Secretary; and

''(II) where feasible, other deidentified enrollment data and deidentified claims data maintained by the Federal Government or entities under contract with the Federal Government.

''(ii) EXCEPTION.—The term 'Federal health care data' includes data relating to programs administered by the Secretary under the Social Security Act only to the extent that the disclosure of such data is authorized or required under such Act.

''(B) QUALITY REPORTING ORGANIZATION.—The term 'Quality Reporting Organization' means an entity with a contract under subsection (d).

''(c) ACCESS TO FEDERAL HEALTH CARE DATA.—

''(1) IN GENERAL.—The procedures established under subsection (b)(1) shall provide for the secure disclosure of Federal health care data to each Quality Reporting Organization.

''(2) UPDATE OF INFORMATION.—Not less than every 6 months, the Secretary shall update the information disclosed under paragraph (1) to Quality Reporting Organizations.

''(d) QUALITY REPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—

''(A) CONTRACTS.—Subject to subparagraph (B), the Secretary shall enter into a contract with up to 3 private entities to serve as Quality Reporting Organizations under which an entity shall—

''(i) store the Federal health care data that is to be disclosed under subsection (c); and

''(ii) develop and release reports pursuant to subsection (e).

''(B) ADDITIONAL CONTRACTS.—If the Secretary determines that reports are not being developed and released within 6 months of the receipt of the request for the report, the Secretary shall enter into contracts with additional private entities in order to ensure that such reports are developed and released in a timely manner.

''(2) QUALIFICATIONS.—The Secretary shall enter into a contract with an entity under paragraph (1) only if the Secretary determines that the entity—

''(A) has the research capability to conduct and complete reports under this section;

''(B) has in place—

''(i) an information technology infrastructure to support the database of Federal health care data that is to be disclosed to the entity; and

''(ii) operational standards to provide security for such database;

''(C) has experience with, and expertise on, the development of reports on health care quality and efficiency; and

''(D) has a significant business presence in the United States.

''(3) CONTRACT REQUIREMENTS.—Each contract with an entity under paragraph (1) shall contain the following requirements:

''(A) ENSURING BENEFICIARY PRIVACY.—

''(i) HIPAA.—The entity shall meet the requirements imposed on a covered entity for purposes of applying part C of title XI and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

''(ii) OTHER STATUTORY PROTECTIONS.—The entity shall be required to refrain from disclosing data that could be withheld by the Secretary under section 552 of title 5, United States Code, or whose disclosure by the Secretary would violate section 552a of such title.

''(B) PROPRIETARY INFORMATION.—The entity shall provide assurances that the entity will not disclose any negotiated price concessions, such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations, obtained by health care providers or suppliers or health care plans, or any other proprietary cost information.

''(C) DISCLOSURE.—The entity shall disclose—

''(i) any financial, reporting, or contractual relationship between the entity and any health care provider or supplier or health care plan; and

''(ii) if applicable, the fact that the entity is managed, controlled, or operated by any health care provider or supplier or health care plan.

''(D) COMPONENT OF ANOTHER ORGANIZATION.—If the entity is a component of another organization—

''(i) the entity shall maintain Federal health care data and reports separately from the rest of the organization and establish appropriate security measures to maintain the confidentiality and privacy of the Federal health care data and reports; and

''(ii) the entity shall not make an unauthorized disclosure to the rest of the organization of Federal health care data or reports in breach of such confidentiality and privacy requirement.

''(E) TERMINATION OR NONRENEWAL.—If a contract under this section is terminated or not renewed, the following requirements shall apply:

''(i) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this section with respect to all Federal health care data disclosed to the entity and each report developed by the entity.

''(ii) DISPOSITION OF DATA AND REPORTS.—The entity shall—

''(I) return to the Secretary all Federal health care data disclosed to the entity and each report developed by the entity; or

''(II) if returning the Federal health care data and reports is not practicable, destroy the reports and Federal health care data.

''(4) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) shall be used to enter into contracts under paragraph (1).

''(5) REVIEW OF CONTRACT IN THE EVENT OF A MERGER OR ACQUISITION.—The Secretary shall review the contract with a Quality Reporting Organization under this section in the event of a merger or acquisition of the Organization in order to ensure that the requirements under this section will continue to be met.

''(e) DEVELOPMENT AND RELEASE OF REPORTS BASED ON REQUESTS.—

''(1) REQUEST FOR A REPORT.—

''(A) REQUEST.—

''(i) IN GENERAL.—The procedures established under subsection (b)(1) shall include a process for an entity to submit a request to a Quality Reporting Organization for a report based on Federal health care data and private data that is publicly available or is provided by the entity making the request for the report. Such request shall comply with the purpose described in subsection (a).

''(ii) REQUEST FOR SPECIFIC METHODOLOGY.—The process described in clause (i) shall permit an entity making a request for a report to request that a specific methodology, including appropriate risk adjustment, be used by the Quality Reporting Organization in developing the report. The Organization shall work with the entity making the request to finalize the methodology to be used.

''(iii) REQUEST FOR A SPECIFIC QRO.—The process described in clause (i) shall permit an entity to submit the request for a report to any Quality Reporting Organization.

''(B) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide that at the time a request for a report

is finalized under subparagraph (A) by a Quality Reporting Organization, the Organization shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, a brief description of both the requested report and the methodology to be used to develop such report.

''(2) DEVELOPMENT AND RELEASE OF REPORT.—

''(A) DEVELOPMENT.—

''(i) IN GENERAL.—If the request for a report complies with the purpose described in subsection (a), the Quality Reporting Organization may develop the report based on the request.

''(ii) REQUIREMENT.—A report developed under clause (i) shall include a detailed description of the standards, methodologies, and measures of quality used in developing the report.

''(iii) RISK ADJUSTMENT.—A Quality Reporting Organization shall ensure that the methodology used to develop a report under clause (i) shall include acceptable risk adjustment and case-mix adjustment developed in consultation with providers as described in clause (iv).

''(iv) PROVIDER CONSULTATION.—During the development of the report under clause (i), the Quality Reporting Organization shall consult with a group of not more than 5 providers of the relevant specialty who are appointed by the providers' respective national associations, as to compliance with clauses (ii) and (iii). The comments of the consulted providers shall be included in the public release of the report.

''(B) REVIEW OF REPORT BY SECRETARY.—Prior to a Quality Reporting Organization releasing a report under subparagraph (C), and within 30 days of receiving a request for such a release, the Secretary shall review the report to ensure that the report was delivered using a scientifically valid methodology including appropriate risk adjustment and case-mix adjustment, and determine that the report does not disclose—

''(i) information whose disclosure by a covered entity, as such term is defined for purposes of the regulations issued under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, would violate such regulations; or

''(ii) information that could be withheld by the Department of Health and Human Services under section 552 of title 5, United States Code, or whose disclosure by the Department would violate section 552(a) of such title.

''(C) RELEASE OF REPORT.—

''(i) RELEASE TO ENTITY MAKING REQUEST.—If the Secretary finds that the report complies with the provisions described in subparagraph (B), the Quality Reporting Organization shall release the report to the entity that made the request for the report.

''(ii) RELEASE TO PUBLIC.—The procedures established under subsection (b)(1) shall provide for the following:

''(I) UPDATED DESCRIPTION.—At the time of the release of a report by a Quality Reporting Organization under clause (i), the entity shall make available to the public, through the Internet website of the Department of Health and Human Services and other appropriate means, an updated brief description of both the requested report and the methodology used to develop such report.

''(II) COMPLETE REPORT.—Not later than 1 year after the date of the release of a report under clause (i), the report shall be made available to the public through the Internet website of the Department of Health and Human Services and other appropriate means.

''(f) ANNUAL REVIEW OF REPORTS AND TERMINATION OF CONTRACTS.—

''(1) ANNUAL REVIEW OF REPORTS.—The Comptroller General of the United States shall review reports released under subsection (e)(2)(C) to ensure that such reports comply with the purpose described in subsection (a) and annually submit a report to the Secretary on such review.

''(2) TERMINATION OF CONTRACTS.—The Secretary may terminate a contract with a Quality Reporting Organization if the Secretary determines that there is a pattern of reports being released by the Organization that do not comply with the purpose described in subsection (a).

''(g) FEES.—

''(1) FEES FOR SECRETARY.—The Secretary shall charge a Quality Reporting Organization a fee for—

''(A) disclosing the data under subsection (c); and

''(B) conducting the review under subsection (e)(2)(B).

The Secretary shall ensure that such fees are sufficient to cover the costs of the activities described in subparagraph (A) and (B).

''(2) FEES FOR QRO.—

''(A) IN GENERAL.—Subject to subparagraphs (A) and (B), a Quality Reporting Organization may charge an entity making a request for a report a reasonable fee for the development and release of the report.

''(B) DISCOUNT FOR SMALL ENTITIES.—In the case of an entity making a request for a report (including a not-for-profit) that has annual revenue that does not exceed $10,000,000, the Quality Reporting Organization shall reduce the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

''(C) INCREASE FOR LARGE ENTITIES THAT DO NOT AGREE TO RELEASE REPORTS WITHIN 6 MONTHS.—In the case of an entity making a request for a report that is not described in subparagraph (B) and that does not agree to the report being released to the public under clause (ii)(II) of subsection (e)(2)(C) within 6 months of the date of the release of the report to the entity under clause (i) of such subsection, the Quality Reporting Organization shall increase the reasonable fee charged to such entity under subparagraph (A) by an amount equal to 10 percent of such fee.

''(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to effect the requirement that a report be released to the public under clause (ii)(II) of subsection (e)(2)(C)(ii)(II) by not later than 1 year after the date of the release of the report to the requesting entity under clause (i) of such subsection.

''(h) REGULATIONS.—Not later than 6 months after the date of enactment of this section, the Secretary shall prescribe regulations to carry out this section.

''SEC. 3007. RESEARCH ACCESS TO HEALTH CARE DATA AND REPORTING ON PERFORMANCE.

''The Secretary shall permit researchers that meet criteria used to evaluate the appropriateness of the release data for research purpose (as established by the Secretary) to—

''(1) have access to Federal health care data (as defined in section 3006(b)(2)(A)); and

''(2) report on the performance of health care providers and suppliers, including reporting in a provider- or supplier-identifiable format.''.

(b) COORDINATION.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report (including recommendations) to the appropriate committees of Congress concerning the coordination of existing Federal health care quality initiatives.

Subtitle B—Facilitating the Widespread Adoption of Interoperable Health Information Technology

SEC. 13201. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following:

''SEC. 3008. FACILITATING THE WIDESPREAD ADOPTION OF INTEROPERABLE HEALTH INFORMATION TECHNOLOGY.

''(a) COMPETITIVE GRANTS FOR ADOPTION OF TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to facilitate the purchase and enhance the utilization of qualified health information technology systems to improve the quality and efficiency of health care.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(B) submit to the Secretary a strategic plan for the implementation of data sharing and interoperability standards and implementation specifications;

''(C) adopt the standards and implementation specifications adopted by the Federal Government under section 3003;

''(D) implement the measures adopted under section 3010 and report to the Secretary on such measures;

''(E) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

''(F) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of qualified health information technology systems;

''(G) demonstrate significant financial need;

''(H) provide matching funds in accordance with paragraph (4); and

''(I) be a—

''(i) public or not for profit hospital;

''(ii) federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act);

''(iii) individual or group practice (or a consortium thereof); or

''(iv) another health care provider not described in clause (i) or (ii);

that serves medically underserved communities.

''(3) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used to—

''(A) facilitate the purchase of qualified health information technology systems;

''(B) train personnel in the use of such systems;

''(C) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness among consumers of health care privacy protections); or

''(D) improve the prevention and management of chronic disease.

''(4) MATCHING REQUIREMENT.—To be eligible for a grant under this subsection an entity shall contribute non-Federal contributions to the costs of carrying out the activities for which the grant is awarded in an amount equal to $1 for each $3 of Federal funds provided under the grant.

''(5) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this subsection the Secretary shall give preference to—

''(A) eligible entities that will improve the degree to which such entity will link the qualified health information system to local or regional health information plan or plans; and

''(B) with respect to awards made for the purpose of providing care in an outpatient medical setting, entities that organize their practices as a patient-centered medical home.

''(b) COMPETITIVE GRANTS FOR THE DEVELOPMENT OF STATE LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—The Secretary may award competitive grants to States for the establishment of State programs for loans to health care providers to facilitate the purchase and enhance the utilization of qualified health information technology.

''(2) ESTABLISHMENT OF FUND.—To be eligible to receive a competitive grant under this subsection, a State shall establish a qualified health information technology loan fund (referred to in this subsection as a 'State loan fund') and comply with the other requirements contained in this subsection. Amounts received under a grant under this subsection shall be deposited in the State loan fund established by the State. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any such State loan fund.

''(3) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) a State shall—

''(A) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(B) submit to the Secretary a strategic plan in accordance with paragraph (4);

''(C) establish a qualified health information technology loan fund in accordance with paragraph (2);

''(D) require that health care providers receiving loans under the grant—

''(i) link, to the extent practicable, the qualified health information system to a local or regional health information network;

''(ii) consult, as needed, with the Health Information Technology Resource Center established in section 914(d) to access the knowledge and experience of existing initiatives regarding the successful implementation and effective use of health information technology;

''(iii) agree to notify individuals if their individually identifiable health information is wrongfully disclosed; and

''(iv) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design and implementation and use of qualified health information technology systems;

''(E) require that health care providers receiving loans under the grant adopt the standards adopted by the Federal Government under section 3003;

''(F) require that health care providers receiving loans under the grant implement the measures adopted under section 3010 and report to the Secretary on such measures; and

''(G) provide matching funds in accordance with paragraph (8).

''(4) STRATEGIC PLAN.—

''(A) IN GENERAL.—A State that receives a grant under this subsection shall annually prepare a strategic plan that identifies the intended uses of amounts available to the State loan fund of the State.

''(B) CONTENTS.—A strategic plan under subparagraph (A) shall include—

''(i) a list of the projects to be assisted through the State loan fund in the first fiscal year that begins after the date on which the plan is submitted;

''(ii) a description of the criteria and methods established for the distribution of funds from the State loan fund;

''(iii) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund; and

''(iv) a description of the strategies the State will use to address challenges in the adoption of health information technology due to limited broadband access.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the State loan fund established under paragraph (1). Loans under this section may be used by a health care provider to—

''(i) facilitate the purchase of qualified health information technology systems;

''(ii) enhance the utilization of qualified health information technology systems (which may include activities to increase the awareness among consumers of health care of privacy protections and privacy rights); or

''(iii) train personnel in the use of such systems.

''(B) LIMITATION.—Amounts received by a State under this subsection may not be used—

''(i) for the purchase or other acquisition of any health information technology system that is not a qualified health information technology system;

''(ii) to conduct activities for which Federal funds are expended under this title, or the amendments made by the Wired for Health Care Quality Act; or

''(iii) for any purpose other than making loans to eligible entities under this section.

''(6) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a State loan fund under this subsection may only be used for the following:

''(A) To award loans that comply with the following:

''(i) The interest rate for each loan shall be less than or equal to the market interest rate.

''(ii) The principal and interest payments on each loan shall commence not later than 1 year after the date on which the loan was awarded, and each loan shall be fully amortized not later than 10 years after such date.

''(iii) The State loan fund shall be credited with all payments of principal and interest on each loan awarded from the fund.

''(B) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(C) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund.

''(D) To earn interest on the amounts deposited into the State loan fund.

''(7) ADMINISTRATION OF STATE LOAN FUNDS.—

''(A) COMBINED FINANCIAL ADMINISTRATION.—A State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this subsection with the financial administration of any other revolving fund established by the State if not otherwise prohibited by the law under which the State loan fund was established.

''(B) COST OF ADMINISTERING FUND.—Each State may annually use not to exceed 4 percent of the funds provided to the State under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this title.

''(C) GUIDANCE AND REGULATIONS.—The Secretary shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this subsection, including—

''(i) provisions to ensure that each State commits and expends funds allotted to the State under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

''(ii) guidance to prevent waste, fraud, and abuse.

''(D) PRIVATE SECTOR CONTRIBUTIONS.—

''(i) IN GENERAL.—A State loan fund established under this subsection may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection.

''(ii) AVAILABILITY OF INFORMATION.—A State shall make publicly available the identity of, and amount contributed by, any private sector entity under clause (i) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

''(8) MATCHING REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may not make a grant under paragraph (1) to a State unless the State agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the costs of the State program to be implemented under the grant in an amount equal to not less than $1 for each $1 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that a State has provided pursuant to subparagraph (A), the Secretary may not include any amounts provided to the State by the Federal Government.

''(9) PREFERENCE IN AWARDING GRANTS.—The Secretary may give a preference in awarding grants under this subsection to States that adopt value-based purchasing programs to improve health care quality.

''(10) REPORTS.—The Secretary shall annually submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report summarizing the reports received by the Secretary from each State that receives a grant under this subsection.

''(c) COMPETITIVE GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.—

''(1) IN GENERAL.—The Secretary may award competitive grants to eligible entities to implement regional or local health information plans to improve health care quality and efficiency through the electronic exchange of health information pursuant to the standards, implementation specifications and certification criteria, and other requirements adopted by the Secretary under section 3010.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1) an entity shall—

''(A) demonstrate financial need to the Secretary;

''(B) demonstrate that one of its principal missions or purposes is to use information technology to improve health care quality and efficiency;

''(C) adopt bylaws, memoranda of understanding, or other charter documents that demonstrate that the governance structure and decisionmaking processes of such entity allow for participation on an ongoing basis by multiple stakeholders within a community, including—

''(i) health care providers (including health care providers that provide services to low income and underserved populations);

''(ii) pharmacists or pharmacies;

''(iii) health plans;

''(iv) health centers (as defined in section 330(b)) and federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) and rural health clinics (as defined in section 1861(aa) of the Social Security Act), if such centers or clinics are present in the community served by the entity;

''(v) patient or consumer organizations;

''(vi) organizations dedicated to improving the health of vulnerable populations;

''(vii) employers;

''(viii) State or local health departments; and

''(ix) any other health care providers or other entities, as determined appropriate by the Secretary;

''(D) demonstrate the participation, to the extent practicable, of stakeholders in the electronic exchange of health information within the local or regional plan pursuant to subparagraph (C);

''(E) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation in the health information plan by all stakeholders;

''(F) adopt the standards and implementation specifications adopted by the Secretary under section 3003;

''(G) require that health care providers receiving such grants—

''(i) implement the measures adopted under section 3010 and report to the Secretary on such measures; and

''(ii) take into account the input of employees and staff who are directly involved in patient care of such health care providers in the design, implementation, and use of health information technology systems;

''(H) agree to notify individuals if their individually identifiable health information is wrongfully disclosed;

''(I) facilitate the electronic exchange of health information within the local or regional area and among local and regional areas;

''(J) prepare and submit to the Secretary an application in accordance with paragraph (3);

''(K) agree to provide matching funds in accordance with paragraph (5); and

''(L) reduce barriers to the implementation of health information technology by providers.

''(3) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive a grant under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(B) REQUIRED INFORMATION.—At a minimum, an application submitted under this paragraph shall include—

''(i) clearly identified short-term and long-term objectives of the regional or local health information plan;

''(ii) a technology plan that complies with the standards, implementation specifications, and certification criteria adopted under section 3003(c)(8) and that includes a descriptive and reasoned estimate of costs of the hardware, software, training, and consulting services necessary to implement the regional or local health information plan;

''(iii) a strategy that includes initiatives to improve health care quality and efficiency, including the use and reporting of health care quality measures adopted under section 3010;

''(iv) a plan that describes provisions to encourage the implementation of the electronic exchange of health information by all health care providers participating in the health information plan;

''(v) a plan to ensure the privacy and security of individually identifiable health information that is consistent with Federal and State law;

''(vi) a governance plan that defines the manner in which the stakeholders shall jointly make policy and operational decisions on an ongoing basis;

''(vii) a financial or business plan that describes—

''(I) the sustainability of the plan;

''(II) the financial costs and benefits of the plan; and

''(III) the entities to which such costs and benefits will accrue;

''(viii) a description of whether the State in which the entity resides has received a grant under section 319D, alone or as a part of a consortium, and if the State has received such a grant, how the entity will coordinate the activities funded under such section 319D with the system under this section; and

''(ix) in the case of an applicant entity that is unable to demonstrate the participation of all stakeholders pursuant to paragraph (2)(C), the justification from the entity for any such nonparticipation.

''(4) USE OF FUNDS.—Amounts received under a grant under paragraph (1) shall be used to establish and implement a regional or local health information plan in accordance with this subsection.

''(5) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not make a grant under this subsection to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $2 of Federal funds provided under the grant.

''(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment, technology, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(d) REPORTS.—Not later than 1 year after the date on which the first grant is awarded under this section, and annually thereafter during the grant period, an entity that receives a grant under this section shall submit to the Secretary a report on the activities carried out under the grant involved. Each such report shall include—

''(1) a description of the financial costs and benefits of the project involved and of the entities to which such costs and benefits accrue;

''(2) an analysis of the impact of the project on health care quality and safety;

''(3) a description of any reduction in duplicative or unnecessary care as a result of the project involved; and

''(4) other information as required by the Secretary.

''(e) REQUIREMENT TO ACHIEVE QUALITY IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants, implement the lessons learned from such evaluations in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will result in the greatest improvement in quality measures under section 3010. The Secretary shall ensure that such evaluation take into account differences in patient health status, patient characteristics, and geographic location, as appropriate.

''(f) LIMITATIONS.—

''(1) ELIGIBLE ENTITIES.—An eligible entity may only receive 1 non-renewable grant under subsection (a) and one non-renewable grant under subsection (c).

''(2) LOAN RECIPIENTS.—A health care provider may only receive 1 non-renewable loan awarded or guaranteed with funds provided under subsection (b),

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $139,000,000 for fiscal year 2009 and $139,000,000 for fiscal year 2010.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available through fiscal year 2012.

''SEC. 3009. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

''(a) IN GENERAL.—The Secretary may award grants to eligible entities or consortia under this section to carry out demonstration projects to develop academic curricula integrating qualified health information technology systems in the clinical education of health professionals or analyze clinical data sets from electronic health records to discover quality measures. Such awards shall be made on a competitive basis and pursuant to peer review.

''(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity or consortium shall—

''(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(2) be or include—

''(A) a health professions school;

''(B) a school of public health;

''(C) a school of nursing; or

''(D) an institution with a graduate medical education program;

''(3) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in

improving the safety of patients and the efficiency of health care delivery; and

''(4) provide matching funds in accordance with subsection (d).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity or consortium shall use amounts received under the grant in collaboration with 2 or more disciplines.

''(2) LIMITATION.—An eligible entity or consortium shall not award a grant under subsection (a) to purchase hardware, software, or services.

''(d) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may award a grant to an entity or consortium under this section only if the entity or consortium agrees to make available non-Federal contributions toward the costs of the program to be funded under the grant in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including equipment or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions.

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $2,000,000 for each of fiscal years 2009 and 2010.

''(h) SUNSET.—This provisions of this section shall not apply after September 30, 2012.''.

Subtitle C—Improving the Quality of Health Care

SEC. 13301. CONSENSUS PROCESS FOR THE ADOPTION OF QUALITY MEASURES FOR USE IN THE NATIONWIDE INTEROPERABLE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

Title XXX of the Public Health Service Act, as amended by section 13201, is further amended by adding at the end the following:

''SEC. 3010. FOSTERING DEVELOPMENT AND USE OF HEALTH CARE QUALITY MEASURES.

''(a) IN GENERAL.—Only for purposes of activities conducted under this title, and excluding all programs authorized under the Social Security Act, the Secretary shall provide for the endorsement and use of health care quality measures (referred to in this title as 'quality measures') for the purpose of measuring the quality and efficiency of health care that patients receive pursuant to programs authorized under this title.

''(b) DESIGNATION OF, AND ARRANGEMENT WITH, ORGANIZATION.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Secretary shall designate, and have in effect an arrangement with, a single organization that meets the requirements of subsection (c) under which such organization shall promote the development of quality measures by a variety of quality measurement development organizations, including the Physician Consortium for Performance Improvement, the National Committee for Quality Assurance, and others, only for purposes of activities conducted under this title and provide the Secretary with advice and recommendations on the key elements and priorities of a national system for health care quality measurement for purposes of activities conducted under this title.

''(2) RESPONSIBILITIES.—The responsibilities to be performed by the organization designated under paragraph (1) (in this title referred to as the 'designated organization') shall include—

''(A) establishing and managing an integrated strategy and process for setting priorities and goals in establishing quality measures only for purposes of activities conducted under this title;

''(B) coordinating and harmonizing the development and testing of such measures;

''(C) establishing standards for the development and testing of such measures;

''(D) endorsing national consensus quality measures;

''(E) recommending, in collaboration with multi-stakeholder groups, quality measures to the Secretary for adoption and use only for purposes of activities conducted under this title;

''(F) promoting the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information; and

''(G) providing recommendations and advice to the Entity regarding the integration of quality measures into the standards, implementation specification, and certification criteria adoption process outlined under section 3003 and the Policy Committee regarding national policies outlined under section 3004.

''(c) REQUIREMENTS DESCRIBED.—The requirements described in this subsection are the following:

''(1) PRIVATE ENTITY.—The organization shall be a private nonprofit entity that is governed by a board of directors and an individual who is designated as president and chief executive officer.

''(2) BOARD MEMBERSHIP.—The members of the board of directors of the entity shall include representatives of—

''(A) health care providers or groups representing providers;

''(B) health plans or groups representing health plans;

''(C) patients or consumers enrolled in such plans or groups representing individuals enrolled in such plans;

''(D) health care purchasers and employers or groups representing purchasers or employers; and

''(E) organizations that develop health information technology standards and new health information technology.

''(3) OTHER MEMBERSHIP REQUIREMENTS.—The membership of the board of directors of the entity shall be representative of individuals with experience with—

''(A) urban health care issues;

''(B) safety net health care issues;

''(C) rural or frontier health care issues;

''(D) quality and safety issues;

''(E) State or local health programs;

''(F) individuals or entities skilled in the conduct and interpretation of biomedical, health services, and health economics research and with expertise in outcomes and effectiveness research and technology assessment; and

''(G) individuals or entities involved in the development and establishment of standards and certification for health information technology systems and clinical data.

''(4) OPEN AND TRANSPARENT.—With respect to matters related to the arrangement with the Secretary under subsection (a)(1), the organization shall conduct its business in an open and transparent manner, and provide the opportunity for public comment and ensure a balance among disparate stakeholders, so that no member organization unduly influences the work of the organization.

''(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATIONS.—The organization shall operate as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) and Office of Management and Budget Revised Circular A-119 (published in the Federal Register on February 10, 1998).

''(6) PARTICIPATION.—If the organization requires a fee for membership, the organization shall ensure that such fee is not a substantial barrier to participation in the entity's activities related to the arrangement with the Secretary.

''(d) REQUIREMENTS FOR MEASURES.—The quality measures developed under this title only for purposes of activities conducted under this title shall comply with the following:

''(1) MEASURES.—The designated organization, in promoting the development of quality measures under this title, shall ensure that such measures—

''(A) are evidence-based, reliable, and valid;

''(B) include—

''(i) measures of clinical processes and outcomes, patient experience, efficiency, and equity; and

''(ii) measures to assess effectiveness, timeliness, patient self-management, patient centeredness, and safety; and

''(C) include measures of underuse and overuse.

''(2) PRIORITIES.—In carrying out its responsibilities under this section, the designated organization shall ensure that priority is given to—

''(A) measures with the greatest potential impact for improving the performance and efficiency of care;

''(B) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers;

''(C) measures which may inform health care decisions made by consumers and patients;

''(D) measures that apply to multiple services furnished by different providers during an episode of care;

''(E) measures that can be integrated into the standards, implementation specifications, and the certification criteria adoption process described in section 3003; and

''(F) measures that may be integrated into the decision support function of qualified health information technology as defined by this title.

''(3) RISK ADJUSTMENT.—The designated organization, in consultation with performance measure developers and other stakeholders,

shall establish procedures to ensure that quality measures take into account differences in patient health status, patient characteristics, and geographic location, as appropriate.

''(4) MAINTENANCE.—The designated organization, in consultation with owners and developers of quality measures, shall have in place protocols designed to ensure that such measures are current and reflect the most recent available evidence and clinical guidelines.

''(e) GRANTS FOR PERFORMANCE MEASURE DEVELOPMENT.—The Secretary, acting through the Agency for Healthcare Research and Quality, may award grants, in amounts not to exceed $50,000 each, to organizations to support the development and testing of quality measures that meet the standards established by the designated organization.

''(f) ADOPTION AND USE OF QUALITY MEASURES.—For purposes of carrying out activities authorized or required under this title to ensure the use of quality measures and to foster uniformity between health care quality measures utilized by private entities, the Secretary shall—

''(1) select quality measures for adoption and use, from quality measures recommended by multi-stakeholder groups and endorsed by the designated organization; and

''(2) ensure that the standards and implementation specifications adopted under section 3003 integrate the quality measures endorsed, adopted, and utilized under this section.

''SEC. 3011. RELATIONSHIP WITH PROGRAMS UNDER THE SOCIAL SECURITY ACT.

''(a) IN GENERAL.—For purposes of carrying out activities authorized or required under this title, the Secretary shall ensure that the quality measures not described in subsection (b) and adopted under this title—

''(1) complement quality measures developed by the Secretary under programs administered by the Secretary under the Social Security Act, including programs under titles XVIII, XIX, and XXI of such Act; and

''(2) do not conflict with the needs, priorities, and activities of programs authorized or required under titles XVIII, XIX, and XXI of such Act, as set forth by the Administrator of the Centers for Medicare & Medicaid Services.

''(b) ADOPTION OF MEDICARE, MEDICAID, AND SCHIP MEASURES.—Where quality measures developed and endorsed through a multi-stakeholder consensus process under title XVIII, XIX, or XXI of the Social Security Act are available and appropriate, the Secretary shall adopt such measures for activities under this title.

''(c) NONDUPLICATION OF SOCIAL SECURITY ACT REPORTING REQUIREMENTS.—If a grantee under section 3008 reports on quality measures to the Secretary under title XVII, XIX, or XXI of the Social Security Act, such grantee is deemed to have met the quality reporting requirement under such section 3008, provided that such reporting is conducted utilizing a qualified health information technology system.''.

Subtitle D—Privacy and Security

SEC. 13401. PRIVACY AND SECURITY.

Title XXX of the Public Health Service Act, as amended by section 13301, is further amended by adding at the end the following:

''SEC. 3012. PRIVACY AND SECURITY.

''(a) PRIVACY AND SECURITY OF PERSONAL HEALTH RECORDS.—Not later than 180 days after the date of enactment of this title, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report containing recommendations for privacy and security protections for personal health records, including whether it is appropriate to apply any provisions of subpart E of part 164 of title 45, Code of Federal Regulations, to such records and the extent to which the implementation of separate privacy and security measures is necessary. In making such recommendations, the Secretary shall to the maximum extent practicable avoid the application of new regulations that would be inconsistent, or conflict, with privacy regulations that are in effect on the date of enactment of this title.

''(b) DEFINITION.—In this section, the term 'personal health record' means an electronic, cumulative record of health-related information concerning an individual that is often drawn from multiple sources, that is offered by an entity that is not a covered entity or a business associate acting pursuant to a business associate agreement under the Health Insurance Portability and Accountability Act of 1996 (and the regulations promulgated under such Act) and that is primarily intended to be used and managed by the individual.

''(c) MARKETING.—For purposes of the regulations promulgated pursuant to part C of title XI of the Social Security Act and section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), referred to in this title as the 'HIPAA Privacy Rule', the term 'marketing' means, in addition to the activities described in section 164.501 of the HIPAA Privacy Rule (45 C.F.R. 164.501) and any comparable provision in any amended or superseding rule, an arrangement whereby a covered entity, in exchange for remuneration, makes a communication described in clause (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of the HIPAA Privacy Rule (45 C.F.R. 164.501) as in effect on the date of enactment of this title, except that the Secretary shall promulgate regulations establishing the terms and conditions under which covered entities may charge an appropriate fee for making such communications. This subsection shall become effective on the date that is 90 days after the date on which the Secretary has promulgated such regulations.

''(d) RIGHT OF INDIVIDUALS TO ELECTRONIC ACCESS.—With respect to the right of access to inspect and obtain a copy of health information under the HIPAA Privacy Rule, effective not later than 180 days after the later of the date of enactment of this title or the issuance of guidance by the Secretary, any entity that maintains health information in an electronic form shall, to the extent readily producible, provide an individual access to that information in the form or format requested, and upon request, an electronic copy of such records. The Secretary shall issue such guidance as is necessary to implement this subsection.

''(e) RIGHTS OF INDIVIDUALS WHO ARE VICTIMS OF MEDICAL FRAUD.—To the extent provided for under the HIPAA privacy regulations and under the conditions specified in such regulations, with respect to protected health information, an individual who is a victim of medical fraud or who believes that there is an error in their protected health information stored in an electronic format shall have the right—

''(1) to have access to inspect and obtain a copy of protected health information about the individual, including the information fraudulently entered, in a designated record set; and

''(2) to have a covered entity amend protected health information or a record about the individual, including information fraudulently entered, in a designated electronic record set for as long as the protected health information is maintained in the designated electronic record set to ensure that fraudulent and inaccurate health information is not shared or re-reported.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supercede or otherwise limit the provisions of any contract that provides for the application of privacy protections that are greater than the privacy protections provided for under the regulations promulgated under section 264 of the Health Insurance Portability and Accountability Act of 1996.

''SEC. 3013. NOTICE OF PRIVACY PRACTICES.

''Not later than 1 year after the date of enactment of this title, and after notice and comment, the Secretary shall develop and disseminate a model summary notice of privacy practices for use with the privacy notice required under the HIPAA Privacy Rule. Such summary notice shall be suitable for printing on one page and shall include separate statements on any marketing uses for which authorization is sought, shall describe the right to object to such uses in an way that is easily understood, and shall otherwise describe the elements of the right to privacy and security in a clear and concise manner. Such summary notice shall be provided in a form separate from any other notice or consent requests.

''SEC. 3014. REPORTING.

''Not later than 180 days after the date of enactment of this title, and every year thereafter for the next 5 years, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report on compliance and enforcement under the HIPAA Privacy Rule. Such report shall include—

''(1) the number of complaints filed;

''(2) the resolution or disposition of each complaint;

''(3) the amount of civil money penalties imposed;

''(4) the number of compliance reviews conducted and the outcome of each such review;

''(5) the number of subpoenas or closed cases; and

''(6) the Secretary's plan for improving compliance and enforcement in the coming year.

''SEC. 3015. NOTIFICATION OF PRIVACY BREACH.

''Not later than 1 year after the date of enactment of this title, and after notice and comment, the Secretary shall provide for the development of standards and protections and determine appropriate protocols regarding the notification trigger, methods, and contents of the notification by the entity responsible for the protected health information to an individual whose protected health information has been lost, stolen, or otherwise disclosed for an unauthorized purpose. Such notification shall be made within 60 days of the discovery that such information has been lost, stolen, or otherwise disclosed. The Secretary shall include exemptions to such standards and protection for law enforcement and national security purposes. The Secretary shall determine penalties to be imposed on entities that fail to comply

with this section in accordance with sections 1176 and 1177 of the Social Security Act.

"SEC. 3016. ACCOUNTABILITY.

''(a) SUBCONTRACTING AND OUTSOURCING OVERSEAS.—In the event an entity subject to this title contracts with service providers that are not subject to this title, including service providers operating in a foreign country, such entity shall—

''(1) take reasonable steps to select and retain third party service providers capable of maintaining appropriate safeguards for the security, privacy, and integrity of protected health information; and

''(2) require by contract that such service providers implement and maintain appropriate measures designed to meet the requirements of entities subject to this title.

''(b) COMPLIANCE ASSISTANCE.—The Secretary shall ensure there is a capacity to assist covered entities to determine the appropriate elements to be considered in arranging contracts with service providers who are not subject to this title.

''(c) EFFECTIVE DATE.—This section shall take effect on the date that is 30 days after the date on which the Secretary transmits to the Committee on Health, Education, Labor, and Pension of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement that the Secretary has complied with the requirements of subsection (b).''.

Subtitle E—Miscellaneous Provisions

SEC. 13501. GAO STUDY.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, a report on the overall effectiveness and compliance of the efforts of the Secretary of Health and Human Services to implement health privacy safeguards provided for in this title, and any recommendations on how to improve effectiveness and compliance, if any.

SEC. 13502. HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.

Section 914 of the Public Health Service Act (42 U.S.C. 299b–3) is amended by adding at the end the following:

''(d) HEALTH INFORMATION TECHNOLOGY RESOURCE CENTER.—

''(1) IN GENERAL.—The Secretary, acting through the Director, shall develop a Health Information Technology Resource Center (referred to in this subsection as the 'Center') to provide technical assistance and develop best practices to support and accelerate efforts to adopt, implement, and effectively use interoperable health information technology in compliance with sections 3003 and 3010.

''(2) PURPOSES.—The purposes of the Center are to—

''(A) provide a forum for the exchange of knowledge and experience;

''(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

''(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of interoperable health information technology;

''(D) provide for the establishment of regional and local health information networks to facilitate the development of interoperability across health care settings and improve the quality of health care;

''(E) provide for the development of solutions to barriers to the exchange of electronic health information; and

''(F) conduct other activities identified by the States, local, or regional health information networks, or health care stakeholders as a focus for developing and sharing best practices.

''(3) SUPPORT FOR ACTIVITIES.—To provide support for the activities of the Center, the Director shall modify the requirements, if necessary, that apply to the National Resource Center for Health Information Technology to provide the necessary infrastructure to support the duties and activities of the Center and facilitate information exchange across the public and private sectors.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the duplication of Federal efforts with respect to the establishment of the Center, regardless of whether such efforts were carried out prior to or after the enactment of this subsection.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary for each of fiscal years 2009 and 2010 to carry out this section.''.

SEC. 13503. FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

Section 330L of the Public Health Service Act (42 U.S.C. 254c–18) is amended to read as follows:

"SEC. 330L. TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.

''(a) FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.—The Secretary may make grants to States that have adopted regional State reciprocity agreements for practitioner licensure, in order to expedite the provision of telehealth services across State lines.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 and 2010.''.

Beginning on page 648, strike line 1 and all that follows through line 9 on page 713.

SA 255. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 604, between lines 10 and 11, insert the following:

(D) EXEMPTION FOR CERTAIN EMPLOYERS.—

(i) IN GENERAL.—The provisions of this subsection shall not apply with respect to an otherwise assistance eligible individual if the employer that involuntarily terminated the individual (as described in paragraph (3)(C)) is an employer described in clause (ii).

(ii) EMPLOYER DESCRIBED.—An employer is described in this clause if—

(I) the employer's liability for payroll taxes (as defined in section 6432(b) of the Internal Revenue Code of 1986) for any quarter does not exceed the amount of the credit that the employer would be entitled to receive under section 6432 of such Code to compensate the employer for the costs of providing the subsidy under this subsection for such quarter; or

(II) the cost of the employer's group health insurance premiums would increase by more than 5 percent (as certified under clause (iii)) as a result of the receipt by the unemployed employees of the employer of the subsidy under this subsection.

(iii) CERTIFICATION.—To qualify for the exemption described in clause (ii)(II), an employer shall obtain a certification from an independent actuary that, based on the employer's historical group health insurance enrollment patterns and actuarial assumptions about the likely characteristics of new assistance eligible individuals, the average annual premium for all employees of the employer would increase by more than 5 percent above the growth rate in premiums that would occur except for the application of this subparagraph.

(iv) CRITERIA.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish appropriate criteria for the application of this subparagraph, including the appropriate standards for the conduct of the actuarial analyses described in clause (iii).

SA 256. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 160_. NONAPPLICABILITY OF CERTAIN LABOR REQUIREMENTS TO SMALL BUSINESS GRANTS AND CONTRACTS.

(a) ROLE OF AGENCY ISSUING GRANT OR CONTRACT.—Notwithstanding any other provision of law, the head of any entity that awards a grant or contract described in subsection (c) shall ensure that the entity, and any construction manager acting on behalf of the entity with respect to such grant or contract, does not—

(1) require a bidder, offeror, recipient, contractor, or subcontractor for a grant or contract described in subsection (c) that is for less than $1,000,000 to comply with the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) or other Federal or State law that similarly requires the payment of a prevailing wage to various classes of employees with respect to such grant or contract or other related construction project (not including any minimum wage requirements under applicable Federal or State law); or

(2) require such bidder, offeror, recipient, contractor, or subcontractor to enter into, or adhere to, any agreement with 1 or more labor organizations, with respect to such grant or contract or another related construction project.

(b) NONAPPLICABILITY OF LABOR REQUIREMENTS.—Notwithstanding any other provision of law, a recipient of a grant or contract described in subsection (c) that is for less than $1,000,000 shall not be subject to—

(1) the provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act), or any other Federal or State law that similarly requires the payment of a prevailing wage to various classes of employees (not including any minimum wage requirements under applicable Federal or State law) with respect to such grant or contract or other related construction project; and

(2) any requirement under Federal or State law that the recipient enter into or adhere to any agreement with 1 or more labor organizations with respect to such grant or contract or other related construction project.

(c) APPLICABLE GRANT OR CONTRACT.—A grant or contract described in this subsection is a grant, subgrant, contract, or subcontract that is funded from amounts appropriated under this Act, or is for a project financed with the proceeds of a bond described in section 1901.

SA 257. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—HOME OWNERSHIP PRESERVATION

SEC. 6001. DEFINITIONS.

As used in this title—

(1) the term ''Secretary'' means the Secretary of the Treasury;

(2) the term ''qualifying homeowner'' means any homeowner with an existing mortgage on their principal residence;

(3) the term ''Office'' means the Office of Home Ownership Preservation and Foreclosure Prevention established under this title; and

(4) the term ''Program'' means the Home Ownership Preservation and Foreclosure Prevention Program established under this title.

SEC. 6002. ESTABLISHMENT OF OFFICE.

There is established in the Department of the Treasury the Office of Home Ownership Preservation and Foreclosure Prevention.

SEC. 6003. FUNCTIONS.

(a) IN GENERAL.—The Office shall be responsible for operating and supervising the Home Ownership Preservation and Foreclosure Prevention Program for the purpose of making loans, subject to sections 6004 and 6005, with respect to any qualifying homeowner.

(b) FUNDING.—The Secretary may issue $100,000,000,000 in public debt for the purposes of funding the Program, including administrative costs associated with the Program.

(c) LOAN TERMS.—With respect to loans made under the Program—

(1) the interest rate applicable to such loans shall be fixed to the interest rate of the debt issued by the Secretary to finance the Program; and

(2) the duration of such loans shall be subject to a 30-year amortization schedule.

SEC. 6004. LIMITATIONS.

(a) IN GENERAL.—Loans originated under the Program—

(1) may not be extended to homeowners who would have a monthly debt-to-income ratio of greater than 35 percent for all mortgage-related after such loan is made;

(2) shall be applied to the primary residence of the borrower only;

(3) may not exceed the lesser of 20 percent of the principal amount of the mortgage or $80,000;

(4) may only be applied to mortgages below the conforming loan limit used by the Federal Housing Administration; and

(5) may be used only for loans originated between January 1, 2003 and January 1, 2008.

(b) NO PREPAYMENT PENALTIES.—There shall be no prepayment penalty for the early payment of a loan originated under this title.

SEC. 6005. PROTECTIONS AGAINST TAXPAYER LIABILITY.

(a) FULL RECOURSE.—All loans made under the Program shall provide full recourse against the borrower for repayment on behalf of the Department of the Treasury and the taxpayer.

(b) PRIORITY OF OBLIGATION.—The Department of the Treasury shall have priority repayment over all liens or interests in the assets of the borrower during any bankruptcy or foreclosure proceeding.

(c) NO ONGOING LIABILITY.—The United States shall have no additional obligations to the borrower or mortgage investor after a loan under the Program has been repaid.

SA 258. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF NO STATE TUITION INCREASES.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State will not take any action to increase tuition at State two and four-year colleges and universities during the quarter. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to have taken an action that results in an increase in tuition at State two and four-year colleges and universities during the quarter shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

SA 259. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF TIMELY PAYMENTS TO CERTAIN NONPROFIT ORGANIZATIONS.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State is current on its contractual obligations with nonprofit organizations that deliver human services on behalf of the State. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to not be in compliance with the certification shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

SA 260. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 732, strike line 15 and all that follows through page 733, line 4, and insert the following:

SEC. 5004. INCREASED RESOURCES TO COMBAT MEDICAID FRAUD.

(a) FUNDING FOR THE HHS INSPECTOR GENERAL.—For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $100,000,000 for each of fiscal years 2009 through 2013. Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

(b) STATE MEDICAID FRAUD CONTROL UNITS.—

(1) IN GENERAL.—No State may elect to provide medical assistance under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (or under any waiver of such plan) to individuals described in paragraph (2) unless the Secretary determines that the State has increased the amount of State expenditures attributable to the operation of the State medicaid fraud control unit described in section 1903(q) of the such Act (42 U.S.C. 1396b(q)) by at least

50 percent more than the amount of such expenditures for the most recent fiscal year.

(2) INDIVIDUALS DESCRIBED.—

(A) IN GENERAL.—The individuals described in this paragraph are—

(i) individuals who—

(I) are within one or more of the categories described in subparagraph (B); and

(II) meet the applicable requirements of subparagraph (C); and

(ii) individuals who—

(I) are the spouse, or dependent child under 19 years of age, of an individual described in clause (i); and

(II) meet the requirement of subparagraph (C)(ii).

(B) CATEGORIES DESCRIBED.—The categories of individuals described in this paragraph are each of the following:

(i)(I) Individuals who are receiving unemployment compensation benefits; and

(II) individuals who were receiving, but have exhausted, unemployment compensation benefits on or after July 1, 2008.

(ii) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, whose family gross income does not exceed a percentage specified by the State (not to exceed 200 percent) of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who, but for such an election by the State, are not eligible for medical assistance under the State plan under title XIX of the Social Security Act or health assistance under a State plan under title XXI of such Act.

(iii) Such categories of individuals do not include individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, who are members of households participating in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

(C) REQUIREMENTS.—The requirements of this subparagraph with respect to an individual are the following:

(i) In the case of individuals within a category described in clause (i)(I) of subparagraph (B), the individual was involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, or meets such comparable requirement as the Secretary specifies through rule, guidance, or otherwise in the case of an individual who was an independent contractor.

(ii) The individual is not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)), but applied without regard to paragraph (1)(F) of such section and without regard to coverage provided by reason of such an election by the State.

SA 261. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) DEDICATION OF ENHANCED FUNDS FOR COVERAGE OF LOW-INCOME AMERICANS.—The increases in the FMAP for a State under this section shall not apply with respect to any expenditures for a fiscal year quarter occurring during the recession adjustment period for medical assistance provided to individuals under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315) and including such expenditures that would be paid from a State allotment under title XXI of such Act) whose family income exceeds the State median income, as determined by the American Community Survey and as updated as necessary by the Secretary for the fiscal year. The limitation under the preceding sentence shall not apply with respect to any expenditures for such a fiscal year quarter for providing medical assistance under such a State plan for individuals described in section 1937(a)(2)(B) of such Act (42 U.S.C. 1396u–7(a)(2)(B)).

SA 262. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR US FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

SA 263. Ms. STABENOW (for herself, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be

proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. —. FORMERLY HOMELESS YOUTH WHO ARE STUDENTS QUALIFIED FOR PURPOSES OF LOW INCOME HOUSING TAX CREDIT.

(a) IN GENERAL.—Clause (i) of section 42(i)(3)(D) is amended by redesignating subclauses (II) and (III) as subclauses (III) and (IV), respectively, and by inserting after subclause (I) the following new subclause:

''(II) a student who previously was a homeless child or youth (as defined by section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)),''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made before, on, or after the date of the enactment of this Act.

SA 264. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEVIN, Mr. BROWN, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.—Section 136(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(b)) is amended by striking ''30 percent'' and inserting ''90 percent''.

SA 265. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 422, between lines 4 and 5, insert the following:

(4) The website shall provide—

(A) information, organized by the location of the job opportunities involved, consisting of links to and information on how to access descriptions of and related information for job opportunities created by or with entities receiving funding under this Act;

(B) Internet links to the job banks operated by State workforce agencies and to the Department of Labor's CareerOneStop website that connects jobseekers to the one-stop career centers established under section 134(c) of the Workforce Investment Act of 1998; and

(C) to the extent practicable, links to other information about—

(i) other State, local, and public agencies receiving funding under this Act; and

(ii) nonprofit and other private organizations that enter into contracts to perform work funded by this Act for the purpose of increasing employment opportunities under this Act for individuals in the United States.

On page 422, line 5, strike ''(4)'' and insert ''(5)''.

On page 422, line 12, strike ''(5)'' and insert ''(6)''.

On page 422, line 15, strike ''(6)'' and insert ''(7)''.

On page 422, line 18, strike ''(7)'' and insert ''(8)''.

SA 266. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, strike line 21 and all that follows through page 56, line 23, and insert the following:

(C) provide wireless voice service to unserved or underserved areas;

(D) provide broadband education, awareness, training, access, equipment, and support to—

(i) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and entities to facilitate greater use of broadband service by or through these organizations;

(ii) organizations and agencies that provide outreach, access, equipment, and support services to facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations; and

(iii) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture.

(E) improve access to, and use of, broadband service by public safety agencies; and

(F) stimulate the demand for broadband, economic growth, and job creation.

(2) The Assistant Secretary may consult with the chief executive officer of any State with respect to—

(A) the identification of areas described in subsection (1)(A) or (B) located in that State; and

(B) the allocation of grant funds within that State for projects in or affecting the State.

(3) The Assistant Secretary shall—

(A) establish and implement the grant program as expeditiously as practicable;

(B) ensure that all awards are made before the end of fiscal year 2010;

(C) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and

(D) report on the status of the program to the Committees on Appropriations of the House and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.

(4) To be eligible for a grant under the program an applicant shall—

(A) be a State or political subdivision thereof, a nonprofit foundation, corporation, institution or association, Indian tribe, Native Hawaiian organization, or other non-governmental entity in partnership with a State or political subdivision thereof, Indian tribe, or Native Hawaiian organization if the Assistant Secretary determines the partnership consistent with the purposes this section;

(B) submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require;

(C) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a demonstration that the project would not have been implemented during the grant period without Federal grant assistance;

(D) demonstrate, to the satisfaction of the Assistant Secretary, that it is capable of carrying out the project or function to which the application relates in a competent manner in compliance with all applicable Federal, State, and local laws;

(E) demonstrate, to the satisfaction of the Assistant Secretary, that it will appropriate (if the applicant is a State or local government agency) or otherwise unconditionally obligate, from non-Federal sources, funds required to meet the requirements of paragraph (5);

(F) disclose to the Assistant Secretary the source and amount of other Federal or State funding sources from which the applicant receives, or has applied for, funding for activities or projects to which the application relates; and

(G) provide such assurances and procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(5) The Federal share of any project may not exceed 80 percent, except that the Assistant Secretary may increase the Federal share of a project above 80 percent if—

(A) the applicant petitions the Assistant Secretary for a waiver; and

(B) the Assistant Secretary determines that the petition demonstrates financial need.

(6) The Assistant Secretary may make competitive grants under the program to—

(A) acquire equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure for broadband services;

(B) construct and deploy broadband service related infrastructure;

(C) deploy necessary infrastructure for the provision of wireless voice service;

(D) ensure access to broadband service by community anchor institutions;

(E) facilitate access to broadband service by low-income, unemployed, aged, and otherwise vulnerable populations in order to provide educational and employment opportunities to members of such populations;

(F) construct and deploy broadband facilities that improve public safety broadband communications services; and

(G) undertake such other projects and activities as the Assistant Secretary finds to be consistent with the purposes for which the program is established.

(7) The Assistant Secretary—

(A) shall require any entity receiving a grant pursuant to this section to report quarterly, in a format specified by the Assistant Secretary, on such entity's use of the assistance and progress fulfilling the objectives for which such funds were granted, and the Assistant Secretary shall make these reports available to the public;

(B) may establish additional reporting and information requirements for any recipient of any assistance made available pursuant to this section;

(C) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any use of funds made available pursuant to this section;

(D) may, in addition to other authority under applicable law, deobligate awards to grantees that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary, and award these funds competitively to new or existing applicants consistent with this section; and

(E) shall create and maintain a fully searchable database, accessible on the Internet at no cost to the public, that contains at least the name of each entity receiving funds made available pursuant to this section, the purpose for which such entity is receiving such funds, each quarterly report submitted by the entity pursuant to this section, and such other information sufficient to allow the public to understand and monitor grants awarded under the program.

(8) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Federal Communications Commission, publish the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section.

(9) Within 1 year after the date of enactment of this Act, the Commission shall complete a rulemaking to develop a national broadband plan. In developing the plan, the Commission shall—

(A) consider the most effective and efficient national strategy for ensuring that all Americans have access to, and take advantage of, advanced broadband services;

(B) have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note);

(C) evaluate the status of deployments of broadband service, including the progress of projects supported by the grants made pursuant to this section; and

(D) develop recommendations for achieving the goal of nationally available broadband service for the United States and for promoting broadband adoption nationwide.

(10) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that entities and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State: *Provided*, That not later than 2 years after the date of the enactment of the Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible to the public.

(11) For purposes of this section, the term ''wireless voice service'' means the provision of two-way, real-time, voice communications using a mobile service.

SA 267. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 98 by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, between lines 4 and 5, insert the following:

GENERAL PROVISIONS—THIS TITLE

ADDITIONAL AMOUNTS FOR PROCUREMENT FOR RECONSTITUTION OF MILITARY UNITS AND RESTOCKING OF PREPOSITIONED ASSETS AND WAR RESERVE MATERIAL

SEC. 301. (a) ADDITIONAL AMOUNT FOR PROCUREMENT.—

(1) IN GENERAL.—For an additional amount for ''Procurement'' for the Department of Defense, $5,232,000,000, to remain available until expended, to manufacture or acquire vehicles, equipment, ammunition, and materials required to reconstitute military units to an acceptable readiness rating and to restock prepositioned assets and war reserve material.

(2) AVAILABILITY.—The items for which the amount available under paragraph (1) shall be available shall include fixed and rotary wing aircraft, tracked and non-tracked combat vehicles, missiles, weapons, ammunition, communications equipment, maintenance equipment, naval coastal warfare boats, salvage equipment, riverine equipment, expeditionary material handling equipment, and other expeditionary items.

(3) ALLOCATION AMONG PROCUREMENT ACCOUNTS.—The amount available under paragraph (1) shall be allocated among the accounts of the Department of Defense for procurement in such manner as the President considers appropriate. The President shall submit to the congressional defense committees a report setting for the manner of the allocation of such amount among such accounts and a description of the items procured utilizing such amount.

(4) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(b) OFFSET.—

(1) PERIODIC CENSUSES AND PROGRAMS.—The amount appropriated by title II under the heading ''BUREAU OF THE CENSUS'' under the heading ''PERIODIC CENSUSES AND PROGRAMS'' is hereby reduced by $1,000,000,000.

(2) DIGITAL-TO-ANALOG COMPUTER BOX PROGRAM.—The amount appropriated by title II under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' is hereby reduced by $650,000,000.

(3) PROCUREMENT, ACQUISITION, AND CONSTRUCTION FOR NOAA.—The amount appropriated by title II under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'' under the heading ''PROCUREMENT, ACQUISITION, AND CONSTRUCTION'' is hereby reduced by $70,000,000, with the amount of the reduction allocated to amounts available for supercomputing activities relating to climate change research.

(4) DEPARTMENTAL MANAGEMENT FOR DEPARTMENT OF COMMERCE.—The amount appropriated by title II under the heading ''DEPARTMENT OF COMMERCE'' under the heading ''DEPARTMENTAL MANAGEMENT'' is hereby reduced by $34,000,000.

(5) FEDERAL BUILDINGS FUND FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''FEDERAL BUILDINGS FUND'' is hereby reduced by $2,000,000,000, with the amount of the reduction allocated to amounts available for measures necessary to convert GSA facilities to High-Performance Green Buildings.

(6) ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT FOR GSA.—The amount appropriated by title V under the heading ''GENERAL SERVICES ADMINISTRATION'' under the heading ''ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT'' is hereby reduced by $600,000,000.

(7) RESOURCE MANAGEMENT FOR US FISH AND WILDLIFE SERVICE.—The amount appropriated by title VII under the heading ''UNITED STATES FISH AND WILDLIFE SERVICE'' under the heading ''RESOURCE MANAGEMENT'' is hereby reduced by $65,000,000, with the amount of the reduction allocated as follows:

(A) $20,000,000 for trail improvements.

(B) $25,000,000 for habitat restoration.

(C) $20,000,000 for fish passage barrier removal.

(8) OPERATING EXPENSES FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.—The amount appropriated by title VIII under the heading ''CORPORATION FOR NATIONAL AND COMMUNITY SERVICE'' under the heading ''OPERATING EXPENSES'' is hereby reduced by $13,000,000, with the amount of reduction allocated to amounts available for research activities authorized under subtitle H of title I of the 1990 Act.

(9) SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—The amount appropriated by title XII under the heading ''FEDERAL RAILROAD ADMINISTRATION'' under the heading ''SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION'' is hereby reduced by $850,000,000.

SA 268. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, strike lines 1 through 5.

On page 59, between lines 9 and 10, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other

weapons, and other procurement for the reserve components of the Armed Forces, $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the date of the enactment of this Act, individually submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives the modernization priority assessment for their respective Reserve and National Guard components.

On page 95, strike lines 1 through 8.

On page 137, line 17, strike ''$5,800,000,000'' and insert ''$5,400,000,000''.

SA 269. Mrs. HUTCHISON (for herself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

FEDERAL AVIATION ADMINISTRATION

NEXTGEN ACCELERATION

For grants or other agreements to accelerate the transition to the Next Generation Air Transportation System by accelerating deployment of ground infrastructure for Automatic Dependent Surveillance–Broadcast, by accelerating development of procedures and routes that support performance-based air navigation, to incentivize aircraft equipage to use such infrastructure and procedures and routes, and for additional agency administrative costs associated with the certification and oversight of the deployment of these systems, $550,000,000, to remain available until September 30, 2010: *Provided*, That the Administrator of the Federal Aviation Administration shall use the authority under section 106(l)(6) of title 49, United States Code, to make such grants or agreements: *Provided further*, That, with respect to any incentives for equipage, the Federal share of the costs shall be no more than 50 percent: and *Provided further*, That each amount otherwise appropriated by this division for administrative costs or programmatic overhead shall be reduced by a percentage that will reduce the aggregate amount otherwise appropriated for such purposes by $550,000,000.

SA 270. Mr. DEMINT (for himself, Mr. VITTER, Mr. WICKER, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —REGULATORY RELIEF FOR SMALL AND FAMILY-OWNED BUSINESSES UNDER CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008.

SEC. —001. CERTAIN REQUIREMENTS INAPPLICABLE TO SECOND-HAND SELLERS.

Section 19 of the Consumer Product Safety Act (15 U.S.C. 2068) is amended by adding at the end thereof the following:

''(c) EXCEPTIONS FOR SECOND-HAND SELLERS.—

''(1) IN GENERAL.—It is not a violation of subsection (a)(1) or (a)(2) of this section for a second-hand seller to sell, offer for sale, or distribute in commerce—

''(A) a consumer product for resale that is treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) because of the application of section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a); or

''(B) a children's product without the label required by section 14(c) of this Act.

''(2) SECOND-HAND SELLER DEFINED.—In this subsection, the term 'second-hand seller' means—

''(A) a consignment shop, thrift shop, or similar enterprise that sells, offers for sale, or distributes in commerce a product after the first retail sale of that product;

''(B) an individual who utilizes the Internet, a yard sale, or other casual means of selling, or offering for sale, such a product; or

''(C) a person who sells, or offers for sale, such a product at an auction for the benefit of a nonprofit organization.''.

SEC. —002. PROSPECTIVE APPLICATION OF LEAD CONTENT AND THIRD PARTY TESTING RULES.

(a) LEAD CONTENT.—Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)) is amended—

(1) by striking ''(b) beginning on the dates provided in paragraph (2),'' in paragraph (1) and inserting ''(b),'';

(2) by striking ''(15 U.S.C. 1261 et seq.).'' in paragraph (1) and inserting ''(15 U.S.C. 1261 et seq.) if it is manufactured after the date on which such limit takes effect.'';

(3) by striking ''180 days'' in paragraph (2)(A) and inserting ''360 days'';

(4) by striking ''1 year'' in paragraph (2)(B) and inserting ''18 months'';

(5) by striking ''3 years'' in paragraph (2)(C) and inserting ''3½ years''; and

(6) by striking ''3 years'' in paragraph (2)(D) and inserting ''3½ years''.

(b) THIRD PARTY TESTING.—Section 14(a)(3)(A) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(3)(A)) is amended by inserting ''after August 9, 2009, and'' after ''manufactured''.

(c) APPLICATION.—The amendments made by subsections (a) and (b) shall be treated as having taken effect on August 15, 2008.

SEC. —003. LEAD CONTENT CERTIFICATION; WAIVER OF THIRD PARTY TESTING REQUIREMENT.

Section 14(g) of the Consumer Product Safety Act (15 U.S.C. 2063(g)) is amended by adding at the end thereof the following:

''(5) SPECIAL RULE FOR LEAD CONTENT TESTING AND CERTIFICATION.—Subsection (a) shall not require the manufacturer or private labeler of a product to test a product for, or certify it with respect to, lead content if—

''(A) each component of the product has been tested for lead content by the manufacturer or private labeler of the component; and

''(B) the manufacturer or private labeler of each such component certifies that the component (including paint, electroplating, and other coatings) does not contain more lead than the limit established by section 101(a)(2) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a(a)(2)).''.

SEC. —004. SUSPENSION OF ENFORCEMENT PENDING FINAL REGULATIONS.

Notwithstanding any provision of law to the contrary, neither the Consumer Product Safety Commission nor the Attorney General of any State may initiate an enforcement proceeding under the Consumer Product Safety Act or the Federal Hazardous Substances Act for failure to comply with the requirements of, or for violation of, the following provisions of law until 30 days after the date on which the Commission issues the referenced rule, regulation, or guidance:

(1) Section 101(a) of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 1278a) with respect to materials, products, or parts described in subsection (b)(1), until the date on which the Commission promulgates a final rule providing the guidance required by section 101(b)(2)(B) of that Act.

(2) Section 101(a) of that Act with respect to certain electronic devices described in section 101(b)(4) of that Act, until the date on which the Commission, by final regulation, issues the requirements described in subparagraph (A) of section 101(b)(4) and establishes the schedule described in subparagraph (A) of section 101(b)(4).

(3) Section 14(a)(1) or (2) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(1) or (2)), until the date on which—

(A) the Commission has established and published final notice of the requirements for accreditation of third party conformity assessment bodies under section 14(a)(3)(B)(vi) of that Act for products to which children's product safety rules established or revised before August 14, 2008, apply,

(B) the Commission has established by final regulation requirements for the periodic audit of third party conformity assessment bodies under section 14(d)(1) of that Act (15 U.S.C. 2063(d)(1)), or

(C) the Commission has by final regulation initiated the program required by section 14(d)(2)(A) of that Act (15 U.S.C. 2063(d)(2)(A)) and established protocols and standards under section 14(d)(2)(B) of that Act (15 U.S.C. 2063(d)(2)(B)),

whichever is last.

SEC. —005. WAIVER OF CIVIL PENALTY FOR INITIAL GOOD FAITH VIOLATION.

Section 20(c) of the Consumer Product Safety Act (15 U.S.C. 2069(c)) is amended by adding at the end thereof the following: ''The Commission shall waive any civil penalty under this section if the Commission determines that—

''(1) the violation is the first violation of section 19(a) by that person; and

''(2) the person was acting in good faith with respect to the act or omission that constitutes the violation.''.

SEC. —006. SMALL ENTERPRISE COMPLIANCE ASSISTANCE.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, or as soon thereafter as is practicable, the Consumer Product Safety Commission, in consultation with the Small Business Administration and State small business agencies, shall develop a compliance guide for small enterprises to assist them in complying with the requirements of the Consumer Product Safety Act

(15 U.S.C. 2051 et seq.) and other Acts enforced by the Commission.

(b) CONTENTS.—The guide—

(1) shall be designed to assist small enterprises to determine—

(A) whether the Consumer Product Safety Act (or any other Act enforced by the Commission) applies to their business activities;

(B) whether they are considered distributors, manufacturers, private labelers, or retailers under the Act; and

(C) which rules, standards, regulations, or statutory requirements apply to their business activities;

(2) shall provide guidance on how to comply with any such applicable rule, standard, regulation, or requirement, including—

(A) what actions they should take to ensure that they meet the requirements; and

(B) how to determine whether they have met the requirements; and

(3) may contain such additional information as the Commission deems appropriate, including telephone, e-mail, and Internet contacts for compliance support and information.

(c) PUBLICATION AND DISTRIBUTION.—The Commission shall—

(1) publish a sufficient number of copies of the guide to satisfy both individual requests for copies and mass requests to accommodate distribution by chambers of commerce, trade associations and other organizations the membership of which includes small enterprises whose business activities are affected by the requirements of the Consumer Product Safety Act and other Acts enforced by the Commission;

(2) make the guide available, without charge, by mail; and

(3) provide easy access to the guide on the Commission's public website.

SA 271. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. COMMUNITY ASSISTANCE.

For an additional amount for the Office of Refugee Resettlement of the Department of Health and Human Services, $112,000,000, and for the Bureau of Population Refugees and Migration of the Department of State, $48,000,000, to assist communities resettling individuals who have been granted status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), or who have been provided status as refugees under Federal law.

SA 272. Mr. ROCKEFELLER (for Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, between lines 11 and 12, insert the following:

INDUSTRIAL TECHNOLOGY SERVICES

For an additional amount for Industrial Technology Services, $70,000,000 shall be available for the necessary expenses of the Technology Innovation Program, to remain available until September 30, 2010.

SA 273. Mr. CASEY (for himself, Ms. SNOWE, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 26, before the period at the end insert ", including all Federally provided commodities".

SA 274. Ms. CANTWELL (for herself, Mr. HATCH, Ms. STABENOW, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, strike lines 8 to 10 and insert the following:

(b) ENSURING CONSUMER ACCESSIBILITY TO ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY IN THE CASE OF ELECTRICITY.—Section 179(d)(3) is amended by striking subparagraph (B) and inserting the following:

"(B) for the recharging of motor vehicles propelled by electricity, but only if—

"(i) the property complies with the Society of Automotive Engineers' connection standards,

"(ii) the property provides for non-restrictive access for charging and for payment interoperability with other systems, and

"(iii) the property—

"(I) is located on property owned by the taxpayer, or

"(II) is located on property owned by another person, is placed in service with the permission of such other person, and is fully maintained by the taxpayer.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1124. RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) 5-YEAR RECOVERY PERIOD.—

(1) IN GENERAL.—Subparagraph (B) of section 168(e)(3) is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clauses:

"(viii) any qualified smart electric meter, and

"(ix) any qualified smart electric grid system.".

(2) CONFORMING AMENDMENTS.—Subparagraph (D) of section 168(e)(3) is amended by inserting "and" at the end of clause (i), by striking the comma at the end of clause (ii) and inserting a period, and by striking clauses (iii) and (iv).

(b) TECHNICAL AMENDMENTS.—Paragraphs (18)(A)(ii) and (19)(A)(ii) of section 168(i) are each amended by striking "16 years" and inserting "10 years".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (b) shall take effect as if included in section 306 of the Energy Improvement and Extension Act of 2008.

Beginning on page 467, strike line 21 and all that follows through page 470, line 23, and insert the following:

SEC. 1161. MODIFICATION OF CREDIT FOR QUALIFIED PLUG-IN ELECTRIC MOTOR VEHICLES.

(a) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT.—Section 30D(b)(2)(B) is amended by striking "250,000" and inserting "500,000".

(b) EXCLUSION OF NEIGHBORHOOD ELECTRIC VEHICLES FROM EXISTING CREDIT.—Section 30D(e)(1) is amended to read as follows:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a motor vehicle (as defined in section 30(c)(2)), which is treated as a motor vehicle for purposes of title II of the Clean Air Act.".

(c) CREDIT FOR CERTAIN OTHER VEHICLES.—Section 30D is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and

(2) by inserting after subsection (e) the following new subsection:

"(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For purposes of this section—

"(1) IN GENERAL.—In the case of a specified vehicle, this section shall be applied with the following modifications:

"(A) For purposes of subsection (a)(1), in lieu of the applicable amount determined under subsection (a)(2), the applicable amount shall be 10 percent of so much of the cost of the specified vehicle as does not exceed $40,000.

"(B) Subsection (b) shall not apply and no specified vehicle shall be taken into account under subsection (b)(2).

"(C) In the case of a specified vehicle which is a 2- or 3-wheeled motor vehicle, subsection (c)(1) shall be applied by substituting '2.5 kilowatt hours' for '4 kilowatt hours'.

"(D) In the case of a specified vehicle which is a low-speed motor vehicle, subsection (c)(3) shall not apply.

"(2) SPECIFIED VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'specified vehicle' means—

"(i) any 2- or 3- wheeled motor vehicle, or

"(ii) any low-speed motor vehicle,

which is placed in service after December 31, 2009, and before January 1, 2012.

"(B) 2- OR 3-WHEELED MOTOR VEHICLE.—The term '2- or 3-wheeled motor vehicle' means any vehicle—

"(i) which would be described in section 30(c)(2) except that it has 2 or 3 wheels,

''(ii) with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground,

''(iii) which has an electric motor that produces in excess of 5-brake horsepower,

''(iv) which draws propulsion from 1 or more traction batteries, and

''(v) which has been certified to the Department of Transportation pursuant to section 567 of title 49, Code of Federal Regulations, as conforming to all applicable Federal motor vehicle safety standards in effect on the date of the manufacture of the vehicle.

''(C) LOW-SPEED MOTOR VEHICLE.—The term 'low-speed motor vehicle' means a motor vehicle (as defined in section 30(c)(2)) which—

''(i) is placed in service after December 31, 2009, and

''(ii) meets the requirements of section 571.500 of title 49, Code of Federal Regulations.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) OTHER MODIFICATIONS.—The amendments made by subsection (b) shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

SEC. 1162. CONVERSION KITS.

(a) IN GENERAL.—Section 30B (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) PLUG-IN CONVERSION CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is 10 percent of so much of the cost of the converting such vehicle as does not exceed $40,000.

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(c), determined without regard to paragraphs (4) and (6) thereof).

''(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

''(i) which has a traction battery capacity of not less than 2.5 kilowatt hours,

''(ii) which is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

''(iii) which consists of a standardized configuration and is mass produced,

''(iv) which has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program,

''(v) which complies with the requirements of section 32918 of title 49, United States Code, and

''(vi) which is certified by a battery manufacturer as meeting the requirements of clauses (i) through (v).

''(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

''(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(3) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2012.''.

(b) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(c) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years beginning after such date.

On page 524, after line 3, insert the following:

SEC. _____. INCENTIVES FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

(a) DEDUCTION FOR MANUFACTURING FACILITIES.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

''SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the applicable percentage of the cost of any qualified plug-in electric drive motor vehicle manufacturing facility property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified manufacturing facility property is placed in service.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 100 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

''(2) 50 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' means any qualified property—

''(A) the original use of which commences with the taxpayer,

''(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2015, and

''(C) no written binding contract for the construction of which was in effect on or before the date of the enactment of this section.

''(2) QUALIFIED PROPERTY.—

''(A) IN GENERAL.—The term 'qualified property' means any property which is a facility or a portion of a facility used for the production of—

''(i) any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), or

''(ii) any eligible component.

''(B) ELIGIBLE COMPONENT.—The term 'eligible component' means any battery, any electric motor or generator, or any power control unit which is designed specifically for use with a new qualified plug-in electric drive motor vehicle (as so defined).

''(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subsection (a) shall be reduced by an amount equal to—

''(1) the total amount of such costs (determined before the application of this subsection), multiplied by

''(2) the percentage of property expected to be produced which is not qualified property.

''(f) ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDIT IN LIEU OF DEDUCTION.—

''(1) IN GENERAL.—If a taxpayer elects to have this subsection apply for any taxable year—

''(A) subsection (a) shall not apply to any qualified plug-in electric drive motor vehicle manufacturing facility property placed in service by the taxpayer, and

''(B) each of the limitations described in paragraph (2) for any such taxable year shall be increased by the qualified plug-in electric drive motor vehicle manufacturing facility amount which is—

''(i) determined for such taxable year under paragraph (3), and

''(ii) allocated to such limitation under paragraph (4).

''(2) LIMITATIONS TO BE INCREASED.—The limitations described in this paragraph are—

''(A) the limitation imposed by section 38(c), and

''(B) the limitation imposed by section 53(c).

''(3) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—For purposes of this paragraph—

''(A) IN GENERAL.—The qualified plug-in electric drive motor vehicle manufacturing facility amount is an amount equal to the applicable percentage of any qualified plug-in electric drive motor vehicle manufacturing facility which is placed in service during the taxable year.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 35 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

''(ii) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

''(C) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subparagraph (A) shall be reduced by an amount equal to—

''(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

''(ii) the percentage of property expected to be produced which is not qualified property.

''(4) ALLOCATION OF QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—The taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the qualified plug-in electric drive motor vehicle manufacturing facility amount for the taxable year which is to be allocated to each of the limitations described in paragraph (2) for such taxable year.

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(B) ELECTION IRREVOCABLE.—Any election made under this subsection may not be revoked except with the consent of the Secretary.

''(6) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not any other subpart).''.

(b) TECHNICAL AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''179F(f),'' after ''168(k)(4)(F),''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 179F. Election to expense manufacturing facilities producing plug-in electric drive motor vehicle and components.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 275. Ms. STABENOW (for herself, Mr. ROCKEFELLER, Mr. KERRY, Mr. MENENDEZ, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, line 7, insert before the semicolon the following: '', including the use of electronic technology to collect and report patient demographic data, including, at a minimum, race, ethnicity, and gender data''.

On page 282, between lines 3 and 4, insert the following:

''(vi) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, and gender information.''.

On page 283, between lines 21 and 22, insert the following:

''(4) CONSISTENCY WITH EVALUATION CONDUCTED UNDER MIPPA.—

''(A) REQUIREMENT FOR CONSISTENCY.—The HIT Policy Committee shall ensure that recommendations made under paragraph (2)(B)(vi) are consistent with the evaluation conducted under section 1809(a) of the Social Security Act.

''(B) SCOPE.—Nothing in subparagraph (A) shall be construed to limit the recommendations under paragraph (2)(B)(vi) to the elements described in section 1809(a)(3) of the Social Security Act.

''(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.''.

SA 276. Ms. CANTWELL (for herself, Mr. KERRY, Ms. SNOWE, Mr. SCHUMER, Ms. STABENOW, Mr. BINGAMAN, Mr. ENSIGN, Mr. CARPER, Mr. HATCH, Mr. WYDEN, Mr. CARDIN, Mr. NELSON of Florida, Mr. REED, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle J of title I of division B, add the following:

SEC. _____. ELECTION TO ACCELERATE THE LOW-INCOME HOUSING TAX CREDIT.

(a) IN GENERAL.—At the election of the taxpayer, the credit determined under section 42 of the Internal Revenue Code of 1986 for the taxpayer's first three taxable years beginning after December 31, 2008, in which credits are allowable for any low-income housing project with respect to initial investments made pursuant to a binding agreement by such taxpayer after December 31, 2008, and before January 1, 2011, shall be 200 percent of the amount which would (but for this subsection) be so allowable.

(b) ELIGIBILITY FOR ELECTION.—The election under subsection (a) shall take effect with respect to the first taxable year referred to in such subsection only when all rental requirements pursuant to section 42(g)(1) of the Internal Revenue Code of 1986 have been met with respect to the low-income housing project.

(c) REDUCTION IN AGGREGATE CREDIT TO REFLECT ACCELERATED CREDIT.—The aggregate credit allowable to any taxpayer under section 42 of the Internal Revenue Code of 1986 with respect to any investment for taxable years after the first three taxable years referred to in subsection (a) shall be reduced on a pro rata basis by the amount of the increased credit allowable by reason of subsection (a) with respect to such first three taxable years. The preceding sentence shall not be construed to affect whether any taxable year is part of the credit, compliance, or extended use periods under such section 42.

(d) ELECTION.—The election under subsection (a) shall be made at the time and in the manner prescribed by the Secretary of the Treasury or the Secretary's delegate, and, once made, shall be irrevocable. In the case of a partnership, such election shall be made by the partnership.

SA 277. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 435, strike line 4 and all that follows through page 441, line 15, and insert the following:

SEC. 1001. REDUCTION IN 10-PERCENT RATE BRACKET FOR 2009 AND 2010.

(a) IN GENERAL.—Paragraph (1) of section 1(i) is amended by adding at the end the following new subparagraph:

''(D) REDUCED RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(i) IN GENERAL.—Subparagraph (A)(i) shall be applied by substituting '5 percent' for '10 percent'.

''(ii) RULES FOR APPLYING CERTAIN OTHER PROVISIONS.—

''(I) Subsection (g)(7)(B)(ii)(II) shall be applied by substituting '5 percent' for '10 percent'.

''(II) Section 3402(p)(2) shall be applied by substituting '5 percent' for '10 percent'.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) WITHHOLDING PROVISIONS.—Subclause (II) of section 1(i)(1)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to amounts paid after the 60th day after the date of the enactment of this Act.

SA 278. Mr. MCCAIN proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 431, after line 8, insert the following:

SEC. ____. REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS' DEBT OBLIGATIONS.

(a) ENFORCEMENT.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following:

''(d) REDUCING SPENDING UPON ECONOMIC GROWTH TO RELIEVE FUTURE GENERATIONS DEBT OBLIGATIONS.—

''(1) SEQUESTER.—Section 251 shall be implemented in accordance with this subsection in any fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP.

''(2) AMOUNTS PROVIDED IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Appropriated amounts provided in the American Recovery and Reinvestment Act of 2009 for a fiscal year to which paragraph (1) applies that have not been otherwise obligated are rescinded.

''(3) REDUCTIONS.—The reduction of sequestered amounts required by paragraph (1) shall be 2% from the baseline for the first year, minus any discretionary spending provided in the American recovery and Reinvestment act of 2009, and each of the 4 fiscal years following the first year in order to balance the Federal budget.

''(e) DEFICIT REDUCTION THROUGH A SEQUESTER.—

''(1) SEQUESTER.—Section 253 shall be implemented in accordance with this subsection.

''(2) MAXIMUM DEFICIT AMOUNTS.—

''(A) IN GENERAL.—When the President submits the budget for the first fiscal year following a fiscal year in which there are 2 consecutive quarters of economic growth greater than 2% of inflation adjusted GDP, the President shall set and submit maximum deficit amounts for the budget year and each of the following 4 fiscal years. The President shall set each of the maximum deficit amounts in a manner to ensure a gradual and proportional decline that balances the federal budget in not later than 5 fiscal years.

''(B) MDA.—The maximum deficit amounts determined pursuant to subparagraph (A) shall be deemed the maximum deficit amounts for purposes of section 601 of the Congressional Budget Act of 1974, as in effect prior to the enactment of Public Law 105–33.

''(C) DEFICIT.—For purposes of this paragraph, the term 'deficit' shall have the meaning given such term in Public Law 99–177.''.

(b) PROCEDURES REESTABLISHED.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(b) PROCEDURES REESTABLISHED.—Subject to subsection (d), sections 251 and 252 of this Act and any procedure with respect to such sections in this Act shall be effective beginning on the date of enactment of this subsection.''.

(c) BASELINE.—The Congressional Budget Office shall not include any amounts, including discretionary, mandatory, and revenues, provided in this Act in the baseline for fiscal year 2010 and fiscal years thereafter.

SA 279. Mr. MCCAIN (for himself and Mr. SHELBY) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 429, strike line 6 and all that follows through page 430, line 12, and insert the following:

SEC. 1604. (a) INAPPLICABILITY OF BUY AMERICAN REQUIREMENTS.—Notwithstanding any other provision of this Act, the utilization of funds appropriated or otherwise made available by this Act shall not be subject to any Buy American requirement in a provision of this Act.

(b) BUY AMERICAN REQUIREMENT DEFINED.—In this section, the term ''Buy American requirement'' means a requirement in a provision of this Act that an item may be procured only if the item is grown, processed, reused, or produced in the United States.

SA 280. Mr. BAYH (for himself, Mr. BINGAMAN, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 72, line 22, before the period, insert the following: '': *Provided further*, That $200,000,000 shall be available for waste energy recovery grants to owners or operators of waste energy recovery projects and utilities as authorized under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343)''.

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. WASTE ENERGY RECOVERY INCENTIVE GRANT PROGRAM.

Section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''and'' after the semicolon at the end;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3);

(2) in subsection (b)—

(A) in paragraph (3)(A)—

(i) by inserting ''not more than'' after ''rate of''; and

(ii) by striking ''Energy Independence and Security Act of 2007'' and inserting ''American Recovery and Reinvestment Act of 2009''; and

(B) in paragraph (4), by inserting ''not more than'' after ''rate of'';

(3) by striking subsection (c);

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(5) by striking subsection (e) (as so redesignated) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 for each of fiscal years 2009 and 2010.''.

SA 281. Mr. BAYH (for himself, Ms. STABENOW, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 16, after ''That'' insert the following: ''$200,000,000 shall be available for grants under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011) to plan, develop, and demonstrate electrical infrastructure projects that encourage the use of electric drive vehicles, including plug-in electric drive vehicles, and for near-term, large-scale electrification projects aimed at the transportation section: *Provided further*, That $590,000,000 shall be available under section 641 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231) to carry out a research, development, and demonstration program to support the ability of the United States to remain globally competitive in energy storage systems for electric drive vehicles, stationary application, and electricity transmission and distribution: *Provided further*, That''.

SA 282. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. PROGRAM OF STATE GRANTS TO ATTRACT AND RETAIN JOBS IN INFORMATION TECHNOLOGY AND MANUFACTURING SECTORS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity that—

(A) employs not fewer than 20 full-time equivalent employees in eligible jobs; and

(B) such jobs are located—

(i) in a foreign country; or

(ii) in the United States but would be relocated by such entity to a foreign country without the assistance of a grant awarded under the Program.

(2) ELIGIBLE JOB.—The term ''eligible job'' means, with respect to an entity, a job in the information technology sector or manufacturing sector in which the entity employs a full-time equivalent employee.

(3) ELIGIBLE STATE.—The term ''eligible State'' means a State that—

(A) submits an application in accordance with subsection (d)(1);

(B) includes in such application a certification as required by subsection (d)(2);

(C) agrees to make contributions pursuant to subsection (d)(3); and

(D) any part of which is located within a labor surplus area.

(4) LABOR SURPLUS AREA.—The term ''labor surplus area'' means an area in the United States included in the most recent classification of labor surplus areas by the Secretary of Labor.

(5) PROGRAM.—The term ''Program'' means the program established under subsection (b).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Commerce.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall, acting through the Assistant Secretary of Commerce for Economic Development, establish a program to provide funds to States to award grants to eligible entities for the purposes described in paragraph (2).

(2) PURPOSES.—A grant awarded under the Program shall be used by an eligible entity—

(A) to relocate an eligible job located in a foreign country to a labor surplus area; or

(B) to retain an eligible job located in a labor surplus area that the eligible entity would otherwise relocate to a foreign country without the assistance of such grant.

(c) ALLOTMENT TO STATES.—

(1) IN GENERAL.—During the 2-year period beginning on the date that is 90 days after the date of the enactment of this Act, the Secretary shall provide $2,000,000,000 to eligible States to enable such States to award grants under the Program.

(2) ALLOTMENT AMONG STATES.—From the amount provided pursuant to paragraph (1), the Secretary shall allot to each eligible State an amount which bears the same relationship to the amount provided under paragraph (1) as the total number of individuals in the State bears to the total number of individuals in all eligible States.

(d) REQUIREMENTS OF STATES.—

(1) APPLICATION.—A State seeking funds under the Program shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CERTIFICATION.—An application submitted under paragraph (1) shall include a certification made by the appropriate official of an eligible State that the State will use any amount provided to the State under the Program in accordance with the requirements of subsection (e).

(3) STATE MATCHING REQUIREMENT.—A State seeking funds under the Program shall agree to make available non-Federal funds to carry out the purposes of the Program in an amount equal to not less than 30 percent of the amount allotted to such State under subsection (c)(2).

(e) GRANTS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (g), not later than 1 year after the date that a State receives an amount under subsection (c), the State shall use such amount to award grants to eligible entities in that State to enable such entities to relocate or retain eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2). A State may not award a grant to any entity under the Program for the purpose of relocating a job from one State to another State.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking a grant from a State under the program shall submit an application to the Governor of that State at such time, in such manner, and containing such information as the Governor may require.

(B) CERTIFICATION.—An application submitted under subparagraph (A) by an eligible entity shall include a certification made by the entity that the entity will relocate or retain eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2).

(3) AMOUNTS.—A grant awarded by a State to an eligible entity under the Program shall be disbursed by the State to the entity in 2 installments as follows:

(A) INITIAL INSTALLMENT.—The initial installment of the grant shall be disbursed to the entity as soon as practicable after the grant is awarded in an amount equal to $5,000 per eligible job that the entity—

(i) relocates from a foreign country to a labor surplus area; or

(ii) retains in a labor surplus area that the entity would otherwise relocate to a foreign country without the assistance of such grant.

(B) SECOND INSTALLMENT.—Subject to paragraph (4), the second installment of the grant shall be disbursed to the entity as soon as practicable after the 366th day after the grant is awarded in an amount equal to $4,000 per eligible job that the entity—

(i) relocates as described in subparagraph (A)(i); or

(ii) retains as described in subparagraph (A)(ii).

(4) CERTIFICATION OF INCREASE IN EMPLOYMENT.—

(A) IN GENERAL.—To be eligible for the second installment of a grant under paragraph (3)(B), an eligible entity awarded a grant under the Program shall certify to the satisfaction of the Governor of the State that awarded the grant that the entity increased during the first year of the grant the number of full-time equivalent employees employed by the entity in an eligible job in a labor surplus area.

(B) FAILURE TO CERTIFY.—If an eligible entity awarded a grant under the Program fails to make the certification required by subparagraph (A)—

(i) the entity shall not receive the second installment of the grant under paragraph (3)(B); and

(ii) the grant awarded to such recipient shall be terminated.

(f) PUBLICATION OF GRANT AWARDS.—

(1) NOTICE TO SECRETARY.—Not later than 30 days after the date on which a State awards a grant under the Program, the State shall submit to the Secretary such information regarding the grant as the Secretary may require, including the following:

(A) The name of the grant recipient.

(B) The number of eligible jobs to be relocated or retained, as described in clause (i) or (ii) of subsection (e)(3)(A), by the grant recipient.

(C) The labor surplus area concerned.

(2) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives information under paragraph (1), the Secretary shall publish such information on the Internet web site of the Department of Commerce.

(g) STATE ADMINISTRATIVE COSTS.—Of the amount provided to a State by the Secretary under the Program, an amount not to exceed 5 percent may be used by such State for the costs of administering the Program.

(h) AUDITS.—A State shall audit each eligible entity awarded a grant under the Program to ensure that the entity relocates or retains eligible jobs as described in subparagraph (A) or (B) of subsection (b)(2).

(i) REPORT.—Not later than 410 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the Program.

(j) DIRECT SPENDING AUTHORITY AND OFFSET.—

(1) DIRECT SPENDING AUTHORITY.—There is authorized to be appropriated and is appropriated to the Secretary $2,000,000,000 to carry out the Program.

(2) AVAILABILITY.—The amounts appropriated under paragraph (1) shall remain available for the purpose described in such paragraph until September 30, 2010.

(3) OFFSET.—The amount appropriated or otherwise made available by title XIV of this division under the heading ''STATE FISCAL STABILIZATION FUND'' and the amount described in section 1401(c) of such title are each reduced by $2,000,000,000.

SA 283. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 451, between lines 13 and 14, insert the following:

SEC. _____. TEMPORARY INCREASE IN PERSONAL CAPITAL LOSS DEDUCTION LIMITATION.

(a) IN GENERAL.—Section 1211 is amended by adding at the end the following new subsection:

''(c) SPECIAL RULE FOR TAXABLE YEARS BEGINNING IN 2009.—In the case of a taxable year beginning after December 31, 2008, and before January 1, 2010, subsection (b)(1) shall be applied—

''(1) by substituting '$15,000' for '$3,000', and

''(2) by substituting '$7,500' for '$1,500'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

(c) OFFSET.—Notwithstanding any other provision of division A, the amounts appropriated or made available in division A (other than any such amount under the heading ''Department of Veterans Affairs'' in title X of division A) shall be reduced by a percentage necessary to offset the aggregate reduction in revenues resulting from the enactment of the amendment made by subsection (a).

SA 284. Mr. VITTER (for himself, Mr. COCHRAN, Mr. SHELBY, Mrs. HUTCHISON, Mr. WICKER, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. ___. COASTAL RESTORATION AND GULF STATE RECOVERY.

(a) SEAWARD BOUNDARIES OF STATES.—

(1) IN GENERAL.—Section 4 of the Submerged Lands Act (43 U.S.C. 1312) is amended by striking ''three geographical miles'' each place it appears and inserting ''12 nautical miles''.

(2) CONFORMING AMENDMENTS.—Section 2 of the Submerged Lands Act (43 U.S.C. 1301) is amended by striking ''three geographical miles'' each place it appears in subsections (a)(2) and (b) and inserting ''12 nautical miles''.

(3) EFFECT OF AMENDMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the amendments made by this subsection shall not effect Federal oil and gas mineral rights.

(B) SUBMERGED LAND.—Submerged land within the seaward boundaries of States shall be—

(i) subject to Federal oil and gas mineral rights to the extent provided by law;

(ii) considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(iii) subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf.

(C) EXISTING LEASES.—The amendments made by this subsection shall not affect any Federal oil and gas lease in effect on the date of enactment of this Act.

(D) TAXATION.—A State may exercise all of the sovereign powers of taxation of the State within the entire extent of the seaward boundaries of the State (as extended by the amendments made by this subsection).

(b) COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.—

(1) IN GENERAL.—Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(A) in subsection (c), by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a plan by the Secretary under this section, the producing State shall—

''(A) not be subject to any additional application or other requirements (other than notifying the Secretary of which projects are being carried out under the plan) to receive the payments; and

''(B) be immediately eligible to receive payments under this section.''; and

(B) by adding at the end the following:

''(e) FUNDING.—

''(1) STREAMLINING.—

''(A) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior (acting through the Director of the Minerals Management Service) (referred to in this subsection as the 'Secretary') shall develop a plan that addresses streamlining the process by which payments are made under this section, including recommendations for—

''(i) decreasing the time required to approve plans submitted under subsection (c)(1);

''(ii) ensuring that allocations to producing States under subsection (b) are adequately funded; and

''(iii) any modifications to the authorized uses for payments under subsection (d).

''(B) CLEAN WATER.—Not later than 180 days after the date of enactment of this subsection, the Secretary and the Administrator of the Environmental Protection Agency shall jointly develop procedures for streamlining the permit process required under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and State laws for restoration projects that are included in an approved plan under subsection (c).

''(C) ENVIRONMENTAL REQUIREMENTS.—In the case of any project covered by this subsection that is not carried out on wetland (as defined in section 1201 of the Food Security Act of 1985 (16 U.S.C. 3801)), there shall be no requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DREDGED MATERIALS.—Not later than 180 days after the date of enactment of this subsection, the Secretary of the Army shall develop and implement guidelines requiring the use of dredged material, at full Federal expense, for ecological restoration, or port or other coastal infrastructure, in producing States.

''(3) COST-SHARING REQUIREMENTS.—Any amounts made available to producing States under this section may be used to meet the cost-sharing requirements of other Federal grant programs, including grant programs that support coastal protection and restoration.

''(4) EXPEDITED FUNDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop a procedure to provide expedited funding to projects under this section based on estimated revenues to ensure that the projects may—

''(A) secure additional funds from other sources; and

''(B) use the amounts made available under this section on receipt.''.

(2) APPLICATION.—The amendments made by paragraph (1) apply to an application for payments under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) that is pending on, or filed on or after, the date of enactment of this Act.

SA 285. Mr. BAUCUS (for himself, Mr. LEAHY, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, between lines 11 and 12, insert the following:

(2) MINIMUM AMOUNT.—Notwithstanding paragraph (1), no State higher education agency shall receive less than 0.5 percent of the amount allocated under paragraph (1).

SA 286. Ms. LANDRIEU (for herself, Mr. KOHL, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, between lines 3 and 4, insert the following:

(D) CHARTER SCHOOLS.—

(i) IN GENERAL.—An eligible local educational agency receiving funds under this paragraph shall use an equitable portion of the funds, as determined under clause (ii), to carry out school renovation, repair, and construction (consistent with subsection (c)) for charter schools that are served by the eligible local educational agency.

(ii) EQUITABLE PORTION.—An eligible local educational agency receiving funds under this paragraph shall determine the amount of the equitable portion described in clause (i) on the basis of—

(I) the percentage of poor children who are enrolled in the charter schools served by the eligible local educational agency; and

(II) the needs of the charter schools as determined by the eligible local educational agency.

SA 287. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—TAXPAYER PROTECTION PROSECUTION TASK FORCE

SEC. 6001. CREATION OF A TAXPAYER PROTECTION PROSECUTION TASK FORCE.

The Attorney General of the United States shall immediately establish a Taxpayer Protection Prosecution Task Force (referred to in this title as the ''Task Force'') .

SEC. 6002. DUTIES OF THE TASK FORCE.

The Task Force shall—

(1) investigate and prosecute financial fraud cases or any other violation of law that contributed to the collapse of our financial markets; and

(2) seek to claw back any ill-gotten gains, particularly by those who received billions of dollars in compensation creating the real estate and financial bubble.

SEC. 6003. MEMBERSHIP.

The membership of the Task Force shall include—

(1) Department of Justice attorneys acting as a team of Federal prosecutors;

(2) special agents from the Federal Bureau of Investigation, the Internal Revenue Service, and United States Postal Service; and

(3) additional assistance from the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and other Federal banking regulators or investigators.

SEC. 6004. STAFFING.

The Task Force shall be staffed by Department of Justice career attorneys, enforcement attorneys, and other private and public sector legal professionals and experts in the violations of law under investigation.

SEC. 6005. DIRECTOR.

The Director of the Task Force shall be appointed by the President, subject to the advice and consent of the Senate.

SEC. 6006. OUTSIDE EMPLOYMENT.

The Director of the Task Force and all professional members of the staff shall for a period of 2 years after their employment with the Task Force be prohibited from directly or indirectly representing any client in or in connection with any investigation relating to any of the work of the Task Force.

SEC. 6007. REPORTS TO CONGRESS.

The Task Force shall file—

(1) a public report directly with Congress every 6 months on its activities; and

(2) if necessary, a classified annex to protect the confidentiality of ongoing investigations or attorney-client privilege or other non-public information.

SEC. 6008. STATUTE OF LIMITATIONS RECOMMENDATION.

The Task Force shall make recommendations to Congress not later than 60 days after the date of the establishment of the Task Force regarding extension of the statute of

limitation for complex financial fraud and other similar cases.

SA 288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 478, between lines 15 and 16, insert the following:

SEC. _____. TEMPORARY REINSTATEMENT OF REGULAR INVESTMENT TAX CREDIT.

The current year business credit under section 38 of Internal Revenue Code of 1986 shall include the amount that would be determined under section 46(a) of such Code (without regard to paragraphs (2) and (3) of such subsection) (as such Code was in effect before the amendments made by the Revenue Reconciliation Act of 1990 (Public Law 101–508)) with respect to property placed in service after 2008 and before July 1, 2010, if the regular percentage were 15 percent.

SA 289. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, between lines 6 and 7, insert the following:

(E) PROHIBITION.—Notwithstanding any other provision of this section, a State higher education agency shall not award a subgrant under this section to an institution of higher education that—

(i) has an endowment exempt from taxation under subtitle A of the Internal Revenue Code of 1986 that is more than $15,000,000,000; or

(ii) has paid more than $1,000,000 for lobbying activities, as such term is defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), in the preceding fiscal year.

SA 290. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 291. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 292. Mr. BROWNBACK (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 320, between lines 3 and 4, insert the following:

''(10) establishing and supporting health record banking models to further consumer-based consent models that promote lifetime access to qualified health records, if such activities are included in the plan described in subsection (e), and may contain smart card functionality; and''.

SA 293. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, strike lines 1 through 11, and insert the following:

''(1) STANDARDS.—The National Coordinator shall—

''(A) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004;

''(B) make such determinations under subparagraph (A), and report to the Secretary such determinations, not later than 45 days after the date the recommendation is received by the Coordinator;

''(C) review Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published under paragraph (3); and

''(D) provide comments and advice regarding specific Federal health information technology programs, at the request of Office of Management and Budget.''.

Beginning on page 273, strike line 21, and all that follows through line 8 on page 274, and insert the following:

''(5) HARMONIZATION.—The Secretary may recognize an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(6) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 14201(b) of the Health Information Technology for Economic and Clinical Health Act.''.

On page 277, strike lines 8 through 11, and insert the following:

''(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall implement the recommendations made by the HIT Policy Committee regarding the governance of the nationwide health information network.''.

On page 283, between lines 12 and 13, insert the following:

''(ix) Methods to facilitate secure access by an individual to such individual's protected health information.

''(x) Methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia that prevents a patient from accessing the patient's individually identifiable health information.''.

On page 284, strike lines 1 through 13, and insert the following:

''(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

''(A) One member shall be appointed by the Secretary.

''(B) One member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

''(C) One member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

''(D) One member shall be appointed by the Majority Leader of the Senate.

''(E) One member shall be appointed by the Minority Leader of the Senate.

''(F) One member shall be appointed by the Speaker of the House of Representatives.

''(G) One member shall be appointed by the Minority Leader of the House of Representatives.

''(H) Eleven members shall be appointed by the Comptroller General of the United States, of whom—

''(i) three members shall represent patients or consumers;

''(ii) one member shall represent health care providers;

''(iii) one member shall be from a labor organization representing health care workers;

''(iv) one member shall have expertise in privacy and security;

''(v) one member shall have expertise in improving the health of vulnerable populations;

''(vi) one member shall represent health plans or other third party payers;

''(vii) one member shall represent information technology vendors;

''(viii) one member shall represent purchasers or employers; and

''(ix) one member shall have expertise in health care quality measurement and reporting.

''(3) CHAIRPERSON AND VICE CHAIRPERSON.—The HIT Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

''(4) NATIONAL COORDINATOR.—The National Coordinator shall serve as a member of the HIT Policy Committee and act as a liaison among the HIT Policy Committee, the HIT Standards Committee, and the Federal Government.

''(5) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(6) TERMS.—

''(A) IN GENERAL.—The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

''(7) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy and security;

''(B) improving the health of vulnerable populations;

''(C) health care quality and patient safety, including individuals with expertise in the measurement and use of health information technology to capture data to improve health care quality and patient safety;

''(D) long-term care and aging services;

''(E) medical and clinical research; and

''(F) data exchange and developing health information technology standards and new health information technology.

''(8) QUORUM.—Ten members of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(9) FAILURE OF INITIAL APPOINTMENT.—If, on the date that is 120 days after the date of enactment of this title, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint—

''(A) the number of members that such official is authorized to appoint shall be reduced to the number that such official has appointed as of that date; and

''(B) the number prescribed in paragraph (8) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

''(10) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.''.

On page 287, between lines 16 and 17, insert the following:

''(5) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.''.

On page 288, strike lines 4 through 19 and insert the following:

''(3) BROAD PARTICIPATION.—There is broad participation in the HIT Standards Committee by a variety of public and private stakeholders, either through membership in the Committee or through another means.

''(4) CHAIRPERSON; VICE CHAIRPERSON.—The HIT Standards Committee may designate one member to serve as the chairperson and one member to serve as the vice chairperson.

''(5) DEPARTMENT MEMBERSHIP.—The Secretary shall be a member of the HIT Standards Committee. The National Coordinator shall act as a liaison among the HIT Standards Committee, the HIT Policy Committee, and the Federal Government.

''(6) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

''(7) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) OPEN AND PUBLIC PROCESS.—In providing for the establishment of the HIT Standards Committee pursuant to subsection (a), the Secretary shall ensure the following:

''(1) CONSENSUS APPROACH; OPEN PROCESS.—The HIT Standards Committee shall use a consensus approach and a fair and open process to support the development, harmonization, and recognition of standards described in subsection (a)(1).

''(2) PARTICIPATION OF OUTSIDE ADVISERS.—The HIT Standards Committee shall ensure an adequate opportunity for the participation of outside advisors, including individuals with expertise in—

''(A) health information privacy;

''(B) health information security;

''(C) health care quality and patient safety, including individuals with expertise in utilizing health information technology to improve healthcare quality and patient safety;

''(D) long-term care and aging services; and

''(E) data exchange and developing health information technology standards and new health information technology.

''(3) OPEN MEETINGS.—Plenary and other regularly scheduled formal meetings of the HIT Standards Committee (or established subgroups thereof) shall be open to the public.

''(4) PUBLICATION OF MEETING NOTICES AND MATERIALS PRIOR TO MEETINGS.—The HIT Standards Committee shall develop and maintain an Internet website on which it publishes, prior to each meeting, a meeting notice, a meeting agenda, and meeting materials.

''(5) OPPORTUNITY FOR PUBLIC COMMENT.—The HIT Standards Committee shall develop a process that allows for public comment during the process by which the Entity develops, harmonizes, or recognizes standards and implementation specifications.

''(e) VOLUNTARY CONSENSUS STANDARD BODY.—The provisions of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget circular 119 shall apply to the HIT Standards Committee.''.

On page 290, line 14, strike ''INITIAL SET OF''.

On page 291, between lines 6 and 7, insert the following:

''(3) SUBSEQUENT STANDARDS ACTIVITY.—The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 3003(b)(2).''.

Beginning on page 293, strike line 7 and all that follows through line 2 on page 295, and insert the following:

SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—Nothing in section 3001 shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with the requirements of a voluntary consensus standards body so as to allow the Secretary to recognize the National eHealth Collaborative as the HIT Standards Committee.

''(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.''.

On page 294, strike lines 10 through 16.

305, line 5, strike ''shall coordinate'' and insert ''may review''.

SA 294. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 678, line 24, strike ''0.'' and insert ''0. In implementing this subparagraph with

respect to charity care, the Secretary shall coordinate with the Secretary of the Treasury and the Medicare Payment Advisory Commission to ensure uniform definitions of charity care and uncompensated care.''

SA 295. Mr. GRASSLEY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC.—. STUDY OF TAX-EXEMPT AND NON-TAX-EXEMPT HOSPITALS.

(a) STUDY.—The Secretary of the Treasury shall undertake a study of the differences in operation between hospitals that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and are exempt from tax under section 501(a) of such Code, and hospitals that are not so exempt. The study conducted under this section shall include, in addition to any other information deemed relevant by the Secretary of the Treasury, a comprehensive review of the amount of uncompensated care, non-patient services and other benefits, and executive compensation provided by each type of hospital.

(b) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the results of the study conducted under this section.

SA 296. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 720, strike line 18 and all that follows through page 723, line 11, and insert the following:

(f) STATE INELIGIBILITY.—

(1) MAINTENANCE OF EFFORT REQUIREMENTS.—No State shall be eligible for an increased FMAP rate under this section for any fiscal year quarter during the recession adjustment period if the Secretary determines, with respect to the State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) and any fiscal year quarter during such period, any of the following:

(A) ELIGIBILITY.—Any reduction in eligibility standards, methodologies, or procedures under such State plan or waiver.

(B) BENEFITS.—Any reduction in the type, amount, duration, or scope of benefits provided under such State plan or waiver.

(C) PROVIDER PAYMENTS.—Any reduction in provider payments under such State plan or waiver, including the aggregate or per service amount paid to any provider and the amount and extent of beneficiary cost-sharing imposed.

(2) EXCEPTION FOR REDUCTION MADE FOR PURPOSES OF PREVENTING FRAUD.—A State shall not be ineligible under paragraph (1) if the Secretary determines, with respect to the State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) and any fiscal year quarter during such period, that any reductions described in paragraph (1) that are made by the State for any such quarter are for purposes of preventing fraud under the State plan or waiver.

SA 297. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 714, strike line 1 and all that follows through page 725, line 14, and insert the following:

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (d), (e), (f), and (g) if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section;

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first, second, and third calendar quarters in fiscal year 2011.

(b) GENERAL 9.5 PERCENTAGE POINT INCREASE.—Subject to subsections (d), (e), (f), and (g), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 9.5 percentage points.

(c) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (e), (f), and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by 9.5 percent.

(d) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.));

(3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

(5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008.

(e) STATE INELIGIBILITY.—

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a) or (b), or an increase in a cap amount under subsection (c), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES.—A State shall not be ineligible under subparagraph (A)—

(i) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to July 1, 2009, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as of

July 1, 2008, and would have been in effect as of such date, but for a delay in the request for, and approval of, a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—No State shall be eligible for an increased FMAP rate as provided under this section for any claim submitted by a provider subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) during any period in which that State has failed to pay claims in accordance with section 1902(a)(37)(A) of such Act. Each State shall report to the Secretary, no later than 30 days following the 1st day of the month, its compliance with the requirements of section 1902(a)(37)(A) of the Social Security Act as they pertain to claims made for covered services during the preceding month.

(3) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection or subsection (f) under section 1115 of the Social Security Act or otherwise.

(f) REQUIREMENTS.—

(1) IN GENERAL.—A State may not deposit or credit the additional Federal funds paid to the State as a result of this section to any reserve or rainy day fund maintained by the State.

(2) STATE REPORTS.—Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2011, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(3) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (b), or an increase in a cap amount under subsection (c), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(g) STATE SELECTION OF RECESSION ADJUSTMENT RELIEF PERIOD.—The increase in a State's FMAP under subsection (a) or (b), or an increase in a State's cap amount under subsection (c), shall only apply to the State for 9 consecutive calendar quarters during the recession adjustment period. Each State shall notify the Secretary of the 9-calendar quarter period for which the State elects to receive such increase.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) POVERTY LINE.—The term ''poverty line'' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(3) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on June 20, 2011.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

SA 298. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 723, between lines 7 and 8, insert the following:

(3) QUARTERLY CERTIFICATION OF NO NEW TAXES.—

(A) IN GENERAL.—For each fiscal year quarter during the recession adjustment period, a State eligible for an increased FMAP under this section shall certify to the Secretary, as a condition of receiving the additional Federal funds resulting from the application of this section to the State for the quarter, that the State will not take any action to raise State income, property, or sales taxes during the quarter. Any State that fails to make such a certification shall not be eligible for such additional Federal funds and any State that makes such a certification and is determined by the Secretary to have taken an action that results in an increase in the State income, property, or sales taxes during the quarter shall pay the Secretary an amount equal to the additional Federal funds paid to the State under this section during the period of noncompliance and shall cease to be eligible for an increased FMAP under this section for the remainder of the recession adjustment period.

(B) NONAPPLICATION TO STATE ACTION TAKEN PRIOR TO DATE OF ENACTMENT.—In the case of a State that enacted a law or took other action before the date of enactment of this Act that will result in an increase in State income, property, or sales taxes during any quarter of the recession adjustment period, the State shall not be ineligible for an increased FMAP under this section for any such quarter if the State certifies that it will not enact any new such law or take any new such action after the date of enactment of this Act and for the remainder of the recession adjustment period and the State submits the quarterly certifications required under subparagraph (A).

SA 299. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 540, line 1, strike all through page 541, line 11, and insert the following:

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

''(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include—

''(I) any bond issued after December 31, 2008, and before January 1, 2011, or

''(II) any interim financing refunding bond issued after December 31, 2008, and before January 1, 2011.

For purposes of clause (I), a refunding bond (whether a current or advance refunding), other than an interim financing refunding bond, shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond). For purposes of this clause, the term 'interim financing refunding bond' means any refunding bond which is issued to refund another bond which had a maturity date that was less than 5 years after the date such other bond was issued.''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DURING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on—

''(I) a bond issued after December 31, 2008, and before January 1, 2011, or

''(II) an interim financing refunding bond issued after December 31, 2008, and before January 1, 2011.

For purposes of clause (I), a refunding bond (whether a current or advance refunding), other than an interim financing refunding bond, shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond). For purposes of this clause, the term 'interim financing refunding bond' means any refunding bond which is issued to refund another bond which had a maturity date that was less than 5 years after the date such other bond was issued.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SA 300. Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BROWN, Mr. INOUYE, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 430, strike lines 7 through 12 and insert the following:

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

SA 301. Mr. SANDERS submitted an amendment intended to be proposed to

amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 15, after "transition" insert the following: ", including the potential need for indoor or outdoor, or both, antenna to facilitate the reception and display of signals of channels broadcast in digital television service and the potential for the loss of channels due to the transition to digital television service".

SA 302. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, line 8, strike "2005," and all that follows through "*Provided*, That" on line 9, and insert the following: "2005, as well as to assist consumers with the purchase or installation, or both, of an indoor or outdoor antenna to facilitate the reception and display of signals of channels broadcast in digital television service, to remain available until September 30, 2010: *Provided*, That the Assistant Secretary for Communications and Information of the Department of Commerce may only use amounts provided under this heading to assist consumers with the purchase or installation, or both, of an indoor or outdoor antenna, if upon the determination of the Assistant Secretary, in consultation with the Federal Communications Commission and the Secretary of Commerce, such funds are no longer necessary to provide additional coupons under section 3005 of the Digital Television Transition and Public Safety Act of 2005: *Provided further*, That".

SA 303. Mrs. LINCOLN (for herself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. _____. MODIFICATIONS TO REHABILITATION CREDIT.

(a) RECAPTURE EXEMPTION FOR FORECLOSURE TRANSACTIONS WITH RESPECT TO INVESTMENT CREDIT PROPERTY PLACED IN SERVICE WITHIN 24 MONTHS OF ENACTMENT.—Subsection (a) of section 50 is amended by adding at the end the following new paragraph:

"(6) TEMPORARY SPECIAL RULE FOR CERTAIN FORECLOSURE TRANSACTIONS.—Paragraphs (1) and (2) shall not apply to any transfer or deemed sale of any investment credit property that arises from a foreclosure or instrument in lieu of foreclosure or any similar transaction if—

"(A) such property is placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009, and

"(B) the transferee in such transfer or deemed sale is not a related person (within the meaning of section 267(b)) of the taxpayer.".

(b) USE FOR LODGING NOT TO DISQUALIFY CERTAIN BUILDINGS FOR REHABILITATION CREDIT.—Paragraph (2) of section 50(b) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by redesignating subparagraph (D) as subparagraph (E), and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) a building other than a certified historic structure which is—

"(i) located within a qualified census tract (within the meaning of section 42(d)(5)(B)(ii)) or a difficult development area (within the meaning of section 42(d)(5)(B)(iii)); and

"(ii) placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009; and".

(c) DATE BY WHICH BUILDINGS MUST BE FIRST PLACED IN SERVICE.—Paragraph (1) of section 47(c) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR CERTAIN BUILDINGS PLACED IN SERVICE IN 2009 AND 2010.—In the case of a building other than a certified historic structure which is—

"(i) located within a qualified census tract (within the meaning of section 42(d)(5)(B)(ii)) or a difficult development area (within the meaning of section 42(d)(5)(B)(iii)), and

"(ii) placed in service during the 24-month period beginning on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009,

subparagraph (B) shall be applied by substituting 'not less than 50 years before the year in which qualified rehabilitation expenditures are first taken into account under subsection (b)(1)' for 'before 1936'.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 304. Mr. WYDEN (for himself, Mr. REED, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, between lines 8 and 9, insert the following:

SEC. 2105. EXTENSION OF TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.

(a) IN GENERAL.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449) is amended by striking "December 8, 2009" and inserting "September 30, 2010".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449).

SA 305. Mr. COBURN (for himself, Mr. BURR, Mr. DEMINT, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, after line 8, insert the following:

SEC. _____. SENATE COMMITTEE OVERSIGHT OF WASTE, FRAUD, AND ABUSE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end the following:

"14. (a)(1) Each standing committee, or a subcommittee thereof, shall hold at least one hearing during each 120-day period following the beginning of a Congress on the topic of waste, fraud, abuse, or mismanagement in Government programs which that committee may authorize.

"(2) A hearing described in clause (1) shall include a focus on the most egregious instances of waste, fraud, abuse, or mismanagement as documented by any report the committee has received from a Federal Office of the Inspector General or the Comptroller General of the United States.

"(b) Each committee, or a subcommittee thereof, shall hold at least one hearing in any session in which the committee has received disclaimers of agency financial statements from auditors of any Federal agency that the committee may authorize to hear testimony on such disclaimers from representatives of any such agency.

"(c) Each standing committee, or a subcommittee thereof, shall hold at least one hearing on issues raised by reports issued by the Comptroller General of the United States indicating that Federal programs or operations that the committee may authorize are at high risk for waste, fraud, and mismanagement, known as the 'high-risk list' or the 'high-risk series'.".

SA 306. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. HIRING AMERICAN WORKERS IN COMPANIES RECEIVING TARP FUNDING.

(a) SHORT TITLE.—This section may be cited as the "Employ American Workers Act".

(b) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be unlawful for any recipient of funding under title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343) or section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)).

(2) DEFINED TERM.—In this subsection, the term ''hire'' means to permit a new employee to commence a period of employment.

(c) SUNSET PROVISION.—This section shall be effective during the 1-year period beginning on the date of the enactment of this Act.

SA 307. Mr. BURR submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

FIX AMERICA FIRST: PROHIBITION ON FUNDING OF FOREIGN GOVERNMENTS AND PERSONS

SEC. 1607. Notwithstanding any other provision of this Act, none of the amounts authorized or appropriated by this Act may be made available to foreign governments or citizens or nationals of a foreign country residing outside the United States or its territories.

SA 308. Mr. BOND (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

SEC. ___. NUTRITION ENHANCEMENT FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

Not later than 18 months after the date of enactment of this Act, of the funds made available by this Act for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the Secretary of Agriculture shall use not more than $5,000,000 to develop, after notice and opportunity for public comment, guidelines to ensure, to the maximum extent practicable, that Federal expenditures under the program are used to purchase food that is nutritious consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), by establishing an approved list of Universal Product Codes for products that can be purchased under the program.

SA 309. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMIT ON FUNDS.

None of the amounts appropriated or otherwise made available by this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, stadium, community park, museum, theater, art center, and highway beautification project.

SA 310. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, strike lines 1 through 5.

On page 59, between lines 9 and 10, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the date of the enactment of this Act, individually submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives the modernization priority assessment for their respective Reserve and National Guard components.

On page 93, line 7, strike ''$9,048,000,000'' and insert ''$8,648,000,000''.

On page 93, line 12, strike ''$6,000,000,000'' and insert ''$5,600,000,000''.

On page 95, strike lines 1 through 8.

SA 311. Ms. SNOWE (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, on lines 10 and 11, strike ''funds provided under the heading 'Small Business Administration' in this Act.'' and insert the following: ''the $84,000,000 amount appropriated under this heading, and for an additional amount, to remain available until expended, $19,500,000, of which $12,000,000 is for the Administrator of the Small Business Administration to make grants under the Small Business Development Center program established by section 21 of the Small Business Act (15 U.S.C. 648), $3,000,000 is for the Administrator of the Small Business Administration to make grants under the Women's Business Center program established by section 29 of the Small Business Act (15 U.S.C. 656), $2,000,000 is for the Administrator of the Small Business Administration to make grants under the Service Corps of Retired Executives program established by section 8(b)(1)(B) of the Small Business Act, $1,000,000 is for PRIME, the program for investment in microentreprenuers, $1,000,000 is for technical and management assistance under section 7(j) of the Small Business Act (15 U.S.C. 636), and $500,000 is for Veteran Business Outreach Centers under section 32 of the Small Business Act (15 U.S.C. 657b): *Provided*, That the $19,500,000 amount appropriated under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*, That, notwithstanding section 21(a)(4) or section 29(c) of the Small Business Act (15 U.S.C. 648(a)(4) and 656(c)), no non-Federal contribution shall be required as a condition of participation in the Small Business Development Center program or the Women's Business Center program using funds provided under this heading: *Provided further*, That the $19,500,000 amount appropriated under this heading shall be used only for programs of the Small Business Administration in existence on the date of enactment of this Act: *Provided further*, That, to the extent practicable, not later than 30 days after the Administrator receives the $19,500,000 amount appropriated under this heading, the Administrator shall expend all such funds, and if such funds are not expended within 30 days, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the proposed use of such funds.''.

SA 312. Mr. UDALL of Colorado (for himself, Mr. BENNET of Colorado, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 121, line 4, before the period, insert the following: '': *Provided further*, That no State matching funds are required: *Provided further*, That funding shall be distributed to areas demonstrating highest priority needs, as determined by the Chief of the Forest Service''.

SA 313. Mr. LEAHY (for himself, Ms. KLOBUCHAR) submitted an amendment

intended to be proposed to amendment SA 98 proposed by Mr. INOUYE) for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ________. WAIVER OF MATCHING REQUIREMENT UNDER COPS PROGRAM.

Section 1701(g) of the Omnibus Crime Control and Safe Street Act of 1968 (42 U.S.C. 3796dd(g)) shall not apply with respect to funds appropriated in this Act for Community Oriented Policing Services authorized under part Q of such Act of 1968.

SA 314. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, line 2, strike ''70'' and insert ''55''.

On page 24, line 20, strike ''may'' and insert ''shall''.

On page 27, line 3, strike ''70'' and insert ''55''.

On page 29, line 22, strike ''may'' and insert ''shall''.

SA 315. Mr. LEAHY (for himself Mr. CARPER, Mr. SANDERS, Mrs. LINCOLN, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 11, strike ''2011: *Provided*, That'' and insert the following: ''2011: *Provided*, That each State shall receive not less than 0.5 percent of funds made available under this heading: *Provided further*, That notwithstanding the previous proviso''.

SA 316. Mr. LEAHY (for himself, Mr. KERRY, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 394, line 17, strike ''education and'' and insert ''education, adult education and literacy, and''.

SA 317. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 437, between lines 10 and 11, insert the following:

''(3) SPECIAL RULE FOR CERTAIN ELIGIBLE INDIVIDUALS.—In the case of any taxable year beginning in 2009, if an eligible individual receives any amount as a pension or annuity for service performed in the employ of the United States or any State, or any instrumentality thereof, which is not considered employment for purposes of chapter 21, the amount of the credit allowed under subsection (a) (determined without regard to subsection (c)) with respect to such eligible individual shall be equal to the greater of—

''(A) the amount of the credit determined without regard to this paragraph or subsection (c), or

''(B) $300 ($600 in the case of a joint return where both spouses are eligible individuals described in this paragraph).

If the amount of the credit is determined under subparagraph (B) with respect to any eligible individual, the modified adjusted gross income limitation under subsection (b) shall not apply to such credit.

SA 318. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 453, beginning on line 12, strike through line 16 and insert the following:

(c) CREDIT ALLOWED FOR ENERGY STORAGE.—

(1) IN GENERAL.—Subparagraph (B) of section 45(a)(1) is amended by inserting '', or delivered by the taxpayer to an unrelated person from a qualified renewable energy bulk storage facility,'' before ''during the taxable year''.

(2) STORAGE FACILITY.—Subsection (e) of section 45 is amended by adding at the end the following new paragraph:

''(12) QUALIFIED RENEWABLE ENERGY BULK STORAGE FACILITY.—For purposes of subsection (a), the term 'qualified renewable energy bulk storage facility' means a facility owned by the taxpayer which is designed to store energy produced from qualified energy resources and to convert such energy to electricity and deliver such electricity for sale.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) ENERGY STORAGE.—The amendment made by subsection (c) shall apply to electricity produced and stored after the date of the enactment of this Act.

(3) TECHNICAL AMENDMENT.—The amendment * * *

SA 319. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. WORKER EMPLOYMENT PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall implement a plan to encourage employers that carry out projects funded under this Act (or an amendment made by this Act) to employ individuals from low-income and high unemployment areas to carry out activities under such projects.

SA 320. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 456, after line 24, add the following:

SEC. _____. QUALIFIED ENERGY EFFICIENCY PROPERTY TREATED AS ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) is amended by striking ''or'' at the end of clause (vi), by inserting ''or'' at the end of clause (vii), and by inserting after clause (vii) the following new clause:

''(viii) qualified energy efficiency property,''.

(b) QUALIFIED ENERGY EFFICIENCY PROPERTY.—Section 48(c) is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ENERGY EFFICIENCY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy efficiency property' means any property which—

''(i) is residential rental property or nonresidential real property,

''(ii) is a qualified building, and

''(iii) achieves a minimum energy savings of 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 (as defined by section 179D(c)(2)), determined under rules similar to the rules of section 179D(d)(2).

''(B) QUALIFIED BUILDING.—The term 'qualified building' means any building—

''(i) which is more than 250,000 square feet,

''(ii) which is located not more than one-half mile from a location in which there is direct access to public bus, rail, light rail, street car, or ferry system,

''(iii) which meets the requirements of subchapter IV of chapter 31 of title 40, United States Code, and

''(iv) for which the site work and construction is commenced not later than 120 days after the date of the enactment of this paragraph.

''(C) SPECIAL RULE FOR RESIDENTIAL RENTAL PROPERTY.—In the case of a qualified building in which the majority of the building is devoted to residential use—

''(i) subparagraph (A)(iii) shall be applied by substituting '25percent' for '50 percent', and

''(ii) any mechanical systems which meet the requirements of Standard 90.1-2001 may be used in lieu of appendix G to such Standard in modeling energy use of a reference building.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 321. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 477, strike line 18 and insert the following:

(d) INCLUSION OF SATELLITE PROPERTY AT 6-YEAR EXTENSION.—Clause (iv) of section 168(k)(2)(A) is amended by inserting '', or, in the case of property described in subparagraph (H) or (L) of subsection (g)(4), before January 1, 2015'' before the period.

(e) EFFECTIVE DATES.—

SA 322. Mr. MENENDEZ (for himself and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, between lines 14 and 15, insert the following:

(D) shall, when making grants under the program, consider whether the entity seeking such grant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637);

On page 54, line 15, strike ''(D)'' and insert ''(E)''.

On page 54, line 23, strike ''(E)'' and insert ''(F)''.

SA 323. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. MINORITY OWNED ENTERPRISES.

(a) IN GENERAL.—In awarding contracts or subcontracts for construction projects funded using amounts made available under this Act (or an amendment made by this Act), additional consideration shall be given to entities that voluntarily include in their bids for such contracts or subcontracts minority business enterprise participation that exceeds the minimum participation required under the Federal guidelines utilized for purposes of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) MONITORING BY DOL.—The Secretary of Labor shall monitor the construction projects carried out with amounts made available under this Act (or an amendment made by this Act) to ensure that the contracting practices with respect to such projects are carried out without entry barriers, and that minority business enterprise and disadvantaged business enterprise participation targets are achieved with integrity and accountability.

SA 324. Mr. KOHL (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 168, strike lines 4 through 7, and insert the following:

(5) STATE HIGHER EDUCATION AGENCY.—The term ''State higher education agency''—

(A) has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003), except that if the application of this subparagraph to a State would result in the State legislature being designated the State higher education agency, then the term shall mean the Governor of the State; or

(B) means a State entity designated by a State higher education agency (as defined in such section 103) to carry out the State higher education agency's functions under this section.

SA 325. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, after line 8, insert the following:

SEC. _____. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 326. Mr. BARRASSO (for himself, Mr. CRAPO, Mr. ROBERTS, Mr. VITTER, Mr. ENZI, Mr. RISCH, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 16____. (a)(1) Notwithstanding any other provision of law, all reviews carried out pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed by the date that is 270 days after the date of enactment of this Act.

(2) If a review described in paragraph (1) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in paragraph (1)—

(A) the action shall be considered to have no significant impact to the human environment for the purpose of that Act; and

(B) that classification shall be considered to be a final agency action.

(b) The lead agency for a review of an action carried out pursuant to this section shall be the Federal agency to which funds are made available for the action.

(c)(1) There shall be a single administrative appeal for all reviews carried out pursuant to this section.

(2) Upon resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(3) An appeal to the court described in paragraph (2) shall be based only on the administrative record.

(4) After an agency has made a final decision with respect to a review carried out under this section, that decision shall be effective during the course of any subsequent appeal to a court described in paragraph (2).

(5) All civil actions arising under this section shall be considered to arise under the laws of the United States.

SA 327. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr.

INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 380, strike line 22 and insert the following: ''State, provided that an attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section. For purposes of this paragraph, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

SA 328. Mr. VITTER (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. ________. PUBLIC, PRIVATE, AND AGRICULTURAL PROJECTS AND ACTIVITIES.

(a) EXEMPTION FROM REVIEW.—During the 3-year period beginning on the date of enactment of this Act, no public or private development project that is to be carried out during that period (other than such a project for which a permit is required under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or that is to be carried out on wetland (as that term is defined in section 1201 of the Food Security Act of 1985 (16 U.S.C. 3801)) shall be subject to any requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) EMERGENCIES.—Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) EMERGENCIES.—On the declaration of an emergency by the Governor of a State, the Secretary shall, for the duration of the emergency, temporarily exempt from the prohibition against taking, and the prohibition against the adverse modification of critical habitat, under this Act any action that is reasonably necessary to avoid or ameliorate the impact of the emergency, including the operation of any water supply or flood control project by a Federal agency.''.

(c) JURISDICTION OVER COVERED ENERGY PROJECTS.—

(1) DEFINITION OF COVERED ENERGY PROJECT.—In this subsection, the term ''covered energy project'' means any action or decision by a Federal official regarding—

(A) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(B) any action under such a lease.

(2) EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this subsection or any other Act that arise from any covered energy project.

(3) TIME FOR FILING COMPLAINT.—

(A) IN GENERAL.—Each case or claim described in paragraph (2) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned.

(B) PROHIBITION.—Any cause or claim described in paragraph (2) that is not filed within the time period described in subparagraph (A) shall be barred.

(4) DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.—

(A) IN GENERAL.—Each proceeding that is subject to paragraph (2)—

(i) shall be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(ii) shall take precedence over all other pending matters before the district court.

(B) FAILURE TO COMPLY WITH DEADLINE.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this subsection, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(5) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court under this subsection may be reviewed by no other court except the Supreme Court.

(6) DEADLINE FOR APPEAL TO THE SUPREME COURT.—If a writ of certiorari has been granted by the Supreme Court pursuant to paragraph (5)—

(A) the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued; and

(B) all such proceedings shall take precedence over all other matters then before the Supreme Court.

SA 329. Mr. REED (for himself, Mr. BROWN, Mr. LEAHY, Mr. KERRY, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. MERKLEY, Mr. ROCKEFELLER, Mr. SANDERS, Ms. STABENOW, Mr. WYDEN, Mr. KENNEDY, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, lines 14 through 16, strike ''$14,398,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*,'' and insert ''$20,598,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided*, That $6,200,000,000 shall be available to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.): *Provided further*, That $3,400,000,000 shall be for the State Energy Program authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.): *Provided further*,''.

On page 133, between lines 18 and 19, insert the following:

LOW-INCOME HOME ENERGY ASSISTANCE

For an additional amount for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), $1,000,000,000, which shall become available on the date of enactment of this Act, and shall be distributed to States not later than September 30, 2009.

SA 330. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 194, line 22, strike ''$637,875,000'' and all that follows through ''equipment): *Provided*'' on page 195, line 2, and insert: ''$757,875,000, to remain available until September 30, 2013, of which $84,100,000 shall be for child development centers; $481,000,000 shall be for warrior transition complexes; $42,400,000 shall be for health and dental clinics (including acquisition, construction, installation, and equipment); and $120,000,000 shall be for the Secretary of the Army to carry out at least three pilot projects to use the private sector for the acquisition or construction of military unaccompanied housing for all ranks and locations in the United States: *Provided*, That the amount made available under this heading for a pilot program to use the private sector for the acquisition or construction of military unaccompanied housing is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009: *Provided further*''.

SA 331. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVII—IMMIGRATION MATTERS

SEC. 1701. EXTENSION OF EB-5 REGIONAL CENTER PILOT PROGRAM.

Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and

Related Agencies Appropriations Act, 1993 (Public Law 102–395; 8 U.S.C. 1153 note) is amended by striking ''annually for 15 years'' and inserting ''for each fiscal year through fiscal year 2016''.

SEC. 1702. DEFINITIONS.

In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(2) COMPTROLLER GENERAL.—The term ''Comptroller General'' means the Comptroller General of the United States.

(3) PILOT PROGRAM.—The term ''pilot program'' means the pilot program carried out under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 1703. EXTENSION OF PILOT PROGRAMS.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking ''at the end of the 11-year period beginning on the first day the pilot program is in effect.'' and inserting ''on September 30, 2016.''.

SEC. 1704. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS RELATED TO THE EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Appropriations, the Committee on Finance, and the Committee on the Judiciary of the Senate; and

(2) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(b) REQUIREMENT FOR AGREEMENT.—For each fiscal year after fiscal year 2008, the Commissioner and the Secretary shall enter into an agreement that—

(1) provides funds to the Commissioner for the full costs of carrying out the responsibilities of the Commissioner under the pilot program, including the costs of—

(A) acquiring, installing, and maintaining technological equipment and systems to carry out such responsibilities, but only the portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest tentative nonconfirmations provided by the confirmation system established pursuant to the pilot program;

(2) provides such funds to the Commissioner quarterly, in advance of the applicable quarter, based on estimating methodology agreed to by the Commissioner and the Secretary, unless the delayed enactment of an annual appropriation Act prevents funds from being available to make such a quarterly payment; and

(3) requires an annual accounting and reconciliation of the actual costs incurred by the Commissioner to carry out such responsibilities and the funds provided under the agreement, that shall be reviewed by the Office of the Inspector General in the Social Security Administration and in the Department of Homeland Security.

(c) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—

(1) CONTINUATION OF PREVIOUS AGREEMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if the agreement required under subsection (b) for a fiscal year is not reached as of the first day of such fiscal year, the most recent previous agreement between the Commissioner and the Secretary to provide funds to the Commissioner for carrying out the responsibilities of the Commissioner under the pilot program shall be deemed to remain in effect until the date that the agreement required under subsection (b) for such fiscal year becomes effective.

(B) ANNUAL ADJUSTMENT.—If the most recent previous agreement is deemed to remain in effect for a fiscal year under subparagraph (A), the Director of the Office of Management and Budget is authorized to modify the amount provided under such agreement for such fiscal year to account for—

(i) inflation; and

(ii) any increase or decrease in the estimated number of individuals who will require services from the Commissioner under the pilot program during such fiscal year.

(2) NOTIFICATION OF CONGRESS.—If the most recent previous agreement is deemed to remain in effect under paragraph (1)(A) for a fiscal year, the Commissioner and the Secretary shall—

(A) not later than the first day of such fiscal year, submit to the appropriate committees of Congress a notification of the failure to reach the agreement required under subsection (b) for such fiscal year; and

(B) once during each 90-day period until the date that the agreement required under subsection (b) has been reached for such fiscal year, submit to the appropriate committees of Congress a notification of the status of negotiations between the Commissioner and the Secretary to reach such an agreement.

SEC. 1705. STUDY AND REPORT OF ERRONEOUS RESPONSES SENT UNDER THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION.

(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Finance and the Committee on the Judiciary of the Senate; and

(2) the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the erroneous tentative nonconfirmations sent to individuals seeking confirmation of employment eligibility under the pilot program.

(c) MATTERS TO BE STUDIED.—The study required by subsection (b) shall include an analysis of—

(1) the causes of erroneous tentative nonconfirmations sent to individuals under the pilot program;

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and agencies and departments of the United States.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the results of the study required by subsection (b).

SEC. 1706. STUDY AND REPORT OF THE EFFECTS OF THE PILOT PROGRAM FOR EMPLOYMENT ELIGIBILITY CONFIRMATION ON SMALL ENTITIES.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate; and

(B) the Committee on the Judiciary of the House of Representatives.

(2) SMALL ENTITY.—The term ''small entity'' has the meaning given that term in section 601 of title 5, United States Code.

(b) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall conduct a study of the effects of the pilot on small entities.

(c) MATTERS TO BE STUDIED.—

(1) IN GENERAL.—The study required by subsection (b) shall include an analysis of—

(A) the costs of complying with the pilot program incurred by small entities;

(B)(i) the description and estimated number of small entities enrolled in and participating in the pilot program; or

(ii) why no such estimated number is available;

(C) the projected reporting, recordkeeping, and other compliance requirements of the pilot program that apply to small entities;

(D) the factors that impact enrollment and participation of small entities in the pilot program, including access to appropriate technology, geography, and entity size and class; and

(E) the actions, if any, carried out by the Secretary to minimize the economic impact of participation in the pilot program on small entities.

(2) DIRECT AND INDIRECT EFFECTS.—The study required by subsection (b) shall analyze, and treat separately, with respect to small entities—

(A) any direct effects of compliance with the pilot program, including effects on wages and time used and fees spent on such compliance; and

(B) any indirect effects of such compliance, including effects on cash flow, sales, and competitiveness of such compliance.

(3) DISAGGREGATION BY ENTITY SIZE.—The study required by subsection (b) shall analyze separately data with respect to—

(A) small entities with fewer than 50 employees; and

(B) small entities that operate in States that require small entities to participate in the pilot program.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by subsection (b).

SA 332. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, line 23, after ''expended:'' insert the following: ''*Provided further*, that not less than $100,000,000 of the funds made available under this heading shall be available to cover the cost of loan guarantees pursuant to section 201(4) of this Act: *Provided further*, That the principal amount of loan guarantees made pursuant to such section 201(4) shall not exceed $2,000,000,000:''.

On page 50, after line 25, insert the following:

(4) The Assistant Secretary—

(A) shall establish and administer a broadband telecommunications loan guarantee program as expeditiously as practicable;

(B) shall provide broadband telecommunications loan guarantees for any project which meets the following criteria:

(i) The total amount financed by the loan guarantee does not exceed $100,000,000.

(ii) The loan guarantee does not exceed 80 percent of the principal losses of the project, provided that the maximum amount of any loan guarantee does not exceed 60 percent of the total amount financed for the project.

(iii) The project raises its financing not later than 120 days after the date that the project receives approval for the loan guarantee from the Assistant Secretary.

(iv) The project design provides broadband connectivity to every business location and every residence within the project territory not later than the date that 2 years after the date that the project received its financing.

(v) The service territory covered by the project—

(I) is, in the discretion of the Assistant Secretary, reasonably coherent; and

(II) does not include unoccupied areas for the sole purpose of artificially adjusting the average density of the covered connectivity area of the project;

(C) shall, not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds reserved for broadband telecommunications loan guarantees under this paragraph are obligated, submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science and Transportation of the Senate, on the planned spending and actual obligations of such reserved funds; and

(D) may use not more than 3 percent of the funds reserved for broadband telecommunications loan guarantees under this paragraph for administrative costs to carry out the broadband telecommunications loan guarantee program established under this paragraph.

On page 51, line 1, strike ''(4)'' and insert ''(5)''.

On page 52, line 8, strike ''(5)'' and insert ''(6)''.

On page 52, line 18, strike ''(5)'' and insert ''(6)''.

On page 53, line 1, strike ''(6)'' and insert ''(7)''.

On page 53, line 23, strike ''(7)'' and insert ''(8)''.

On page 55, line 9, strike ''(8)'' and insert ''(9)''.

On page 55, line 16, strike ''(9)'' and insert ''(10)''.

On page 56, line 12, strike ''(10)'' and insert ''(11)''.

SA 333. Mr. COCHRAN (for himself, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 14 and 15, insert the following:

SEC. 4___. TENNESSEE VALLEY AUTHORITY BORROWING AUTHORITY.

(a) BORROWING AUTHORITY.—For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Tennessee Valley Authority, an additional $3,250,000,000 in borrowing authority is made available under section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), to remain outstanding at any time.

(b) OFFSET.—The aggregate amount appropriated or otherwise made available to carry out title XXX of the Public Health Service Act (as added by section 13101) is reduced by $3,250,000,000.

SA 334. Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HARKIN, Mr. WYDEN, Ms. STABENOW, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 698, after line 25, insert the following:

SEC. 4204A. DELAY IN THE PHASE OUT OF THE MEDICARE HOSPICE BUDGET NEUTRALITY ADJUSTMENT FACTOR DURING FISCAL YEAR 2009.

Notwithstanding any other provision of law, including the final rule published on August 8, 2008, 73 Federal Register 46464 et seq., relating to Medicare Program; Hospice Wage Index for Fiscal Year 2009, the Secretary of Health and Human Services shall not phase out or eliminate the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009, and the Secretary shall recompute and apply the final Medicare hospice wage index for fiscal year 2009 as if there had been no reduction in the budget neutrality adjustment factor.

SA 335. Mr. SCHUMER (for himself, Mrs. LINCOLN, Ms. STABENOW, Mr. KERRY, Mr. BINGAMAN, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. SENSE OF THE SENATE REGARDING RESCISSION OF CERTAIN MEDICAID REGULATIONS.

It is the sense of the Senate that the following regulations relating to Medicaid should be rescinded:

(1) COST LIMITS FOR PUBLIC PROVIDERS.—The final regulation published on May 29, 2007 (72 Federal Register 29748) and determined by the United States District Court for the District of Columbia to have been ''improperly promulgated'', *Alameda County Medical Center, et al., v. Leavitt, et al.*, Civil Action No. 08-0422, Mem. at 4 (D.D.C. May 23, 2008) .

(2) PAYMENTS FOR GRADUATE MEDICAL EDUCATION.—The proposed regulation published on May 23, 2007 (72 Federal Register 28930).

(3) MEDICAID ALLOWABLE PROVIDER TAXES.—The final regulation published on February 22, 2008 (73 Federal Register 9685).

(4) REHABILITATIVE SERVICES.—The proposed regulation published on August 13, 2007 (72 Federal Register 45201).

(5) PAYMENTS FOR COSTS OF SCHOOL ADMINISTRATION, TRANSPORTATION.—The final regulation published on December 28, 2007 (72 Federal Register 73635).

(6) CASE MANAGEMENT SERVICES.—The interim final regulation published on December 4, 2007 (Federal Register 68077).

(7) OUTPATIENT HOSPITAL SERVICES.—The final regulation published on November 7, 2008 (73 Federal Register 66187).

SA 336. Mr. CARDIN (for himself, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 118, line 13, strike ''104(k)(3)'' and insert ''104(k)''.

SA 337. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, line 14, strike ''*Provided*'' and all that follows through ''project:'' on line 25.

SA 338. Mr. HARKIN (for himself, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 431, between lines 8 and 9, insert the following:

SEC. 1607. AUTOMOBILE TRADE-IN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) AUTOMOBILE, FUEL, MANUFACTURER, MODEL YEAR.—The terms ''automobile'', ''fuel'', ''manufacturer'', and ''model year'' have the meaning given such terms in section 32901 of title 49, United States Code.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an individual—

(A) who does not have more than 3 automobiles registered under his or her name;

(B) who filed a return of Federal income tax for a taxable year beginning in 2007 or in 2008, and, if married for the taxable year concerned (as determined under section 7703 of the Internal Revenue Code of 1986), filed a joint return;

(C) who is not an individual with respect to whom a deduction under section 151 of the Internal Revenue Code of 1986 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins;

(D) whose adjusted gross income reported in the most recent return described in subparagraph (B) was not more than $50,000 ($75,000 in the case of a joint tax return or a return filed by a head of household (as defined in section 2(b) of the Internal Revenue Code of 1986));

(E) who has not acquired an automobile under the Program; and

(F) who did not file such return jointly with another individual who has acquired an automobile under the Program.

(3) ELIGIBLE NEW AUTOMOBILE.—The term ''eligible new automobile'', with respect to a trade of an eligible old automobile by an eligible individual under the Program, means an automobile that—

(A) has never been registered in any jurisdiction;

(B) was assembled in the United States; and

(C) has a fuel economy that—

(i) is not less than 25 miles per gallon (20 miles per gallon in the case of a pick up truck), as determined by the Administrator of the Environmental Protection Agency using the 5-cycle fuel economy measurement methodology of such Agency; and

(ii) has a fuel economy that is more than 4.9 miles per gallon greater than the fuel economy of such eligible old automobile, as determined by the Administrator using the 2-cycle fuel economy measurement methodology of such Agency for both automobiles.

(4) ELIGIBLE OLD AUTOMOBILE.—The term ''eligible old automobile'', with respect to a trade for an eligible new automobile by an eligible individual under the Program, means an automobile that—

(A) is operable;

(B) was first registered in any jurisdiction by any person not less than 10 years before the date on which such trade is initiated;

(C) is registered under such eligible individual's name on the date on which such trade is initiated; and

(D) was registered under such eligible individual's name before January 16, 2009.

(5) PICK UP TRUCK.—The term ''pick up truck'' means an automobile with an open bed as determined by the Secretary in consultation with the Secretary of Transportation.

(6) PROGRAM.—The term ''Program'' means the Automobile Trade-In Program established under subsection (b).

(7) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Treasury, or the Secretary's designee.

(b) PROGRAM ESTABLISHED.—The Secretary shall establish the Automobile Trade-In Program to provide eligible individuals with subsidies to purchase eligible new automobiles in exchange for eligible old automobiles.

(c) DURATION OF PROGRAM.—The Program shall commence on the date on which the Secretary prescribes regulations under subsection (h) and shall terminate on the earlier of—

(1) September 30, 2010; and

(2) the date on which all of the funds appropriated or otherwise made available under subsection (j) have been expended.

(d) TRADES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, if an eligible individual and a seller of an eligible new automobile initiate a trade as described in subsection (e) for such new automobile with an eligible old automobile of the eligible individual before the termination of the Program under subsection (c), the Secretary shall provide to the seller of such new automobile $10,000.

(2) LIMITATION ON PURCHASE PRICE OF ELIGIBLE NEW AUTOMOBILES.—The Secretary may not make any payment under this subsection for a trade for an eligible new automobile under the Program if—

(A) the purchase price of such new automobile exceeds the manufacturer's suggested retail price for such new automobile; or

(B) the price of the non-safety related accessories, as determined by the Secretary in consultation with the Administrator of the National Highway Traffic Safety Administration, of such new automobile exceeds—

(i) the average price of the non-safety related accessories for the prior model year of such new automobile; or

(ii) in the case that there is no prior model year for such new automobile, the average price of non-safety related accessories for similar new automobiles (as determined by the Secretary), with consideration of the types of non-safety related accessories that are typically provided with such automobiles.

(3) COMPENSATION FOR DELAYED PAYMENTS.—In the case that a payment under this subsection to a seller for a trade under the Program is delayed, the Secretary shall provide to such seller the amount otherwise determined under this subsection plus interest at the overpayment rate established under section 6621 of the Internal Revenue Code of 1986.

(e) INITIATION OF TRADE.—An eligible individual and the seller of an eligible new automobile initiate a trade under the Program for such eligible new automobile with an eligible old automobile of such individual if—

(1) the eligible individual, or the eligible individual's designee, drives such old automobile to the location of such seller;

(2) the eligible individual provides to the seller—

(A) such old automobile; and

(B) an amount (if any) equal to the difference between—

(i) the purchase price of such new automobile; and

(ii) the amount the Secretary is required to provide to the seller under subsection (d); and

(3) the eligible individual and the seller notify the Secretary of such trade at such time and in such manner as the Secretary considers appropriate.

(f) LIMITATION ON RESALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual who purchases an automobile under the Program may not sell or lease the automobile before the date that is 1 year after the date on which the individual purchased the automobile under the Program.

(2) EXCEPTION FOR HARDSHIP.—The limitation in paragraph (1) shall not apply to an individual if compliance with such limitation would constitute a hardship, as determined by the Secretary.

(g) DISPOSAL OF ELIGIBLE OLD AUTOMOBILES.—

(1) IN GENERAL.—A seller who receives an eligible old automobile in exchange for an eligible new automobile under the Program shall deliver such old automobile to an appropriate location for proper destruction and disposal as determined by the Secretary in accordance with paragraph (2).

(2) DISPOSAL AND SALVAGE.—The Secretary may permit a seller under paragraph (1) to salvage portions of an automobile to be destroyed and disposed of under such paragraph, except that the Secretary shall require the destruction of the engine block and the frame of the automobile.

(3) COMPENSATION.—The Secretary shall compensate a seller described in paragraph (1) for costs incurred by such seller under such paragraph in such amounts or at such rates as the Secretary considers appropriate.

(h) REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall prescribe rules to carry out the Program.

(2) EXPEDITED PROCEDURES FOR RULEMAKING.—The provisions of chapter 5 of title 5, United States Code, shall not apply to regulations prescribed under paragraph (1).

(i) MONITORING.—The Secretary shall establish a mechanism to monitor the expenditure of funds appropriated under subsection (j).

(j) DIRECT SPENDING AUTHORITY.—

(1) IN GENERAL.—There is authorized to be appropriated and is appropriated to the Secretary $16,000,000,000, including administrative expenses, to carry out the Program.

(2) AVAILABILITY.—The amount appropriated under paragraph (1) shall be available for the purpose described in such paragraph until September 30, 2010.

(3) EMERGENCY DESIGNATION.—Amounts appropriated pursuant to paragraph (1) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SA 339. Mr. HARKIN (for himself, Mr. THUNE, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 3 and 4, insert the following:

SEC. ___. ENERGY PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law and in addition to any other funds made available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the

Treasury shall transfer to the Secretary of Agriculture (referred to in this section as the ''Secretary'')—

(1) to carry out section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102), $10,000,000 for the period of fiscal years 2009 and 2010;

(2) for the costs of grants and loan guarantees to carry out section 9003 of that Act (7 U.S.C. 8103), $300,000,000 for the period of fiscal years 2009 and 2010;

(3) to carry out section 9004 of that Act (7 U.S.C. 8104), $200,000,000 for the period of fiscal years 2009 and 2010;

(4) to carry out section 9005 of that Act (7 U.S.C. 8105), $100,000,000 for the period of fiscal years 2009 and 2010;

(5) for the costs of grants and loan guarantees to carry out section 9007 of that Act (7 U.S.C. 8107), $300,000,000 for the period of fiscal years 2009 and 2010;

(6) to carry out section 9008 of that Act (7 U.S.C. 8108), $100,000,000 for the period of fiscal years 2009 and 2010;

(7) to carry out section 9009 of that Act (7 U.S.C. 8109), $40,000,000 for the period of fiscal years 2009 and 2010;

(8) to carry out section 9011 of that Act (7 U.S.C. 8111), $50,000,000 for the period of fiscal years 2009 and 2010; and

(9) to carry out section 9013 of that Act (7 U.S.C. 8113), $40,000,000 for the period of fiscal years 2009 and 2010.

(b) CONDITION ON FUNDS.—Funds made available under subsection (a)(3) may be used to provide assistance under section 9004 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104) to power plants and manufacturing facilities in rural areas.

(c) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to provide those loans the funds transferred under subsection (a), without further appropriation.

(d) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) shall remain available until September 30, 2010.

(e) OFFSET.—Notwithstanding any other provision of this Act, each amount provided to the Secretary of Energy under title IV is reduced by the pro rata percentage required to reduce the total amount provided to the Secretary of Energy under title IV by $1,140,000,000.

SA 340. Mr. ROCKEFELLER (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 629, between lines 6 and 7, insert the following:

SEC. 3102. CHIP ALLOTMENT ADJUSTMENTS.

Effective as if included in the enactment of the Children's Health Insurance Program Reauthorization Act of 2009,section 2104(m) of the Social Security Act, as added by section 102 of the Children's Health Insurance Program Reauthorization Act of 2009, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6), the following:

''(7) ADJUSTMENT OF FISCAL YEARS 2009 AND 2010 ALLOTMENTS TO ACCOUNT FOR CHANGES IN PROJECTED SPENDING FOR CERTAIN PREVIOUSLY APPROVED EXPANSION PROGRAMS.—In the case of one of the 50 States or the District of Columbia that has an approved State plan amendment effective January 1, 2006, to provide child health assistance through the provision of benefits under the State plan under title XIX for children from birth through age 5 whose family income does not exceed 200 percent of the poverty line, the Secretary shall increase the allotments otherwise determined for the State for fiscal years 2009 and 2010 under paragraphs (1) and (2)(A)(i) in order to take into account changes in the projected total Federal payments to the State under this title for such fiscal years that are attributable to the provision of such assistance to such children.''.

SA 341. Mr. ROCKEFELLER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 277, between lines 11 and 12, insert the following:

''(9) CHILD-SPECIFIC PROVISIONS.—

''(A) CHILD-SPECIFIC ELECTRONIC HEALTH RECORDS.—Not later than 9 months after the date on which standards are initially adopted under section 3004, the National Coordinator shall coordinate the development of, and make available for use, a child-specific electronic health record. Such child-specific electronic health record shall be interoperable with any qualified electronic health record system for adult records.

''(B) PEDIATRIC CARE AND BEST PRACTICES.—The National Coordinator, the HIT Policy Committee, and the HIT Standard Committee shall each consider pediatric care and best practice for children's health in making recommendations under this title.''.

SA 342. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 735, after line 7, add the following:

SEC. 5006. AUTOMATIC INCREASE IN THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

(1) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the first sentence—

(i) by striking ''and (4)'' and inserting ''(4)''; and

(ii) by inserting ''and (5) with respect to each fiscal year quarter other than the first quarter of a national economic downturn assistance period described in subsection (y)(1), the Federal medical assistance percentage for any State described in subsection (y)(2) shall be equal to the national economic downturn assistance FMAP determined for the State for the quarter under subsection (y)(3)'' before the period; and

(B) by adding at the end the following:

''(y) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—For purposes of clause (5) of the first sentence of subsection (b):

''(1) NATIONAL ECONOMIC DOWNTURN ASSISTANCE PERIOD.—A national economic downturn assistance period described in this paragraph—

''(A) begins with the first fiscal year quarter for which the Secretary determines that for at least 23 States, the rolling average unemployment rate for that quarter has increased by at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available (in this subsection referred to as the 'trigger quarter'); and

''(B) ends with the first succeeding fiscal year quarter for which the Secretary determines that less than 23 States have a rolling average unemployment rate for that quarter with an increase of at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(2) ELIGIBLE STATE.—A State described in this paragraph is a State for which the Secretary determines that the rolling average unemployment rate for the State for any quarter occurring during a national economic downturn assistance period described in paragraph (1) has increased over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(3) DETERMINATION OF NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

''(A) IN GENERAL.—The national economic downturn assistance FMAP for a fiscal year quarter determined with respect to a State under this paragraph is equal to the Federal medical assistance percentage for the State for that quarter increased by the number of percentage points determined by—

''(i) dividing—

''(I) the Medicaid additional unemployed increased cost amount determined under subparagraph (B) for the quarter; by

''(II) the State's total Medicaid quarterly spending amount determined under subparagraph (C) for the quarter; and

''(ii) multiplying the quotient determined under clause (i) by 100.

''(B) MEDICAID ADDITIONAL UNEMPLOYED INCREASED COST AMOUNT.—For purposes of subparagraph (A)(i)(I), the Medicaid additional unemployed increased cost amount determined under this subparagraph with respect to a State and a quarter is the product of the following:

''(i) STATE INCREASE IN ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS FROM THE BASE QUARTER OF UNEMPLOYMENT.—

''(I) IN GENERAL.—The amount determined by subtracting the rolling average number of unemployed individuals in the State for the base unemployment quarter for the State determined under subclause (II) from the rolling average number of unemployed individuals in the State for the quarter.

''(II) BASE UNEMPLOYMENT QUARTER DEFINED.—

''(aa) IN GENERAL.—For purposes of subclause (I), except as provided in item (bb), the base quarter for a State is the quarter with the lowest rolling average number of

unemployed individuals in the State in the 12-month period preceding the trigger quarter for a national economic downturn assistance period described in paragraph (1).

''(bb) EXCEPTION.—If the rolling average number of unemployed individuals in a State for a quarter occurring during a national economic downturn assistance period described in paragraph (1) is less than the rolling average number of unemployed individuals in the State for the base quarter determined under item (aa), that quarter shall be treated as the base quarter for the State for such national economic downturn assistance period.

''(ii) NATIONAL AVERAGE AMOUNT OF ADDITIONAL FEDERAL MEDICAID SPENDING PER ADDITIONAL UNEMPLOYED INDIVIDUAL.—In the case of—

''(I) a calendar quarter occurring in fiscal year 2012, $350; and

''(II) a calendar quarter occurring in any succeeding fiscal year, the amount applicable under this clause for calendar quarters occurring during the preceding fiscal year, increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average), as rounded up in an appropriate manner.

''(iii) STATE NONDISABLED, NONELDERLY ADULTS AND CHILDREN MEDICAID SPENDING INDEX.—

''(I) IN GENERAL.—With respect to a State, the quotient (not to exceed 1.00) of—

''(aa) the State expenditure per person in poverty amount determined under subclause (II); divided by—

''(bb) the National expenditure per person in poverty amount determined under subclause (III).

''(II) STATE EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(aa), the State expenditure per person in poverty amount is the quotient of—

''(aa) the total amount of annual expenditures by the State for providing medical assistance under the State plan to nondisabled, nonelderly adults and children; divided by

''(bb) the total number of nonelderly adults and children in poverty who reside in the State, as determined under paragraph (4)(A).

''(III) NATIONAL EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(bb), the National expenditure per person in poverty amount is the quotient of—

''(aa) the sum of the total amounts determined under subclause (II)(aa) for all States; divided by

''(bb) the sum of the total amounts determined under subclause (II)(bb) for all States.

''(C) STATE'S TOTAL MEDICAID QUARTERLY SPENDING AMOUNT.—For purposes of subparagraph (A)(i)(II), the State's total Medicaid quarterly spending amount determined under this subparagraph with respect to a State and a quarter is the amount equal to—

''(i) the total amount of expenditures by the State for providing medical assistance under the State plan to all individuals enrolled in the plan for the most recent fiscal year for which data is available; divided by

''(ii) 4.

''(4) DATA.—In making the determinations required under this subsection, the Secretary shall use, in addition to the most recent available data from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State referred to in paragraph (5), the most recently available—

''(A) data from the Bureau of the Census with respect to the number of nonelderly adults and children who reside in a State described in paragraph (2) with family income below the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved, (or, if the Secretary determines it appropriate, a multiyear average of such data);

''(B) data reported to the Secretary by a State described in paragraph (2) with respect to expenditures for medical assistance under the State plan under this title for nondisabled, nonelderly adults and children; and

''(C) econometric studies of the responsiveness of Medicaid enrollments and spending to changes in rolling average unemployment rates and other factors, including State spending on certain Medicaid populations.

''(5) DEFINITION OF 'ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS', 'ROLLING AVERAGE UNEMPLOYMENT RATE'.—In this subsection, the term—

''(A) 'rolling average number of unemployed individuals' means, with respect to a calendar quarter and a State, the average of the 12 most recent months of seasonally adjusted unemployment data for each State;

''(B) 'rolling average unemployment rate' means, with respect to a calendar quarter and a State, the average of the 12 most recent monthly unemployment rates for the State; and

''(C) 'monthly unemployment rate' means, with respect to a State, the quotient of—

''(i) the monthly seasonally adjusted number of unemployed individuals for the State; divided by

''(ii) the monthly seasonally adjusted number of the labor force for the State,

using the most recent data available from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State.

''(6) INCREASE IN CAP ON PAYMENTS TO TERRITORIES.—With respect to any fiscal year quarter for which the national economic downturn assistance Federal medical assistance percentage applies to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa, the amounts otherwise determined for such commonwealth or territory under subsections (f) and (g) of section 1108 shall be increased by such percentage of such amounts as the Secretary determines is equal to twice the average increase in the national economic downturn assistance FMAP determined for all States described in paragraph (2) for the quarter.

''(7) SCOPE OF APPLICATION.—The national economic downturn assistance FMAP shall only apply for purposes of payments under section 1903 for a quarter and shall not apply with respect to—

''(A) disproportionate share hospital payments described in section 1923;

''(B) payments under title IV or XXI; or

''(C) any payments under this title that are based on the enhanced FMAP described in section 2105(b).''.

(2) EFFECTIVE DATE; NO RETROACTIVE APPLICATION.—The amendments made by paragraph (1) take effect on January 1, 2012. In no event may a State receive a payment on the basis of the national economic downturn assistance Federal medical assistance percentage determined for the State under section 1905(y)(3) of the Social Security Act for amounts expended by the State prior to January 1, 2012.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall analyze the previous periods of national economic downturn, including the most recent such period in effect as of the date of enactment of this Act, and the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(2) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to Congress on the results of the analysis conducted under paragraph (1). Such report shall include such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance FMAP established under section 1905(y) of the Social Security Act (as added by subsection (a)) to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that begin and end the application of such percentage;

(B) how the determination of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods, as well as to the effects of any other specific economic indicators that the Comptroller General determines appropriate.

SA 343. Mr. REED (for himself, Mr. DODD, Mr. KERRY, Mr. SCHUMER, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 8 and 9, insert the following:

PART ____—HOUSING PROVISIONS

SEC. ____1. SPECIAL RULES FOR MODIFICATION OR DISPOSITION OF QUALIFIED MORTGAGES OR FORECLOSURE PROPERTY BY REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) IN GENERAL.—If a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) modifies or disposes of a troubled asset under the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section ____2 of this Act—

(1) such modification or disposition shall not be treated as a prohibited transaction under section 860F(a)(2) of such Code, and

(2) for purposes of part IV of subchapter M of chapter 1 of such Code—

(A) an interest in the REMIC shall not fail to be treated as a regular interest (as defined in section 860G(a)(1) of such Code) solely because of such modification or disposition, and

(B) any proceeds resulting from such modification or disposition shall be treated as amounts received under qualified mortgages.

(b) TERMINATION OF REMIC.—For purposes of the Internal Revenue Code of 1986, an entity which is a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) shall cease to be a REMIC if the instruments governing the conduct of servicers or trustees with respect to qualified mortgages (as

defined in section 860G(a)(3) of such Code) or foreclosure property (as defined in section 860G(a)(8) of such Code)—

(1) prohibit or restrict (including restrictions on the type, number, percentage, or frequency of modifications or dispositions) such servicers or trustees from reasonably modifying or disposing of such qualified mortgages or such foreclosure property in order to participate in the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section ____2 of this Act,

(2) commit to a person other than the servicer or trustee the authority to prevent the reasonable modification or disposition of any such qualified mortgage or foreclosure property,

(3) require a servicer or trustee to purchase qualified mortgages which are in default or as to which default is reasonably foreseeable for the purposes of reasonably modifying such mortgages or as a consequence of such reasonable modification, or

(4) fail to provide that any duty a servicer or trustee owes when modifying or disposing of qualified mortgages or foreclosure property shall be to the trust in the aggregate and not to any individual or class of investors.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Subsection (a) shall apply to modification and dispositions after the date of the enactment of this Act, in taxable years ending on or after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) shall take effect on the date that is 3 months after the date of the enactment of this Act.

(B) EXCEPTION.—The Secretary of the Treasury may waive the application of subsection (b) in whole or in part for any period of time with respect to any entity if—

(i) the Secretary determines that such entity is unable to comply with the requirements of such subsection in a timely manner, or

(ii) the Secretary determines that such waiver would further the purposes of this Act.

SEC. ____2. ESTABLISHMENT OF A HOME MORTGAGE LOAN RELIEF PROGRAM UNDER THE TROUBLED ASSET RELIEF PROGRAM AND RELATED AUTHORITIES.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall establish and implement a program under the Troubled Asset Relief Program and related authorities established under section 101(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a))—

(1) to achieve appropriate broad-scale modifications or dispositions of troubled home mortgage loans; and

(2) to achieve appropriate broad-scale dispositions of foreclosure property.

(b) RULES.—The Secretary of the Treasury shall promulgate rules governing the—

(1) reasonable modification of any home mortgage loan pursuant to the requirements of this Act; and

(2) disposition of any such home mortgage loan or foreclosed property pursuant to the requirements of this Act.

(c) CONSIDERATIONS.—In developing the rules required under subsection (b), the Secretary of the Treasury shall take into consideration—

(1) the debt-to-income ratio, loan-to-value ratio, or payment history of the mortgagors of such home mortgage loans; and

(2) any other factors consistent with the intent to streamline modifications of trouble home mortgage loans into sustainable home mortgage loans.

(d) USE OF BROAD AUTHORITY.—The Secretary of the Treasury shall use all available authorities to implement the home mortgage loan relief program established under this section, including, as appropriate—

(1) home mortgage loan purchases;

(2) home mortgage loan guarantees;

(3) making and funding commitments to purchase home mortgage loans or mortgage-backed securities;

(4) buying down interest rates and principal on home mortgage loans;

(5) principal forbearance; and

(6) developing standard home mortgage loan modification and disposition protocols, which shall include ratifying that servicer action taken in anticipation of any necessary changes to the instruments governing the conduct of servicers or trustees with respect to qualified mortgages or foreclosure property are consistent with the Secretary of the Treasury's standard home mortgage loan modification and disposition protocols.

(e) PAYMENTS AUTHORIZED.—The Secretary of the Treasury is authorized to pay servicers for home mortgage loan modifications or other dispositions consistent with any rules established under subsection (b).

(f) RULE OF CONSTRUCTION.—Any standard home mortgage loan modification and disposition protocols developed by the Secretary of the Treasury under this section shall be construed to constitute standard industry practice.

SA 344. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. FUNDING PRIORITIES.

It is the sense of the Senate that—

(1)(A) local and State agencies or authorities responsible for selecting projects to be funded under this Act or disseminating funds under this Act should, to the extent possible, select projects that utilize local populations; and

(B) preference should be given to projects that employ or subcontract with—

(i) veterans, or members of the reserve components of the Armed Forces;

(ii) low income people;

(iii) at risk youth;

(iv) individuals that are participating in reentry or career training programs; and

(v) individuals for whom construction work constitutes nontraditional employment;

(2) to the extent possible local and State agencies should maximize the utilization of individuals registered in apprenticeship programs, and expand participation in these programs by individuals in the populations described in paragraph (1)(B);

(3) to the extent possible State and Local agencies should maximize the utilization of contractors that provide health care and retirement benefits to their employees and maintain strong worker safety;

(4) to the extent possible the local or State agency receiving funds under this Act should coordinate with local community organizations, hiring centers, faith based organizations, labor organizations, and non-profits; and

(5) local and State agencies should make available on their State run websites information on how funds received under this Act are being implemented and disbursed to encourage participation and transparency.

SA 345. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 338, strike line 19 and all that follows through line 9 on page 339, and insert the following:

''(1) BREACH.—The term 'breach' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, or use of such information by an employee or agent of the covered entity or business associate involved if such acquisition, access, or use, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered entity or business associate and if such information is not further acquired, accessed, used, or disclosed by such employee or agent.''.

SA 346. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 16, insert ''Indian energy education planning and management assistance program established under section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) and for'' after ''available for''.

On page 70, line 22, strike ''That the remaining $2,100,000,000'' and insert ''That, of the remaining $2,100,000,000, $100,000,000 shall be available for the Indian energy education planning and management assistance program established under section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) with eligibility for grants under the program determined in accordance with section 2601 of that Act (25 U.S.C. 3501) and $2,000,000,000''.

SA 347. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr.

INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 18, insert ''transmission plans, including'' after ''of''.

On page 74, line 2, insert ''transmission plans, including'' after ''of''.

SA 348. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 232, line 14, insert ''; *Provided further*, That of the funds provided under this heading, $25,000,000 shall be available to reimburse expenditures for the relocation and digitization of omni directional range navigation devices (DVOR) to enable or facilitate the construction of wind power development projects'' before the period at the end.

SA 349. Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 457, line 18, strike all through page 458, line 16, and insert the following:

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

''(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

''(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.''.

(b) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2009''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.82 or a thermal efficiency of at least 90 percent.''.

(c) MODIFICATIONS OF STANDARDS FOR OIL FURNACES AND HOT WATER BOILERS.—

(1) IN GENERAL.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

''(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or''.

(d) MODIFICATIONS OF STANDARDS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Subsection (c) of section 25C is amended by adding at the end the following new paragraph:

''(4) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Such term shall not include any component described in subparagraph (B) or (C) of paragraph (2) unless such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(2) ADDITIONAL QUALIFICATION FOR INSULATION.—Subparagraph (A) of section 25C(c)(2) is amended by inserting ''and meets the prescriptive criteria for such material or system established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009'' after ''such dwelling unit''.

(e) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) EFFICIENCY STANDARDS.—The amendments made by subsections (b), (c), and (d) shall apply to property placed in service after December 31, 2009.

SA 350. Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, between lines 10 and 11, insert the following:

SEC. ______. EXTENSION OF AND INCREASE IN NEW ENERGY EFFICIENT HOME CREDIT.

(a) EXTENSION.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2011''.

(b) INCREASE.—Paragraph (2) of section 45L(a) (relating to allowance of credit) is amended—

(1) by striking ''$2,000'' in subparagraph (A) and inserting ''$5,000'', and

(2) by striking ''$1,000'' in subparagraph (B) and inserting ''$2,500''.

(c) MODIFICATION OF ENERGY SAVINGS REQUIREMENTS.—So much of subparagraph (A) of section 45L(c)(1) as precedes cause (i) is amended to read as follows:

''(A) to have a level of annual total energy consumption which is at least 50 percent below the annual level of total energy consumption of a comparable dwelling unit—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to homes constructed and acquired after December 31, 2008.

SEC. ______. MODIFICATION OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.

(a) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$3.00''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$1.00'', and

(B) by striking ''$1.80'' and inserting ''$3.00''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

SEC. ______. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the

amount paid or incurred by the taxpayer for a qualified home energy rating conducted during such taxable year.

''(b) LIMITATION.—The amount allowed as a credit under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $200.

''(c) QUALIFIED HOME ENERGY RATING.—For purposes of this section, the term 'qualified home energy rating' means a home energy rating conducted with respect to any residence of the taxpayer by a home performance auditor certified by a provider accredited by the Building Performance Institute (BPI), the Residential Energy Services Network (RESNET), or equivalent rating system.

''(d) TERMINATION.—This section shall not apply with respect to any rating conducted after December 31, 2011.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Energy ratings of non-business property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. ______. CREDIT FOR HOME PERFORMANCE AUDITOR CERTIFICATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45R. HOME PERFORMANCE AUDITOR CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the home performance auditor certification credit determined under this section for any taxable year is an amount equal to the qualified training and certification costs paid or incurred by the taxpayer which may be taken into account for such taxable year.

''(b) QUALIFIED TRAINING AND CERTIFICATION COSTS.—

''(1) IN GENERAL.—The term 'qualified training and certification costs' means costs paid or incurred for training which is required for the taxpayer or employees of the taxpayer to be certified as home performance auditors for purposes of providing qualified home energy ratings under section 25E(c).

''(2) LIMITATION.—The qualified training and certification costs taken into account under subsection (a)(1) for the taxable year with respect to any individual shall not exceed $500 reduced by the amount of the credit allowed under subsection (a)(1) to the taxpayer (or any predecessor) with respect to such individual for all prior taxable years.

''(3) YEAR COSTS TAKEN INTO ACCOUNT.—Qualified training and certifications costs with respect to any individual shall not be taken into account under subsection (a)(1) before the taxable year in which the individual with respect to whom such costs are paid or incurred has performed 25 qualified home energy ratings under section 25E(c).

''(c) SPECIAL RULES.—

''(1) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.

''(2) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount taken into account under subsection (a) for such taxable year.

''(B) AMOUNT PREVIOUSLY DEDUCTED.—No credit shall be allowed under subsection (a) with respect to any amount for which a deduction has been allowed in any preceding taxable year.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ''plus'', and by adding at the end the following new paragraph:

''(36) the home performance auditor certification credit determined under section 45R(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Home performance auditor certification credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 351. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 461, between lines 10 and 11, insert the following:

SEC. ______. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred by the taxpayer for a qualified home energy rating conducted during such taxable year.

''(b) LIMITATION.—The amount allowed as a credit under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $200.

''(c) QUALIFIED HOME ENERGY RATING.—For purposes of this section, the term 'qualified home energy rating' means a home energy rating conducted with respect to any residence of the taxpayer by a home performance auditor certified by a provider accredited by the Building Performance Institute (BPI), the Residential Energy Services Network (RESNET), or equivalent rating system.

''(d) TERMINATION.—This section shall not apply with respect to any rating conducted after December 31, 2011.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Energy ratings of non-business property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SA 352. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, line 3, strike the period and insert ''; and''.

On page 410, after line 3, insert the following:

''(G) reviewing the specific number of jobs created by each title of each division of this Act.''.

On page 410, line 10, after ''agencies.'' insert ''The Board shall include a complete assessment of the number of jobs created by each title of each division of this Act and shall recommend to the appropriate committees of Congress for rescission unobligated balances of any program in this Act that is not creating or cannot be reasonably expected to create jobs or help those displaced by the current recession.''.

On page 431, after line 8, insert the following:

SEC. _____. POINT OF ORDER AGAINST CONTINUING SPENDING LEVELS.

(a) BASELINE.—The Congressional Budget Office shall not include any discretionary amounts provided in this Act in the baseline for fiscal year 2011 and fiscal years thereafter.

(b) POINT OF ORDER.—In the Senate, it shall not be in order to consider any bill, resolution, or amendment that continues the discretionary appropriations levels under this Act beyond fiscal year 2010.

SA 353. Mr. ENSIGN (for himself, Mr. MCCONNELL, and Mr. ALEXANDER) proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the''Fix Housing First Act''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FIX HOUSING FIRST

Subtitle A—Homeowner Security Program

SEC. 1001. HOMEOWNER SECURITY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Treasury (in this subtitle referred to as the ''Secretary'') shall, not later than 1 month after the date of enactment of this Act, in consultation with the Board of Governors of the Federal Reserve System, develop and implement a comprehensive homeowner security program in accordance with this subtitle, but only after making a finding that implementing such a program shall not disrupt the ability of the Federal Government to fund regular operations of the Government or not adversely affect the credit rating of debt instruments issued by the Government.

(b) CRITERIA.—The homeowner security program developed under this subtitle (in this subtitle referred to as the ''program'') shall—

(1) require the Federal Government to take action to restore mortgage interest rates for 30-year fixed mortgages to amounts that are comparable to the return on obligations of the Treasury having 10-year periods of maturity, based on the average of the spreads of such rates over the 20-year period preceding the date of enactment of this Act;

(2) include specific measures to minimize cost and risk to the taxpayer and minimize market distortions;

(3) be limited to—

(A) providing funds to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation from the fund established under section 1006 for the purpose of purchasing newly issued mortgages, bonds, or mortgage-backed securities under this subtitle; and

(B) the payment of applicable prepayment or other fees or penalties associated with underlying mortgage loans;

(4) limit such action to conforming loans, as determined by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, using conforming loan limits in effect for 2008;

(5) apply such action only—

(A) to creditworthy borrowers, as determined after an evaluation of debt to income ratio, credit rating, income, employment history, and other relevant information, who are current in payments on outstanding mortgage obligations;

(B) subject to a new, independent appraisal of the property securing the obligation; and

(C) with respect to mortgage loans that are—

(i) secured by the single-family, primary residence of the borrower; and

(ii) held or backed by—

(I) the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(II) any another person, only if the loan-to-value ratio on the property securing the loan is not more than 95 percent;

(6) ensure availability of such mortgage loans for home purchase regardless of the type or size of financial institution that acts as a loan originator or a portfolio lender, taking into account the differences in the cost of funds and other factors when executing the program;

(7) allow new purchases and refinanced loans to qualify for such action; and

(8) result in the redemption of the vast majority of residential mortgage backed securities that are currently held in the marketplace.

(c) AUTHORITY TO PAY CERTAIN FEES.—Funds made available to carry out this subtitle may be used to pay loan origination fees, if the Secretary determines that such payments are necessary to maximize the economic benefit of the program.

(d) ADDITIONAL CONSIDERATIONS.—In developing the program under this subtitle, the Secretary shall consider whether refinancings under the program should be in the form of recourse or nonrecourse loans.

SEC. 1002. TERMINATION.

The program developed under section 1001, and the authority of the Secretary under this subtitle, shall terminate on December 31, 2010, or such earlier date, if the Secretary determines that no further economic benefit can be achieved or can't be achieved by the private market.

SEC. 1003. OTHER LIMITATIONS.

(a) RESALE.—If the Secretary, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation repackages and sells mortgages funded under the program developed under this subtitle, such mortgages shall be segregated from other mortgages not so funded, and shall be identified as such.

(b) INFORMATION AVAILABLE TO BORROWERS.—The rules of the Secretary under this subtitle shall assure the ability of the homeowner with respect to a mortgage loan refinanced under the homeowner security program to ascertain the identity of the owner or holder of the mortgage, including upon resale of the mortgage loan.

(c) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to issue such rules to carry out this subtitle as the Secretary determines are appropriate, including measures designed to address problems that have contributed to the mortgage crisis, and to prevent such future crises.

SEC. 1004. STUDY ON INTEREST RATES.

In carrying out this subtitle, the Secretary shall—

(1) conduct an economic study of reducing mortgage interest rates, estimating the impact on the mortgage delinquencies and foreclosures, housing prices, and credit markets; and

(2) develop clear metrics for the homeowner security program.

SEC. 1005. REPORTS TO CONGRESS.

The Secretary shall submit a report to Congress once every 3 months on the development and implementation of the program required by this subtitle, together with any necessary legislative recommendations.

SEC. 1006. FUNDING.

(a) ESTABLISHMENT OF TREASURY FUND.—The Secretary shall establish, within the Treasury of the United States, a fund comprised of the proceeds to the United States from the sale of Treasury bills having 30-year periods of maturity.

(b) APPROPRIATION.—There is appropriated to the Secretary from the fund created under subsection (a) to carry out this subtitle, $300,000,000,000, to remain available until expended.

(c) TERMINATION OF FUND.—The fund established under this section shall remain in effect for such period as any obligation under this subtitle remains outstanding, and shall be terminated when all such obligations are repaid.

SEC. 1007. OTHER MORTGAGE PURCHASES.

Nothing in this subtitle shall preclude the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation from using funds not appropriated under this subtitle for the purpose of purchasing mortgage loans.

Subtitle B—Foreclosure Mitigation

SEC. 1011. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages, all of which are eligible mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the subtitle'' means the period beginning on the effective date of this subtitle and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 1012(a);

(9) the term ''Office'' means the Office of Aggrieved Investor Claims established under section 1013(a); and

(10) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 1012(b).

SEC. 1012. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized during the effective term of the subtitle, to make payments to eligible servicers in an amount not to exceed an aggregate of $10,000,000,000, subject to the terms and conditions established under this subtitle.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—During the effective term of the subtitle, eligible servicers may collect monthly fee payments, consistent with the limitation in paragraph (2).

(2) CONDITIONS.—For every mortgage that was—

(A) not prepaid during a month, an eligible servicer may collect an incentive fee equal to 10 percent of mortgage payments received during that month, not to exceed $60 per loan; and

(B) prepaid during a month, an eligible servicer may collect a one-time prepayment fee equal to 12 times the amount of the incentive fee for the preceding month.

For purposes of subparagraph (A), total fees which may be collected for any mortgage may not exceed $1,000.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the securitization vehicle on account of a modification, workout, or other loss mitigation plan that satisfies the conditions of paragraph (2); and

(4) if it acts in a manner consistent with the duties set forth in paragraphs (1) and (2), shall not be liable for entering into a modification or workout plan to any person—

(A) based on ownership by that person of a residential mortgage loan or any interest in a pool of residential mortgage loans, or in securities that distribute payments out of the principal, interest, and other payments in loans in the pool;

(B) who is obligated to make payments determined in reference to any loan or any interest referred to in subparagraph (A); or

(C) that insures any loan or any interest referred to in subparagraph (A) under any provision of law or regulation of the United States or any State or political subdivision thereof.

(d) LEGAL COSTS.—If an unsuccessful suit is brought by a person described in subsection (d)(4), that person shall bear the actual legal costs of the servicer, including reasonable attorney fees and expert witness fees, incurred in good faith.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Each servicer shall report regularly, not less frequently than monthly, to the Secretary on the extent and scope of the loss mitigation activities of the mortgage owner.

(2) CONTENT.—Each report required by this subsection shall include—

(A) the number of residential mortgage loans receiving loss mitigation that have become performing loans;

(B) the number of residential mortgage loans receiving loss mitigation that have proceeded to foreclosure;

(C) the total number of foreclosures initiated during the reporting period;

(D) data on loss mitigation activities, disaggregated to reflect whether the loss mitigation was in the form of—

(i) a waiver of any late payment charge, penalty interest, or any other fees or charges, or any combination thereof;

(ii) the establishment of a repayment plan under which the homeowner resumes regularly scheduled payments and pays additional amounts at scheduled intervals to cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection.

SEC. 1013. COMPENSATION FOR AGGRIEVED INVESTORS.

(a) IN GENERAL.—

(1) COMPENSATION.—Each injured person shall be entitled to receive from the United States—

(A) compensation for injury suffered by the injured person as a result of loan modifications made pursuant to this subtitle; and

(B) damages described in subsection (d)(4), as determined by the Secretary of the Treasury.

(2) OFFICE OF AGGRIEVED INVESTOR CLAIMS.—

(A) IN GENERAL.—There is established within the Department of the Treasury an Office of Aggrieved Investor Claims.

(B) PURPOSE.—The Office shall receive, process, and pay claims in accordance with this section.

(C) FUNDING.—The Office—

(i) shall be funded from funds made available to the Secretary under this section;

(ii) may reimburse other Federal agencies for claims processing support and assistance;

(iii) may appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service; and

(iv) upon the request of the Secretary, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department of Treasury to assist it in carrying out its duties under this section.

(3) OPTION TO APPOINT INDEPENDENT CLAIMS MANAGER.—The Secretary may appoint an Independent Claims Manager—

(A) to head the Office; and

(B) to assume the duties of the Secretary under this section.

(b) SUBMISSION OF CLAIMS.—Not later than 2 years after the date on which regulations are first promulgated under subsection (f), an injured person may submit to the Secretary a written claim for one or more injuries suffered by the injured person in accordance with such requirements as the Secretary determines to be appropriate.

(c) INVESTIGATION OF CLAIMS.—

(1) IN GENERAL.—The Secretary shall, on behalf of the United States, investigate, consider, ascertain, adjust, determine, grant, deny, or settle any claim for money damages asserted under subsection (b).

(2) EXTENT OF DAMAGES.—Any payment under this section—

(A) shall be limited to actual compensatory damages measured by injuries suffered; and

(B) shall not include—

(i) interest before settlement or payment of a claim; or

(ii) punitive damages.

(d) PAYMENT OF CLAIMS.—

(1) DETERMINATION AND PAYMENT OF AMOUNT.—

(A) IN GENERAL.—Not later than 180 days after the date on which a claim is submitted under this section, the Secretary shall determine and fix the amount, if any, to be paid for the claim.

(B) PARAMETERS OF DETERMINATION.—In determining and settling a claim under this section, the Secretary shall determine only—

(i) whether the claimant is an injured person;

(ii) whether the injury that is the subject of the claim resulted from a loan modification made pursuant to this subtitle;

(iii) the amount, if any, to be allowed and paid under this section; and

(iv) the person or persons entitled to receive the amount.

(2) PARTIAL PAYMENT.—

(A) IN GENERAL.—At the request of a claimant, the Secretary may make one or more advance or partial payments before the final settlement of a claim, including final settlement on any portion or aspect of a claim that is determined to be severable.

(B) JUDICIAL DECISION.—If a claimant receives a partial payment on a claim under this section, but further payment on the claim is subsequently denied by the Secretary, the claimant may—

(i) seek judicial review under subsection (i); and

(ii) keep any partial payment that the claimant received, unless the Secretary determines that the claimant—

(I) was not eligible to receive the compensation; or

(II) fraudulently procured the compensation.

(3) ALLOWABLE DAMAGES FOR FINANCIAL LOSS.—A claim that is paid for injury under this section may include damages resulting from a loan modification pursuant to this subtitle for the following types of otherwise uncompensated financial loss:

(A) Lost personal income.

(B) Any other loss that the Secretary determines to be appropriate for inclusion as financial loss.

(e) ACCEPTANCE OF AWARD.—The acceptance by a claimant of any payment under this section, except an advance or partial payment made under subsection (d)(2), shall—

(1) be final and conclusive on the claimant with respect to all claims arising out of or relating to the same subject matter;

(2) constitute a complete release of all claims against the United States (including any agency or employee of the United States) under chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), or any other Federal or State law, arising out of or relating to the same subject matter;

(3) constitute a complete release of all claims against the eligible servicer of the securitization in which the injured person was an investor under any Federal or State law, arising out of or relating to the same subject matter; and

(4) shall include a certification by the claimant, made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code, that such claim is true and correct.

(f) REGULATIONS.—Notwithstanding any other provision of law, not later than 45 days after the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register interim final regulations for the processing and payment of claims under this section.

(g) CONSULTATION.—In administering this section, the Secretary shall consult with other Federal agencies, as determined to be necessary by the Secretary, to ensure the efficient administration of the claims process.

(h) ELECTION OF REMEDY.—

(1) IN GENERAL.—An injured person may elect to seek compensation from the United States for one or more injuries resulting from a loan modification made pursuant to this subtitle by—

(A) submitting a claim under this section;

(B) filing a claim or bringing a civil action under chapter 171 of title 28, United States Code; or

(C) bringing an authorized civil action under any other provision of law.

(2) EFFECT OF ELECTION.—An election by an injured person to seek compensation in any manner described in paragraph (1) shall be final and conclusive on the claimant with respect to all injuries resulting from a loan modification made pursuant to this subtitle that are suffered by the claimant.

(3) ARBITRATION.—

(A) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall establish by regulation procedures under which a dispute regarding a claim submitted under this section may be settled by arbitration.

(B) ARBITRATION AS REMEDY.—On establishment of arbitration procedures under subparagraph (A), an injured person that submits a disputed claim under this section may elect to settle the claim through arbitration.

(C) BINDING EFFECT.—An election by an injured person to settle a claim through arbitration under this paragraph shall—

(i) be binding; and

(ii) preclude any exercise by the injured person of the right to judicial review of a claim described in subsection (i).

(i) JUDICIAL REVIEW.—

(1) IN GENERAL.—Any claimant aggrieved by a final decision of the Secretary under this section may, not later than 60 days after the date on which the decision is issued, bring a civil action in the United States District Court for the District of Columbia, to modify or set aside the decision, in whole or in part.

(2) RECORD.—The court shall hear a civil action under paragraph (1) on the record made before the Secretary.

(3) STANDARD.—The decision of the Secretary incorporating the findings of the Secretary shall be upheld if the decision is supported by substantial evidence on the record considered as a whole.

(j) ATTORNEY'S AND AGENT'S FEES.—

(1) IN GENERAL.—No attorney or agent, acting alone or in combination with any other attorney or agent, shall charge, demand, receive, or collect, for services rendered in connection with a claim submitted under this section, fees in excess of 10 percent of the amount of any payment on the claim.

(2) VIOLATION.—An attorney or agent who violates paragraph (1) shall be fined not more than $10,000.

(k) APPLICABILITY OF DEBT COLLECTION REQUIREMENTS.—Section 3716 of title 31, United States Code, shall not apply to any payment under this section.

(l) REPORT.—Not later than 1 year after the date of promulgation of regulations under subsection (f), and annually thereafter, the Secretary shall submit to Congress a report that describes the claims submitted under this section during the year preceding the date of submission of the report, including, for each claim—

(1) the amount claimed;

(2) a brief description of the nature of the claim; and

(3) the status or disposition of the claim, including the amount of any payment under this section.

(m) GAO AUDIT.—The Comptroller General of the United States shall conduct an annual audit on the payment of all claims made under this section and shall report to the Congress on the results of this audit beginning not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the payment of claims in accordance with this section up to $1,700,000,000, to remain available until expended.

SEC. 1014. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this subtitle.

SEC. 1015. SUNSET OF AUTHORITY.

The authority of the Secretary to provide assistance under this title shall terminate on December 31, 2011.

Subtitle C—Credit for Certain Home Purchases

SEC. 1021. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after December 31, 2008, and

''(B) before January 1, 2010.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any

other qualified principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

''(c) QUALIFIED PRINCIPAL RESIDENCE.—For purposes of this section, the term 'qualified principal residence' means a single-family residence that is purchased to be the principal residence of the purchaser.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a qualified principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the Fix Housing First Act''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking ''July 1, 2009'' and inserting ''the date of the enactment of the Fix Housing First Act''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

TITLE II—MIDDLE CLASS TAX RELIEF

SEC. 2001. 10 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 5 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(A) is amended by inserting ''(5 percent in the case of any taxable year beginning in 2009 or 2010)'' after ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 2002. 15 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 10 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REDUCTION IN 15 PERCENT RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, '10 percent' shall be substituted for '15 percent' in the tables under subsections (a), (b), (c), (d), and (e). The preceding sentence shall be applied after application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

TITLE III—BUSINESS TAX RELIEF

Subtitle A—Temporary Investment Incentives

SEC. 3001. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) EXTENSION OF SPECIAL ALLOWANCE.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(A) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(B) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(B) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking ''PRE-JANUARY 1, 2009'' and inserting ''PRE-JANUARY 1, 2010''.

(C) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(D) Subparagraph (C) of section 168(n)(2) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(E) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(3) TECHNICAL AMENDMENT.—Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (a)(3) shall apply to taxable years ending after March 31, 2008.

SEC. 3002. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—5-Year Carryback of Operating Losses

SEC. 3101. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph,

the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(k) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 3102. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

Subtitle C—Incentives for New Jobs

SEC. 3201. INCENTIVES TO HIRE UNEMPLOYED VETERANS.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS HIRED IN 2009 OR 2010.—

''(A) IN GENERAL.—Any unemployed veteran who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

''(B) UNEMPLOYED VETERAN.—For purposes of this paragraph, the term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

''(i) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

''(ii) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

Subtitle D—Cancellation of Indebtedness

SEC. 3301. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

''(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.—

''(1) IN GENERAL.—At the election of the taxpayer, income from the discharge of indebtedness in connection with the repurchase of a debt instrument after December 31, 2008, and before January 1, 2011, shall be includible in gross income ratably over the 5-taxable-year period beginning with—

''(A) in the case of a repurchase occurring in 2009, the fifth taxable year following the taxable year in which the repurchase occurs, and

''(B) in the case of a repurchase occurring in 2010, the fourth taxable year following the taxable year in which the repurchase occurs.

''(2) DEFERRAL OF DEDUCTION FOR ORIGINAL ISSUE DISCOUNT IN DEBT FOR DEBT EXCHANGES.—

''(A) IN GENERAL.—If, as part of a repurchase to which paragraph (1) applies, any debt instrument is issued for the debt instrument being repurchased and there is any original issue discount determined under subpart A of part V of subchapter P of this chapter with respect to the debt instrument so issued—

''(i) except as provided in clause (ii), no deduction otherwise allowable under this chapter shall be allowed to the issuer of such debt instrument with respect to the portion of such original issue discount which—

''(I) accrues before the 1st taxable year in the 5-taxable-year period in which income from the discharge of indebtedness attributable to the repurchase of the debt instrument is includible under paragraph (1), and

''(II) does not exceed the income from the discharge of indebtedness with respect to the debt instrument being repurchased, and

''(ii) the aggregate amount of deductions disallowed under clause (i) shall be allowed as a deduction ratably over the 5-taxable-year period described in clause (i)(I).

If the amount of the original issue discount accruing before such 1st taxable year exceeds the income from the discharge of indebtedness with respect to the debt instrument being repurchased, the deductions shall be disallowed in the order in which the original issue discount is accrued.

''(B) DEEMED DEBT FOR DEBT EXCHANGES.—For purposes of subparagraph (A), if any debt instrument is issued by an issuer and the proceeds of such debt instrument are used directly or indirectly by the issuer to repurchase a debt instrument of the issuer, the debt instrument so issued shall be treated as issued for the debt instrument being repurchased. If only a portion of the proceeds from a debt instrument are so used, the rules of subparagraph (A) shall apply to the portion of any original issue discount on the newly issued debt instrument which is equal to the portion of the proceeds from such instrument used to repurchase the outstanding instrument.

''(3) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

''(4) REPURCHASE.—For purposes of this subsection, the term 'repurchase' means, with respect to any debt instrument, any acquisition of the debt instrument by—

''(A) the debtor which issued (or is otherwise the obligor under) the debt instrument, or

''(B) any person related to such debtor.

Such term shall also include the complete forgiveness of the indebtedness by the holder of the debt instrument. For purposes of subparagraph (B), the determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4). For purposes of this paragraph, the term 'acquisition' shall include any acquisition for cash, the exchange of a debt instrument for a debt instrument, the exchange of a debt instrument for corporate stock or partnership interest, as a contribution of the debt instrument to capital, and any significant modification of the debt instrument within the meaning of section 1001.

''(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

''(A) RELATED PERSON.—The determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

''(B) ELECTION.—

''(i) IN GENERAL.—An issuer of a debt instrument shall make the election under this subsection with respect to any debt instrument by clearly identifying such debt instrument on the issuer's records as an instrument to which the election applies before the close of the day on which the repurchase of the debt instrument occurs (or such other time as the Secretary may prescribe). Such election, once made, is irrevocable.

''(ii) PASS THROUGH ENTITIES.—In the case of a partnership, S corporation, or other pass through entity, the election under this subsection shall be made by the partnership, the S corporation, or other entity involved.

''(C) COORDINATION WITH EXCLUSIONS FOR TITLE 11 OR INSOLVENCY.—If a taxpayer elects to have this subsection apply to a debt instrument, subparagraph (A) or (B) of subsection (a)(1) shall not apply to the income from the discharge of such indebtedness for the taxable year of the election or any subsequent taxable year.

''(D) ACCELERATION OF DEFERRED ITEMS.—In the case of the death of the taxpayer, the liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or similar case), the cessation of business by the taxpayer, or similar circumstances, any item of income or deduction which is deferred under this subsection (and has not previously been taken into account) shall be taken into account in the taxable year in which such event occurs (or in the case of a title 11 case, the day before the petition is filed).

''(6) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary or appropriate for purposes of applying this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008.

Subtitle E—Qualified Small Business Stock

SEC. 3401. MODIFICATIONS TO EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) TEMPORARY INCREASE IN EXCLUSION.—Section 1202(a) (relating to exclusion) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR STOCK ACQUIRED BEFORE 2011.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011—

''(A) paragraph (1) shall be applied by substituting '100 percent' for '50 percent', and

''(B) paragraph (2) shall not apply.''.

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' '' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(c) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(d) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2009, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(e) NONAPPLICATION OF MINIMUM TAX.—Section 57(a)(7) is amended by inserting ''(other than by reason of subsection (a)(3) thereof)'' after ''section 1202''.

(f) EFFECTIVE DATES.—

(1) EXCLUSION; QUALIFIED SMALL BUSINESS; MINIMUM TAX.—The amendments made by subsections (a), (c), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (b) and (d) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle F—S Corporations

SEC. 3501. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—

''(A) IN GENERAL.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

''(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

''(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

''(i) subparagraph (A) shall be applied without regard to the phrase '10-year', and

''(ii) subparagraph (B) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle G—Broadband Incentives

SEC. 3601. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48C the following new section:

''SEC. 48C. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent (20 percent in the case of qualified subscribers which are unserved subscribers) of the qualified broadband expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified broadband expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified broadband expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after December 31, 2008, and before January 1, 2011.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2008, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES FOR CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(1) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas and the unserved areas which the equipment is capable of serving with current generation broadband services, and

''(2) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 5,000,000 bits per second to the subscriber and at least 1,000,000 bits per second from the subscriber (at least 3,000,000 bits per second to the subscriber and at least 768,000 bits per second from the subscriber in the case of service through radio transmission of energy).

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 100,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 20,000,000 bits per second from the subscriber (or its equivalent as so measured).

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment any—

''(A) cable operator,

''(B) commercial mobile service carrier,

''(C) open video system operator,

''(D) satellite carrier,

''(E) telecommunications carrier, or

''(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier or broadband-over-powerline operator,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED BROADBAND EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified broadband expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2008, and before January 1, 2011.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area, an underserved area, or an unserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area , or

''(ii) any residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include any commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(26) UNSERVED AREA.—The term 'unserved area' means any census tract in which no current generation broadband services are provided, as certified by the State in which such tract is located not later than September 30, 2009.

''(27) UNSERVED SUBSCRIBER.—The term 'unserved subscriber' means any residential subscriber residing in a dwelling located in an unserved area or nonresidential subscriber maintaining a permanent place of business located in an unserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48C(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified broadband expenditures which would be determined under section 48C for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding after clause (iv) the following new clause:

''(v) the portion of the basis of any qualified equipment attributable to qualified broadband expenditures under section 48C.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following:

''Sec. 48C. Broadband internet access credit''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17), (23), (24), and (26) of section 48C(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48C—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any credit or portion thereof allowed under section 48C of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48C of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48C of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 48C of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48C of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2008.

Subtitle H—Clarification of Regulations Related to Limitations on Certain Built-in Losses Following an Ownership Change

SEC. 3701. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

SA 354. Mr. DODD proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B, add the following:

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term ''TARP recipient'' means any entity that has received

or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

(c) SPECIFIC REQUIREMENTS.—The standards established under subsection (b) shall include—

(1) limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period that any obligation arising from TARP assistance is outstanding;

(2) a provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate;

(3) a prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period that any obligation arising from TARP assistance is outstanding;

(4) a prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period that the obligation is outstanding to at least the 25 most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

SEC. 6003. BOARD COMPENSATION COMMITTEE.

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

(b) NONBINDING VOTE.—A shareholder vote described in subsection (a) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(c) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue any final rules and regulations required by this section.

SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.

(a) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to employees of each entity receiving TARP assistance before the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

SA 355. Ms. CANTWELL (for herself and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, line 3, strike ''a new subparagraph (E)'' and insert ''the following''.

On page 86, line 23, strike the closing quotation marks and the following period.

On page 86, between lines 23 and 24, insert the following:

''(F) OPEN PROTOCOLS AND STANDARDS.—As a condition of receiving funding under this subsection, the Secretary shall require that demonstration projects use open protocols and standards, to the extent available and appropriate.''.

On page 87, between lines 18 and 19, insert the following:

''(2) require as a condition of receiving a grant under this section that grant recipients use open protocols and standards, to the extent available and appropriate;''.

On page 87, line 19, strike ''(2)'' and insert ''(3)''.

On page 88, line 1, strike ''(3)'' and insert ''(4)''.

On page 88, line 4, strike ''(4)'' and insert ''(5)''.

On page 88, line 7, strike ''(5)'' and insert ''(6)''.

SA 356. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, line 5, insert '', of which not less than 5 percent shall be used to provide those services to Indian tribes'' before the period at the end.

SA 357. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike lines 5 through 9 and insert the following:

Bay-Delta Restoration Act (Public Law 108–361; 118 Stat. 1681): *Provided further*, That not less than $300,000,000 of the funds provided under this heading shall be used for congressionally authorized tribal and nontribal rural water projects, of which not less than $60,000,000 shall be used primarily for water intake and treatment facilities for those projects: *Provided further*,

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SA 358. Mr. UDALL of New Mexico submitted an amendment intended to

be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, line 17, strike ''may'' and insert ''shall''.

SA 359. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 485, strike lines 23 through 26, and insert the following:

(I) having been discharged or released from active duty in the Armed Forces during the period beginning on September 1, 2001, and ending on December 31, 2010, and

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SA 360. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ———. AVIATION PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the ''Federal Aviation Administration Extension Act of 2009''.

(b) EXTENSION OF AVIATION PROGRAMS FOR FY 2009.—

(1) EXTENSION OF AVIATION TAXES.—The Internal Revenue Code of 1986 is amended by striking ''March 31, 2009'' and inserting ''September 30, 2009'' each place it appears in each of the following sections:

(A) Section 4081(d)(2)(B).

(B) Section 4261(j)(1)(A)(ii).

(C) Section 4271(d)(1)(A)(ii).

(2) EXTENSION OF EXPENDITURE AUTHORITY.—

(A) Such Code is amended by striking ''April 1, 2009'' each place it appears in each of the following sections:

(i) Section 9502(d)(1).

(ii) Section 9502(e)(2).

(B) Paragraph (1) of section 9502(d) of such Code is amended by inserting ''or the Federal Aviation Administration Extension Act of 2009'' before the semicolon at the end of subparagraph (A).

(3) EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.—

(A) Paragraph (6) of section 48103 of such title is amended to read as follows:

''(6) $3,900,000,000 for fiscal year 2009.''.

(B) Section 47104(c) of such title is amended by striking ''March 31, 2009,'' and inserting ''September 30, 2009,''.

(4) EXTENSION OF EXPIRING AUTHORITIES.—

(A) Title 49, United States Code, is amended by striking the date specified in each of the following sections and inserting ''September 30, 2009'':

(i) Section 40117(l)(7).

(ii) Section 44303(b).

(iii) Section 47107(s)(3).

(iv) Section 47141(f).

(v) Section 49108.

(B) Section 44302(f)(1) of such title is amended—

(i) by striking ''March 31, 2009'' and inserting ''September 30, 2009''; and

(ii) by striking ''May 31, 2009'' and inserting ''December 31, 2009''.

(C) Section 47115(j) of such title is amended by striking ''2008, and the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(D) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking ''before April 1, 2009,''.

(E) Section 186(d) of such Act (117 Stat. 2518) is amended by striking ''2008, and for the portion of fiscal year 2009 ending before April 1, 2009,'' and inserting ''2009,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2009.

SA 361. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

FEDERAL AVIATION ADMINISTRATION

NEXTGEN ACCELERATION

For grants or other agreements to accelerate the transition to the Next Generation Air Transportation System by accelerating deployment of ground infrastructure for Automatic Dependent Surveillance–Broadcast, by accelerating development of procedures and routes that support performance-based air navigation, to incentivize aircraft equipage to use such infrastructure and procedures and routes, and for additional agency administrative costs associated with the certification and oversight of the deployment of these systems, $550,000,000, to remain available until September 30, 2010: *Provided*, That the Administrator of the Federal Aviation Administration shall use the authority under section 106(l)(6) of title 49, United States Code, to make such grants or agreements: and *Provided further*, That, with respect to any incentives for equipage, the Federal share of the costs shall be no more than 50 percent.

SA 362. Mr. REID (for Mr. KENNEDY (for himself, and Mr. SANDERS)) submitted an amendment intended to be proposed to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 541, after line 20, insert the following:

SEC. _____. QUALIFIED COMMUNITY HEALTH CENTER BONDS.

(a) QUALIFIED COMMUNITY HEALTH CENTER BONDS TREATED AS STATE AND LOCAL BONDS.—

(1) IN GENERAL.—Section 150 is amended by adding at the end the following new subsection :

''(f) QUALIFIED COMMUNITY HEALTH CENTER BOND.—For purposes of this part and section 103—

''(1) TREATMENT AS STATE OR LOCAL BOND.—A qualified community health center bond shall be treated as a State or local bond.

''(2) QUALIFIED COMMUNITY HEALTH CENTER BOND DEFINED.—The term 'qualified community health center bond' means a bond issued as part of an issue by a qualified community health issuer 95 percent or more of the net proceeds of which are to be used by a qualified community health organization to finance capital expenditures with respect to a qualified community health facility.

''(3) QUALIFIED COMMUNITY HEALTH ORGANIZATION DEFINED.—A qualified community health organization is an organization which—

''(A) is described in section 501(c)(3) and exempt from tax under section 501(a),

''(B) is incorporated in a State in which at least one qualified community health facility owned by such organization is located, and

''(C) constitutes a health center within the meaning of section 330 of the Public Health Service Act.

''(4) QUALIFIED COMMUNITY HEALTH ISSUER DEFINED.—The term 'qualified community health issuer' means an entity—

''(A) which is established and owned exclusively by the National Association of Community Health Centers,

''(B) which is disregarded under section 7701 as an entity separate from the National Association of Community Health Centers, and

''(C) one of the primary purposes of which, as set forth in the documents relating to its formation, is to issue qualified community health center bonds.

''(5) QUALIFIED COMMUNITY HEALTH FACILITY DEFINED.—The term 'qualified community health facility' means property owned and used by a qualified community health organization to provide health care services to all residents who request the provision of health care services the operation of which is subject to sections 330 and 330A of the Public Health Service Act.

''(6) TREATMENT OF ISSUER AS OTHER THAN TAXABLE MORTGAGE POOL.—Neither the National Association of Community Health Centers, nor a qualified community health issuer, nor any portion thereof shall be treated as a taxable mortgage pool under section 7701(i) with respect to any issue of qualified community health center bonds.''.

(2) COORDINATION WITH PUBLIC APPROVAL REQUIREMENT.—Subsection (f) of section 147 is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULES FOR QUALIFIED COMMUNITY HEALTH CENTER BONDS.—In the case of a qualified community health center bond, any

governmental unit in which the qualified community health facility financed by the qualified community health center bonds is located may be treated for purposes of paragraph (2) as the governmental unit on behalf of which such qualified community health center bonds are issued.''.

(3) NO FEDERAL GUARANTEE.—Subparagraph (A) of section 149(b)(3) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'' and by adding at the end the following new clause:

''(v) any guarantee of a qualified community health center bond for a qualified community health facility which is made under title XVI of the Public Health Service Act (or a renewal or extension of a guarantee so made).''.

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(b) LOANS AND LOAN GUARANTEES UNDER THE PUBLIC HEALTH SERVICE ACT.—

(1) AUTHORITY FOR LOANS AND LOAN GUARANTEES.—Section 1601 of the Public Health Service Act (42 U.S.C. 300q) is amended—

(A) in subsection (a)(2), by adding at the end the following:

''(C) In addition to authorizing loan guarantees, the Secretary may—

''(i) guarantee tax exempt bonds for the purpose of financing a project of a health center that receives funding under section 330 located in or serving an area determined by the Secretary to be a medically underserved area or serving a special medically underserved population as defined in such section 330 (referred to in this section as a 'health center project'), and

''(ii) use of such authorized guarantees for health center projects in conjunction with any credits allowed under the Internal Revenue Code of 1986, for such health center project.'';

(B) in subsection (b)—

(i) by striking ''The principal amount of'' and inserting ''(1) Subject to paragraph (2), the principal amount of''; and

(ii) by adding at the end the following:

''(2) Notwithstanding paragraph (1), a guarantee of a loan or tax exempt bond issued for the purpose of financing a health center project, as defined in subsection (a)(2)(C), shall cover up to 100 per centum of the principal amount and interest due on such guaranteed loan or tax exempt bond.'';

(C) by redesignating subsection (d) as subsection (e);

(D) by inserting after subsection (c) the following:

''(d) No State (including any State or local government authority with the power to tax) receiving funds under a Federal health care program (as defined under section 1128B(f) of the Social Security Act), may impose a tax with respect to interest earned on bonds issued under this section.''.

(2) GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS.—Section 1602 of the Public Health Service Act (42 U.S.C. 300q–2) is amended—

(A) in subsection (a)(2)—

(i) by redesignating subparagraph (D) as subparagraph (H);

(ii) in subparagraph (B), by striking ''subparagraph (D)'' and inserting ''subparagraph (H)''; and

(iii) by inserting after subparagraph (C) the following:

''(D) The Secretary shall approve, not later than 30 calendar days of receipt, an application for a loan or a tax exempt bond guarantee submitted by a health center for a health center project (as defined in section 1601q(a)(2)(C)), that is eligible for such guarantee, provided that the health center has certified, to the best of its knowledge, and consistent with its annual audit and such application, that the health center has satisfied or will comply with each of the following criteria:

''(i) The health center has for at least two out of last three fiscal years (on the basis of accrual accounting) received more in revenue (including the amount of Federal funds in any section 330 grants made in each year to the health center and all other revenue of any kind received by the health center in each year) than the expenses of the health center in each year.

''(ii) The health center will contribute at least 20 per centum equity to the project in the form of cash contributions (from cash reserves, grants or capital campaign proceeds), equity derived as a result of tax credits (which may be structured as debt during the tax credit compliance period) or other forms of equity-like contributions.

''(iii)(I) As measured at the fiscal year end of its most recent fiscal year and on a current year-to-date basis, the health center's days cash on hand, including Federal grant funds available for drawdown, must have been/be greater than 30 days.

''(II) In this clause, 'days cash on hand' shall be calculated on an accrual accounting basis according to the following formula: The sum of unrestricted cash and investments divided by total operating expenses minus depreciation divided by 360.

''(iv)(I) The health center's debt service coverage ratio on a projected basis will not be less than 1.10X in any year.

''(II) In this clause, 'debt service coverage ratio' shall be calculated as the sum of net assets plus interest expense plus depreciation expense divided by the sum of debt service and capitalized interest payments due during the period.

''(v)(I) The health center has reasonably projected a leverage ratio (as measured after the first full year of the new/improved facility's operation) less than 3.0X.

''(II) In this clause, 'leverage ratio' shall be calculated as total liabilities less new markets tax credit (authorized under section 45D(f) of the Internal Revenue Code of 1986) or similar debt components, if any, divided by total net assets.

''(E)(i) Not later than 30 calendar days after the receipt of a health center's application and certification under subparagraph (D), the Secretary shall send a letter to the health center notifying it that the application has been approved, unless within such 30-day period the Secretary—

''(I) notifies the health center in writing as to why the Secretary reasonably believes any or all of the foregoing criteria are not met; and

''(II) provides the health center the opportunity to submit comments within 30 calendar days of receipt of such notice.

''(ii) Not later than 30 calendar days from the date of receipt of such comments, the Secretary shall provide a final decision in writing regarding the comments submitted by the applicant, including sufficient justification for the Secretary's decision.

''(F) The Secretary may approve an application for a loan or a tax exempt bond guarantee submitted by a health center for a health center project (as defined in section 1601(a)(2)(C)) that is eligible for such guarantee and which deviates from the criteria set forth in clauses (i) through (v) of subparagraph (D), provided that the Secretary determines that such deviation is not material or that the health center has provided sufficient explanation or justification for such deviation.

''(G)(i) Upon approval of a loan or tax exempt bond guarantee for a health center project eligible for such guarantee, the Secretary shall charge such health center a closing fee of 50 basis points, which will be put into a reserve fund to cover direct administrative costs of the program and to fund a loan loss reserve to support the guarantee program. Thereafter, the Secretary shall charge those health centers with loans or tax exempt bonds guaranteed through the program an annual fee of 50 basis points, calculated based on the principal amount outstanding on the guaranteed loan or tax exempt bond.

''(ii) All closing and annual fee proceeds shall be invested and maintained in an interest-bearing reserve account until such time as the reserve account reaches 5 per centum of the outstanding principal amount of loans and tax exempt bonds guaranteed through the program.

''(iii) If at any time the Secretary determines that, based on a lack of actual losses resulting from default, the amount of proceeds held in the reserve account is excessive, the Secretary may reduce the per centum to be maintained in such reserve account, calculated based on the outstanding principal amount of loans and tax exempt bonds guaranteed through the program.

''(iv) Subject to a determination under clause (iii) of this subparagraph to reduce the per centum maintained in the reserve account, any overages in the reserve account that are attributable to the collection of fee proceeds shall be rebated annually on a pro rata basis to those health centers with loans or tax exempt bonds guaranteed through the program and that are not in default.'';

(B) in subsection (d)—

(i) by redesignating paragraph (2) as paragraph (3);

(ii) by redesignating the matter following paragraph (1)(F) as paragraph (2)(A); and

(iii) by inserting after paragraph (2)(A), as so redesignated, the following:

''(B) In addition to the amounts authorized under subparagraph (A), there are authorized such amounts to support guarantees of loans or tax exempt bonds issued for the purpose of financing a health center project, which shall be added to any amounts derived from the fees required to be charged under subsection (a)(2)(G) and placed in the same interest-bearing reserve account established by subsection (a)(2)(G).''.

(c) APPLICATION DAVIS-BACON.—The provisions of subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act) shall apply to any construction projects carried out using amounts made available under the amendments made by this section.

SA 363. Mrs. BOXER proposed an amendment to amendment SA 98 proposed by Mr. INOUYE (for himself and Mr. BAUCUS) to the bill H.R. 1, making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place insert the following.

FINDINGS

The Senate finds that:

According to leading national and state organizations, there are many more NEPA compliant, ready-to-go activities, than are funded in this bill, and If there is an action or funds made available for an action that triggers NEPA, and that activity could cause harm to public health, and that harm has not been evaluated under NEPA, the project would not meet the requirements of NEPA and should not be funded.

SECTION

Any action or funds made available for an action that triggers NEPA, that have not complied with NEPA, and therefore pose a potential danger to our communities across the country, must-either come into compliance with NEPA or be replaced by other eligible activities.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, February 5, 2009 at 11 a.m. in Room 628 of the Dirksen Senate Office Building to conduct a hearing on Advancing Indian Health.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 4, 2009 at 3 p.m., to conduct a committee hearing on modernizing the U.S. financial regulatory system.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Madam President, I ask unanimous consent the following Finance Committee fellows and interns be allowed floor privileges during consideration of the American Recovery and Reinvestment Act: Lauren Bishop, Dan Gutschenritter, Marissa Reeves.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Terri Postma and Rachel Miller, members of my staff, be granted the privilege of the floor during the debate of H.R. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE PITTSBURGH STEELERS ON WINNING SUPER BOWL XLIII

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 27, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 27) congratulating the Pittsburgh Steelers on winning Super Bowl XLIII.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. BOXER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, and any statement be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 27) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 27

Whereas on February 1, 2009, the Pittsburgh Steelers defeated the Arizona Cardinals to win Super Bowl XLIII;

Whereas the Steelers' 27–23 victory over the Cardinals was the Steelers' sixth Super Bowl win, the most Super Bowl wins in National Football League (NFL) history;

Whereas the Rooney family has exhibited a strong commitment to the Steelers organization, has led the Steelers to win 6 Super Bowl titles, and has created a legacy of dedication to, and integrity in, the NFL;

Whereas Coach Mike Tomlin is to be congratulated for being the youngest coach in the NFL to win a Super Bowl, in only his second season as the head coach of the Steelers;

Whereas ''Steeler Nation'', which encompasses fans from all over the world, is to be honored for proudly waving ''Terrible Towels'' in support of the Pittsburgh Steelers;

Whereas the Pittsburgh Steelers are an iconic symbol for hardworking Pittsburghers, exhibiting the same strong work ethic and ability to fight to the bitter end to achieve success as Pittsburghers;

Whereas the leadership of Steelers quarterback Ben Roethlisberger led the team to wins in the final plays of games throughout the season, and especially during the last 2 minutes and 30 seconds of Super Bowl XLIII;

Whereas Steelers wide receiver Santonio Holmes was named the Most Valuable Player in Super Bowl XLIII for his 6-yard touchdown reception with 35 seconds remaining, which is being called one of the most historic plays in Super Bowl history;

Whereas Steelers linebacker James Harrison, NFL Defensive Player of the Year, intercepted Kurt Warner at the goal line and returned the ball for a 100-yard touchdown, which has been recorded as the longest play in Super Bowl history;

Whereas the Steelers defense, under the leadership of 50-year NFL veteran and Steelers defensive coordinator Dick LeBeau, ranked number 1 in defense in the NFL throughout the 2008 season and carried the Pittsburgh Steelers to a winning season and a Super Bowl victory;

Whereas the Pittsburgh Steelers faced one of the toughest schedules during the 2008 NFL season and persevered to a winning season and a Super Bowl victory; and

Whereas approximately 400,000 Steelers fans packed the streets of Pittsburgh on February 3, 2009 to honor the Steelers in a parade along Grant Street and the Boulevard of the Allies: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Pittsburgh Steelers for winning Super Bowl XLIII;

(B) the Rooney family and the Steelers coaching and support staff, whose commitment to the Steelers organization has sustained this proud organization and allowed the team to reach its sixth Super Bowl victory;

(C) all Steelers fans, from around the world, whose enthusiasm for the team earns them recognition as one of the most loyal fan-bases in all sports; and

(D) the Arizona Cardinals on an outstanding season; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Steelers Chairman, Dan Rooney;

(B) Steelers President, Art Rooney II; and

(C) Steelers Head Coach Mike Tomlin.

AMENDING THE EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 383, that was introduced earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 383) to amend the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) to provide the Special Inspector General with additional authorities and responsibilities, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. BOXER. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 383) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Special Inspector General for the Troubled Asset Relief Program Act of 2009''.

SEC. 2. AUDIT AND INVESTIGATION AUTHORITIES.

Section 121 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) in subsection (c), by adding at the end the following:

''(4)(A) Except as provided under subparagraph (B) and in addition to the duties specified in paragraphs (1), (2), and (3), the Special

Inspector General shall have the authority to conduct, supervise, and coordinate an audit or investigation of any action taken under this title as the Special Inspector General determines appropriate.

''(B) Subparagraph (A) shall not apply to any action taken under section 115, 116, 117, or 125.''; and

(2) in subsection (d)—

(A) in paragraph (2), by striking ''subsection (c)(1)'' and inserting ''subsection (c)(1) and (4)''; and

(B) by adding at the end the following:

''(3) The Office of the Special Inspector General for the Troubled Asset Relief Program shall be treated as an office included under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) relating to the exemption from the initial determination of eligibility by the Attorney General.''.

SEC. 3. PERSONNEL AUTHORITIES.

Section 121(e) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) in paragraph (1)—

(A) by inserting ''(A)'' after ''(1)''; and

(B) by adding at the end the following:

''(B)(i) Subject to clause (ii), the Special Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

''(ii) In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under clause (i) of this subparagraph—

''(I) the Special Inspector General may not make any appointment on and after the date occurring 6 months after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009;

''(II) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

''(III) no period of appointment may exceed the date on which the Office of the Special Inspector General terminates under subsection (k).''; and

(2) by adding at the end the following:

''(5)(A) Except as provided under subparagraph (B), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Office of the Special Inspector General for the Troubled Asset Relief Program, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

''(B) Subparagraph (A) shall apply to—

''(i) not more than 25 employees at any time as designated by the Special Inspector General; and

''(ii) pay periods beginning after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009.''.

SEC. 4. RESPONSE TO AUDITS AND COOPERATION AND COORDINATION WITH OTHER ENTITIES.

Section 121 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (i), (j), and (k), respectively; and

(2) by inserting after subsection (e) the following:

''(f) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Secretary shall—

''(1) take action to address deficiencies identified by a report or investigation of the Special Inspector General or other auditor engaged by the TARP; or

''(2) certify to appropriate committees of Congress that no action is necessary or appropriate.

''(g) COOPERATION AND COORDINATION WITH OTHER ENTITIES.—In carrying out the duties, responsibilities, and authorities of the Special Inspector General under this section, the Special Inspector General shall work with each of the following entities, with a view toward avoiding duplication of effort and ensuring comprehensive oversight of the Troubled Asset Relief Program through effective cooperation and coordination:

''(1) The Inspector General of the Department of Treasury.

''(2) The Inspector General of the Federal Deposit Insurance Corporation.

''(3) The Inspector General of the Securities and Exchange Commission.

''(4) The Inspector General of the Federal Reserve Board.

''(5) The Inspector General of the Federal Housing Finance Board.

''(6) The Inspector General of any other entity as appropriate.

''(h) COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for the Troubled Asset Relief Program.''.

SEC. 5. REPORTING REQUIREMENTS.

Section 121(i) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343), as redesignated by this Act, is amended—

(1) in paragraph (1), by striking the first sentence and inserting ''Not later than 60 days after the confirmation of the Special Inspector General, and not later than 30 days following the end of each fiscal quarter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during that fiscal quarter.'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

''(2) Not later than September 1, 2009, the Special Inspector General shall submit a report to Congress assessing use of any funds, to the extent practical, received by a financial institution under the TARP and make the report available to the public, including posting the report on the home page of the website of the Special Inspector General within 24 hours after the submission of the report.''; and

(4) by adding at the end the following:

''(5) Except as provided under paragraph (3), all reports submitted under this subsection shall be available to the public.''.

SEC. 6. FUNDING OF THE OFFICE OF THE SPECIAL INSPECTOR GENERAL.

Section 121(j)(1) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110–343), as redesignated by this Act, is amended by inserting before the period at the end the following: '', not later than 7 days after the date of enactment of the Special Inspector General for the Troubled Asset Relief Program Act of 2009''.

SEC. 7. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.

The Special Inspector General for Iraq Reconstruction and the Special Inspector General for Afghanistan Reconstruction shall be a members of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for Iraq Reconstruction and the Office of the Special Inspector General for Afghanistan Reconstruction, respectively.

ORDERS FOR THURSDAY, FEBRUARY 5, 2009

Mrs. BOXER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. Thursday, February 5; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate resume consideration of H.R. 1, the Economic Recovery and Reinvestment Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mrs. BOXER. Mr. President, Senators should expect rollcall votes throughout the day as we work to complete action on this important economic recovery legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. BOXER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:10 p.m., adjourned until Thursday, February 5, 2009, at 9:30 a.m.

EXTENSIONS OF REMARKS

THE 2009 CONGRESS-BUNDESTAG/BUNDESRAT EXCHANGE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Ms. PELOSI. Madam Speaker, since 1983, the U.S. Congress and the German Bundestag and Bundesrat have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and interact on issues of mutual interest.

A staff delegation from the U.S. Congress will be selected to visit Germany from May 22 to May 31 of this year. During this ten day exchange, the delegation will attend meetings with Bundestag/Bundesrat Members, Bundestag and Bundesrat party staff members, and representatives of numerous political, business, academic, and media agencies. Participants also will be hosted by a Bundestag Member during a district visit.

A comparable delegation of German staff members will visit the United States for ten days July 11–19 of this year. They will attend similar meetings here in Washington and visit the districts of Members of Congress. The U.S. delegation is expected to facilitate these meetings.

The Congress-Bundestag/Bundesrat Exchange is highly regarded in Germany and the United States, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. This exchange is funded by the U.S. Department of State's Bureau of Educational and Cultural Affairs.

The U.S. delegation should consist of experienced and accomplished Hill staff who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag reciprocates by sending senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern to the United States and Germany such as, but not limited to, trade, security, the environment, economic development, health care, and other social policy issues. This year's delegation should be familiar with transatlantic relations within the context of recent world events.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag/Bundesrat staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants are selected by a committee composed of personnel from the Bureau of Educational and Cultural Affairs of the Department of State and past participants of the exchange.

Members of the House and Senate who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state their qualifications, the contributions they can make to a successful program and some assurances of their ability to participate during the time stated.

Applications may be sent to the Office of Interparliamentary Affairs, HB–28, the Capitol, by 5 p.m. on Friday, March 20, 2009.

A PROCLAMATION HONORING W.E. QUICKSALL AND ASSOCIATES, INC., FOR REACHING THEIR 50TH YEAR ANNIVERSARY

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SPACE. Madam Speaker:

Whereas, W.E. Quicksall and Associates, formed in 1959, has provided quality service to private entities, local, state and federal government; and

Whereas, W.E. Quicksall and Associates has provided countless miles of municipal streets and state highways, bridges, water treatment and distribution lines; and

Whereas, for 50 years W.E. Quicksall and Associates has been dedicated to customer satisfaction and public safety; and be it

Resolved, that along with friends and clientele of W.E. Quicksall and the residents of the 18th Congressional District, I congratulate W.E. Quicksall and Associates, Inc. on their 50 year anniversary. We recognize the service provided by W.E. Quicksall to the New Philadelphia area, and commend them on building such an outstanding professional relationship with the city of New Philadelphia.

HONORING SEAN PATRICK KEENAN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Sean Patrick Keenan a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and in earning the most prestigious award of Eagle Scout.

Sean has been very active with his troop participating in many scout activities. Over the many years Sean has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Sean Patrick Keenan for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

BILL NANGLE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. VISCLOSKY. Madam Speaker, it is with great pleasure that I rise today to honor one of Northwest Indiana's most devoted citizens, Bill Nangle, Executive Editor of The Times. I have known Mr. Nangle for many years and can attest to a life dedicated to maintaining the integrity of the press and improving the governance of all those he serves. Not only is Bill a distinguished journalist, but he has used the power of his pen to be a force for progress and change in the community. Last week, the Hoosier State Press Association recognized Bill for his commitment to the pursuit of open government by presenting him with its Distinguished Service Award.

Throughout his illustrious career, which spans five decades, Bill has taken his role in the Fourth Estate seriously, leading the charge for openness and transparency in government. For example, in 1989, he pushed state legislators and then-Governor Evan Bayh to enact a state law reversing a court decision that closed county coroner records to the public.

And in 1998, Bill assembled Indiana's seven largest newspapers to collaborate on "The State of Secrecy," an investigation of government sunshine and First Amendment rights in which investigative journalists went undercover as ordinary citizens to try to access records in each of the state's 92 counties that are lawfully open to the public. The flagrant legal violations that they uncovered prompted action from then-Governor Frank O'Bannon and spurred similar projects on openness and transparency in 32 other states. For his efforts, Bill Nangle was awarded the Sagamore of the Wabash, the state's highest honor at the time.

Bill has also exercised his commitment to open, effective government locally. In 2005, he joined me in a consortium of local civic and business leaders to create Northwest Indiana's Good Government Initiative. He was a driving force behind that effort to study government efficiency across the many levels of our local

government, including my office, and to implement solutions that improve government services while cutting costs. The Good Government Initiative became the model for the statewide Kernan-Shepard Report on Indiana government, which is the basis for government reform initiatives currently underway in the State House in Indianapolis and throughout the state.

Last year, Bill and his colleagues at The Times took the lead on establishing the One Region: One Vision concept with the goal of uniting local leaders to advance all of Northwest Indiana as one community. In the past, Northwest Indiana has been plagued by a limiting provincialism that has inhibited our area's growth and potential. Under the One Region: One Vision concept, Bill and his colleagues have already brought local leaders together from across the area to start collaborating on projects that will make Northwest Indiana a better place for everybody to live.

Finally, any praise for Bill would be incomplete without mention of his business instincts and acumen. With the print media industry struggling nationwide, and with the economic downturn exacerbating the industry's problems, The Times continues to thrive under Bill's direction. Last March, Editor and Publisher Magazine bestowed upon The Times the distinction of fastest growing English-language daily newspaper in the United States. By the most recent published reports, that growth has continued.

Madam Speaker, I ask that you and my colleagues join me in honoring Bill Nangle, who has worked tirelessly to maintain a vibrant and free press and has used his influence to positively enhance the lives of the people he serves. Bill is an unparalleled leader who deserves our recognition.

INTRODUCTION OF THE RIGHT TO LIFE ACT

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. HUNTER. Madam Speaker, as the father of three, I feel it is my duty to fight for the rights of our most innocent—the unborn. That is why, today, it is my honor to introduce the Right to Life Act. This bill accomplishes the simple, yet important goal, of protecting all unborn children from the moment of conception.

While it is the fundamental and primary duty of the federal government to protect and defend the rights of all its citizens, America's unborn have continually been harmed by Congress's inaction to establish their constitutional right to life. Due to both the United States Supreme Court's decision in the 1973 landmark case of Roe v. Wade and Congress's failure to establish personhood thereafter, over 1.3 million babies have had their life taken from them prematurely. Since abortions became legal in 1973, over 40 million babies have had their life unjustly taken from them, an entire generation of who will never experience the joys and promise of being an American.

It is now time for Congress to stop this tragedy and recognize the life in every unborn child. Congress needs to effectively overturn Roe v Wade by enforcing four important provisions in the Constitution: (1) The due process clause (Sec. 1) of the Fourteenth Amendment, which prohibits states from depriving any person of life; (2) Sec. 5 of the Fourteenth Amendment, which gives Congress the power to enforce, by appropriate legislation, the provisions of this amendment; (3) The due process clause of the Fifth Amendment, which concurrently prohibits the federal government from depriving any person of life; and (4) Article 1, Section 8, which gives Congress the power to make laws necessary and proper to enforce all powers in the Constitution.

The Supreme Court, in refusing to determine when human life begins and therefore finding nothing to indicate that the unborn are persons protected by the Fourteenth Amendment, has left to Congress the responsibility of protecting the unprotected. The Court conceded that, "If the suggestion of personhood is established, the appellants' case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment."

Throughout my military service, I took great pride in knowing that I was protecting all Americans. From those who have lived many years, to those just conceived. I do not believe my responsibility to protect the lives of Americans ended when I returned home from Iraq and Afghanistan. I view service in this great House as an opportunity to continue protecting those who need protecting. I ask Members of this House to listen closely to their conscience and pass this legislation so that every unborn child will be legally recognized and afforded the same protection all other Americans enjoy.

For those who have supported this legislation in the past, I wanted to bring your attention to a new provision holding women harmless if they do proceed with an abortion. It is important to recognize that the purpose of this bill is to protect the life of the unborn child, not put women in jail. Unfortunately, some supporters of this legislation have been accused of sponsoring legislation that incarcerates women for utilizing contraception. As a result, I wanted nothing to detract from our purpose of protecting the unborn. While I hope that this does not reduce the enormity of their action, I will not allow such an important issue to become sidetracked by those who wish to change the debate.

Technically, the Right to Life Act establishes and recognizes the personhood of an unborn child at the moment of conception. The reality is it does so much more. It gives the unborn the chance to experience life, to realize their hopes and dreams, to make a difference. I hope my colleagues will support me in this important effort.

HONORING ANDY M. BROCK

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Andy M. Brock a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 280, and in earning the most prestigious award of Eagle Scout.

Andy has been very active with his troop, participating in many scout activities. Over the many years Andy has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Andy M. Brock for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING THE SERVICE OF ROY G. SMITH, ARKANSAS STATE DIRECTOR FOR USDA RURAL DEVELOPMENT

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BOOZMAN. Madam Speaker, I rise today to honor Arkansas' USDA Rural Development Director, Roy G. Smith for his outstanding efforts to improve the quality of life for all rural Americans.

Roy has been a lifelong champion for rural communities; both as a farmer and as an advocate, joining the Farmers Home Administration, a predecessor to today's USDA Rural Development 40 years ago. Under his guidance countless Arkansans have benefitted from millions of dollars in projects to make their lives better.

We are blessed to have had Roy at helm for the past three and a half years and I am blessed to have him as a friend. I have enjoyed the Rural Development Tours where he showcased just some of the latest funded projects. I have been to many check presentations with Roy and I will remember his encouragement of getting civic leaders to sign the check "to get enough signatures to make the check float."

Roy has done a tremendous job of meeting the needs of rural Arkansans. His leadership will be missed but his influence will be felt for years to come.

THE INTRODUCTION OF THE AMERICAN RENEWABLE ENERGY ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MARKEY. Madam Speaker, today I am introducing the "American Renewable Energy Act" to create a national renewable electricity standard that will revitalize our economy by creating hundreds of thousands of green jobs, save consumers billions of dollars on their energy bills and reduce our Nation's global warming pollution by dramatically increasing our use of clean, renewable power. In the 110th Congress, the House repeatedly passed

a national renewable electricity standard in overwhelming, bipartisan votes requiring that 15 percent of our electricity come from renewable energy sources like wind, solar and biomass and efficiency gains by 2020. The American Renewable Energy Act that I am introducing today would build upon that legislation and follows President Obama's goal that we generate 25 percent of our electricity from renewables by the year 2025.

Electric power generation is responsible for roughly 40 percent of U.S. carbon dioxide emissions—the most prevalent of the heat-trapping gases causing global warming. Right now, the combustion of fossil fuels like coal, oil, and natural gas currently produce more than 70 percent of U.S. electricity. However, the way that we generate electricity is already beginning to change dramatically.

In 2007, we installed 5,244 megawatts of new wind generation, which accounted for 35 percent of all new generation that came online, second only to natural gas. And in 2008, the United States installed more than 8,300 megawatts of new wind capacity—over 40 percent of all new generation that was brought online. That newly installed capacity in 2008 led to the creation of more than 35,000 jobs in the wind industry over the last year.

Much of that renewable generation is the result of states across the country that are putting policies in place to incentivize renewable generation. Already, 27 States and the District of Columbia have adopted renewable electricity standards at the State level. Adopting a national renewable electricity standard will further unleash our technological innovation and allow for the development of renewable resources all across the country.

Every region of the country has renewable resources waiting to be tapped. For instance, the Southeast is home to nearly a third of the biomass feedstock potential in the entire country. Special power plants can burn biomass exclusively and existing coal plants can co-fire biomass in their fuel stream without costly equipment upgrades, replacing 15 percent or more of fossil fuel needs with renewable fuel. Customer-sited solar photovoltaic cells would also earn triple credits under the legislation that I am introducing today, making the target much easier to achieve in places like Florida and Georgia where the solar photovoltaic resource is estimated to be 83–85 percent of the best solar resources in the world.

Adopting a national renewable electricity standard can reinvigorate our economy and our manufacturing sectors by creating an entire new cadre of green-collar jobs. Each wind turbine requires 220 to nearly 400 tons of steal to produce and workers to produce it. From the revamped Maytag plant that is now producing wind turbines in Iowa to the former Ohio manufacturing plant that President Obama visited on his way to Washington, alternative energy can revitalize our declining manufacturing centers all across our country. Adopting a 25 percent renewable electricity standard will create more than 350,000 green jobs by 2020—allowing the people who most need work to do the work that most needs to be done in order to address the climate crisis.

Moreover, adopting a renewable electricity standard will save consumers money by reducing their energy bills. Adopting a national standard of 25 percent will save consumers more than $49 billion over the next decade in lower energy bills, while channeling more than $70 billion in new investment into renewable technologies.

The American people overwhelming support a national renewable electricity standard. According to a December poll conducted by the Washington Post and ABC News, 84 percent of Americans support requiring utilities to increase their use of wind, solar and other renewable sources of power.

President Obama understands the importance of increasing our use of renewable energy to unleash a clean energy revolution that will get our economy moving again. The States all across the country that have already put similar policies in place understand the need for action. The overwhelming majority of the American people understand it. Now it is time for the Congress to take action to unleash the clean energy revolution by adopting a national renewable electricity standard.

PERSONAL EXPLANATION

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. CROWLEY. Madam Speaker, on February 3, 2009, I was absent for three rollcall votes. If I had been here, I would have voted:

"Yes" on rollcall vote 47.

"Yes" on rollcall vote 48.

"Yes" on rollcall vote 49.

TRIBUTE TO TRINITY EPISCOPAL CHURCH

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SHIMKUS. Madam Speaker, I rise today to pay tribute to an important community institution in Mt. Vernon, Illinois.

Trinity Episcopal Church this month celebrated its 100th anniversary. Since the first service was held at 1100 Harrison Street in Mt. Vernon on January 3, 1909, thousands of people have visited Trinity Episcopal to share a worship service with their neighbors. Generations of families in Mt. Vernon and Jefferson County have been welcomed into the congregation at Trinity Episcopal.

Today, Trinity Episcopal is an important part of the spiritual fabric of the community and also serves as a good neighbor to families in need throughout the area. Through a century of the congregation's generosity, many have found a helping hand, warm embrace, and comfort in times of despair.

I want to congratulate Father Gene Tucker of Trinity Episcopal, all members of the congregation, and the extended Trinity Episcopal family on 100 years of service and thank them for the important role they play in our community.

HONORING THOMAS LEE KNOPP

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Thomas Lee Knopp of Platte City, Missouri. Thomas is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Thomas has been very active with his troop, participating in many scout activities. Over the many years Thomas has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Thomas Lee Knopp for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO MS. MYRA MORGAN

HON. GEOFF DAVIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. DAVIS of Kentucky. Madam Speaker, I rise today to congratulate one of my constituents, Ms. Myra Morgan of Sparta, Kentucky. On December 9, 2008, Ms. Morgan was awarded the Milken Family Foundation National Educator Award for excellence in education.

Ms. Morgan was notified of her win by Former Kentucky Commissioner of Education Jon Draud, who made the announcement during a surprise assembly at Gallatin County Lower Elementary School. Ms. Morgan has been a teacher at the elementary school for twelve years and is currently the department chair and team leader for the school's kindergarten team. She was one of eighty national winners of the 2009 Milken Educator Award and the only winner from Kentucky.

In May, Ms. Morgan will attend the Milken Family Foundation National Education Conference in California, where she will receive a $25,000 reward. The Milken Family Foundation was established in 1985, and the first awards were given in 1987. Since 1993, forty-nine Kentuckians have won the award.

Ms. Morgan has inspired countless children, and has been an exceptional leader in the communities of Gallatin County. We are all extremely proud that Ms. Morgan has received the recognition she deserves.

Madam Speaker, I ask you to join me in commending Ms. Myra Morgan for her outstanding service to Kentucky's youth.

TRIBUTE TO MARTHA FLORES

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I rise today to acknowledge the work and accomplishments of a distinguished radio journalist and community activist, Martha Flores. Mrs. Flores fled Cuba 50 years ago, on January 17, 1959, and immediately started advocating for her country's freedom as a member of the first anti-Castro organization in exile "La Rosa Blanca". She has since lived and worked in Miami, Florida and is also celebrating her 50th anniversary in journalism.

Mrs. Flores began her radio career as the host of a program on WMIE, the only station at the time that broadcast some programs in Spanish. Throughout the years, she has hosted radio shows on La Fabulosa, Ocean Radio, and WRHC Cadena Azul and for the past 18 years, has produced and hosted a nightly Spanish radio program, "La Noche y Usted" on WAQI Radio Mambi.

Mrs. Flores embodies the American dream and is testament of what can be accomplished through hard work and dedication. She worked several jobs at once and broke through language and culture barriers to become one of the most listened to radio personalities in Miami. She continues to be an advocate for the cause of a free Cuba. She is also dedicated to working on behalf of the community's children and elderly and is active in animal rights issues. Mrs. Flores has done all of this and much more while also being a loving mother to her son Jose Acosta and wife to her husband Rosendo Soriano.

I recognize my friend Martha Flores for her legacy of hard work, professionalism and service to our community and ask that you join me in expressing our sincere congratulations as she celebrates these important 50 years.

CONGRATULATING THE EFFORTS OF U.S. ATTORNEY ROBERT C. BALFE III

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BOOZMAN. Madam Speaker, I rise today to honor U.S. Attorney Robert C. Balfe III for his commitment and service to the citizens of this country.

Bob has done a tremendous job at the helm of the Western District of Arkansas, working to bring justice to criminals and initiating programs to make our streets safer.

One of Bob's top priorities has been targeting crimes against children. Indictments of child sexual predators increased by 800% in the Western District of Arkansas in part due to the creation of Project Safe Childhood Task Force which is dedicated to the identification and apprehension of online child sexual predators.

The list of Bob's accomplishments is lengthy, from the successful implementation of an Immigration Crimes Task Force to a Financial Crimes Task Force and an anti-gang initiative. You don't have to look far to see how the citizens of the Western District of Arkansas have benefited from Bob's leadership and vision.

I thank him for a job well done and I thank his wife Jennifer and his young sons, Ryan and Luke for the sacrifices they have made to allow Bob to serve the people of Arkansas.

HONORING JOHNATHON SCOTT KNOPP

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Johnathon Scott Knopp of Platte City, Missouri. Johnathon is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Johnathon has been very active with his troop, participating in many scout activities. Over the many years Johnathon has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Johnathon Scott Knopp for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

KIDS AND KUBS LOSE PAUL GOOD, THEIR FRIEND AND LEADER

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. YOUNG of Florida. Madam Speaker, with the beginning of February, Florida prepares for Major League Baseball's spring training practices and games. For Kids and Kubs, St. Petersburg, Florida's Three-Quarter Century Softball League, the season is already halfway over.

This year though, the Kids and Kubs take the field without their President and inspirational leader. Paul B. Good died November 16th at the age of 98. He was the longest-serving President in the club's history.

For those who have never seen a Kids and Kubs game, this is no exhibition game. These are players 75-years-old and up who play competitive softball and they play to win.

Paul Good joined the league when he turned 75 and played through the past three decades. A smile and fierce competitive spirit were just as much a part of his uniform as his red, white and blue cap and his crisp white shirt and pants.

Following my remarks, I will include for the benefit of my colleagues an article by Ron Matus of The St. Petersburg Times about Paul Good entitled "Age Never Slowed This Athlete." It is a fitting tribute to this man who was more than a ball player. He was the best friend of his son Jerry who delighted in their trips together up until their last months.

Madam Speaker, St. Petersburg lost a legend when we lost Paul Good last November. But Paul would be the first to tell his teammates to play on in his absence and that is what they do from November through April at North Shore Park. Join me in tipping a ball cap to Paul as we thank him for his service to the Kids and Kubs, the pride with which he took to the ball field, for his friendship with his teammates, and for his devotion to his family, his son, his four grandchildren, and his three great grandchildren.

[From the St. Petersburg Times, Nov. 22, 2008]

AGE NEVER SLOWED THIS ATHLETE, LOVE FOR SENIOR SOFTBALL AND KIDS AND KUBS WAS INTENSE

(By Ron Matus)

When he was 85, Paul B. Good told his son: Let's go see the Rockies.

His son was secretly petrified. Mr. Good had had a pacemaker for 20 years.

"So I run off and take a CPR course," said the son, Jerry Good, now 68. "I figure we're going to be out in the boonies and I'm going to have problems."

But, no problems. Only a grand time. And what a son thought might be a last hurrah with Dad turned out to be the first of 10 annual adventures.

In St. Petersburg, Mr. Good was a driving force behind Kids and Kubs, the Harlem Globetrotters of senior softball. He was the longest-serving president in club history. And he may be best remembered for taking his aging, ageless team to Midwestern locales where visions of Florida still include old coots on ballfields, swinging for the fences.

To hear Jerry Good tell it, Mr. Good hit a home run as a father, too.

"We were terrific friends," Jerry Good said.

Mr. Good died Nov. 16. He was 98.

Stocky and strong, Mr. Good was a talented athlete. He played semipro basketball before becoming a stockbroker, and until joining Kids and Kubs at age 75 was still shooting his age in golf.

His reflexes were cat-quick, honed by years of tapping out Morse code in the brokerage business. A few years ago, four generations of Goods tested themselves with a gizmo that measured reaction time. Great-Grandpa, in his mid 90s, still proved the fastest.

Off the field, Mr. Good was easygoing, said Kids and Kubs vice president Clarence Faucett. But when he stepped between the white lines, "it was a different ball game." One photo shows a man in his 80s, bat on shoulder, staring toward the pitcher's mound. The caption says, "Throw the damn ball!"

Mr. Good the softball guy was so intense, he recruited players for tournament games.

Mr. Good the father was best man at his son's wedding. The pair played golf together for years. Their road trips took them to Utah, New Mexico, the Smokies in Tennessee.

Mr. Good's own father worked him hard clearing land in New Port Richey. They didn't talk much, didn't play much. Mr. Good told his son, "I was going to be different for you."

As a kid, Jerry Good recalled, he and Dad played catch every day. As soon as Mr. Good

got home from work, they would get the mitts and hit the yard.

Dad never said, "I'm too tired."

HONORING THE LIFE AND TALENTS OF MR. ANDREW N. WYETH

HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SESTAK. Madam Speaker, I rise to foremost honor the memory of an exceptional individual, Mr. Andrew N. Wyeth, America's most famous artist. Mr. Wyeth was truly the "Painter of the People."

Andrew Newell Wyeth was born on July 12, 1917 in the Chadds Ford, PA home of his parents, world-renowned illustrator, N.C. Wyeth and his wife, Carolyn Bockius Wyeth. He died 91 years later in his home barely a mile away. Theirs was a creative family with roots that can trace back to Nicholas Wyeth who emigrated from England to Cambridge, Massachusetts. Sisters Henriette Wyeth Hurd and Carolyn Wyeth were also painters; sister Ann Wyeth McCoy became a composer; and brother Nathaniel was an engineer with numerous patents credited to him. Wyeth's own sons, Jamie and Nicholas, are a very well known artist and art dealer respectively.

Mr. Wyeth produced a wealth of poignant and iconic paintings in a style and personality that spoke to the imagination and emotions of their viewers. Deeply personal in subject, his art focused on the landscapes and people of his rural surroundings that meant the most to him shedding light on the small communities in which he lived. He spent his lifetime walking and exploring the rural roads and fields of Chadds Ford, PA and the coastlines of Cushings, Maine. He painted these images repeatedly, each time expressing both his love of nature and his awe of its power.

Mr. Wyeth continued to paint up until the months preceding his death. Though he preferred solitude in the countryside, Mr. Wyeth was honored numerous times throughout his life—both nationally and internationally. He was the first painter to ever receive the Presidential Medal of Freedom in 1963 and in 1970, the first living artist to have an exhibition at the White House. In 1977, he was the second American artist ever elected to the French, Académie des Beaux-Arts and became the first living American artist elected to Britain's Royal Academy in 1980. On November 9, 1988, Wyeth received the Congressional Gold Medal, the highest civilian honor bestowed by the United States legislature. Most recently, he was presented with the National Medal of Arts in 2007.

Admirers were drawn to his iconic works created with extraordinary perception, not just for their obvious beauty but also because they contained strong emotional currents and symbolic subjects coupled with an underlying abstraction. A 2006 retrospective of his works that ran for almost 16 weeks at the Philadelphia Museum of Art drew the highest-ever attendance at the museum for a living artist. Though we never met, I am thankful to Mr. Wyeth for sharing his deeply personal works with us and for highlighting a beautiful town in the 7th Congressional District. I am certain that his legacy will be preserved as one of America's most prolific artists through a timeless collection which will always evoke a sense of nostalgia for and connection with our common past.

Madam Speaker, I ask that this chamber pause to remember Andrew N. Wyeth, and to thank his wife, Betsy, and sons, Jamie and Nicholas, for sharing their father and his extraordinary talent with us.

A PROCLAMATION HONORING EAGLE SCOUT JAMES N. MAGRO FOR BEING NAMED THE FIRST DISTINGUISHED EAGLE SCOUT FROM THE UPPER OHIO VALLEY ON DECEMBER 4, 2008

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SPACE. Madam Speaker:

Whereas, the Distinguished Eagle Award is one of the highest and most respected in Scouting; and

Whereas, previous recipients include President Gerald Ford and Secretary of Defense Robert Gates; and

Whereas, Mr. Magro was recognized for his professional accomplishments with Consol Energy as well as his community service with a number of organizations; and

Whereas, Mr. Magro surely exemplifies the Scout oath of doing one's best in every aspect of his daily life; now, therefore, be it

Resolved, that along with his friends, family, the Boy Scouts of America and the residents of the 18th Congressional District, I congratulate Jim Magro on being awarded the Distinguished Eagle Award. We recognize the tremendous resource he has been for the Scouts of St. Clairsville and commend the example he has provided for generations of Scouts to come.

REGION X

HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. REICHERT. Madam Speaker, I rise today in recognition of five outstanding individuals who served the citizens of Region X, encompassing the states of Alaska, Washington, Oregon and Idaho. These individuals served with the true "heart of a servant" at the Federal agencies to which they were appointed. Each of them served the people of the greater Northwest admirably and leave a superb legacy of service.

The citizens of Region X were represented at the Department of Labor, DOL, by W. Walter Liang, the Department of Education, DOE, by Donna Foxley, the Department of Health and Human Services, HHS, by James Whitfield, the United States Department of Agriculture for Rural Development, USDA–RD, by Jon DeVaney, and the Department of Housing and Urban Development, HUD, by John Meyers.

Mr. Liang has spent his entire career serving the American people. Prior to being named the Region X representative at DOL, Mr. Liang served as a congressional appointee, a gubernatorial appointee in California and a Presidential appointee at the Small Business Administration. Liang, who served in Vietnam with the U.S. Army, has received various awards for his work in public service and community involvement throughout his wonderful career. Mr. Liang's counterpart at the DOE, Ms. Foxley, joined the Department in April of 2002 immediately helping to implement the No Child Left Behind Act. Ms. Foxley, a native of Washington State, taught physically and mentally challenged adults at the Christian Day Camp prior to joining the Department and also served as the civilian advisor for the Washington State Patrol's Explorer Program.

Mr. Whitfield was appointed as HHS Region X representative in July of 2005 and focused much of his time on Medicare prescription drug coverage, information technology issues and health disparities within the American Indian and Alaskan Native communities. Previously, he was the senior officer for community relations for the Washington Health Foundation in Seattle, a nonprofit dedicated to improving the health of Washington communities. Additionally, Mr. Whitfield is the President of CityClub—an organization committed to civil engagement and non-partisan civil discourse.

Mr. DeVaney joined USDA–RD as the director in Washington State in 2005. Mr. DeVaney was responsible for providing assistance and delivering over 40 loan and grant programs supporting the development of public utilities and infrastructure, affordable housing and job creation in rural areas. Before joining USDA, Mr. DeVaney served as an aide to my colleague from Washington, Congressman DOC HASTINGS and was also a Director of Legislative and Regulatory Affairs for the Northwest Horticultural Council.

Mr. Meyers joined HUD as the Region X Director in 2001 after a prolific career in State and Federal government and politics at all levels. He served during the Reagan administration at HUD, served as the executive director of both the California and Washington State Republican parties and worked alongside my predecessor, former Congresswoman Jennifer Dunn.

As the five dedicated individuals mentioned above transition out of the leadership positions they held at their respective federal agencies, I wish them all the best and offer one final 'thank you' for their exemplary service.

HONORING THE SERVICE OF POPE COUNTY SHERIFF JAY WINTERS

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BOOZMAN. Madam Speaker, today I rise to honor the Pope County, Arkansas Sheriff Jay Winters for his dedication, commitment and selflessness he has shown on the job and in the community.

Sheriff Winters has served his community admirably, first for the U.S. Army then as a officer for the Russellville Police Department, then as the Deputy Sheriff of Pope County and for the last 18 years, as Sheriff.

His influence is felt throughout the community, volunteering with the Russellville Chamber of Commerce, Kiwanis Club, the Arkansas River Valley Boys and Girls Club and as an active member of the First Assembly of God Church in Russellville where he serves as a Deacon and a Sunday School teacher.

I have had the privilege to work with Jay on many different projects, most recently in an effort to help with recovery efforts from a tornado in Atkins.

Now after more than two and a half decades in law enforcement Jay is retiring. He'll be able to spend his time focusing on his family, his wife Sheena, daughter Amber Morgan and her husband Ryan, son J.J. and the light of his eye, his granddaughter Kyleigh.

I appreciate his friendship and example. I am honored to have had the opportunity to have worked with such a great man, and thank him for his service.

INTRODUCTION OF THE 9/11 HEALTH AND COMPENSATION ACT OF 2009

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mrs. MALONEY. Madam Speaker, today, I am pleased to introduce the "James Zadroga 9/11 Health and Compensation Act of 2009," along with my good friends Mr. NADLER, Mr. KING of New York, Mr. MCMAHON and others who have worked so tirelessly in this effort. This legislation would provide medical care and compensation for those who are sick with World Trade Center (WTC) illnesses, including first responders who came to New York from every state and nearly all Congressional districts in the nation.

Specifically, the bill would establish a federal health and compensation program for WTC responders and community members. Building on the existing programs at WTC Centers of Excellence, the program would provide ongoing medical care for WTC-related health conditions to approximately 15,000 additional WTC responders and 15,000 additional WTC community members, for a total of 55,000 responders and 17,500 community members.

The bill would also reopen the Victim Compensation Fund (VCF) to provide compensation for those sickened by 9/11 exposure and to address the over 10,000 pending lawsuits brought by sick 9/11 responders. Additionally it would limit the liability in litigation for New York City and the WTC contractors to the amounts available under the Captive Insurance Fund and their existing liability limits and insurance.

Finally, the legislation would require a matching contribution from the City of New York for the health program.

More than seven years after the 2001 attacks on the World Trade Center, we must not forget the heroes who served the nation in our time of need. I encourage my colleagues to join me in support of the James Zadroga 9/11 Health and Compensation Act.

TRIBUTE TO CATHERINE OLSON

HON. JAMES A. HIMES

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. HIMES. Madam Speaker, I rise today to honor the musical accomplishments of Catherine Olson, an eighth-grade student at the Christian Heritage School in Trumbull, Connecticut.

Each academic year, the National Music Certificate Program awards State Achievement Certificates to students with exemplary performance records for music. Of this year's 100,000 participants, only 700 students earned this recognition.

Catherine Olson has been named a recipient of this award for the 2007–2008 academic year and will be playing at Carnegie Hall on February 8, 2009.

I applaud Catherine's efforts. Her accomplishments are a fine example to the young people of our nation to continue in their effort and determination to achieve success in their field. I wish her good luck in her performance on February 8th and congratulate her on her impressive achievements thus far.

HONORING H. THOMAS KORNEGAY FOR HIS SERVICE TO THE PORT OF HOUSTON AUTHORITY

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GENE GREEN of Texas. Madam Speaker, H. Thomas Kornegay's influence will be forever respected and admired as he retires as executive director from the Port of Houston Authority (PHA) after 37 years of service.

The Port of Houston is made up of the PHA and the numerous private industrial facilities that line the Houston Ship Channel. The Port ranks first in the U.S. in foreign waterborne tonnage and second in overall total tonnage. Along with the Houston Ship Channel, the PHA aids with navigational safety which has been influential in making Houston a center for international trade, moving over 200 million tons of cargo in 2006.

Kornegay played an essential role in developing both the Barbours Cut Terminal as well as the Bayport Terminal, each accredited in setting the path for continued economic development within the Houston-Metropolitan region. Along with the development of the two container terminals, Kornegay participated heavily in completing the deepening and widening of the Houston Ship Channel, a $700 million project which benefited Houston and Texas' overall economy and environment. In the aftermath of Hurricane Ike, Kornegay also managed the PHA's operational recovery with minimal repercussions to PHA's assets. As a result of Kornegay's guidance, the PHA posted a ninth consecutive year of growth, a record year in the handling of cargo and containers, and all-time records in importing and exporting steel.

Kornegay's leadership roles have been astounding, including serving as chairman of the board of the American Association of Port Authorities and chairman of the U.S. Delegation of AAPA, an organization that represents more than 140 public port authorities in North America, Latin America, Canada, and the Caribbean. Kornegay was also president of the International Association of Ports and Harbors from 2005–2007, which has affiliated ports that handle more than 60 percent of the world's seaborne trade in metric tons.

Kornegay has been named "Maritime Person of the Year" by the Greater Houston Port Bureau, as well as "Engineer of the Year" by local Houston engineers. Kornegay has also received the Russell H. Perry Award by the Texas Department of Transportation.

H. Thomas Kornegay was first selected as PHA's executive director in April 1992 after working with the Port Authority staff since April 1972. Kornegay will retire after 17 years from his position as PHA's executive director, but his contributions will forever impact the success of the Port of Houston.

HONORING THE LIFE OF FLETCHER L. GIBSON

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. HASTINGS of Florida. Madam Speaker, I rise today to honor the life of Fletcher L. Gibson. Mr. Gibson was born on May 1, 1942 in Marianna, Florida. In 1973, he married his perfect companion, Alonzetta. Over the next 35 years, their great love produced two sons, Brandon and Jason. Together, they established a reputation for honoring God and the power of knowledge. They exemplified the value of caring and giving back to the community.

Fletcher graduated Florida A&M University in 1963 with a Bachelor's degree in pharmacy. As a pharmacist, he was committed to providing superior service, a kind word, and a warm smile to each of his customers. They were as much his friends as anybody else who he was close with. Throughout his career he served as a mentor for young pharmacy students by providing them internships and clinical training.

Fletcher Gibson was a man of great faith and excellent character, a person known for his many good works and his love for family and friends. He always displayed a selfless compassion and a desire to help those around him. An extraordinary man of few words, Fletcher taught lessons of love, giving, and kindness by the example he set and the life he lived. He was a very good friend to me and countless other people. Fletcher Gibson was loved by all who knew him and he will be dearly missed.

HONORING BENJAMIN WARREN BRESLOW

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Benjamin Warren Breslow of Platte City, Missouri. Benjamin is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Benjamin has been very active with his troop, participating in many Scout activities. Over the many years Benjamin has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Benjamin Warren Breslow for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE PERFORMANCE RIGHTS ACT OF 2009

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. CONYERS. Madam Speaker, today I join my colleagues in both the House and the Senate in introducing the Performance Rights Act of 2009, legislation that takes a first step at ensuring that all radio platforms are treated in a similar manner and that those who perform music are paid for their work. I am joined by Representatives ISSA, BERMAN, BLACKBURN, PETERSON (MN), HODES, WEINER, WASSERMAN SCHULTZ, COHEN, NADLER, SHERMAN, WEXLER, JOHNSON (GA), SCHIFF, SHADEGG, JACKSON-LEE, LINDA SÁNCHEZ, HARMAN and WAXMAN.

This narrowly tailored bill amends a glaring inequity in America's copyright law—the provision in Section 114 that exempts over-the-air broadcasters from paying those who perform the music that we listen to on AM and FM radio. The purpose of the bill is to take a necessary step towards platform parity so that any service that plays music pays those who create and own the recordings—just as satellite, cable and internet radio stations currently do.

Fairness mandates that all those in the creative chain—from the artist, musicians and others who bring the recording to life—get compensated for the way they enrich our lives. The U.S. is the only developed country in the world that does not require privately owned over-the-air radio stations to compensate the performers who create the music that broadcasters use to attract the audiences that generate their ad revenues. Because of music, radio is able to profit, and so refusing to compensate those who create the music is unfair and ultimately harmful to everyone—including the broadcasters. Furthermore, the law requires all other platforms in the U.S. (including satellite and Internet radio) to compensate the copyright owner, so broadcast radio should not receive a free pass.

This legislation's narrow scope addresses some of the concerns that have been raised about the bill. First, it repeals the current broadcaster exemption—but it does NOT apply to bars, restaurants and other venues, and it does not expand copyright protection in any other way. Second, it provides an accommodation of protection for small and non-commercial broadcasters by setting a low flat annual fee with no negotiation, litigation or arbitration expenses. As a result, nearly 77 percent of existing broadcasting stations in this country—including college stations and public broadcasters—will pay only a nominal flat fee, rather than having to pay a percentage of their revenues as royalties. Third, the bill does NOT harm or adversely affect the revenues rightfully paid to songwriters and other existing copyright owners. It simply extends copyright protection to artists, musicians and the sound recording labels.

This bill is a starting point, not a final product, and I plan to continue to work with interested parties to ensure that the bill is fair to everyone. I promise to continue working on issues affecting the songwriters, public radio, webcasters, and others who will be critical to the process of moving this bill forward. And as always, I hope the broadcasters will decide to engage on this issue so that we can end up with a mutually agreeable final product.

I hope that with introduction of a companion bill in the Senate, Congress will act quickly to level the playing field between technologies and ensure rightful compensation to performers.

DENOUNCING ANTI-SEMITISM IN TURKEY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. PALLONE. Madam Speaker, for many years, Turkey and Israel have shared a strong relationship diplomatically, militarily, and culturally. This affiliation has been showcased as an example that a secular, western leaning Muslim country can be an ally to Israel.

While many in the West have placed Turkey on a do-no wrong pedestal despite years of discriminating against the country's ethnic Christians, this past January revealed growing anti-Semitism in Turkey from top officials to protesters in the streets.

Israel's Gaza offensive was launched in response to the hundreds of rockets that the terrorist organization Hamas fired at Israel's cities over the past year. Instead of defending Israel's actions of self defense, Turkey chose not to stand by their ally.

What came next was a wave of anti-Semitism that swept across Turkey. Propaganda posters were plastered and graffiti sprayed on Istanbul's walls calling for death to Israel. Even Jewish owned shops in Turkey have been targeted. These actions against the Jewish people cannot be minimized, and the West cannot stand for it.

On January 4th, thousands of protesters gathered in Istanbul's streets chanting, "Death to Israel, we are all Palestinians." One day later, Turkish Prime Minister Recep Tayyip Erdogan said in regards to Israel's actions in Gaza, "Allah will sooner or later punish those who transgress the rights of innocents."

The events that transpired during last week's Davos World Economic Forum further distanced Turkey from Israel. While Israeli President Shimon Peres spoke frankly about his nation's "aim for peace, not war," Prime Minister Erdogan refuted President Peres' comments and chided the audience for applauding his remarks. After being cut short by the moderator, the Prime Minister walked off the stage.

As protesters hurl eggs outside the Israeli Consulate in Istanbul, Prime Minister Erdogan is on record questioning if it is appropriate for Israel to have a U.N. seat. Erdogan has also steered his diplomatic team to meet with Iran, Syria, and Sudan to discuss ending the conflict in Gaza, while Jordan, Egypt, and Saudi Arabia were gathering in Kuwait. Instead of discussing the issue with other moderate Muslim nations, Turkish leaders chose to meet with hardliner Iran and the Genocide wielding Sudanese government.

I am deeply concerned by this shift away from the West and the out right anti-Semitism that is rippling through Turkey's streets. For a nation that prides itself on its friendship with the Jews, these actions are a step backwards and have the potential to harm ties between the two nations, and harm Turkey's relationship with the West.

All of these moves from Ankara may just be pandering to the nationalistic, anti-Israel, anti-minority voters of Turkey, but regardless of Prime Minister Erdogan intentions, the results are dangerous and engender hate. What's more is that they move Turkey away from it's secular, moderate stance as a bridge between the West and other Muslim nations.

For years I have asked that Turkey end its constant discrimination against Christian minorities, specifically Armenians and Greeks. Now with anti-Semitism spreading through the country, I call on Turkey's leadership to take concrete steps towards ending this destructive intolerance against minorities. Only these efforts will help to reestablish normal ties with Israel.

TRIBUTE ON THE OCCASION OF MAJOR GERALD THOMAS' RETIREMENT FROM THE UNITED STATES MARINE CORPS

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MEEK of Florida. Madam Speaker, today I recognize and pay tribute to MAJ Gerald A. Thomas, U.S. Marine Corps, on the occasion of his retirement from active duty. Major Thomas has served our great Nation for more than 21 years, earning many decorations, among them the Bronze Star with Combat "V". I, and many other members of this chamber, have had the pleasure of working

with him over the past 3 years that he has served as part of Headquarters U.S. Marine Corps Office of Legislative Affairs and as the Deputy Director of the U.S.M.C. Liaison Office in the U.S. House of Representatives.

Major Thomas distinguished himself through exceptional meritorious service while serving as the Deputy Director. Every day he served in direct support of not only the Marine Corps Office of Legislative Affairs but in direct support of every member of Congress, every Marine and every American. His keen abilities in organization, interpersonal relationships, and communication were extremely critical to the successful accomplishment of the Marine Corps Office of Legislative Affairs' mission. His achievements and ability to get the job done have been understated but always effective and noteworthy. While serving in the Liaison office, Major Thomas was able to develop and execute legislative strategy for the United States Marine Corps that was instrumental in creating a fiscal and policy landscape conducive to training and equipping the Nation's most elite fighting force, ensuring their success on the battlefield. He routinely turned broad guidance into action which energized the Office of Legislative Affairs and members of Congress alike. His actions allowed the Marine Corps to engage members of Congress and their staffs, directly facilitating the increased emphasis on improving Congressional relationships—a cornerstone of CMC's strategic vision.

The Marine Corps House of Representatives Liaison Office that Major Thomas leaves behind is functional and responsive, highly integrated, and favors a proactive legislative strategy. While leading the House Liaison Office through the extraordinary challenges associated with Operation Enduring Freedom, Operation Iraqi Freedom and the ongoing Global War on Terror, he concurrently ensured that a myriad of daily Congressional communications, taskings and events were executed flawlessly. The leadership and direction that Major Thomas provided was instrumental to the Marine Corps' tremendous success during a period of extraordinarily high operational tempo and unprecedented Congressional interest in Marine Corps activities. During Major Thomas' two years as the Deputy Director, he accomplished the full spectrum of the Marine Corps' legislative mission.

Members and staffers alike respected and trusted Major Thomas' straightforward and dependable assistance. He exemplified the candor and knowledge that we have come to expect from the Marine Corps and he played a key role in maintaining superb relationships between the Marine Corps and the House of Representatives.

Throughout his tour, Major Thomas effectively responded to several thousand congressional inquiries, many of which gained national level attention. He demonstrated a unique ability to translate the language of the House of Representatives to the language of the Marine Corps and vice versa, enabling him to provide us with a clear sense of what the Marine Corps could accomplish. Because of the Major, Members of Congress were able to establish lasting professional relationships with senior members of the Marine Corps that didn't exist prior to his arrival. During his time on Capitol Hill, Major Thomas successfully planned, coordinated and escorted over 50 international and domestic Congressional and Staff Delegations. His detailed coordination with foreign government officials, U.S. State Department, and senior military officials ensured that each delegation was conducted professionally. His attention to detail and anticipation of requirements allowed Representatives to focus on fact-finding and gleaning new insights that informed critical decisions to support the people of the United States. With more than 15 delegations to Central Command Major Thomas assisted in educating Members of Congress on the successes and challenges facing our service men and women that could only be gained from first-hand observation and face-to-face interaction. Due to his professionalism, dedication and keen knowledge, Major Thomas became the most sought after military escort for delegations traveling into Central Command. The time he has spent supporting Members of the House has been truly noteworthy. He has made lasting contributions to the House of Representatives.

Major Thomas has also made a lasting contribution in the sustainment of today's readiness and the shape of tomorrow's Marine Corps. Maj Thomas' distinguished service has left a mark of true excellence that will last long after he has departed the Office of Legislative Affairs. The Marine Corps will miss him, but Major Thomas leaves a tremendous legacy for others to follow and emulate. I wish Major Gerald Thomas congratulations and all best wishes as he enters this new chapter of his life.

During his 21 years of service, Maj Thomas has served as:

Communications Marine—Marine Corps Base Camp Lejeune;

Student—Marine Corps Education Program—University of Arizona;

Platoon Commander—Echo Company, 2nd Battalion, 6th Marines;

Platoon Commander—Weapons Platoon, Echo Co, 2nd Battalion, 6th Marines;

Executive Officer—Echo Co, 2nd Battalion, 6th Marines;

Staff Platoon Commander—The Basic School;

Executive Officer—Alpha, Charlie, & Echo Companies;

The Basic School Instructor—Infantry Officer Course;

Student—Infantry Officers Captain's Career Course;

Company Commander—Lima Co, 3rd Battalion, 2nd Marines;

Congressional Fellow—Office of Rep. Sanford Bishop;

Joint Action Officer—Plans, Policies, and Operations Department, HQMC;

Deputy Director—Marine Corps House Liaison Office.

HONORING KORTNEY STEVEN GUTIERREZ

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Kortney Steven Gutierrez of Platte City, Missouri. Kortney is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Kortney has been very active with his troop, participating in many scout activities. Over the many years Kortney has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Kortney Steven Gutierrez for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

INTRODUCTION OF THE SAVE AMERICAN ENERGY ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MARKEY. Madam Speaker, today I am introducing the "Save American Energy Act" to obtain the significant benefits of cost-effective, environmentally friendly, energy efficiency resources. These energy efficiency standards will not only lead to lower global warming emissions but will also create jobs, reduce the need for new power plants, and save consumers money. As President Obama clearly articulated, energy efficiency is the cleanest, cheapest, fastest source of energy. The legislation that I am introducing today follows President Obama's stated goal of reducing electricity demand 15 percent by 2020 by creating an energy efficiency resource standard, EERS.

Reducing electricity consumption 15 percent by 2020 will save consumers $130 billion over the next 20 years and reduce carbon dioxide emissions by more than 5 billion tons through 2030. The Save American Energy Act sets minimum levels of electricity and natural gas savings to be achieved through utility programs, building codes, appliance standards, and other efficiency measures. This legislation will initially create a modest savings requirement of 1 percent for electricity and three-quarters of a percent for natural gas and gradually build to a 15 percent cumulative requirement for electricity and ten percent for natural gas in 2020.

The benefits of energy efficiency standards are clear and far-reaching. First, energy efficiency standards will dramatically reduce the global warming emissions that are creating the climate crisis. Energy efficiency is the easiest and quickest way that we as a Nation can

take action to reduce emissions. These energy efficiency savings would reduce carbon dioxide emissions by approximately 260 million metric tons per year by 2020—the equivalent of the annual emissions from 43 million automobiles.

Second, energy efficiency standards will create jobs and can help revitalize our economy. The Save American Energy Act will lead to the creation of 260,000 new green-collar jobs. These jobs will be everything from retrofitting buildings to weatherizing homes. At a time when the American economy lost nearly 2 million jobs in the last 4 months of 2008, according to the Department of Labor, passing an energy efficiency standard can help send people back to work doing the work that most needs to be done.

Third, energy efficiency standards will decrease peak electricity demand. Savings from efficiency can be done far more cheaply than bringing new generation online. New generation from conventional resources costs somewhere between $0.073 and $0.145 per kilowatt hour compared to $0.03 per kilowatt hour from energy efficiency savings. The Save American Energy Act will reduce peak electricity demand by about 90,000 megawatts in 2020. This reduction would eliminate the need to build 300 medium-sized new power plants.

Fourth, The Save American Energy Act will result in billions of dollars in consumer savings on their energy bills. This bill allows for numerous cost-effective efficiency savings in every area of the economy. The legislation that I am introducing today requires utilities to obtain energy efficiency savings that are available at a lower cost than traditional energy supply options.

Many States around the country have already implemented successful efficiency standards. Vermont and California are two of the States leading the way and and 15 States and the District of Columbia have put in place policies promoting energy efficiency. The Save American Energy Act would set a federal efficiency standard but allows States with programs that meet or exceed that standard to administer the program directly, fostering policy innovation and adaptation to local circumstances.

The Save American Energy Act will take advantage of the cost-effective, available energy efficiency opportunities that can be quickly put in place. Adopting a national energy efficiency standard will allow us to reduce carbon emissions, create new green jobs, and reduce the need to build power plants: all while benefiting customers. The time to act is now.

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Tuesday February 3, 2009. Had I been present, I would have voted "yea" on rollcall vote #47 (Motion to Suspend the Rules and Agree to H. Res. 82)," "yea" on rollcall vote #48 (Motion to Suspend the Rules and Agree to H. Res. 103), "yea" on rollcall vote #49 (Motion to Suspend the Rules and Agree to H.R. 559)

TRIBUTE TO JOHN PATTI

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. RUPPERSBERGER. Madam Speaker, I rise today to honor a veteran Baltimore journalist who has reached a very special milestone. John Patti is celebrating 25 years of service at WBAL Radio.

From anchoring WBAL's coverage from the Vatican when Archbishop William Keeler was elevated to the College of Cardinals to Cooperstown, New York where Chuck Thompson and Earl Weaver were inducted into the Hall of Fame to local election coverage in Maryland, John's professionalism, talent, and dedication to reporting the news are second to none.

In fact, John Patti has spent the past 37 years broadcasting in Baltimore. John's specialty has always been feature reporting. During his career, John earned nine prestigious Edward R. Murrow Awards presented by the Radio-Television News Directors Association. In 2000, John captured the coveted Best of Show Award in the prestigious New York Festival in 2000 for his investigative journalism. As a sports reporter, John won the Eclipse Award, given out by the thoroughbred racing industry for excellence in reporting.

I am pleased to report John is home grown Baltimore. He graduated from Mount Saint Joseph High School in 1973 and received his Bachelor's Degree from Towson State University in 1977. He and his wife Stephanie live with their three sons in Howard County.

John Patti began at WBAL in February, 1984. . . and he is still there reporting the news 25 years later. For that, he deserves our congratulations.

HONORING CHARLES MAXWELL CASSIDY

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Charles Maxwell Cassidy of Platte City, Missouri. Charles is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Charles has been very active with his troop, participating in many scout activities. Over the many years Charles has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Charles Maxwell Cassidy for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

A PROCLAMATION HONORING THE CENTENNIAL ANNIVERSARY OF THE ST. JOSEPH CATHOLIC CHURCH OF FAIRPOINT, OHIO

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SPACE. Madam Speaker:

Whereas, in 1905, a Congregation was organized that consisted of twenty-five families celebrating Mass in private homes for three years; and

Whereas, in 1908 families gathered $800 dollars to erect a church building before formally establishing St. Joseph Catholic Church in 1909; and

Whereas, in September of 1950 His Excellency the Bishop John King Mussio of the Steubenville Diocese dedicated the newly renovated church and rectory; and

Whereas, St. Joseph Church continues to serve an active and vibrant congregation and continues to better Fairpoint by its presence; now, therefore, be it

Resolved, that along with the friends and congregation of St. Joseph Church and the residents of the 18th Congressional District, I congratulate St. Joseph Catholic Church on reaching their 100 year anniversary. We recognize the steadfast service provided by the Church, and commend the congregation for its continued life.

HONORING PENNSYLVANIA STATE POLICE CHAPLAIN GROVER DEVAULT

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. PITTS. Madam Speaker, I stand today to honor Pennsylvania State Police Chaplain Grover DeVault. Grover has spent his entire adult life ministering to the spiritual and emotional needs of those around him.

Early in his professional life, Grover served as a chaplain in the United States Army, including time spent in Vietnam. In this capacity, Grover provided guidance and counseling not only to members of his military unit, but the people of Vietnam as well, whose lives were upended by war in their homeland. It is my understanding that Chaplain DeVault was wounded as a direct result of enemy action during his active duty service. The event occurred on February 27, 1969, while he was stationed in Da Nang, Vietnam. For this, I recommended him for a Purple Heart.

He retired from the Army as a Lieutenant Colonel, but his ministry did not end there. Grover has remained very much involved in ministering to our troops and veterans in various capacities. His work on their behalf is no longer a duty, but a commitment that he has

made because of his personal belief in the importance of ministering to the spiritual needs of those who serve our nation.

One of the ways he continues to serve our troops is as a missionary, along with his wife Nancy, with Cadence International. Cadence is an evangelical mission agency dedicated to reaching the military communities of the United States and the world with the Good News of Jesus Christ.

In addition to his work with our troops, he actually established the chaplaincy program within the Pennsylvania State Police force and has provided chaplain services to the Troop J Lancaster Barracks of the State Police for many years. It was in this capacity that he provided a desperately needed service as a counselor to the emergency personnel who responded to the tragedy at the Amish school in Nickel Mines, Pennsylvania in 2006.

Grover is a man of great integrity who has dedicated his life to serving the spiritual needs of the men and women who serve our nation. I am pleased to honor him here in the House of Representatives, and I thank him for the important work he has done in spreading the Gospel to a community that is so important to our nation.

TRIBUTE TO THE WEST ROWAN HIGH SCHOOL FALCONS FOOTBALL TEAM

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. COBLE. Madam Speaker, great sports teams become known for doing everything well, but at least one thing better than everyone else. Championships are earned by those teams that can adapt during a title run. That's exactly what happened to a high school football team in our congressional district that was known for an explosive offense, but won a state championship by having its defense rise to the occasion. On behalf of the citizens of the Sixth District of North Carolina, we wish to congratulate the football team of West Rowan High School for winning the North Carolina 3A state championship. The Falcons soared to new heights with the first football championship in the school's history.

The championship was not won with an explosive offense for which West Rowan is known, but by a spectacular display of defense that forced six turnovers. The team was led by Head Coach Scott Young who was able to pull the squad together and make them believe they were capable of anything. As a result, the Falcons finished the season with an impressive 15–1 record that was capped with a dominating 35–7 win over West Craven High School.

The championship season was a team effort led by seniors AJ Little, Brantley Horton, Nate Dulin, Austin Greenwood, Tim Flanagan, Jeremy Melchor, Kameron Finchum, Jonathan Hill, Matt Bishop, Marquise Allison, Matt Turchin, Josh Safrit, Marco Gupton, Dylan Andrews, Brett Graham, Ricky Moore, Kenderic Dunlap, Joseph Kerley, Garrett Teeter, Daniel Spainhour, Dustin Davis, and Casey Reavis, juniors Kevin Parks, Jr., Maxx Gore, Ershawn Wilder, Jon Crucitti, Quan Cowan, Coleman Phifer, Desmond Shaver, Chris Smith, Jairahmai Robinson, John Jancic, Tim Pangburn, Rodney Cline, Mackel Gaither, Altariq Abraham, Eli Goodson, and Josh Poe, sophomores Trey Mashore, Nolan Phillips, BJ Sherrill, Aakeem Minter, Dominique Noble, Eric Cowan, Patrick Hampton, Tyler Mullis, Emmanuel Gbunblee, Charles Holloway, Armando Trujillio, Justin Teeter, Xavier Still, Tim Jancic, Davon Quarles, Kendall Hosch, and freshmen Christian Hedrick, Jarvis Morgan, Louis Kraft, and Troy Culbertson.

Also assisting the team during this outstanding 15–1 season were assistant coaches Ed Bowles, Butch Browning, Jeff Chapman, Joel Crotts, Tim Dixon, Ralph Ellis, David Hunt, Lee Linville, Joe Nixon, Kevin Parks, Sr., Stevie Williams, and Durwood Bynum, athletic trainer Amber DeDoming, video coordinator Alan Champion, and ball boys Bryant Young, Marcus Corry, Jr., and Owen White.

Again, on behalf of the Sixth District, we would like to congratulate Principal Jamie Durant, Athletic Director Todd Bell, Head Coach Scott Young, and everyone affiliated with the West Rowan Falcons for proving the old football adage that great defenses win championships. Congratulations to West Rowan on a spectacular season and for winning the North Carolina 3A state championship.

PRESIDENT OBAMA AND DR. MARTIN LUTHER KING COUNTY

HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. REICHERT. Madam Speaker, today I rise in celebration of the inauguration of President Barack Obama and in honor of the dream of Reverend Dr. Martin Luther King, Jr. In August of 1963, Dr. King shared dream with the world, "that one day this nation will rise up and live out the true meaning of its creed: 'We hold these truths to be self-evident, that all men are created equal.'" To so many, this inauguration symbolized the realization of this dream.

As the Representative of the Eighth District, I'm proud to stand before you today to recognize the importance of President Obama's place in history, and the fulfillment of the dream of Dr. King. The majority of the Eighth Congressional District of Washington is within the boundaries of King County, and in 1986, King County renamed itself in honor of Dr. King, "a man whose contributions are well-documented and celebrated by millions throughout this nation and the world, and embody the attributes for which the citizens of King County can be proud, and claim as their own."

The inauguration of President Barack Obama represented a monumental step forward in fulfilling Dr. King's vision for America. It was also a moment to celebrate our nation's freedom and cherish our democracy as we witnessed the peaceful transition of leadership between two individuals elected by a free people.

In the words of President Obama's inauguration speech: ". . . we gather because we have chosen hope over fear, unity of purpose over conflict and discord." Just 16 days ago President Obama shared these words with the nation as he took to the oath to become the 44th President of our great nation. He shared these words, I believe, to inspire a nation facing great challenges and opportunities ahead.

I am so proud to know that, as I serve in the U.S. House of Representatives, I am serving in Washington, DC with a man in the White House who is the absolute embodiment of the beautiful words Dr. King spoke. With that in mind, I requested an American flag to be flown over the Capitol on Inauguration Day to present the flag to King County Executive Ron Sims and the entirety of the County Council, in remembrance of this historic day as the nation moves forward and looks to a future filled with hope and lives on in the American spirit.

HONORING THE SERVICE OF STATE EXECUTIVE DIRECTOR OF FARM SERVICE AGENCY, DOTSON COLLINS

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BOOZMAN. Madam Speaker, I rise today to honor Arkansas Executive Director of Farm Service Agency, Dotson Collins, for his commitment to this country.

Dotson has led a life of service, first in the U.S. Armed Forces. He studied agriculture under the GI Bill and he used that knowledge and understanding to become a leader in the field.

Dotson first served as USDA State Executive Director under President Ronald Reagan and President George H.W. Bush. In 2006, under President George W. Bush he was anxious to do it again.

Dotson devoted his life to helping Arkansas. The list of positions he has held is impressive, from Labor Commissioner and Director of the Commodity Food Stamp Division, to Policy Advisor of Agriculture, Veterans and Military Affairs, Environment and Rural Development.

In roles that would leave the rest of us tired, Dotson found time to serve as President of the Christian Union Council, a position he has held for the last 20 years and he's looking at ways he can continue to help Arkansans.

I appreciate the leadership Dotson has shown and most of all I appreciate his friendship.

THE IMPORTANCE OF THE STEEL INDUSTRY

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SPACE. Madam Speaker, there is perhaps no industry that better encompasses the American spirit than the steel industry. Spanning for generations, the steel industry has offered the benefit of employment to millions of

Americans, producing material that would serve as the backbone of America.

Earlier today, a number of my colleagues joined me for a hearing entitled the "State of the Steel Industry." At the hearing, industry executives joined with labor unions to discuss the future of American steel production.

The present economic recession, coupled with the dubious trade and economic policies of competing nations abroad, makes the future of the industry of grave concern. In my district alone, hundreds of Ohioans depend on the industry for gainful employment. These jobs are good jobs. Given the present state of the economy in Ohio, we cannot afford to lose these jobs.

I am proud to be a Member of the Congressional Steel Caucus, and proud to have the opportunity to work on behalf of the millions of Americans whose employment depends on the production of American steel. I look forward to working with all of my colleagues who share my passion for this issue to ensure that the American steel industry can thrive.

There is no question that American steel can compete with any industry in the world on a level playing field. Congress must make that field even.

HONORING KEVIN CORWIN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Kevin Corwin of Gallatin, Missouri. Kevin is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 67, and earning the most prestigious award of Eagle Scout.

Kevin has been very active with his troop, participating in many scout activities. Over the many years Kevin has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Kevin Corwin for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN MEMORY OF KEN RUFENER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GALLEGLY. Madam Speaker, I rise in memory of my friend, Ken Rufener, who passed away Saturday after a fulfilling 89 years.

Ken Rufener was the epitome of service. He served as a United States Air Force statistical officer in the Far Eastern theater during World War II, and subsequently made the Air Force his first career. Before retiring 26 years later, Ken was assigned to the Pentagon before being loaned to the Rand Corporation in Southern California

After the Air Force, Ken moved his wife, Doris, and their two children to Westlake Village and he went to work as a cost analyst for the Hughes Aircraft company for the next 15 years.

His new home became the beneficiary of Ken's energy, sense of service and sense of community. He helped bring youth baseball to Westlake Village, serving as first vice president and coach of the Westlake Athletic Association. He is credited with keeping the Westlake Golf Course from becoming an industrial park. Ken also served as president of the First Neighborhood Homeowners Association.

In 1987, Ken was elected to the Westlake City Council for his first of two 4-year terms and served as mayor for 2 years. After retiring from the council, Ken was elected in 1997 to a 4-year term on the Las Virgenes District Water Board.

Ken was a member of the Military Order of the World Wars and the Retired Officers Association of America.

Among the awards Ken received for his service were the Patrick Henry Patriotism Award, Westlake Village Citizen of the Year, and the Conejo Valley/Las Virgenes Civitas award for service to the Conejo Valley.

Ken and Doris's daughter, Karen, died about 10 years ago.

Madam Speaker, I know my colleagues will join my wife, Janice, and me in offering condolences to Ken's wife of 62 years, Doris, their son, David, and all their family and friends, and in celebrating Ken's life of service to his country, his community and his family.

Godspeed, Ken.

CONDEMNING THE ATTACK ON THE TIFERET ISRAEL SYNAGOGUE IN CARACAS, VENEZUELA

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today to express my profound concern and indignation regarding the recent attack on the Tiferet Israel Sephardic synagogue in Caracas, Venezuela.

The attack, which occurred just days after International Holocaust Remembrance Day, on the Jewish Sabbath, was reminiscent of Kristallnacht.

For five hours, violent anti-Semites profaned and vandalized a Sephardic synagogue in capital city Caracas, leaving behind graffiti with words of hatred.

But the violence didn't stop there. Sacred torah scrolls were hurled about recklessly and damaged. The synagogue's guard was held at gunpoint and was found on the floor of the building by synagogue members on Saturday morning.

Let me be clear. This brazen attack on the Venezuelan Jewish community did not occur in a vacuum.

It was the direct result of the Venezuelan government's leaders, officials, media commentators and others, who have fostered an atmosphere of intimidation against the Jewish community.

During the Gaza crisis, anti-Semitic and anti-Israel statements were made by the Venezuelan President, the foreign minister, interior minister, the president of the national assembly, a number of congress members, and governors across the country.

In the most recent example of his blatantly anti-Semitic public comments, President Hugo Chavez said "the Israelis criticize Hitler but have done something worse," and also asked "Don't Jews repudiate the Holocaust? This is precisely what we're witnessing."

Hateful, fear-mongering comments like these were condemned by our own Department of State, in a 2008 report where they listed "drawing comparisons of contemporary Israeli policy to that of the Nazis" as an example of anti-Semitism.

President Chavez "condemned" Friday's attack on Tiferet Israel as briefly as possible, making no mention of plans to ensure the safety and security of the Jewish community in his country. He did, however, take a considerable amount of time to throw mud at his opponents, accusing them of staging the synagogue assault. This is unacceptable.

In November 2008, President Chavez signed a statement along with the presidents of Argentina and Brazil condemning religious intolerance, and "in particular anti-Semitism and anti-Islamism."

In the strongest of terms I urge the government of Venezuela to live up to this statement, and end the incessant bullying and harassment of the Jews of Venezuela.

HONORING AMBASSADOR JOE M. RODGERS

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mrs. BLACKBURN. Madam Speaker, I rise today to celebrate the extraordinary life of Ambassador Joe Rodgers, who passed away on Monday at the age of 75. He exemplified the values of dedication, hard work and perseverance; and he committed himself to serving others. This is the inheritance he leaves his family and all those who knew him.

Although a native of Alabama, he built many of the iconic buildings that define his adopted hometown of Nashville. From the Schermerhorn Symphony Center to the Wildhorse Saloon to the Country Music Hall of Fame and Museum, many of the most well-known and well-loved buildings in Middle Tennessee will stand as a permanent memorial to Joe Rodgers. He was an enormous force in the construction industry, building a series of companies that built hotels, hospitals, university buildings and countless other structures around the country and around the world.

Not content to rest on his success in business, Joe Rodgers engaged in public life through his support of candidates who shared his belief in fiscal conservatism. He would eventually become National Finance Chairman for both the Republican National Committee

and the re-election effort of President Reagan. In 1985, President Reagan named him the U.S. Ambassador to France. His exemplary service was rewarded with the rank of Grand Officier of the Legion of Honor presented by French President Mitterand. He also served on both the Foreign Intelligence Advisory Board and the U.S. Trade Representative's Foreign Advisory Committee.

At home in Nashville he was involved with countless civic, charitable and religious groups such as the Boy Scouts of America, the Chamber of Commerce, the Fellowship of Christian Athletes and Vanderbilt University.

Indeed it is difficult to find another person who has had so much impact on so many different aspects of our community. He will be missed and our sympathy is with his loving family.

Madam Speaker, I ask my colleagues to join me in appreciation of a life well lived.

MIDDLE CLASS INVESTOR RELIEF ACT

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. KIRK. Madam Speaker, in the past year, shareholders in American companies have seen the value of their holdings drop by 30 percent. Congress is taking action to stimulate our economy, and reviewing options to strengthen oversight of the capital markets that keep our economy going.

We must not forget the small investor. Middle class families have watched their nest eggs shrink and their home values drop. Their shaken confidence impacts consumer spending and the future growth of our nation's economy. Some middle class Americans nearing retirement may need to work additional years to earn back their stock losses.

With continuing economic uncertainty, we must bring relief to middle class families while boosting investor confidence in an uncertain stock market. Today, I am introducing the Middle Class Investor Relief Act, increasing the maximum annual capital loss a taxpayer can take from $3,000 to $20,000.

Current tax law is asymmetrical with regard to taxing capital gains and writing off capital losses. Long-term gains are taxed at 15 percent while capital loss write-offs are capped at $3,000 per year. An individual who lost more than $3,000 in the stock market could take years to rebuild his or her holdings. The Middle Class Investor Relief Act will correct the asymmetry of current tax law and help middle class Americans recover losses and rebuild their portfolios.

2008 REALTOR ACHIEVEMENT AWARD: MICHELE BRENNAN

HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. REICHERT. Madam Speaker, I rise in recognition of a wonderful American, a devoted professional, volunteer and personal friend. Michele Brennan, a constituent, was recently honored by the Seattle-King County Association of Realtors with "The Realtor Achievement Award" for an extraordinary body of work improving both the association and real estate industry overall.

Michele, a dedicated wife and mother of two children, has worked in the real estate industry for 25 years. She ensures that my office is aware of the issues important for Realtors, the families they serve, and my constituents in the Eighth District of Washington.

Apart from her professional duties in the real estate industry, Michele is a selfless leader dedicated to the betterment of her community. A long-serving volunteer in the Auburn, Washington School District, Michele has also served as president of the Kent, Washington Swim and Tennis Club and as a member of the Windermere Foundation Board, where she worked hard on behalf of needy families and children. It is difficult to fully explain Michele's dedicated community involvement because, either as a leader or "behind-the-scenes" organizer, Michele is interested not in earning praise, but only in making a positive impact.

The mission of the Seattle-King County Association of Realtors is to enhance the ability and opportunity of members to operate their businesses successfully and ethically through a strict code of ethics. As a professional member, Michele Brennan could not fulfill that mission more appropriately in her own life, her community and, of course, her profession. I wish her the very best in the future, thank her for her sincere commitment to her community, and congratulate her on receiving such a prestigious award.

HONORING CARL MERRIGAN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Carl Merrigan, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 47, and in earning the most prestigious award of Eagle Scout.

Carl has been very active with his troop, participating in many scout activities. Over the many years Carl has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Carl Merrigan for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

THE INTRODUCTION OF THE NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2009

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. ABERCROMBIE. Madam Speaker, I rise today to introduce the Native Hawaiian Government Reorganization Act of 2009, a bill to affirm and formalize the long political relationship between Native Hawaiians and the United States. This measure clarifies that political bond and provides a process for Native Hawaiians to form their own governing body and participate in a government-to-government relationship with the United States. This is a companion measure to legislation being introduced by Senator DANIEL AKAKA in the Senate this evening.

The United States recognized the sovereignty of the Kingdom of Hawaii more than 175 years ago, accorded the Kingdom full diplomatic recognition and entered into treaties and conventions in 1826, 1842, 1849, 1875 and 1887, all ratified by Congress. The United States has declared in law a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians.

P.L. 103–150, the Apology Resolution, extended an apology to the Native people of Hawaii on behalf of the United States for our country's role in the overthrow of the Kingdom of Hawaii in 1893. The Apology Resolution also expressed the commitment of Congress and the President to acknowledge the ramifications of the overthrow, and to support reconciliation efforts between the United States and Native Hawaiians.

This relationship was explicitly affirmed in the Hawaiian Homes Commission Act of 1920, which set aside 200,000 acres of land for homesteading by Native Hawaiians. Legislative history clearly shows that Congress based this action and subsequent legislation on the constitutional precedent in programs enacted to benefit Native Americans. In fact, since Hawaii's admission into the Union fifty years ago, Congress has legislated on behalf of Native Hawaiians, including them as Native Americans in numerous statutes.

The legislation I am introducing today is important not only to Native Hawaiians, but to everyone in Hawaii. It provides a process to address many longstanding issues facing Hawaii's indigenous peoples and the State of Hawaii. In addressing these matters, we have begun a process of healing, a process of reconciliation not only between the United States and the Native people of Hawaii, but within the State of Hawaii.

The essence of Hawaii lies not in the allure of its islands, but in the beauty of its people. The State of Hawaii has recognized the need to preserve the culture, tradition, language and heritage of its indigenous peoples. This measure gives form to the U.S. government's responsibilities in that same effort.

THE "MULTI MODAL TRANSPORT BENEFIT AND TECHNICAL CORRECTIONS ACT"

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. BLUMENAUER. Madam Speaker, today I am introducing the "Multi-Modal Transport Benefit and Technical Corrections Act," a bill that encourages flexibility for employees and employers hoping to take advantage of the bike commuter tax benefit created in last year's financial rescue package. The bill also makes small technical changes to the program.

This legislation amends the Internal Revenue Code of 1986 to allow employees to receive transportation fringe benefits for the same month both in the form of transit passes and reimbursements of qualified bicycle commuting expenses. It offers smarter, more flexible benefits without imposing additional costs on employers or taxpayers, as the multi-modal benefits fall under existing caps for transit.

Allowing individuals to choose how to commute to work, and providing parity to those who choose alternative methods of transportation, simply makes sense. Bike commuters—who burn calories instead of gasoline, emit fewer fossil fuels and have a much smaller impact on our roads and transport systems than most other commuters—should at the very least have the same access to fringe benefits that their car driving colleagues enjoy. The "Multi-Modal Transport Benefit and Technical Corrections Act" will level the playing field for bike commuters and ensure smooth application of the bike commuter tax benefit for employers.

I am proud to introduce this bill today and urge my colleagues to support it.

RECOGNIZING WILLIAM J. POST WHO IS RETIRING FROM HIS POSITION AS PRESIDENT AND CEO OF PINNACLE WEST CAPITAL CORPORATION

HON. HARRY E. MITCHELL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MITCHELL. Madam Speaker, I rise today to congratulate William J. Post, who is retiring from his position as Chairman and CEO of Pinnacle West Capital Corporation after 38 years of extraordinary service to the company. Since the beginning of his time at Pinnacle West in 1973, Bill's strong work ethic and ambition have earned him great respect, and have inspired others within the company.

During his time at Pinnacle West Bill's leadership contributed to many important company milestones, including navigating a state push to deregulate utilities and then reshuffling when that effort was pulled back. Bill accomplished this without bankruptcy, new ownership, or any kind of employee reorganization. His efforts have made a significant and lasting impact on the company.

Bill is well-known for his leadership abilities not only within the Pinnacle West Corporation, but in his community as well. Most notably, he contributed to the creation of the Greater Phoenix Business Leadership Coalition, which is comprised of regional businesses working toward stabilizing the economy. Bill is also involved in the United Methodist Outreach Ministry, Translational Genomics Research Institute, Blue Cross Blue Shield, and Arizona State University.

On a personal note, like me, Bill is an alumnus of Tempe High School, where I also taught. I know the residents of our hometown share my pride in seeing a fellow Tempe Buffalo make such profound contributions to the community.

Madam Speaker, please join me in recognizing Bill Post's contributions to Pinnacle West Capital Corporation and his surrounding community, and wishing him well in his retirement.

BLACK HISTORY MONTH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. VISCLOSKY. Madam Speaker, It is with great respect and sincere admiration that I rise to celebrate Black History Month and its 2009 theme—The Quest for Black Citizenship in the Americas. Throughout its history, the struggle for racial equality has been and continues to be one of the greatest testaments of America's progress.

The theme for this year's Black History Month, The Quest for Black Citizenship in the Americas, is a reminder that in striving for a greater society, we must examine the past. No group has contributed more to reflecting on the past in order to create a better future than the National Association for the Advancement of Colored People (NAACP). As the NAACP celebrates a remarkable milestone, its 100th anniversary, we take this time to remember the outstanding contributions of so many proud and courageous individuals: black, white, men, women, young and old. These men and women have given hope in the bleakest of times and allowed us, as a society, to make strides toward equality once considered impossible.

Recognizing that emancipation was only the beginning of the fight for true equality, the NAACP was founded with the ideals of creating and preserving equal citizenship for all men and women throughout America. Knowing that there is still work to be done, it is the vision of the NAACP that, one day, all individuals will have equal rights and the United States will see an end to racial hatred and discrimination. As the first page of the NAACP Constitution indicates, the principal goals of the organization are: to ensure political, educational, social, and economic equality, to eliminate racial prejudice in America, to remove racial barriers through the democratic process, to secure civil rights, to inform the public and seek the elimination of racial discrimination, and to educate individuals about their constitutional rights.

In the First Congressional District, I am proud to serve as the representative for three branches of the National Association for the Advancement of Colored People. At this time, I would like to pay special tribute to these three groups, which have played such a critical role, locally, in the fight for racial equality and in improving Northwest Indiana for all residents. These three outstanding representatives of the First Congressional District include the East Chicago Branch, led by President Philip Hinton, the Gary Branch, led by President Karen Pulliam, and the Hammond Branch, led by President Mary Aaron.

It is the efforts of organizations like these that allow us to reflect on what makes the United States of America so special. Nowhere else in the world do you find such an integrated society. While the United States is made up of people from so many different racial, religious, social, and ideological backgrounds, it is the efforts of the many brave citizens who have fought and continue to struggle for equality that have made America what it is.

Madam Speaker, I ask that you and my distinguished colleagues join me in remembering the many brave men and women who have led the struggle for equality among all Americans, and I ask that you join me in honoring the work and tireless dedication of the members of organizations, such as the NAACP, who continue their selfless work today. Through the efforts of these honorable individuals and organizations, we are reminded of how far we have come as a nation, while realizing that there is still progress to be made.

HONORING TYLER WADE KUEHN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Tyler Wade Kuehn of Platte City, Missouri. Tyler is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 351, and earning the most prestigious award of Eagle Scout.

Tyler has been very active with his troop, participating in many scout activities. Over the many years Tyler has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Tyler Wade Kuehn for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN SUPPORT OF LEGISLATION TO PREVENT VIOLENCE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mrs. MALONEY. Madam Speaker, I rise today in support of H.R. 748, the "Campus

Safety Act of 2009," H. Res. 82, which establishes January 2009 as National Stalking Awareness Month, and H. Res. 103, which supports the goals and ideals of National Teen Dating Violence Awareness and Prevention Week. These bills will help to combat violence, disseminate safety information, and raise awareness about these critical issues.

All Americans should feel safe in their communities, their workplaces, their schools, and their homes. Everyone, but particularly children and teens, should have access to the necessary resources to recognize a violent or abusive relationship and to get out safely. I believe that it is particularly important in this day of instant communication that we educate young people about the unintended consequences of sharing too much information on the Internet or via a cell phone. While these are valuable tools to communicate in the 21st century, they can also pose new and sometimes unexpected dangers.

We all must be aware of the warning signs of violent relationships whether they are affecting our friends, our neighbors, or our children. The bills before us today show that we will not tolerate the violence, abuse, and sexual assault that pervade our society. I urge my colleagues to support these important bills.

INTRODUCTION OF THE CORAL REEF CONSERVATION ACT REAUTHORIZATION AND ENHANCEMENT AMENDMENTS OF 2009

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Ms. BORDALLO. Madam Speaker, today I have reintroduced a bill to amend and reauthorize the Coral Reef Conservation Act of 2000. In the 110th Congress, I joined my colleague, Congressman ENI FALEOMAVAEGA of American Samoa, in introducing H.R. 1205, the "Coral Reef Conservation Amendments Act of 2007", which the House of Representatives passed by voice vote on October 22, 2007. The bill I have introduced today, with Congressman FALEOMAVAEGA and 15 other colleagues, strengthens H.R. 1205 without changing its original intent.

Conservation of coral reef ecosystems is essential to protect public health, promote environmental sustainability, and ensure long-term economic progress for the jurisdictions we represent in Congress. The sovereign waters of the United States off the coast of Guam, and in the Pacific region as a whole, contain a majority of the shallow-water coral reefs in the United States, as well as some of the world's greatest coral reef biodiversity. These reefs, and reefs around the world, protect us from storm waves, provide habitat and shelter for fisheries, provide food and recreation for our residents, and are the basis for marine tourism industries.

Today, however, various pressures on the world's reefs threaten to destroy them and the numerous ecosystem services that they provide. Unless the United States acts in conjunction with the global community to support focused, prolonged action on coral reef education, research, and management, the condition of our coral reefs will continue to degrade.

Since its enactment in 2000, the Coral Reef Conservation Act has stimulated a greater commitment to protect, conserve, and restore coral reef resources within jurisdictional waters of the United States. As a result, we now have a much better grasp of the condition of our coral reefs, and more focused management capability than at any time in our history. The Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009 would further strengthen the original legislation by establishing a new community-based planning grants program, by promoting international cooperation, and by recognizing the important contributions of the U.S. Department of the Interior in coral reef management and conservation efforts.

This bill would also codify the United States Coral Reef Task Force established in 1998 by President Clinton through Executive Order 13089. The work of the Task Force and its mission to coordinate the efforts of the United States in promoting conservation and the sustainable use of coral reefs internationally is vital to our interests. Since 1998, the Task Force has acted to facilitate and support better management and conservation of coral reef resources at the local level. Many beneficial efforts, such as the development and implementation of local action strategies to address threats to our reefs, are underway thanks to the work of the Task Force and its member agencies.

I look forward to working with my colleagues on both sides of the aisle to advance this legislation to enhance our capacity for the conservation and restoration of healthy and diverse coral reef ecosystems, our "Rainforests of the Sea".

COMMEMORATION OF MONSIGNOR BONNER HIGH SCHOOL ALUMNI

HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. SESTAK. Madam Speaker, on this day, one of the finest schools in Pennsylvania's 7th Congressional District will pay honor to its many exceptional graduates who have given their lives in service to our nation.

It is with a combination of pride and humility that I rise to honor the alumni, faculty, students and families of Monsignor Bonner High School in Drexel Hill, Pennsylvania. Specifically, we all owe a debt of gratitude to Mr. Dennis Murphy and Mr. Jim Ulmer. These two combat Veterans of the Vietnam War, in collaboration with other Veterans, graduates, and school president, the Rev. Augustine M. Esposito, O.S.A., Ph.D. have worked hard to pay tribute to Bonner's courageous graduates, their families and comrades-in-arms past, present, and future.

Founded in 1953 and expertly led by friars of the Order of St. Augustine, Monsignor Bonner High School has imbued in every young man who has passed through its doors the moral and intellectual foundation required to serve our nation with honor, courage, and commitment. Among its alumni and faculty are thousands of veterans including the Rev. John Melton, O.S.A., who served in the United States Marine Corps and throughout his tenure as Bonner's Guidance Counselor inspired an untold number of young men to follow his example of service to country, community, and God.

As our nation fights two wars far from our shores it is essential that we thank Monsignor Bonner High School and its surrounding neighborhoods in the Delaware Valley that have offered so many of their sons and daughters in service to our nation.

There is a headstone in Ireland that reads, "Death leaves a heartache no one can heal, love leaves a memory no one can steal." Today, Monsignor Bonner High School continues to reflect the very best in our nation and society in memorializing the sacrifices of some of its many heroes. Most importantly, they have done so in a way that will forever represent our love and our respect for the great gift those young men offered in service to the United States of America.

RENEWABLE ENERGY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. ENGEL. Madam Speaker, I would like to discuss an article in today's New York Times confirming that renewable energy industries—especially wind and solar—have been slowed significantly by the credit crisis and the broader economic downturn.

I believe that we should not allow frozen credit markets to derail renewable-energy projects, and we cannot allow reduced oil prices to lull us into complacency.

We have an opportunity to address both of these concerns by working with the Senate, and with the Obama Administration, to pass the economic recovery package into law.

I believe that the recovery package must extend tax credits for biofuels, wind, and solar. It must make infrastructure investments. It must increase federal dollars for energy research, development, and deployment. And it must encourage the production of alternative fuel motor vehicles, including plug-in electric drive vehicles.

The time to act is now. A clean, green recovery package is our nation's best path to restoring our economy, and our best chance of creating jobs that cannot be outsourced.

MOURNING THE DEATH OF FORMER SENATOR JAMES B. PEARSON OF KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. MOORE of Kansas. Madam Speaker, I rise today to note the death of former Kansas United States Senator James B. Pearson, who died on January 13th at the age of 88.

Appointed to the U.S. Senate in 1962, upon the death of Andrew Schoeppel, James B. Pearson served our state with distinction from 1962 through 1978. Elected in 1962, and re-elected in 1966 and 1972, Senator Pearson was a workhorse, not a showhorse. A senior member of the Foreign Relations Committee, he also rose to become Ranking Republican member of the Commerce, Science and Transportation Committee. Senator Pearson represented our state during an important and turbulent era, addressing issues that included: the Vietnam War; the civil rights revolution; enactment of the Medicare and Medicaid programs; America's space exploration program; and deregulation of the trucking and airline industries. Senator Pearson was a voice of reason and common sense during these difficult times and I am proud that he was originally from Prairie Village, which is located in the Third Congressional District of Kansas. In 2003, I joined with the rest of the Kansas congressional delegation in authoring legislation naming the Prairie Village U.S. post office in his honor.

Madam Speaker, the website for the Topeka Capital-Journal newspaper recently carried a blog commentary regarding Senator Pearson's career, which I believe very accurately summarizes his service to Kansas throughout his public life. I ask that it be included with this statement, as well as the obituary article regarding Senator Pearson that was published in the Washington Post.

[From the Topeka Capital Journal, Jan. 29, 2009]

MELLINGER: PEARSON'S POLITICAL STORY IS ONE WORTH REMEMBERING

(By Gwyn Mellinger)

Without fanfare, Jim Pearson, one of Kansas' most complex politicians, died earlier this month. Most of the state's news media marked his passing with only perfunctory notices, hardly a fitting testament to his contributions during 17 years in the U.S. Senate and another decade in various other public offices.

This is what happens when you live to be 88 and choose to spend the last decades of your life in relative obscurity. In retirement, Pearson split his time between homes in Baldwin City and Gloucester, Mass. As health problems prevented travel, his visits to Kansas became fewer. Even so, he remained invested in the state whose voters sent him off to Washington and were sometimes bewildered by him.

Pearson never lost the drawl that betrayed his upbringing in Tennessee and Virginia, as well as his education at Duke University and the University of Virginia School of Law. As an outsider, he launched his Kansas political career from a law practice in Johnson County, where he was a city attorney and probate judge before serving a term in the Kansas Senate.

He was state Republican chairman in 1962, when Gov. John Anderson appointed him to fill the U.S. Senate seat vacated by the death of Andy Schoeppel. Later that year, Pearson secured the position in a special election and was re-elected in both 1966 and 1972. When he didn't seek reelection in 1978, he was succeeded by Nancy Kassebaum.

With benefit of hindsight, Pearson's political record seems particularly astonishing. When Pearson ran for statewide office, his brief history in Kansas was in Johnson County. Even so, Pearson was able to win re-election to the Senate in a state whose population was then more rural, more provincial and less concentrated in the east.

Moreover, Kansans re-elected Pearson after he took a decidedly liberal turn. Although Pearson generally voted with his party at the beginning of his Senate career, he broke with the Nixon administration by opposing the bombing of Laos and Cambodia. Pearson also attended meetings of the Wednesday Club, a lunch group of liberal and moderate Republican senators.

When Bobby Kennedy, Pearson's UVa classmate, made a presidential campaign swing through Kansas, Pearson introduced him in Lawrence and Manhattan. In his remarks Pearson wished Kennedy continued success in the Senate, but the joint appearance was a politically incendiary move for a Kansas Republican.

Pearson answered voters' concerns about ideology by advancing constituent services, rural development and the interests of the aviation, livestock, and oil and gas industries.

A Republican politician with Pearson's independent spirit would have difficulty being elected today. Nor are there many who simply retire and forsake the limelight, as Pearson did.

His is an example worth remembering.

[From the Washington Post, Jan. 19, 2009]

PROGRESSIVE REPUBLICAN WAS A KANSAS SENATOR

(By Joe Holley)

James B. Pearson, 88, a progressive Republican who represented Kansas in the U.S. Senate for almost 17 years, died Jan. 13 at his home in Gloucester, Mass. A cause of death wasn't immediately available, although Sen. Pearson had been on kidney dialysis for the past four years, said his wife, Margaret Pearson.

Sen. Pearson championed deregulating natural gas, expanding international trade and reforming campaign finance, among other issues that often found him voting with his Democratic colleagues. With then-Sen. Walter F. Mondale (D-Minn.), he sponsored legislation that reduced the number of votes required to end a filibuster from 67 to 60. He also broke with the Nixon administration on efforts to end the Vietnam War. His closest Senate colleagues were Republicans Sens. Charles ''Mac'' Mathias (Md.) and Edward Brooke (Mass.) and Democrat John Culver (Iowa).

David Seaton, the senator's former press secretary and now publisher of the Winfield Daily Courier, said Sen. Pearson's toughest races were always in the Republican primaries: ''For a good long time, he was not considered Republican enough by the traditional Republican party people.''

James Blackwood Pearson was born in Nashville but moved with his family as a child to the Charlottesville area, where his father was a Methodist preacher. He spent two years as an undergraduate at Duke University before becoming a Navy transport pilot during World War II. From 1943 to 1946, he was stationed at Olathe Naval Air Station in Kansas. He returned to Kansas after receiving his law degree in 1950 from the University of Virginia.

He married a Kansas woman after the war and practiced law in Johnson County, Kan., during the 1950s. He also served as city attorney for several Kansas towns, as assistant county attorney and as a county probate judge.

After serving a single term in the Kansas Senate, starting in 1956, he returned to his private law practice. He also served as the Republican state chairman.

In January 1962, Republican Sen. Andrew Schoeppel died in office, and Kansas Gov. John Anderson, Jr. appointed Sen. Pearson to fill the vacancy. He won the GOP primary that year with 62 percent of the vote over former governor Ed Arn, then won the general election with 56 percent. He won a full six-year term in 1966 and another in 1972.

As a senator, he was a member of the Appropriations and Commerce committees and served on the Foreign Relations Committee in the 1970s as the United States sought to end the Vietnam War.

Seaton noted that Kansas Republicans who supported Sen. Pearson ''really did support most of the Great Society and turned against the Vietnam War fairly early.'' The senator became an opponent after the 1970 bombing of Cambodia.

Sen. Pearson decided not to seek reelection in 1978 and was succeeded by Nancy Kassebaum Baker. He practiced law in the Washington office of LeBoeuf, Lamb, Lieby and MacRae and served on the board of the Honolulu-based East-West Institute. He spent the last few years of his life in Gloucester and also had a farm in Baldwin City, Kan.

His marriage to Martha Mitchell Pearson ended in divorce.

Survivors include his wife of 28 years, of Gloucester and Baldwin City; and four children from the first marriage.

HONORING FRED TRAMMELL CROW

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise to recognize the passing of a pioneer in the field of commercial real estate development both in Dallas and around the world, Mr. Fred Trammell Crow.

Fred Trammell Crow was born June 10, 1914 in Dallas, Texas, the fifth of the eight children of Jefferson and Mary Crow. Growing up in a rented one-bedroom house in East Dallas, Trammell Crow graduated from Woodrow Wilson High School in 1932. Unable to attend college because of the Great Depression, Mr. Crow worked several odd jobs; eventually he worked his way through school at the American Institute of Banking and at Dallas College, the evening division of Southern Methodist University.

Trammell Crow passed the Texas CPA exam in 1938 and accepted a position with Ernst & Ernst as an auditor. As World War II approached, he applied for and was accepted for an officer's commission in the U.S. Navy where he used his auditing skills. Later he was in charge of Navy audit teams that worked with various defense contractors. By 1944, he earned the rank of commander in charge of cost inspection for the Eighth Naval District in New Orleans.

Mr. Crow married Margaret Doggett in 1942 and returned to Dallas in 1946, when his Naval assignment was completed. Mr. Crow went to work with the Doggett Grain Company where he would stay until 1948 when, at age 33, he began his legendary career in real estate.

In the 1950s, Trammel Crow introduced Dallas to the idea of building on speculation. He soon became a major industrial developer in the city, building the huge Dallas Market Center in 1957 and his first downtown office building two years later. In the 1950s and 1960s, Mr. Crow developed the major merchandise marts of Dallas including the Dallas Design District, Dallas Apparel Mart and World Trade Center. Crow's agents did more than $15 billion in development and eventually gave him an interest in 8,000 properties, ranging from houses to hospitals, hotels and office buildings located in Brussels, Hong Kong, San Francisco, Miami, and Washington, D.C., amid others. Among Mr. Crow's many real estate accomplishments, he founded Trammell Crow Company, Trammell Crow Residential and Wyndham Hotel Company.

He and his wife Margaret were avid travelers who particularly enjoyed collecting art during their numerous business trips. In 1998, the Crow Family made it possible for everyone to share their love of Asian art by dedicating the Trammell and Margaret Crow Collection of Asian Art, a permanent museum located in the Arts District of downtown Dallas. He and his family have also donated $1.1 million for research into Alzheimer's disease at the University of Texas Southwestern Medical Center at Dallas.

Madam Speaker, Trammell Crow is survived by his loving wife, Margaret, his children: Robert, Howard, Harlan, Trammell S., Lucy Billingsley and Stuart, sixteen grandchildren and three great-grandchildren.

IN COMMEMORATION OF BLACK HISTORY MONTH

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. HASTINGS of Florida. Madam Speaker, I rise today to commemorate this 33rd Black History Month, a month that celebrates Black history with a view to its promotion, preservation and research.

Black History Month has grown as a celebration of Black history and culture over many decades. At the urging of historian Carter Woodson, the second African American to receive a degree from Harvard University, the fraternity Omega Psi Phi first created Negro History and Literature Week in 1920. In 1926, Woodson changed Negro History and Literature Week to Negro History Week, and chose the second week of February for its celebration in order to honor the births of President Abraham Lincoln and Frederick Douglass, two men who had a profound influence in the fight for equality for African Americans.

Although Woodson died in 1950, his legacy continued. In the early 1970s, the Association for the Study of Negro Life and History, now called the Association for the Study of African American Life and History, changed Negro History Week to Black History Week. In 1976, they extended the week to a month-long observance.

Since its earliest origins, Black History Month has made a significant contribution to the promotion, preservation and research of Black history. When the tradition of Black History Month first began, Black history had barely been explored by mainstream academia. Although much work remains to complete our understanding of African-American culture, our understanding is vastly improved. This has contributed to both an increased sense of racial pride among African-Americans and an increased appreciation of African-American culture among non-White Americans.

Madam Speaker, these and other continued improvements are essential to addressing the inequalities, which continue to affect African-Americans. For these reasons, I am extremely pleased to commemorate Black History Month and encourage my colleagues to join me in doing so as well.

INTRODUCTION OF THE "MORTGAGE AND RENTAL ASSISTANCE RESTORATION ACT OF 2008"

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mrs. MALONEY. Madam Speaker, today I am re-introducing "The Mortgage and Rental Assistance Restoration Act" for the 111th Congress. I have introduced this in previous Congresses and I will keep working to pass this important piece of disaster relief policy that will protect all Americans.

My bill would reauthorize the Mortgage and Rental Assistance Act, MRA, which was discontinued by the Disaster Mitigation Act effective May 2002. The MRA provides mortgage or rental payments to people who suffer a loss of income due to a federally declared disaster such as a hurricane or terrorist attack. Without a job, most people would be unable to keep their homes due to the financial burdens of mortgages or rents. The MRA provides cover for both home owners and renters.

After the terrorist attack on September 11, 2001, individuals who required temporary housing assistance relied upon the MRA, included in the Stafford Act, for aid. Under the MRA program many were eligible for grants to repair homes to a habitable condition, or to obtain mortgage or rental payment assistance to prevent foreclosures or evictions.

The MRA program was a crucial component to help victims of the Sept. 11th attack in my home state of New York. However, in 2005, in the wake of Hurricane Katrina, the MRA was not available for mortgage or rental assistance. As a result many people who would have been eligible for mortgage or rental assistance were unable to receive it. This was unfair and detrimental to the recovery process.

The United States government has a responsibility to help communities recover from unpredictable disasters and help citizens keep from losing their homes. The MRA program helps provide stability during unstable times and that is why it must be reauthorized.

RETIREMENT EQUITY FOR U.S. DISTRICT COURT JUDGE JOHN S. UNPINGCO OF PITI, GUAM

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Ms. BORDALLO. Madam Speaker, today I have introduced a private relief bill to grant full annuity set forth in 28 U.S.C. 373 to the Honorable John S. Unpingco of Piti, Guam, former Judge of the United States District Court of Guam.

Prior to his confirmation on October 8, 1992, by the United States Senate as Judge of the District Court of Guam, Judge Unpingco served a combined total of 27 years as an officer in the United States Air Force, the United States Air Force Reserve, and as a federal civilian employee in the Department of the Air Force. However, despite his long and distinguished career as a public servant, upon attaining the age of 65 Judge Unpingco will not qualify for a full .annuity from the Administrative Office of the United States Courts (AO), from the United States Air Force, or from the Federal Government for his civilian service. Under current law, upon attaining the age of 65, Judge Unpingco can only receive an annuity prorated to his service on the federal bench and valued at approximately 12/15th of the salary he earned at the time he stepped down from the bench.

The issue of retirement inequity is one unique to Judges appointed to serve on the bench for the District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands. Each of these Courts was established pursuant to an Act of Congress enacted in under the authority of Congress to govern territories granted by Section 3 in Article IV of the Constitution. Article IV judges are appointed for fixed-length terms pursuant to statute. Article III judges, however, their counterparts serving on the bench in District Courts in the 50 States and in the District of Columbia, are appointed for life in accordance with the Constitution.

In the 109th Congress, I wrote with my colleague from the Virgin Islands, Mrs. CHRISTENSEN, to the Judicial Conference of the United States, to request their review of draft legislation to amend 28 U.S.C. 373 to allow for the retirement of Article IV judges under terms more equal to those provided under current law for judges of Article III Courts and the United States Tax Court. The Committee on the Judicial Branch of the Judicial Conference of the United States carefully examined our legislative proposals on this issue and responded in writing on January 5, 2006, indicating that this is a matter more appropriately addressed at this time through a private relief bill. To date, Congress has confirmed the appointments of 16 Judges to the Article IV Courts for the Districts of Guam, the Northern Mariana Islands, and the Virgin Islands. Length of terms has varied over time and across the three courts. There are unique circumstances surrounding Judge Unpingco's executive and judicial service. He separated from the civil service to fulfill a judicial responsibility on behalf of his country, and served on the federal bench in good faith.

It is at the suggestion of the Committee on the Judicial Branch of the Judicial Conference of the United States and in accordance with precedent that I have introduced this private relief bill. I do so in the hopes that a distinguished public servant will collect the full and fair annuity that he selflessly worked toward over the course of his 27 year career in public service. While I intend to introduce legislation at a later time to establish the District Court of Guam as an Article III Court, I remain concerned about current inequity in the law affecting Article IV Judges. Thirty-seven private bills have been enacted into law by the previous five Congresses. Congress has previously considered private relief bills pertaining to annuities payable to federal Judges, including for example for a Judge in a territory of the United States. The most recent example being S. 115 for the relief of Judge Louis LeBaron, who was a Justice of the Territorial Supreme Court of Hawaii and which was introduced in the 1st Session of the 99th Congress on January 3, 1985.

I look forward to working with the Chairman and Ranking Member of the Committee on the Judiciary to address the underlying inequity in retirement benefits for Article IV Judges and in this particular case to bring relief to Judge Unpingco through the enactment of the bill I have introduced today. I hereby enter for print in the CONGRESSIONAL RECORD to accompany the introduction of this bill and to supplement these remarks, the correspondence I exchanged with the Administrative Office of the United States Courts (AO) and the Judicial Conference of the United States and its enclosures on this matter.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 4, 2005.

Mr. LEONIDAS RALPH MECHAM,
Director, The Administrative Office of the U.S. Courts, One Columbus Circle, NE, One Columbus Circle, NE, Washington, DC.

DEAR DIRECTOR MECHAM: We write to you in your capacity as Secretary to the Judicial Conference of the United States, to request the Judicial Conference's support for amending Section 373, of Chapter 17, in Part I, of Title 28 of the United States Code, to allow for the retirement of Article IV judges of the District Court of Guam, the District Court of the Northern Mariana Islands, and the District Court of the Virgin Islands, under terms more equal to those provided under current law for judges of Article III courts and judges of the United States Tax Court. Specifically, we request the Judicial Conference's support for the repeal of the age restriction and the revision of the service requirement in Section 373 to allow for retirement should a judge of an Article IV Court not be reappointed.

As you know, the U.S. District Courts in the 50 States and Puerto Rico were created under Article III of the United States Constitution. The District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands were created by Congress under authority to govern territories granted by Section 3 in Article IV of the United States Constitution. Article III judges are appointed for life in accordance with the United States Constitution whereas Article IV judges are appointed for a term of ten years pursuant to statute. The difference in terms of appointment is significant as it pertains to retirement eligibility.

Since Article III judges serving life-time terms may only be removed for cause, there are few circumstances by which fulfillment of resignation and retirement requirements is not realized. However, Article IV judges do not enjoy the same advantage. Under current law, an Article IV judge is first eligible for retirement at age 65 provided he has accrued 15 years of judicial service. If upon expiration of his term, an Article IV judge is not reappointed, he is eligible to receive a proportional annuity upon reaching age 65 provided he has at least ten years of judicial service.

It is understood that Article III judges are appointed for life-time terms because the framers of the Constitution recognized that an effective and independent judiciary could only be realized if judges were free from political interference in their decision-making. We are seeking changes to the retirement provisions for Article IV judges to provide consistency with the principles espoused by the framers. Article IV judges should not have to face the possibility of having to seek employment at the expiration of their term. Having to do so raises possible conflict of interest and judicial independence concerns our founding fathers sought to prevent from occurring.

We are proposing that Article IV judges be afforded a similar option to retire as judges in the U.S. Tax Court, who also do not receive life-time appointments, but are eligible to retire at the expiration of their term regardless of age. Under Section 7447(b)(3) of Title 26 of the United States Code, judges of the United States Tax Court who are not reappointed can retire upon completion of their term provided they have notified the President of their willingness to accept reappointment within a specified period of time. We are proposing similar consideration for Article IV judges. Specifically, that an Article IV judge, who is not reappointed, would be allowed to retire after the expiration of their term. An Article IV judge retiring under this provision would receive an annuity equal to 50% of the judge's salary at the time of retirement. Then, upon reaching the age of 65, the retired judge would be eligible to receive the annuity amount authorized under current law (28 U.S.C. 373(e)).

Alternatively, we propose that an Article IV judge, who has at least ten years of judicial service, but is not reappointed, and who has not reached the age of 65, be eligible to retire at the expiration of his term provided he has a combined total of 15 years of Federal service, including a minimum of 10 years of judicial service, which may include military and civil service.

Enclosed, for your review, is draft legislative language for each of these proposals. Amending the retirement provisions would ensure the judicial independence of Article IV judges and provide for their freedom from political interference. In addition, it would place the Article IV judges of the U.S. District Courts of Guam, the Mariana Islands and the Virgin Islands on more equal terms with their colleagues serving in other U.S. Courts. Thank you for your consideration of this request. We look forward to working with you to address this matter in the 109th Congress and would appreciate your review of and comment on the enclosed legislative proposals.

Sincerely,

MADELEINE Z. BORDALLO,
Member of Congress.
DONNA M. CHRISTENSEN,
Member of Congress.

AMENDMENT NO. 1 TO 28 U.S.C. 373(e) OFFERED BY MS. BORDALLO

Section 373(e) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking: ", or who is not reappointed (as judge of such court),"; and

(3) by adding at the end the following:

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) following the expiration of his or her term of office shall, upon the completion of such term, be entitled to receive, during the remainder of his or her life, an annuity as follows:

"(A) If the judge has not yet attained the age of 65 years, the annuity of the judge shall be equal to 50 percent of the salary the judge received when leaving office, subject to subparagraph (B).

"(B) If the judge has attained the age of 65 years, or in the case of a judge described in subparagraph (A), upon attaining the age of 65 years—

"(i) if his or her judicial service, continuous or otherwise, aggregates 15 years or more, the annuity of the judge shall be equal to the salary received when leaving office; or

"(ii) if his or her judicial service, continuous or otherwise, aggregated less than 15 years but not less than 10 years, the annuity of the judge shall be equal to that proportion of the salary received when leaving office which the aggregate number of such years of judicial service bears to 15.".

AMENDMENT NO. 2 TO 28 U.S.C. 373(e) OFFERED BY MS. BORDALLO

Section 373(e) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking ", or who is not reappointed (as judge of such court),"; and

(3) by adding at the end the following:

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) following the expiration of his or her term of office shall, upon the completion of such term, be entitled to receive, during the remainder of his or her life, an annuity equal to the salary received when leaving office, if the judicial service of the judge, continuous or otherwise, aggregates 10 years or more, and the service of such judge as an officer or employee of the United States, continuous or otherwise, including military service, aggregates 15 years or more.".

JUCICIAL CONFERENCE OF
THE UNITED STATES,
Washington, DC, February 23, 2005.

Hon. MADELEINE Z. BORDALLO,
House of Representatives, Cannon House Office Building, Washington, DC.

Hon. DONNA M. CHRISTENSEN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR DELEGATES BORDALLO AND CHRISTENSEN: Thank you for your letter of February 4, 2005, requesting the judiciary's review of draft legislation to amend the retirement provisions for territorial district court judges contained in section 373, of title 28, United States Code.

By copy of this letter, I am requesting that the Judicial Conference Committee on the Judicial Branch, which is chaired by Chief Judge Deanell Reece Tacha (United States Court of Appeals, Tenth Circuit), review and make any appropriate recommendations to

the Judicial Conference on this matter. The Judicial Branch Committee has jurisdiction over judicial compensation and benefits matters, including judges' retirement.

In the interim, should you have any questions or concerns, please do not hesitate to contact Michael W. Blommer, Assistant Director, Office of Legislative Affairs, at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

COMMITTEE ON THE JUDICIAL BRANCH, JUDICIAL CONFERENCE OF THE UNITED STATES,
Portland, ME, January 5, 2006.

Hon. MADELEINE Z. BORDALLO,
House of Representatives, Cannon House Office Building, Washington, DC.

Hon. DONNA M. CHRISTENSEN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR DELEGATES BORDALLO AND CHRISTENSEN: I am writing in furtherance of Administrative Office Director Leonidas Ralph Mecham's letter dated February 23, 2005, concerning your request for Judicial Conference review of proposed legislation to amend the retirement provisions for territorial district court judges, contained in section 373 of title 28, United States Code.

The Judicial Conference Committee on the Judicial Branch discussed your legislation at length during its December 1–2, 2005, meeting. As discussed below, the Committee recommended no action on this issue by the full Judicial Conference.

The Committee considered both proposals at length. It was the unanimous view of the Committee that the proposed legislation involved matters that are essentially private relief bills (intended to benefit a single territorial district court judge) and that this objective should not be achieved by amending title 28, United States Code. The Committee's determination is consistent with Judicial Conference precedent. During the 1970s, the Conference declined to endorse legislation that was intended to benefit a single territorial district court judge on at least three occasions. At the time, the Conference declined to endorse legislation that would have increased the retirement benefits accruing to certain territorial judges for their services as territorial judges in prior years (when the salary of that position was less than $20,000 per year). The Conference was of the view that the bill as framed would apply to only one territorial judge and, therefore, if the Congress desired to enact such legislation, it would better be accomplished by a private bill (and not by amendment of title 28).

I should note that the Committee also considered whether to recommend to the Conference a more general resolution (e.g., that the Conference resolve to recommend that Congress amend the age and service provisions governing territorial district judges' retirement (28 U.S.C. 373(a)) to make them more congruent with those available to other fixed-term judges). After considerable discussion, that proposal was also considered to be unsatisfactory. The Committee believes that territorial district judges accept their judgeships knowing that non-reappointment is a possibility. There was also concern about maintaining parity with other fixed-term judges, such as bankruptcy and magistrate judges, whose retirement system is contributory.

I regret that my reply could not be more favorable. Should you have any questions or concerns, please do not hesitate to contact Cordia Strom, Assistant Director for Legislative Affairs at the Administrative Office of the U.S. Courts, at 202/502–1100.

Sincerely,

D. BROCK HORNBY,
District Judge.

REMEMBERING EMILY CAMPBELL BROWN

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. RYAN of Ohio. Madam Speaker, I rise to honor Emily Campbell Brown, the extraordinary mother of our former colleague and now member of the other body, Senator SHERROD BROWN. Mrs. Brown died at her home in Mansfield, Ohio, on Monday at the age of 88.

She was born and raised in Mansfield, Georgia, and married Dr. Charles G. Brown of Mansfield, Ohio in 1946. She taught English at the High School and was a leader in the Mansfield YWCA. She and her husband were instrumental in the founding of the Mansfield chapter of Habitat for Humanity and the Ohio Hunger Task Force. She was always active in the Richland County Democratic Party. In 2007 the Richland County Democratic Party established the Emily Brown Young Democrat Award in her honor. Just last year she campaigned for important issues and candidates.

She raised three sons, Robert, Charles, and our friend SHERROD, and was blessed with 6 grandchildren and a great grandson.

Madam Speaker, our thoughts and prayers are with Senator BROWN and all of his family in this difficult time as we remember his mother, a remarkable lady Emily Campbell Brown. Her progressive spirit and commitment to social justice lives on through her sons and her family.

Madam Speaker, I ask unanimous consent that a column written by Connie Schultz the daughter-in-law of Emily Brown and the wife of Senator BROWN that appeared in today's Cleveland Plain Dealer be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

[From the Cleveland Plain Dealer, Feb. 4, 2009]

EMILY CAMPBELL BROWN, AN ACCOMPLISHED LADY WHO DEFINED HER OWN LEGACY

(By Connie Schultz)

It didn't take long for me to realize I'd met my match in the likes of Emily Campbell Brown.

Six years ago, before I married her son, we were dressing for a black-tie event at her home. After I'd wriggled into a floor-length gown, she scooted up next to me.

''Cohhhhnie,'' she said in the Southern lilt that always coaxed another syllable out of my name. ''Would you like to borrow a necklace?''

Aw, how sweet. ''Thank you, Emily,'' I said, ''but I'm afraid that might draw attention to my chest.''

''Hmmm,'' she said, glancing at my neckline. ''Isn't that what you're trying to do?''

I could hear her son chuckling in the next room.

''Emily,'' I said, kissing her powdered cheek. ''You and I are going to do just fine.''

Most of the obituaries for Emily, who died Monday at 88, identify her first and foremost as the mother of my husband, U.S. Sen. Sherrod Brown. They mention that she also raised two other successful sons, and that she married a doctor.

She was proud of the men in her life, but to define Emily by her relationships is to diminish the giant force of a woman who made social justice the cornerstone of her life, and that of her family. One of the first e-mails Sherrod ever sent me was a story about his mother: She'd grown up and away from Georgia and its troubled ways, and insisted that her boys always call African-American adults ''Mr.'' or ''Mrs.'' None of this first-name business meant to telegraph who was, and who wasn't, worthy of full regard.

Emily's accomplishments wove through issues of racial and economic justice. When it came to making a difference, she did not wait for the invitation. During the 2004 presidential race, she organized a voter-registration drive in a poorer section of Mansfield. There was the meticulously dressed, 84-year-old Emily, with a curve in her back and sensible shoes on her feet, dragging a card table out of the trunk of her car, day after day. She registered more than 1,000 voters that year.

One recent morning, after weeks bedridden, Emily asked for a hand mirror and was devastated by the face looking back at her. ''I look so awful, Connie,'' she told me hours later. ''Just awful.''

I cupped her cheek with my hand. ''Emily, you were always a beautiful woman, and you're beautiful now. That spirit of yours is shining through.''

She scoffed, and I pushed. ''Emily, you know I say exactly what I mean.''

She rolled her eyes, acknowledging the occasional sparks that fired between us. ''Yes,'' she said, ''I know you do.''

''If I say you look beautiful, it must be true.''

She managed a small laugh. ''Well, then, you're right. It has to be true.''

In the last weeks of Emily's life, her energy came in short but astonishing bursts, and whoever was at her side leaned in with a hunger. One evening, we talked about Harper Lee's novel, ''To Kill a Mockingbird.''

''Oh, that was one of my favorite books,'' Emily said. ''I read it over and over.''

She was quiet for a moment. ''I always loved the boy. The boy, Jeremy. Remember that scene at the jail?''

His nickname was Jem, and his father, lawyer Atticus Finch, had planted himself next to the county jail to make sure a black man falsely accused of rape wasn't killed overnight by a gang of angry white men. Jem defied his father's orders and joined him. When Atticus insisted he go home, the boy refused.

'' 'No, suh,' '' Emily said slowly and softly, quoting Jem. '' 'No, suh, I will not leave.' ''

A week later, though, she did just that.

A few hours after Emily died, I returned to work, as she would have wanted, and opened a large envelope from an anonymous reader. Inside, I found a profane poster plastered with my face next to one of the most pejorative words for my gender. I thought of our family's adage, that whenever we're challenged, we ask ourselves, ''What would Emily do?''

I turned to my keyboard, revved up the computer and heard Emily Campbell Brown's voice whisper in my ear: ''No, suh, I will not leave.''

And I started to write.

REFLECTIONS ON THE LIFE OF HAZEL SCOTT—A TRIBUTE TO HER FIRST BIOGRAPHY, WRITTEN BY KAREN CHILTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 2009

Mr. RANGEL. Madam, Speaker, today I rise to congratulate the family of the late and great Hazel Scott and the author of Hazel Scott's first memoir, Karen Chilton for writing such an important biographical book on a stellar Caribbean American pianist, singer, actress, and activist.

In 1939, when Café Society, New York City's first fully integrated nightclub, was all the rage, Hazel Scott was its star. Still a teenager, she wowed audiences with her jazz renditions of classical masterpieces by Chopin, Bach, and Rachmaninoff. A child prodigy, born in Trinidad and raised in Harlem in the 1920s, Scott's musical talent was cultivated by her musician mother, Alma Long Scott, as well as several great jazz luminaries of the period, namely, Art Tatum, Fats Waller, Billie Holiday, and Lester Young.

Career success was swift for the young pianist—she auditioned at the prestigious Juilliard School when she was only eight years old, hosted her own radio show at fourteen, and shared the bill at Roseland Ballroom with the Count Basie Orchestra at fifteen. After several stand-out performances on Broadway, club impresario Barney Josephson proclaimed Hazel Scott the "Darling of Café Society."

By the time Hollywood came calling, Scott had achieved such stature that she could successfully challenge the studios' deplorable treatment of black actors. She would later become one of the first black women to host her own television show.

During the 1940s and '50s, her sexy and vivacious presence captivated fans worldwide. She was known for improvising on classical themes and also played boogie-woogie, blues, and ballads. Her marriage to the late and great Congressman Adam Clayton Powell, Jr., whom I succeeded, made them one of the country's most high-profile African American families.

In a career spanning over four decades, Hazel Scott became known not only for her accomplishments on stage and screen, but for her outspoken advocacy of civil rights. Her relentless crusade on behalf of African Americans, women, and artists made her the target of the House Un-American Activities Committee (HUAC) during the McCarthy Era, eventually forcing her to join the black expatriate community in Paris.

By age twenty-five, Hazel Scott was an international star but, before reaching thirty-five, she considered herself a failure. Plagued by insecurity and depression, she would try twice to take her own life. Her life came to a close, dying of pancreatic cancer, at the age of 61 on October 2, 1981.

Karen Chilton, a New York-based writer and actor who also co-authored "I Wish You Love," the jazz memoir of legendary vocalist Gloria Lynne, traces the fascinating arc of this brilliant and audacious American artist from stardom to ultimate obscurity. Readers will learn from the prelude to the civil rights movement to the dark moments in our nation's history where racial, ethnic, and political discrimination ran rampant.

So Madam Speaker, I ask that in this Black History Month, that you and my distinguished colleagues join me in honoring the life of Hazel Scott and thanking Karen Chilton. Karen truly authored a book that many generations of future stars will cherish.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 5, 2009 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 6

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the employment situation for January 2009.
SD–106

FEBRUARY 10

10 a.m.
Banking, Housing, and Urban Affairs
To hold an oversight hearing to examine the financial rescue program, focusing on a new plan for the Trouble Asset Relief Program (TARP).
SD–106

Budget
To hold hearings to examine issues and budget options for health reform.
SD–608

Energy and Natural Resources
To hold hearings to examine renewable electricity standards proposal.
SD–366

Judiciary
To hold hearings to examine the nominations of Elena Kagan, of Massachusetts, to be Solicitor General of the United States, and Thomas John Perrelli, of Virginia, to be Associate Attorney General, both of the Department of Justice.
SD–226

2:30 p.m.
Foreign Relations
To receive a closed briefing on North Korea.
SVC–217

Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

FEBRUARY 11

9:30 a.m.
Veterans' Affairs
To hold hearings to examine veterans' disability compensation, focusing on the appeals process.
SR–418

10 a.m.
Budget
To hold hearings to examine policies to address the crises in financial and housing markets.
SD–608

Judiciary
To hold hearings to examine the need for increased fraud enforcement in the wake of the economic downturn.
SD–226

10:30 a.m.
Rules and Administration
Organizational business meeting to consider committee's funding resolution for the 111th Congress, and other pending business.
SR–301

10:45 a.m.
Rules and Administration
To hold hearings to examine Senate Committee budget requests.
SR–301

FEBRUARY 12

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine the Department of Energy Loan Guarantee Program, authorized under Title 17 of the Energy Policy Act of 2005, and how the delivery of services to support the deployment of clean energy technologies might be improved.
SD–366

Indian Affairs
To hold an oversight hearing to examine matters relating to Indian affairs.
SD–628

10 a.m.
Homeland Security and Governmental Affairs
To hold hearings to examine structuring national security and homeland security at the White House.
SD–342

2:30 p.m.
Intelligence
To hold hearings to examine the world threat.
SH–216

FEBRUARY 24

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the semiannual monetary policy report to the Congress.
SH–216

2 p.m.
Veterans' Affairs
To hold joint hearings to examine the legislative presentation of the Disabled American Veterans.
345, Cannon Building

MARCH 5

10 a.m.

Veterans' Affairs

To hold joint hearings to examine the legislative presentations of veterans' service organizations.

SD–106

MARCH 12

10 a.m.

Veterans' Affairs

To hold joint hearings to examine legislative presentations of veterans' service organizations.

SD–106

MARCH 18

9:30 a.m.

Veterans' Affairs

To hold joint hearings to examine the legislative presentation of the Veterans of Foreign Wars.

334, Cannon Building